



Town and Country Planning Act 1962

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PART X

STATUTORY UNDERTAKERS

General provisions

159 Planning permission to develop operational land

- (1) Where an application for planning permission to develop operational land is made by statutory undertakers, and is referred to the Minister under Part III of this Act, or where an appeal is made to the Minister under Part III of this Act from the decision on such an application, the application or appeal shall be dealt with by the Minister and the appropriate Minister.
- (2) If, on such an application or appeal, the Minister and the appropriate Minister propose to refuse planning permission, or to grant it subject to conditions, they shall notify to the statutory undertakers the decision which they propose to make; and if, within twenty-eight days from the date on which the statutory undertakers receive that notification, the undertakers make an application to the appropriate Minister in that behalf, the decision shall be embodied in an order made by the Minister and the appropriate Minister, and that order shall be subject to special parliamentary procedure.
- (3) Notwithstanding anything in Part III of this Act, planning permission to develop operational land of statutory undertakers shall not, except with their consent, 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 end of a specified period.
- (4) Subject to the provisions of this Part of this Act as to compensation, the provisions of this Act shall apply to an application which is dealt with under this section by the Minister and the appropriate Minister as if it had been dealt with by the Minister.

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- (5) For the avoidance of doubt it is hereby declared that, for the purposes of the application of the Statutory Orders (Special Procedure) Act, 1945, to any order made by the Minister and the appropriate Minister under this section, the requirements imposed by this Act with respect to the consideration of any such application or appeal as is mentioned in subsection (1) of this section shall be deemed to be requirements with respect to proceedings preliminary to the making of the order within the meaning of section two of the said Act of 1945.

160 Development requiring authorisation of government department

- (1) Where, under the enactments regulating the carrying on of a statutory undertaking, the authorisation of a government department is required in respect of any development of operational land, and that department propose to decide—
- (a) to refuse the authorisation on the grounds that planning permission ought not to be granted for the development, and on no other grounds, or
 - (b) to grant the authorisation and direct that planning permission shall be deemed to be granted subject to conditions other than conditions imposed as part of the authorisation,
- the provisions of subsection (2) of the last preceding section shall apply (subject to any necessary modifications) in relation to that decision, and to the proposal to make that decision, as they apply in relation to any such decision or proposed decision as is mentioned in that subsection.
- (2) Where the authorisation of a government department is required as mentioned in the preceding subsection, then, except where that authorisation has been granted without any direction as to the grant of planning permission, the Minister and the appropriate Minister shall not be required to deal with an application for planning permission under subsection (1) of the last preceding section.
- (3) The provisions of subsection (3) of section forty-one of this Act shall have effect for the purposes of this section as they have effect for the purposes of that section.

161 Revocation or modification of permission to develop operational land

- (1) In relation to any planning permission, granted on the application of statutory undertakers, for the development of operational land, the provisions of Part III of this Act with respect to the revocation and modification of planning permission shall have effect as if, for any reference therein to the Minister, there were substituted a reference to the Minister and the appropriate Minister.
- (2) Where the Minister and the appropriate Minister propose to confirm or make an order under section twenty-seven of this Act as modified by the preceding subsection, they shall give notice of that proposal to the statutory undertakers, and shall afford them an opportunity of objecting to the proposal; and if any objection is so made by the statutory undertakers and is not withdrawn, the order shall be subject to special parliamentary procedure.

162 Order requiring discontinuance of use etc. of operational land

- (1) The provisions of Part III 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,

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in relation to operational land of statutory undertakers, as if, for any reference therein to the Minister, there were substituted a reference to the Minister and the appropriate Minister.

- (2) Where the Minister and the appropriate Minister propose to confirm or make an order under section twenty-eight of this Act as modified by the preceding subsection, they shall give notice of that proposal to the statutory undertakers, and shall afford them an opportunity of objecting to the proposal; and if any objection is so made by the statutory undertakers and is not withdrawn, the order shall be subject to special parliamentary procedure.

163 Acquisition of land of statutory undertakers

- (1) Notwithstanding anything in paragraph 10 of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, a compulsory purchase order to which this section applies may be confirmed or made without the appropriate Minister's certificate.
- (2) This section applies to any compulsory purchase order under this Act authorising the acquisition of land which has been acquired by statutory undertakers for the purposes of their undertaking.
- (3) Except where the appropriate Minister's certificate is given, or the land to which the order relates is land designated by a development plan as subject to compulsory acquisition.—
 - (a) a compulsory purchase order to which this section applies 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 subsection have power to make or confirm it, and
 - (b) if any objection to such an order is duly made by the statutory undertakers and is not withdrawn, the order shall be subject to special parliamentary procedure.
- (4) Where any operational land of statutory undertakers is designated as subject to compulsory acquisition as mentioned in subsection (4) of section five of this Act, any reference in that subsection to an order made by the Minister shall be construed, in relation to that land, as a reference to an order made by the Minister and the appropriate Minister.
- (5) In this section " the appropriate Minister's certificate " means such a certificate as is mentioned in paragraph 10 of the First Schedule to the said Act of 1946.

164 Extinguishment of rights of way, and rights as to apparatus, of statutory undertakers

- (1) Where any land has been acquired by a Minister, a local authority or statutory undertakers under Part V of this Act, or has been appropriated by a local authority for planning purposes, and—
 - (a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, or
 - (b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking,

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the acquiring or appropriating authority may serve on the statutory undertakers a notice stating that, at the end of such period as may be specified in the notice, the right will be extinguished, or requiring that, before the end of such period as may be so specified, the apparatus shall be removed.

- (2) The statutory undertakers on whom a notice is served under the preceding subsection may, before the end of the period of twenty-eight days from the service of the notice, serve a counter-notice on the acquiring or appropriating authority stating that they object to all or any of the provisions of the notice, and specifying the grounds of their objection.
- (3) If no counter-notice is served under the last preceding subsection—
 - (a) any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice, and
 - (b) 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 acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.
- (4) If a counter-notice is served under subsection (2) of this section on a local authority or on statutory undertakers, the authority or undertakers may either withdraw the notice (without prejudice to the service of a further notice) or may apply to the Minister and the appropriate Minister for an order under this section embodying the provisions of the notice, with or without modification.
- (5) If a counter-notice is served under subsection (2) of this section on a Minister, he may withdraw the notice (without prejudice to the service of a further notice) or he and the appropriate Minister may make an order under this section embodying the provisions of the notice, with or without modification.
- (6) In this section any reference to the appropriation of land for planning purposes shall be construed in accordance with subsection (1) of section eighty-seven of this Act as if this section were in Part V of this Act.

165 Orders under s.164

- (1) Where a Minister and the appropriate Minister propose to make an order under subsection (5) of the last preceding section, they shall prepare a draft of the order.
- (2) Before making an order under subsection (4) or subsection (5) of the last preceding section, the Ministers proposing to make the order—
 - (a) shall afford to the statutory undertakers on whom notice was served under subsection (1) of that section an opportunity of objecting to the application for, or proposal to make, the order, and
 - (b) if any objection is made, shall consider the objection and afford to those statutory undertakers (and, in a case falling within subsection (4) of that section, to the local authority or statutory undertakers on whom the counter-notice was served) an opportunity of appearing before, and being heard by, a person appointed by the Minister and the appropriate Minister for the purpose, and may then, if they think fit, make the order in accordance with the application or in accordance with the draft order, as the case may be, either with or without modification.

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- (3) Where an objection to an order under the last preceding section is duly made and is not withdrawn before the making of the order, the order shall be subject to special parliamentary procedure.
- (4) Subject to the last preceding subsection, where an order is made under the last preceding section.—
 - (a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order, and
 - (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit

166 Extension or modification of functions of statutory undertakers

- (1) The powers conferred by this section shall be exercisable where, on a representation made by statutory undertakers, it appears to the Minister and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—
 - (a) to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for any purpose in connection with which a local authority or Minister may be authorised under Part V of this Act to acquire land, or
 - (b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in the next following subsection.
- (2) The said acts and events are—
 - (a) the acquisition under Part V of this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers in question ;
 - (b) the extinguishment of a right or the imposition of any requirement by virtue of section one hundred and sixty-four of this Act;
 - (c) a decision on an application made by the statutory undertakers for planning permission to develop any such land as is mentioned in paragraph (a) of this subsection;
 - (d) the revocation or modification of planning permission granted on any such application;
 - (e) the making of an order under section twenty-eight of this Act in relation to any such land.
- (3) The powers conferred by this section shall also be exercisable where, on a representation made by a local authority or Minister, it appears to the Minister and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified, in order to secure the provision of new services, or the extension of existing services, for any purpose in connection with which the local authority or Minister making the representation may be authorised under Part V of this Act to acquire land.
- (4) Where the powers conferred by this section are exercisable, the Minister and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order to secure the services in question, as mentioned in paragraph (a)

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of subsection (1) of this section or in the last preceding subsection, or to secure the adjustment in question, as mentioned in paragraph (b) of subsection (1) of this section, as the case may be.

- (5) Without prejudice to the generality of the last preceding subsection, an order under this section may make provision—
- (a) for empowering the statutory undertakers 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 any such land or the construction of any such works, enactments relating to the acquisition of land and the construction of works;
 - (c) where it has been represented that the making of the order is expedient for the purposes mentioned in paragraph (a) of subsection (1) of this section, or in subsection (3) of this section, for giving effect to such financial arrangements between the local authority or Minister and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order;
 - (d) for such incidental and supplemental matters as appear to the Minister and the appropriate Minister to be expedient for the purposes of the order.

167 Procedure in relation to orders under s.166

- (1) As soon as may be after making such a representation as is mentioned in subsection (1) or subsection (3) of the last preceding section—
- (a) the statutory undertakers, in a case falling within subsection (1) of that section, or
 - (b) the local authority or Minister making the representation, in a case falling within subsection (3) thereof,

shall publish, in such form and manner as may be directed by the Minister 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 within which, and the manner in which, objections to the making of an order on the representation may be made, and shall also, if it is so directed by the Minister and the appropriate Minister, serve a like notice on such persons, or persons of such classes, as may be so directed.

- (2) Orders under the last preceding section shall be subject to special parliamentary procedure.

168 Relief of statutory undertakers from obligations rendered impracticable

- (1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligation incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this subsection applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfillment of that obligation, either absolutely or to such extent as may be specified in the order.
- (2) The preceding subsection applies to the following acts and events, that is to say—

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- (a) the compulsory acquisition under Part V of this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers, and
 - (b) the acts and events specified in paragraphs (b) to (e) of subsection (2) of section one hundred and sixty-six of this Act.
- (3) As soon as may be after making a representation to the appropriate Minister under subsection (1) of this section, the statutory undertakers shall, as may be 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 so directed of the matters to which the representation relates, and specifying the time 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.
- (4) If any objection to the making of an order under this section is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.
- (5) The provisions of subsection (1) of section eleven of this Act shall have effect, subject to any necessary modifications, in relation to an order made under this section as they have effect in relation to a development plan approved by the Minister under Part II of this Act, as if in those provisions any reference to the local planning authority were a reference to the appropriate Minister.
- (6) Subject to the next following subsection, and to the provisions of Part XI of this Act, an order under this section shall become operative on the date on which the notice required by the provisions applied by the last preceding subsection is first published.
- (7) Where in accordance with subsection (4) of this section the order is subject to special parliamentary procedure, the last preceding subsection shall not apply.

169 Objections to orders under ss.166 and 168

- (1) For the purposes of sections one hundred and sixty-six and one hundred and sixty-eight of this Act, an objection to the making of an order thereunder shall not be treated as duly made unless—
- (a) the objection is made within the time and in the manner specified in the notice required by the section under which the order is proposed to be made, and
 - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (2) Where an objection to the making of such an order is duly made in accordance with the preceding subsection and is not withdrawn, the following provisions of this section shall have effect in relation thereto:
- Provided that, in the application of those provisions to an order under section one hundred and sixty-six of this Act, any reference to the appropriate Minister shall be construed as a reference to the Minister and the appropriate Minister.
- (3) Unless the appropriate Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the appropriate Minister, before making a final decision, shall consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require

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the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.

- (4) In so far as the appropriate Minister, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision.
- (5) If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the appropriate Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed 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 appropriate Minister may make a final decision without further investigation as to those matters.
- (6) Subject to subsections (4) and (5) of this section, the appropriate Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the appropriate Minister; and if the objector avails himself of that opportunity, the appropriate Minister shall afford an opportunity of appearing and being heard on the same occasion to the statutory undertakers, local authority or Minister on whose representation the order is proposed to be made, and to any other persons to whom it appears to the appropriate Minister to be expedient to afford such an opportunity.
- (7) Notwithstanding anything in the preceding provisions of this section, if it appears to the appropriate Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, 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 provisions to which effect has not been given at the time of that determination shall be dispensed with.
- (8) In this section any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification (if any) ought to be made.

Compensation

170 Right to compensation in respect of certain decisions and orders

- (1) Statutory undertakers shall, subject to the following provisions of this Part of this Act, be entitled to compensation from the local planning authority—
 - (a) in respect of any decision made in accordance with section one hundred and fifty-nine of this Act whereby planning permission to develop operational land of those undertakers is refused or is granted subject to conditions;
 - (b) in respect of any decision made by a government department in respect of any such land, either refusing an authorisation as mentioned in paragraph (a) of subsection (1) of section one hundred and sixty of this Act, or directing that planning permission shall be deemed to be granted subject to conditions as mentioned in paragraph (b) of that subsection ;
 - (c) in respect of any order under section twenty-seven of this Act, as modified by section one hundred and sixty-one thereof, whereby planning permission,

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granted on the application of those undertakers for the development of any such land, is revoked or modified.

- (2) Where, by virtue of section one hundred and sixty-four of this Act, any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.
- (3) Notwithstanding anything in subsection (1) of this section, if the decision or order in question relates to land acquired by the statutory undertakers after the seventh day of January, nineteen hundred and forty-seven, and the Minister and the appropriate Minister are satisfied, having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that it is unreasonable that compensation should be recovered in respect of that decision or order, they may include therein a direction that subsection (1) of this section shall not apply to that decision or order:

Provided that the power conferred by this subsection shall not be exercisable in relation to a decision falling within paragraph (b) of subsection (1) of this section, if the land in question was acquired by the statutory undertakers (whether compulsorily or by agreement) for the purposes of the development to which the decision relates, and was so acquired with the consent or authority of a government department.

171 Measure of compensation to statutory undertakers

- (1) Where statutory undertakers are entitled to compensation—
 - (a) as mentioned in subsection (1) or subsection (2) of the last preceding section, or
 - (b) under the provisions of section one hundred and twenty four in respect of an order made under section twenty-eight of this Act as modified by section one hundred and sixty-two thereof, or
 - (c) in respect of a compulsory acquisition of land which has been acquired by those undertakers for the purposes of their undertaking, where the first-mentioned acquisition is effected under a compulsory purchase order confirmed or made without the appropriate Minister's certificate,the amount of the compensation shall (subject to the next following section) be an amount calculated in accordance with the following provisions of this section.
- (2) The said amount, subject to the next following subsection, shall be the aggregate of the following amounts, that is to say—
 - (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 ;
 - (b) whichever of the following is applicable, namely—
 - (i) where such an 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 proceeding giving rise to compensation, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the

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- undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment;
- (ii) 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;
- (c) where the compensation is under subsection (2) of the last preceding section, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.
- (3) Where any such adjustment as is mentioned in paragraph (a) of the last preceding subsection is made, the aggregate amount mentioned in that subsection shall be reduced by such amount (if any) as appears to the Lands Tribunal to be appropriate to offset—
- (a) the estimated value of any property (whether moveable or immoveable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used, in so far as the value of the property has not been taken into account under paragraph (c) of the last preceding subsection, and
- (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under paragraph (b) of the last preceding subsection and is directly attributable to the adjustment,
- and by any further amount which appears to the Lands Tribunal to be appropriate, having regard to any increase in the capital value of immoveable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under paragraph (b) of this subsection.
- (4) References in this section 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 a balance 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.
- (5) In this section “proceeding giving rise to compensation ” means the particular action (that is to say, the decision, order, extinguishment of a right, imposition of a requirement, or acquisition) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken, and " the appropriate Minister's certificate " has the same meaning as in section one hundred and sixty-three of this Act.

172 Exclusion of s.171 at option of statutory undertakers

- (1) Where statutory undertakers are entitled to compensation in respect of such a compulsory acquisition as_ is mentioned in paragraph (c) of subsection (1) of the last preceding section, the statutory undertakers may by notice in writing under this section elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section five of the Land Compensation Act, 1961) which would be applicable apart from the last preceding section ; and if the undertakers so elect the compensation shall be ascertained accordingly.

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- (2) An election under this section may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of part of that land.
- (3) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

173 Procedure for assessing compensation where s.171 applies

- (1) Where the amount of any such compensation as is mentioned in subsection (1) of section one hundred and seventy-one of this Act falls to be ascertained in accordance with the provisions of that section, the compensation shall, in default of agreement, be assessed by the Lands Tribunal, if apart from this section it would not fall to be so assessed.
- (2) For the purposes of any proceedings arising before the Lands Tribunal in respect of compensation falling to be ascertained as mentioned in the preceding subsection, the provisions of sections two and four of the Land Compensation Act, 1961, shall apply as they apply to proceedings on a question referred to the Tribunal under section one of that Act, but with the substitution in section four of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed.

Supplementary provisions

174 Special provisions as to display of advertisements on operational land

- (1) The provisions of this Part of this Act specified in the next following subsection do not apply in relation to the display of advertisements on operational land of statutory undertakers.
- (2) The said provisions are sections one hundred and fifty-nine to one hundred and sixty-two and subsections (1) and (3) of section one hundred and seventy of this Act.

175 Special provisions as to statutory undertakers who are local planning authorities

In relation to statutory undertakers who are local planning authorities, the last preceding section and the provisions specified in subsection (2) thereof shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.