



# Town and Country Planning (Scotland) Act 1959

## 1959 CHAPTER 70

An Act to re-enact in the form in which they apply to Scotland the provisions of the Town and Country Planning Act, 1959. [29th July, 1959]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### COMPENSATION FOR COMPULSORY ACQUISITION OF LAND

#### 1 General provisions as to measure of compensation

- (1) The following provisions of the Town and Country Planning (Scotland) Act, 1947 (in this Act referred to as " the Act of 1947 "), and of the Town and Country Planning (Scotland) Act, 1954 (in this Act referred to as "the Act of 1954 "), that is to say.—
- (a) subsection (2) and subsections (4) to (6) of section forty eight of the Act of 1947 (which require compensation to be assessed on the basis of the existing use of the land), and
  - (b) sections thirty-two to thirty-eight of the Act of 1954 (which provide for certain compensation in addition to compensation on the basis of existing use),
- shall cease to have effect, except for the purpose of assessing compensation in respect of compulsory acquisitions to which this section does not apply; and, subject to the following provisions of this Part of this Act, compensation in respect of compulsory acquisitions to which this section applies shall be assessed in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (in this Act referred to as " the Act of 1919 ").

- (2) This section applies to every compulsory acquisition of an interest in land in pursuance of a notice to treat served after the twenty-ninth day of October, nineteen hundred and fifty-eight.

## **2 Assumptions as to planning permission**

- (1) For the purpose of assessing compensation in respect of any compulsory acquisition to which section one of this Act applies, such one or more of the assumptions mentioned in sections three and four of this Act as are applicable to the relevant land or any part thereof shall be made in ascertaining the value of the relevant interest.
- (2) Any planning permission which, in accordance with any of the provisions of those sections, is to be assumed as therein mentioned is in addition to any planning permission which may already be in force at the date of service of the notice to treat.
- (3) Nothing in those provisions shall be construed as requiring it to be assumed that planning permission would necessarily be refused for any development, notwithstanding that it is not development for which, in accordance with those provisions, the granting of planning permission is to be assumed; but, in determining whether planning permission for any development could in any particular circumstances reasonably have been expected to be granted in respect of any land, regard shall be had to any contrary opinion expressed in relation to that land in any certificate issued under the following provisions of this Part of this Act.
- (4) For the purposes of any reference in this section, or in section three of this Act, to planning permission which is in force on the date of service of the notice to treat, it is immaterial whether the planning permission in question was granted—
- (a) unconditionally or subject to conditions, or
  - (b) in respect of the land in question taken by itself or in respect of an area including that land, or
  - (c) on an ordinary application or on an outline application or by virtue of a development order,
- or is planning permission which, in accordance with any direction or provision given or made by or under any enactment, is deemed to have been granted.

## **3 Assumptions not directly derived from development plans**

- (1) In a case where—
- (a) the relevant interest is to be acquired for purposes which involve the carrying out of proposals of the acquiring authority for development of the relevant land or part thereof, and
  - (b) on the date of service of the notice to treat there is not in force planning permission for that development,
- it shall be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, such as would permit development thereof in accordance with the proposals of the acquiring authority.
- (2) For the purposes of paragraph (b) of the preceding subsection, no account shall be taken of any planning permission so granted as not to enure (while the permission remains in force) for the benefit of the land and of all persons for the time being interested therein.

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- (3) Subject to the next following subsection, it shall be assumed that planning permission would be granted, in respect of the relevant land or any part thereof, for development of any class specified in the Third Schedule to the Act of 1947 (which relates to development included in the existing use of land).
- (4) Notwithstanding anything in the last preceding subsection—
- (a) it shall not by virtue of that subsection be assumed that planning permission would be granted, in respect of the relevant land or any part thereof, for development of any class specified in Part II of the said Third Schedule, if it is development for which planning permission was refused at any time before the date of service of the notice to treat and compensation under section eighteen of the Act of 1947 became payable in respect of that refusal;
  - (b) where, at any time before the said date, planning permission was granted, in respect of the relevant land or any part thereof, for development of any class specified in Part II of the said Third Schedule, but was so granted subject to conditions, and compensation under section eighteen of the Act of 1947 became payable in respect of the imposition of the conditions, it shall not by virtue of the last preceding subsection be assumed that planning permission for that development, in respect of the relevant land or that part thereof, as the case may be, would be granted otherwise than subject to those conditions;
  - (c) where, at any time before the said date, an order was made under section twenty-four of the Act of 1947, in respect of the relevant land or any part thereof, requiring the removal of any building or the discontinuance of any use, and compensation became payable in respect of that Order under section twenty-five of that Act, it shall not by virtue of the last preceding subsection be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, for the rebuilding of that building or the resumption of that use.
- (5) Where a certificate is issued under the following provisions of this Part of this Act, it shall be assumed that planning permission would be granted, in respect of the relevant land or any part thereof, for development of any class specified in relation thereto in that certificate as being development for which planning permission might reasonably have been expected to be granted:

Provided that if, in any such certificate, it is indicated that, in the opinion of the authority issuing the certificate, any such planning permission would only have been granted—

- (a) subject to conditions specified in the certificate, or
- (b) at a future time so specified, or
- (c) both subject to conditions so specified and at a future time so specified,

the assumption shall be that planning permission for development of that class would be granted, in respect of the relevant land or that part thereof, but would only be granted subject to those conditions, or at that future time, or both subject to those conditions and at that future time, as the case may be.

#### **4 Special assumptions in respect of certain land comprised in development plans**

- (1) If the relevant land or any part thereof (not being land subject to comprehensive development) consists or forms part of a site defined in the current development plan as the site of proposed development of a description specified in relation thereto

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in the plan, it shall be assumed that planning permission would be granted for that development.

- (2) If the relevant land or any part thereof (not being land subject to comprehensive development) consists or forms part of an area shown in the current development plan as an area allocated primarily for a use specified in the plan in relation to that area, it shall be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, for any development which—
  - (a) is development for the purposes of that use of the relevant land or that part thereof, and
  - (b) is development for which planning permission might reasonably have been expected to be granted in respect of the relevant land or that part thereof, as the case may be.
- (3) If the relevant land or any part thereof (not being land subject to comprehensive development) consists or forms part of an area shown in the current development plan as an area allocated primarily for a range of two or more uses specified in the plan in relation to the whole of that area, it shall be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, for any development which—
  - (a) is development for the purposes of a use of the relevant land or that part thereof, being a use falling within that range of uses, and
  - (b) is development for which planning permission might reasonably have been expected to be granted in respect of the relevant land or that part thereof, as the case may be.
- (4) If the relevant land or any part thereof is land subject to comprehensive development it shall be assumed that planning permission would be granted, in respect of the relevant land or that part thereof, as the case may be, for any development for the purposes of a use of the relevant land or that part thereof falling within the planned range of uses (whether it is the use which, in accordance with the particulars and proposals comprised in the current development plan in relation to the area in question, is indicated in the plan as the proposed use of the relevant land or that part thereof, or is any other use falling within the planned range of uses) being development for which, in the circumstances specified in the next following subsection, planning permission might reasonably have been expected to be granted in respect of the relevant land or that part thereof, as the case may be.
- (5) The circumstances referred to in the last preceding subsection are those which would have existed if—
  - (a) the area in question had not been defined in the current development plan as an area of comprehensive development, and no particulars or proposals relating to any land in that area had been comprised in the plan, and
  - (b) in a case where, on the date of service of the notice to treat, land in that area has already been developed in the course of the development or redevelopment of the area in accordance with the plan, no land in that area had been so developed on or before that date;

and in that subsection " the planned range of uses" means the range of uses which, in accordance with the particulars and proposals comprised in the current development plan in relation to the area in question, are indicated in the plan as proposed uses of land in that area.

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- (6) Where in accordance with any of the preceding subsections it is to be assumed that planning permission would be granted as therein mentioned—
- (a) the assumption shall be that planning permission would be so granted subject to such conditions (if any) as, in the circumstances mentioned in the subsection in question, might reasonably be expected to be imposed by the authority granting the permission, and
  - (b) if, in accordance with any map or statement comprised in the current development plan, it is indicated that any such planning permission would be granted only at a future time, then (without prejudice to the preceding paragraph) the assumption shall be that the planning permission in question would be granted at the time when, in accordance with the indications in the plan, that permission might reasonably be expected to be granted.
- (7) Any reference in this section to development for which planning permission might reasonably have been expected to be granted is a reference to development for which planning permission might reasonably have been expected to be granted if no part of the relevant land were proposed to be acquired by any authority to whom the Act of 1919 applies.
- (8) In this section " the current development plan ", in relation to any land, means a development plan comprising that land, in the form in which (whether as originally approved or made by the Secretary of State or as for the time being amended) that plan is in force on the date of service of the notice to treat, and " land subject to comprehensive development" means land which, on the date of service of the notice to treat, consists or forms part of an area denned in the current development plan as an area of comprehensive development.

## **5 Certification of appropriate alternative development**

- (1) Where an interest in land is proposed to be acquired by a public authority possessing compulsory purchase powers, and that land or part thereof does not consist or form part of—
- (a) an area defined in the current development plan as an area of comprehensive development, or
  - (b) an area shown in the current development plan as an area allocated primarily for a use which is of a residential, commercial or industrial character, or for a range of two or more uses any of which is of such a character,
- then, subject to the next following subsection, either of the parties directly concerned may apply to the local planning authority for a certificate under this section.
- (2) If, in the case of an interest in land falling within the preceding subsection, the authority proposing to acquire it have served a notice to treat in respect thereof, or an agreement has been made for the sale thereof to that authority, and a reference has been made to the Lands Tribunal to determine the amount of the compensation payable in respect of that interest, no application for a certificate under this section shall be made by one of the parties directly concerned after the date of that reference except either—
- (a) with the consent in writing of the other of those parties, or
  - (b) with the leave of the Lands Tribunal.
- (3) An application for a certificate under this section made by one of the parties directly concerned—

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- (a) shall specify one or more classes of development appearing to the applicant to be classes of development which would in the relevant circumstances be appropriate for the land in question, and
  - (b) shall be accompanied by a statement specifying the date on which a copy of the application has been or will be served upon the other of those parties.
- (4) Where an application is made to a local planning authority for a certificate under this section in respect of an interest in land, the local planning authority shall, not earlier than twenty-one days after the date specified in the statement accompanying the application in accordance with paragraph (b) of the last preceding subsection, issue to the applicant a certificate stating either—
- (a) that, in the opinion of the local planning authority, planning permission for development of one or more classes specified in the certificate (whether being classes of development specified in the application' or not) might, in the relevant circumstances, reasonably have been expected to be granted in respect of the land in question, or
  - (b) that, in the opinion of the local planning authority, planning permission could not, in the relevant circumstances, reasonably have been expected to be granted for any development of the land in question, other than the development (if any) which is proposed to be carried out by the authority by whom the interest is proposed to be acquired.
- (5) Where, in the opinion of the local planning authority, planning permission might reasonably have been expected to be granted as mentioned in paragraph (a) of the last preceding subsection, but would only have been granted subject to conditions, or at a future time, or both subject to conditions and at a future time, the certificate shall specify those conditions, or that future time, or both of them, as the case may be, in addition to the other matters required to be contained in the certificate.
- (6) For the purposes of the last preceding subsection, a local planning authority may formulate general requirements applicable to such classes of cases as may be described therein ; and any conditions required to be specified in a certificate in accordance with that subsection may, if it appears to the local planning authority to be convenient to do so, be specified by reference to those requirements, subject to such special modifications thereof (if any) as may be set out in the certificate.
- (7) In determining, for the purposes of the issue of a certificate under this section, whether planning permission for any particular class of development might, in the relevant circumstances, reasonably have been expected to be granted in respect of any land, the local planning authority shall not treat development of that class as development for which planning permission would have been refused by reason only that it would have involved development of the land in question (or of that land together with other land) otherwise than in accordance with the provisions of the development plan relating thereto.
- (8) Where an application for a certificate under this section relates to land of which part (but not the whole) consists or forms part of such an area as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of this section, any certificate issued under this section in pursuance of that application shall be limited to so much of that land as does not fall within any such area.
- (9) On issuing to one of the parties directly concerned a certificate under this section in respect of an interest in land, the local planning authority shall serve a copy of the certificate on the other of those parties.

- (10) In this section " in the relevant circumstances ", in relation to an application for a certificate, means if the land to which the application relates were not proposed to be acquired by any authority to whom the Act of 1919 applies; and in this and the three next following sections " the parties directly concerned ", in relation to an interest in land, means the person entitled to the interest and the authority by whom it is proposed to be acquired.

## **6 Appeals against certificates under s. 5**

- (1) Where the local planning authority have issued a certificate under the last preceding section in respect of an interest in land.—
- (a) the person for the time being entitled to that interest, or
  - (b) any public authority possessing compulsory purchase powers by whom that interest is proposed to be acquired,
- may appeal to the Secretary of State against that certificate.

- (2) On any appeal under this section against a certificate the Secretary of State shall consider the matters to which the certificate relates, as if the application for a certificate under the last preceding section had been made to him in the first instance, and shall either confirm the certificate, or vary it, or cancel it and issue a different certificate in its place, as he may consider appropriate:

Provided that before determining any such appeal the Secretary of State shall, if any such person or authority as is mentioned in paragraph (a) or paragraph (b) of the preceding subsection so desires, afford to each such person or authority and to the local planning authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

- (3) Where an application is made for a certificate under the last preceding section, and at the expiry of the time prescribed for the issue thereof (or, if an extended period is at any time agreed upon in writing by the parties directly concerned and the local planning authority, at the end of that period) no certificate has been issued by the local planning authority in accordance with that section, the preceding provisions of this section shall apply as if the local planning authority had issued such a certificate containing such a statement as "is mentioned in paragraph (b) of subsection (4) of the last preceding section.

## **7 Extension of ss. 5 and 6 to special cases**

- (1) Where an interest in land is proposed to be acquired in the circumstances mentioned in subsection (1) of section five of this Act, and, by reason that the person entitled to the interest is absent from the United Kingdom or cannot be found, the compensation payable in respect of the interest falls to be determined by the valuation of a valuator under section fifty-six of the Lands Clauses Consolidation (Scotland) Act, 1845, the valuator, before carrying out his valuation, may apply to the local planning authority for a certificate under the said section five ; and the provisions of sections five and six of this Act shall apply in relation to an application made by virtue of this subsection as they apply in relation to an application made by virtue of subsection (1) of the said section five.
- (2) Where, in pursuance of an application made by virtue of the preceding subsection, the local planning authority issue a certificate to the valuator, the authority shall serve copies of the certificate on both the parties directly concerned.

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- (3) Where an interest in land is proposed to be acquired in the circumstances mentioned in subsection (1) of section five of this Act, and that interest is the dominium utile of the land, an application to the local planning authority for a certificate under that section may be made by any person entitled to any feu duty or ground annual or other annual or recurring payment or incumbrance out of the land (not being stipend or standard charge in lieu of stipend) in the like circumstances and in the like manner as such an application may be made by the person entitled to the interest.
- (4) Where, in pursuance of an application made by virtue of the last preceding subsection, the local planning authority issue a certificate to the applicant, the authority shall serve copies of the certificate on both the parties directly concerned.
- (5) An application for a certificate made by virtue of subsection (1) or subsection (3) of this section shall specify the matters referred to in paragraph (a) of subsection (3) of the said section five, and shall be accompanied by a statement specifying the date on which a copy of the application has been or will be served on each of the parties directly concerned ; and, in relation to such an application, subsection (4) of the said section five shall have effect with the substitution, for the reference to the date specified in the statement accompanying the application in accordance with paragraph (b) of the said subsection (3), of a reference to the date specified in the statement accompanying the application in accordance with this subsection, or, where more than one date is so specified, the later of those dates.
- (6) Where a certificate has been issued in pursuance of an application made by virtue of subsection (3) of this section, or in a case where an application for a certificate could have been made thereunder, the provisions of section six of this Act shall apply as if any reference to the person entitled to the interest in question, or to the parties directly concerned, included a reference to the person who made or could have made that application, as the case may be.

## **8 Supplementary provisions as to certification of appropriate alternative development**

- (1) Without prejudice to any other matters for which provision may be made by development orders, provision may be made by a development order for regulating the manner in which applications under section five or section seven of this Act, and appeals under section six of this Act, are to be made and dealt with respectively, and other procedural matters ancillary to such applications and appeals, and in particular—
  - (a) for prescribing (subject to the provisions of subsection (4) of section five of this Act) the time within which a certificate is required to be issued under the said section five;
  - (b) for prescribing the manner in which notices of appeals under section six of this Act are to be given, and the time for giving any such notice ;
  - (c) for requiring local planning authorities to furnish the Secretary of State, and such other persons (if any) as may be prescribed by or under the order, with such information as may be so prescribed with respect to applications under section five or section seven of this Act, including information whether any such application has been made in respect of any particular land and information as to the manner in which any such application has been dealt with, together, in such cases as may be so prescribed, with copies of certificates issued under the said section five ;



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- (d) for requiring a local planning authority, on issuing a certificate specifying conditions by reference to general requirements in accordance with subsection (6) of the said section five, to supply a copy of those requirements (or of so much thereof as is relevant to the certificate) with each copy of the certificate, unless, before the certificate is issued, the requirements in question have been made available to the public in such manner as may be specified in the development order ;
  - (e) for requiring a public authority possessing compulsory purchase powers who—
    - (i) propose to acquire the dominium utile of any land (where the land or part thereof does not consist or form part of any such area as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of section five of this Act), and
    - (ii) also propose to require the discharge of the land from any feu-duty or other incumbrance such as is mentioned in subsection (3) of section seven of this Act,to serve, at such time as may be specified in the order, notice of the proposals on the person entitled to the feu-duty or other incumbrance ;
  - (f) for requiring a public authority possessing compulsory purchase powers, when serving a notice to treat in relation to, or purchasing, the dominium utile of any land (where the land or part thereof does not consist or form part of any such area as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of section five of this Act) to give notice of the fact that they have done so to such persons as may be prescribed in the order, being persons who might be entitled to apply under subsection (3) of section seven of this Act for a certificate relating to the land.
- (2) For the purposes of sections five and six of this Act, an interest in land shall be taken to be an interest proposed to be acquired by a public authority possessing compulsory purchase powers in the following (but no other) circumstances, that is to say.—
- (a) where, for the purposes of a compulsory acquisition by that authority of land consisting of or including the land in which that interest subsists, a notice required to be published or served in connection with that acquisition, either by an Act or by any Standing Order of either House of Parliament relating to petitions for private bills, has been published or served in accordance with that Act or Order; or
  - (b) where a notice requiring the purchase of that interest has been served under any enactment (including any enactment contained in this Act) and in accordance with that enactment that authority are to be deemed to have served a notice to treat in respect of that interest; or
  - (c) where an offer in writing has been made by or on behalf of that authority to negotiate for the purchase of that interest.
- (3) For the purpose of determining whether an application can be made at any time in relation to any land under subsection (1) of section five or under section seven of this Act, any reference in the said subsection (1) to the current development plan shall be construed as a reference to a development plan comprising that land, in the form in which (whether as originally approved or made by the Secretary of State or as for the time being amended) that plan is in force at that time:

Provided that in any case where—

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- (a) the interest in land in question is to be acquired in the circumstances mentioned in paragraph (b) of the last preceding subsection, or
- (b) the acquiring authority (otherwise than in those circumstances) have served a notice to treat in respect of that interest, or
- (c) the acquiring authority have entered into a contract for the purchase of that interest,

any such reference shall be construed as a reference to a development plan comprising that land, in the form in which (whether as originally approved or made by the Secretary of State or as for the time being amended) that plan was in force on the date of service of the notice to treat, or on the date of the contract, as the case may be, or, in a case where both dates are applicable, on the later of those dates.

## 9 Modification of rules for assessment of compensation

- (1) In addition to the rules applicable in accordance with section two of the Act of 1919 (which prescribes rules for the assessment of compensation), the following provisions of this section shall have effect for the purpose of assessing the compensation payable in respect of compulsory acquisitions to which section one of this Act applies:

Provided that, in cases falling within the First Schedule to this Act, those provisions shall have effect subject to the provisions of that Schedule.

- (2) In each of the cases mentioned in the first column of the following table, no account shall be taken of any increase or diminution of the value of the relevant interest which is attributable—
- (a) to the carrying out of any such development as is mentioned in relation thereto in the second column of that table, or
  - (b) to the prospect that any such development will or may be carried out,
- in so far as any such development (whether actual or prospective) is or would be development arising from the circumstances of that case.

TABLE

Case	Development
1. In the case of every acquisition for purposes involving development of any of the land authorised to be acquired.	Development of any of the land authorised to be acquired, other than the relevant land, being development for any of the purposes for which any part of the first-mentioned land (including any part of the relevant land) is to be acquired.
2. Where any of the relevant land forms part of an area defined in the current development plan as an area of comprehensive development.	Development of any land in that area, other than the relevant land, in the course of the development or redevelopment of the area in accordance with the plan.
3. Where on the date of service of the notice to treat any of the relevant land forms part of an area designated as the	Development of any land in that area, other than the relevant land, in the course of the development of that area as a new town.

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Case	Development
site of a new town by an order under the New Towns Act, 1946.	
4. Where any of the relevant land forms part of an area to which a town development scheme under Part II of the Housing and Town Development (Scotland) Act, 1957, relates, being a scheme which is in operation on the date of service of the notice to treat.	Development of any land in that area, other than the relevant land, in the course of the execution of the scheme.

(3) The provisions of the next following subsection shall have effect where, on the date of service of the notice to treat, the person entitled to the relevant interest is also entitled in the same capacity to an interest in other land contiguous or adjacent to the relevant land (in this and the next following subsection referred to as " the interest in adjacent land "), and in any of the cases mentioned in the first column of the table set out in the last preceding subsection there is an increase in the value of the interest in adjacent land which is attributable—

- (a) to the carrying out of any such development as is mentioned in relation to that case in the second column of that table, or
- (b) to the prospect that there will or may be carried out any such development as is mentioned in relation to that case in the second column of that table (modified, for the purposes of this paragraph by the omission of the words " other than the relevant land " wherever those words occur),

in so far as any such development (whether actual or prospective) is or would be development arising from the circumstances of that case.

(4) Where the last preceding subsection applies, the increase in the value of the interest in adjacent land shall be taken into account, and the amount thereof shall be deducted from the amount of the compensation which apart from this subsection would be payable in respect of the compulsory acquisition :

Provided that nothing in this subsection shall affect the amount which is to be taken as the amount of the compensation for the purposes of section sixty-two of the Act of 1954 (which relates to the consideration payable for the discharge of land from feu-duty and other incumbrances).

(5) In determining whether the relevant land forms part of such an area as is mentioned in paragraph 3 of the table set out in subsection (2) of this section.—

- (a) in the case of an area designated as the site of a new town by an order which became operative on or before the twenty-ninth day of October, nineteen hundred and fifty-eight, regard shall be had to that order in the form in which, whether as originally made or as subsequently varied, it was in force on that day, and any variation becoming operative after that day shall be disregarded;
- (b) in the case of an area designated as the site of a new town by an order which became operative after the said twenty-ninth day of October, whether before or after the passing of this Act, regard shall be had to the order in its original form, and any variation of the order shall be disregarded.

(6) No account shall be taken of any depreciation of the value of the relevant interest which is attributable to the fact that (whether by way of designation, allocation or other particulars contained in the current development plan, or by any other means)

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an indication has been given that the relevant land is, or is likely, to be acquired by an authority to whom the Act of 1919 applies.

- (7) Any reference in this section to development (whether actual or prospective) which is or would be development arising from the circumstances of a case mentioned in the first column of the table set out in subsection (2) of this section—
- (a) in relation to any acquisition for purposes involving development of any of the land authorised to be acquired, shall (subject to the next following paragraph) be construed as a reference to development (whether actual or prospective) which would not have been likely to be carried out if the acquiring authority had not acquired, and did not propose to acquire, any of that land, and
  - (b) in relation to any acquisition falling within one or more of paragraphs 2 to 4 in the said first column, shall be construed as including (or, if the acquisition is not for purposes involving development of any of the land authorised to be acquired, shall be construed as) a reference to any development (whether actual or prospective) which would not have been likely to be carried out if the area or areas referred to in that paragraph or those paragraphs had not been defined or designated as therein mentioned or (in a case falling within paragraph 4) if the scheme therein mentioned had not come into operation.
- (8) In this section " the current development plan " has the same meaning as in section four of this Act, and "the land authorised to be acquired", in relation to the compulsory acquisition of an interest in land in pursuance of a notice to treat.—
- (a) where the compulsory acquisition was authorised by a compulsory purchase order or a special enactment, means the aggregate of the land comprised in that authorisation, and
  - (b) where the compulsory acquisition does not fall within the preceding paragraph, but is effected under powers exercisable by virtue of any enactment for defence purposes (within the meaning of the Land Powers (Defence) Act, 1958), means the aggregate of the land comprised in the notice to treat and of any land contiguous or adjacent thereto which is comprised in any other notice to treat served under the like powers not more than one month before and not more than one month after the date of service of that notice,

and any reference to development of any land shall be construed as including a reference to the clearing of that land.

## **10 Acquisition of houses unfit for human habitation**

The provisions of the Second Schedule to this Act shall have effect as to compensation in respect of the acquisition of land in the circumstances mentioned in that Schedule.

## **11 War-damaged land**

Section fourteen of the War Damage Act, 1943 (which relates to war damage payments where partially damaged land is acquired by a public authority possessing compulsory purchase powers), section fifty of the Act of 1947 (which relates to acquisitions attracting converted value payments under the War Damage Act, 1943), and the following provisions of section fifty-three of the Act of 1947 (which relates to war-damaged land in respect of which compensation is assessable on the basis of equivalent reinstatement)' that is to say—

- (a) in subsection (2) of that section, the words from " and the right to receive any value payment" to the end of the subsection, and

(b) subsection (3) of that section, shall not have effect (in so far as they would be applicable respectively apart from this section) in relation to a compulsory acquisition to which section one of this Act applies, or to a sale of an interest in land by agreement in circumstances corresponding to such an acquisition.

## **12 Other special cases**

- (1) The provisions specified in the next following subsection shall cease to have effect, except (where applicable) for the purpose of assessing compensation in (respect of compulsory acquisitions to which section one of this Act does not apply.
- (2) The said provisions are—
  - (a) subsection (5) of section seventy-nine of the Act of 1947 (which relates to certain acquisitions of land held by local authorities for statutory purposes);
  - (b) subsection (4) of section eighty-one of that Act (which relates to certain acquisitions of operational land of statutory undertakers);
  - (c) subsection (4) of section eighty-two of that Act (which relates to certain acquisitions of land held for charitable purposes); and
  - (d) the provisions of subsection (4) of section eighty-one of that Act as applied by regulations under section eighty-six of that Act (which relates to the National Coal Board).
- (3) In relation to compulsory acquisitions of interests in land which has been acquired by statutory undertakers for the purposes of their undertaking, the provisions of this Part of this Act shall have effect subject to the provisions of subsection (5) of section forty-two of the Act of 1947 (which makes special provision as to the compensation payable in respect of certain acquisitions of land so acquired).

## **13 Power to pay allowances to persons displaced**

- (1) In connection with any compulsory acquisition to which section one of this Act applies, and in connection with any sale of an interest in land by agreement in circumstances corresponding to such an acquisition, the acquiring authority—
  - (a) may pay to any person displaced from a house or other building on that land such reasonable allowance as they think fit towards his expenses in removing therefrom; and
  - (b) may pay to any person carrying on any trade or business in any such house or other building such reasonable allowance as they think fit towards the loss which in their opinion, he will sustain by reason of the disturbance of his trade or business consequent upon his having to quit the house or building.
- (2) In estimating loss, for the purposes of paragraph (b) of the preceding subsection, the authority shall have regard to the period for which the premises occupied by the person in question might reasonably have been expected to be available for the purpose of his trade or business, and to the availability of other premises suitable for that purpose.
- (3) The preceding provisions of this section shall have effect without prejudice to the operation of any other enactments authorising the making of payments to or in respect of persons displaced or otherwise affected by acquisitions by public authorities possessing compulsory purchase powers.

## **14 Long-standing notices to treat**

- (1) This section applies to every notice to treat served before the thirteenth day of August, nineteen hundred and forty-seven, by a public authority possessing compulsory purchase powers, being a notice in respect of which the following conditions are fulfilled, that is to say.—
  - (a) that the acquisition of the interest in land to which the notice relates has not before the commencement of this Act been completed by the vesting of that interest in the acquiring authority ;
  - (b) that the acquiring authority have not before the commencement of this Act exercised any right of entering upon and taking possession of land in pursuance of that notice;
  - (c) that compensation in respect of the acquisition of that interest has not before the commencement of this Act been paid to and accepted by the person entitled to the interest, or any other person competent to give an effective discharge for such compensation;
  - (d) that the amount of the compensation payable in respect of the acquisition of that interest has not before the commencement of this Act been determined by an official arbiter appointed under the Act of 1919, or determined under section fifty-six of the Lands Clauses Consolidation (Scotland) Act, 1845; and
  - (e) that the notice has not been withdrawn before the commencement of this Act.
- (2) If a public authority possessing compulsory purchase powers intend to proceed with the compulsory acquisition of an interest in land, in pursuance of a notice to treat to which this section applies, they shall, before the end of the period of six months beginning with the commencement of this Act, serve on the person for the time being entitled to that interest a notice in the prescribed form (in this Act referred to as a "notice of intention to proceed ") stating that fact; and if, at the end of that period, no notice of intention to proceed has been served in accordance with this subsection in respect of an interest to which such a notice to treat relates, the notice to treat shall thereupon cease to have effect in so far as it relates to that interest.
- (3) The form prescribed under the last preceding subsection shall include such explanation of the provisions of this and the next following section as appears to the Secretary of State to be requisite for informing recipients of notices of intention to proceed of their rights and obligations under those provisions.
- (4) Where a notice of intention to proceed has been served, in respect of the compulsory acquisition of an interest in land, and, at the end of the period of one year beginning with the date of service of that notice, the compensation payable in respect of the acquisition of that interest has not been agreed, and no proceedings have been begun for the determination of any question relating to that compensation, the notice to treat, with respect to which the notice of intention to proceed was served, shall cease to have effect in so far as it relates to that interest:
 

Provided that this subsection shall not apply if, before the end of the said period of one year, the acquiring authority have exercised a right of entering upon and taking possession of land in pursuance of the notice to treat.
- (5) The authority by whom a notice to treat to which this section applies has been served shall not be entitled after the commencement of this Act to exercise any rights or powers in pursuance of that notice, unless they have served a notice of intention to proceed in accordance with this section.

- (6) Nothing in this section shall affect any question as to the validity of a notice to treat apart from the provisions of this section.

## **15 Rights of owner where notice given of intention to proceed**

- (1) Where a notice of intention to proceed has been served under the last preceding section, in respect of the compulsory acquisition of an interest in land in pursuance of a notice to treat to which that section applies (in this section referred to as "the original notice to treat"), the person for the time being entitled to that interest may (subject to the following provisions of this section) elect that compensation in respect of the compulsory acquisition of that interest shall be assessed as if the original notice to treat had been served on the first day of January, nineteen hundred and fifty-eight.
- (2) Any such election shall be signified in a notice of claim given in accordance with the provisions of subsection (2) of section five of the Act of 1919, and shall not have effect if that notice is given after the end of the period of six months beginning with the date of service of the notice of intention to proceed.
- (3) A person who has become entitled to the interest in question in pursuance of a transaction effected for valuable consideration after the service of the original notice to treat, or who derives title to it from a person who so became entitled to it, shall not have any such right of election as is mentioned in subsection (1) of this section.
- (4) Where such an election is signified in accordance with the preceding provisions of this section, the provisions of any enactment relating to the compulsory acquisition of interests in land or to compensation in respect of such acquisitions shall apply (subject to the next following subsection) as if the original notice to treat had been served on the first day of January, nineteen hundred and fifty-eight.
- (5) If, after an election has been so signified by the person entitled to the relevant interest, the original notice to treat is withdrawn, the compensation payable to him under subsection (2) of section five of the Act of 1919, in respect of any loss or expenses occasioned by that notice having been given to him and withdrawn, shall be limited to the aggregate of—
- (a) any loss or expenses so occasioned after the service of the notice of intention to proceed, and
  - (b) any expenses reasonably incurred by him, before the service of the last-mentioned notice, in preparing and supporting a claim for compensation in respect of the acquisition.

## **16 Recent entry under long-standing notice to treat**

- (1) Where a notice to treat was served before the thirteenth day of August, nineteen hundred and forty-seven, by a public authority possessing compulsory purchase powers, and—
- (a) the conditions specified in paragraphs (a), (c), (d) and (e) of subsection (1) of section fourteen of this Act are fulfilled in relation to that notice, but
  - (b) on a date after the twenty-ninth day of October, nineteen hundred and fifty-eight, and before the commencement of this Act, the acquiring authority exercised a right of entering upon and taking possession of land in pursuance of that notice,

the following provisions of this section shall have effect.

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- (2) It shall be the duty of the acquiring authority, before the end of the period of six months beginning with the commencement of this Act, to serve on the person for the time being entitled to the relevant interest a notice in the prescribed form.
- (3) The form prescribed under the last preceding subsection shall include such explanation of the provisions applicable by virtue of this section as appears to the Secretary of State to be requisite for informing recipients of notices under that subsection of their rights and obligations under those provisions.
- (4) Where subsection (1) of this section applies, the provisions of section fifteen of this Act (except subsection (5) of that section) shall have effect as if the notice to treat had been a notice to which section fourteen of this Act applied, and the acquiring authority had served a notice of intention to proceed in respect of the compulsory acquisition of the relevant interest in pursuance of that notice to treat, and as if that notice of intention to proceed—
  - (a) had been served on the date on which the acquiring authority served a notice under subsection (2) of this section in respect of the relevant interest, or
  - (b) in default of service of such a notice under subsection (2) of this section, had been served at the end of the period of six months beginning with the commencement of this Act.

## **17 Outstanding right to compensation for refusal, conditional grant, revocation or modification of planning permission**

- (1) The provisions of this section shall have effect in relation to a compulsory acquisition to which section one of this Act applies where—
  - (a) before the service of the notice to treat a planning decision or order has been made in such circumstances as to give rise to a claim for compensation for depreciation of the value of an interest in land, being land which consists of or includes the whole or part of the relevant land;
  - (b) whether such a claim has been made or not, no notice stating that compensation has become payable for depreciation of the value of that interest in consequence of that planning decision or order has been recorded before the date of service of the notice to treat; but
  - (c) such a notice is recorded on or after that date.
- (2) Where the preceding subsection applies, the compensation payable in respect of the compulsory acquisition shall be assessed as if the notice referred to in paragraph (c) of the preceding subsection had been recorded before the date of service of the notice to treat.
- (3) For the purposes of this section a planning decision or order shall be taken to give rise to a claim for compensation for depreciation of the value of an interest in land if (subject to the making and determination of a claim in accordance with the relevant provisions, and to the effect of any direction of the Secretary of State under section twenty-three or section forty-seven of the Act of 1954) a person is entitled to compensation for depreciation of the value of that interest in consequence of that decision or order.
- (4) In this section any reference to compensation for depreciation of the value of an interest in land is a reference to compensation payable either—
  - (a) under Part II or Part V of the Act of 1954 in respect of depreciation of the value of that interest, or



- (b) under subsection (1) of section twenty of the Act of 1947 in respect of loss or damage consisting of depreciation of the value of that interest;

any reference to recording is a reference to recording in the appropriate Register of Sasines under subsection (1) of section twenty-nine, or under section forty-one, of the Act of 1954, or under the provisions of the said subsection (1) as applied by section forty-eight of that Act; and " the relevant provisions ", in relation to compensation under Part II or Part V of the Act of 1954, means the provisions of the said Part II, or those provisions as applied by the said Part V, and, in relation to compensation under subsection (1) of section twenty of the Act of 1947, means the provisions of regulations made under the Act of 1947 with respect to claims for compensation under that subsection.

## **18 Additional compensation for new planning permission in respect of land acquired**

- (1) The provisions of this section shall have effect where, by a planning decision made before the end of the period of five years beginning with the date of completion of—
- (a) a compulsory acquisition to which section one of this Act applies, or
  - (b) a sale of an interest in land by agreement in circumstances corresponding to such an acquisition,

permission is granted for the carrying out of additional development of any of the land which was comprised in the acquisition or sale.

- (2) Subject to the following provisions of this section, if the principal amount of the compensation which was payable in respect of the compulsory acquisition or, in the case of a sale by agreement, the amount of the purchase price, was less than the principal amount of the compensation which would have been payable in respect of a compulsory acquisition of the interest in question with the benefit of the planning decision referred to in the preceding subsection, the person to whom the compensation or purchase price was payable shall, on a claim duly made by him, be entitled to compensation from the acquiring authority of an amount equal to the difference.
- (3) In the last preceding subsection the reference to the compensation which would have been payable in respect of a compulsory acquisition of the interest in question with the benefit of the planning decision therein mentioned is a reference to the compensation which would have been payable in respect of a compulsory acquisition of that interest by the acquiring authority, in pursuance of a notice to treat served on the relevant date, if that planning decision had been made before that date and the permission thereby granted had been in force on that date.
- (4) No compensation shall be payable by virtue of this section in respect of a planning decision in so far as it relates—
- (a) to land which on the relevant date consisted or formed part of an area defined in a development plan as an area of comprehensive development; or
  - (b) to land acquired by the acquiring authority, whether compulsorily or by agreement, under paragraph (a) of subsection (1) of section four of the New Towns Act, 1946 (which relates to the acquisition by development corporations of land within areas designated as the sites of new towns); or
  - (c) to land acquired by the acquiring authority in consequence of the service of a notice under subsection (4) of section six of the New Towns Act, 1946 (whereby a development corporation can be required to purchase an interest in land in a new town); or ,

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- (d) to land acquired by a local authority, whether compulsorily or by agreement, where on the relevant date the land consisted or formed part of an area to which a town development scheme under Part II of the Housing and Town Development (Scotland) Act, 1957, related.
- (5) If in accordance with the preceding provisions of this section the person referred to in subsection (2) of this section would be entitled to compensation as therein mentioned, but before the planning decision in question that person has died, or any other act or event has occurred whereby the right to compensation under this section, if vested in him immediately before that act or event, would thereupon have vested in some other person, the right to compensation under this section shall be treated as having devolved as if that right had been vested in him immediately before his death or immediately before that act or event, as the case may be, and the compensation shall be payable to the persons claiming under him accordingly.
- (6) The provisions of Parts I and III of the Third Schedule to this Act shall have effect for the purposes of this section.
- (7) In this section any reference to the granting of permission for the carrying out of development of any land is a reference to the granting of permission for that development—
- (a) either unconditionally or subject to conditions, and
  - (b) either in respect of that land taken by itself or in respect of an area including that land, and
  - (c) either on an ordinary application or on an outline application,
- and any reference to an area defined in a development plan is a reference to an area defined in such a plan in the form in which (whether as originally approved or made by the Secretary of State or as subsequently amended) that plan was in force on the relevant date.
- (8) In this section and in the following provisions of this part of this Act " additional development", in relation to an acquisition or sale of an interest in land, means any development of the land in question other than the following, that is to say—
- (a) where the acquiring authority are a local authority, and acquired the interest for the purposes of any of their functions, development for the purposes of the functions for which they acquired it;
  - (b) where the acquiring authority are not a local authority, development for the purposes of the project in connection with which they acquired the interest;
  - (c) development for which planning permission was in force on the relevant date ; and
  - (d) development of which—
    - (i) in the case of a compulsory acquisition, it was, for the purpose of assessing compensation in respect thereof, assumed (in accordance with the provisions of section three or section four of this Act) that planning permission would be granted, or
    - (ii) in the case of a sale by agreement, it would have been so assumed that planning permission would be granted if the interest (instead of being sold by agreement) had been compulsorily acquired by the acquiring authority in pursuance of a notice to treat served on the relevant date;

" date of completion ", in relation to an acquisition or sale of an interest in land, means the date on which the acquisition or sale is completed by the vesting of that interest in the acquiring authority; and " the relevant date ", in relation to a compulsory

acquisition of an interest in land, means the date of service of the notice to treat, and in relation to a sale of such an interest by agreement means the date of the making of the contract in pursuance of which the sale was effected.

## **19 Consideration for discharge of feu-duty, etc., in cases falling under s. 18**

- (1) In calculating for the purposes of paragraph (a) of subsection (2) of section sixty-two of the Act of 1954 (which relates to the consideration payable for the discharge of land from feu-duty and other incumbrances) the amount of the compensation payable in respect of the acquisition or sale of the dominium utile in any land, that amount shall be increased by an amount equal to the compensation, if any, which would be payable under the last preceding section in respect of that acquisition or sale if subsection (6) of that section were disregarded.
- (2) In calculating for the purposes of paragraph (b) of the said subsection (2) the amount of the compensation which would have been so payable in the circumstances mentioned in that paragraph, that amount shall be increased by an amount equal to the compensation, if any, which would have been payable under the last preceding section in respect of that acquisition or sale if—
  - (a) those circumstances had existed, and
  - (b) subsection (6) of the last preceding section were disregarded.
- (3) Where in respect of an acquisition or sale such as is mentioned in subsection (1) of the last preceding section any consideration has been paid under section one hundred and eight of the Lands Clauses Consolidation (Scotland) Act, 1845 (as read with section sixty-two of the Act of 1954), and a planning decision relating to the land in question is made thereafter in the circumstances mentioned in the said subsection (1), the person who has received the consideration shall, on a claim duly made by him, be entitled to receive from the acquiring authority an amount (in this and the next following subsection referred to as "additional consideration") equal to the difference between—
  - (a) the amount of the consideration he has received, and
  - (b) the amount of the consideration he would have received if that planning decision had been made before the date when the consideration which he has received was determined and the permission thereby granted had been in force before that date,if the last mentioned amount is greater than the amount mentioned in paragraph (a) of this subsection.
- (4) If in accordance with the last preceding subsection a person would be entitled to additional consideration in respect of an acquisition or sale, but before the planning decision in question that person has died, or any other act or event has occurred whereby the right to the additional consideration, if vested in him immediately before that act or event, would thereupon have vested in some other person, the right to the additional consideration shall be treated as having devolved as if that right had been vested in him immediately before his death or immediately before that act or event, as the case may be, and the additional consideration shall be payable to the persons claiming under him accordingly.
- (5) The provisions of Parts II and III of the Third Schedule to this Act shall have effect for the purposes of this section.

**20 Supplementary provisions as to compensation under s. 18 and additional consideration under s. 19**

(1) For the purpose of facilitating the making of claims for compensation under section eighteen of this Act—

- (a) the person entitled to receive the compensation or purchase price in respect of such an acquisition or sale as is mentioned in subsection (1) of that section, or
- (b) any person claiming under him, as being a person who, if compensation under that section became payable, would be entitled thereto by virtue of subsection (5) of that section,

may give to the acquiring authority an address for service under this section.

(2) Where, at any time after a person has given to an acquiring authority an address for service under this section a planning decision is made in the circumstances mentioned in subsection (1) of section eighteen of this Act, whereby permission is granted for the carrying out of additional development as therein mentioned, it shall be the duty of the acquiring authority to give notice of the decision in the prescribed form to that person at that address:

Provided that an acquiring authority shall not be required by virtue of this subsection to give notice of a planning decision to the person mentioned in paragraph (a) of the preceding subsection at a time after an address for service has been given to them by such a person as is mentioned in paragraph (b) of that subsection, if they have reasonable grounds for believing that the former person is dead or that any other act or event has occurred such as is mentioned in subsection (5) of the said section eighteen.

(3) A claim for compensation under section eighteen of this Act in respect of a planning decision—

- (a) if made by a person who has not given the acquiring authority an address for service under this section, shall not have effect if made more than six months after the date of the decision; and
- (b) if made by a person who has given the acquiring authority such an address, shall not have effect if made after the end of the period of six months beginning with the date on which notice of the decision is given to him in accordance with the last preceding subsection:

Provided that, in relation to a planning decision where there is an appeal (including any appeal made by virtue of subsection (3) of section fourteen of the Act of 1947), references in this subsection to the date of the decision shall be construed as references to the date of the decision on the appeal.

(4) Where a person has given to an acquiring authority an address for service under this section, and that authority, before the end of the period mentioned in subsection (1) of section eighteen of this Act, cease to be entitled to an interest in the whole or part of the land comprised in the acquisition or sale, without remaining or becoming entitled to the dominium utile, or a tenancy, of that land or that part thereof, as the case may be, they shall notify the local planning authority; and thereafter it shall be the duty of the local planning authority to give notice to the acquiring authority of any planning decision made in the circumstances mentioned in subsection (1) of the said section eighteen, whereby permission is granted for the carrying out of additional development as therein mentioned.

(5) Notice under the last preceding subsection of a planning decision—

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- (a) in the case of a decision made by the local planning authority, shall be given within seven days after the making of the decision, and
  - (b) in any other case, shall be given within seven days after the making of the decision has been notified to the local planning authority.
- (6) Subject to the preceding provisions of this section, the provisions of the Act of 1919 (so far as applicable) shall apply in relation to the assessment of compensation under section eighteen of this Act as they apply in relation to the assessment of compensation in respect of the compulsory acquisition of an interest in land.
- (7) The preceding provisions of this section, except subsection (6), shall apply to claims for additional consideration such as is mentioned in subsection (3) of the last preceding section as they apply to claims for compensation payable under section eighteen of this Act, with the substitution—
- (a) for any reference to the person entitled to receive the compensation or purchase price in respect of such an acquisition or sale as is mentioned in subsection (1) of the said section eighteen, of a reference to any person who has received consideration under section one hundred and eight of the Lands Clauses Consolidation (Scotland) Act, 1845 (as read with section sixty-two of the Act of 1954) in respect of such an acquisition or sale,
  - (b) for any reference to compensation under the said section eighteen, of a reference to additional consideration as aforesaid, and
  - (c) for any reference to subsection (5) of the said section eighteen, of a reference to subsection (4) of the last preceding section.

## **21 Extension of ss. 18, 19 and 20 to planning permission where no planning decision made**

- (1) The provisions of sections eighteen, nineteen and twenty of this Act (except subsection (2) of the said section twenty) shall have effect in relation to any planning permission which, in accordance with any direction or provision given or made by or under an enactment, is deemed to be granted for any development, as if a planning decision granting that permission had been made at the time when, in accordance with the enactment in question, the permission is deemed to be granted:

Provided that, in the case of a direction given under an enactment which contains no provision as to the time when the permission is deemed to be granted, those provisions shall have effect as if such a planning decision had been made at the time when the direction is given.

- (2) The provisions of sections eighteen, nineteen and twenty of this Act (except subsection (2) of the said section twenty) shall have effect in relation to any planning permission which is granted for any development by virtue of a development order, as if—
- (a) a planning decision granting that permission had been made at the time of the occurrence of the event in consequence of which (in accordance with the provisions of the order) the development is deemed to be sanctioned by a government department, or
  - (b) in a case not falling within the preceding paragraph, such a planning decision had been made at the time when the development is initiated.
- (3) Where the provisions of sections eighteen and nineteen of this Act have effect as applied by subsection (1) or subsection (2) of this section, then if—

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- (a) before the time of the planning decision which is to be assumed in accordance with those provisions as so applied, a person who (in accordance with the provisions of subsection (1) of section twenty of this Act as so applied) is entitled to give an address for service under that section has given such an address to the acquiring authority, and
- (b) the development is proposed to be carried out by the acquiring authority, or, if it is proposed to be carried out by a person other than the acquiring authority, notice of that proposal is given to the acquiring authority by the person proposing to carry out the development,

it shall (subject to the next following subsection) be the duty of the acquiring authority to give notice of that proposal in the prescribed form to the first-mentioned person at the address given by him to the authority.

- (4) An acquiring authority shall not be required by virtue of 'the last preceding subsection to give notice of proposed development to the person mentioned in paragraph (a) of subsection (1) of section twenty of this Act at a time after an address for service has been given to them by such a person as is mentioned in paragraph (b) of the said subsection (1), if they have reasonable grounds for behaving that the former person is dead or that any other act or event has occurred such as is mentioned in subsection (5) of section eighteen of this Act.
- (5) Any reference in this section to subsection (1) of section twenty of this Act shall include a reference to that subsection as extended by subsection (7) of that section, and any reference in this section to subsection (5) of section eighteen of this Act shall accordingly include a reference to subsection (4) of section nineteen of this Act.

## **22 Extension of ss. 18, 19 and 20 to Crown development**

- (1) Where, before the end of the period of five years beginning with the date of completion of—
  - (a) a compulsory acquisition to which section one of this Act applies, or
  - (b) a sale of an interest in land by agreement in circumstances corresponding to such an acquisition,
 there is initiated any additional development of any of the land which was comprised in the acquisition or sale, and by reason of any such circumstances as are mentioned in the next following subsection the development in question is development for which planning permission is not required, the provisions of sections eighteen, nineteen and twenty of this Act (except subsection (2) of the said section twenty) shall apply as if a planning decision granting permission for that development had been made at the time when the additional development is so initiated.
- (2) The said circumstances are either or both of the following, that is to say.—
  - (a) that the development is initiated by or on behalf of the Crown;
  - (b) that there is a Crown interest in the land and the development is initiated in right of that interest.
- (3) Subject to the next following subsection, subsections (3) and (4) of section twenty-one of this Act shall apply where the provisions of sections eighteen and nineteen of this Act have effect as applied by subsection (1) of this section as they apply where those provisions have effect as applied by subsection (1) or subsection (2) of the said section twenty-one.

- (4) Where, by virtue of the last preceding subsection, it is the duty of a government department to give notice of development initiated by or on behalf of that department, and the Minister or Board in charge of the department certifies that for reasons of national security it is necessary that the nature of the development should not be disclosed, except to the extent specified in the certificate, the department shall give notice of the development, but shall not be required to give any particulars of the nature thereof except to the extent specified in the certificate.
- (5) In this section " Crown interest " means an interest belonging to Her Majesty in right of the Crown or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.

## PART II

### ACQUISITION, APPROPRIATION AND DISPOSAL OF LAND BY LOCAL AUTHORITIES AND OTHER PUBLIC BODIES

#### 23 Exercise of powers of acquisition by agreement

- (1) Where by any enactment—
  - (a) power is conferred on any authority to whom this Part of this Act applies, or on any class of such authorities, to acquire land by agreement, but
  - (b) that power is so conferred subject to a provision (in whatever terms the provision, is expressed, and whether it is contained in the same or in any other enactment) that the power is not to be exercised except with the consent of a Minister specified in that provision, with or without a further provision enabling conditions to be imposed by such a Minister in respect of the exercise of the power,the enactment shall have effect, in relation to acquisitions to which this section applies, as if it conferred that power free from any such provision as is mentioned in paragraph (b) of this subsection.
- (2) This section applies to every acquisition of land by agreement by an authority to whom this Part of this Act applies, in pursuance of a contract made after the commencement of this Act.
- (3) In this Part of this Act " authority to whom this Part of this Act applies " means a body of any of the descriptions specified in the Fourth Schedule to this Act; " land " includes any servitude and any other interest in, or right over, land; " Minister " means a Minister of the Crown or a government department ; and " consent " includes approval, sanction and authorisation.

#### 24 Exercise of powers of appropriation

- (1) Subject to the following provisions of this section, where by any enactment—
  - (a) power is conferred on any authority to whom this Part of this Act applies, or on any class of such authorities, to appropriate land for any purpose, whether the purpose is defined in the enactment specifically or by reference to some other power exercisable by the authority or class of authorities in question, but
  - (b) that power is so conferred subject to a provision (in whatever terms the provision is expressed, and whether it is contained in the same or in any other

enactment) that the power is not to be exercised except with the consent of a Minister specified in that provision, or for a purpose approved by a Minister so specified, with or without a further provision enabling conditions to be imposed by such a Minister in respect of the exercise of the power,

the enactment shall have effect, in relation to any exercise of the power after the commencement of this Act by an authority to whom this Part of this Act applies, as if it conferred that power free from any such provision as is mentioned in paragraph (b) of this subsection.

- (2) The exercise after the commencement of this Act, by any authority to whom this Part of this Act applies, of any power of appropriation in relation to which subsection (1) of this section has effect shall be subject to the following provisions, that is to say.—
- (a) land which consists or forms part of a common or open space, or is held for use as allotments, shall not be appropriated except with the consent of the Secretary of State ;
  - (b) land which has been acquired (whether before or after the commencement of this Act) by an authority to whom this Part of this Act applies, and has been so acquired by that authority in the exercise (directly or indirectly) of compulsory powers, and has not subsequently been appropriated by that authority for any purpose other than that for which it was so acquired, shall not be appropriated by that authority for any other purpose except with the consent of the Minister who, at the time of the appropriation, is the Minister concerned with the function for the purposes of which the land was acquired by the authority.
- (3) Subsection (1) of this section shall not apply to any appropriation of land in pursuance of an order under section thirty-nine of the Act of 1947.

## **25 Adjustment of accounts on appropriation of land**

- (1) On an appropriation of land for any purpose by an authority to whom this Part of this Act applies, other than an appropriation falling within the next following subsection, such adjustment shall be made in the accounts of the authority as may be requisite in the circumstances.
- (2) Where land is appropriated for any purpose by an authority to whom this Part of this Act applies, and—
- (a) either the land was immediately before the appropriation held by the authority for the purposes of a grant-aided function, or it is appropriated by the authority for the purposes of such a function, and
  - (b) apart from this section, a Minister would by virtue of any enactment have power to direct an adjustment to be made in the accounts of the authority in connection with that appropriation,
- such adjustment shall be made in the accounts of the authority as the Secretary of State may direct.
- (3) The preceding provisions of this section shall have effect in substitution for the provisions of any enactment in force immediately before the commencement of this Act whereby an adjustment is required to be made in the accounts of an authority to whom this Part of this Act applies on an appropriation of land by such an authority.



## **26 Amendment of s. 21 of Land Settlement (Scotland) Act, 1919**

Section twenty-one of the Land Settlement (Scotland) Act, 1919 (which relates to the temporary use for allotments of land acquired by local authorities for other purposes) shall have effect with the omission of any reference to the consent of the Secretary of State.

## **27 Exercise of powers of disposing of land**

- (1) Subject to the following provisions of this section, where by any enactment—
- (a) power is conferred on any authority to whom this Part of this Act applies, or on any class of such authorities, to dispose of land, but
  - (b) that power is so conferred subject to a provision (in whatever terms the provision is expressed and whether it is contained in the same or in any other enactment) that the power is not to be exercised except with the consent of a Minister specified in that provision, with or without a further provision enabling conditions to be imposed by such a Minister in respect of the exercise of the power,
- the enactment shall have effect, in relation to any exercise of the power after the commencement of this Act by an authority to whom this Part of this Act applies, as if it conferred that power free from any such provision as is mentioned in paragraph (b) of this subsection.
- (2) A disposal by an authority to whom this Part of this Act applies—
- (a) of land which consists or forms part of a common or open space or is held for use as allotments, or
  - (b) of land which has been acquired (whether before or after the commencement of this Act) by that authority in the exercise (directly or indirectly) of compulsory powers, and has not subsequently been appropriated by that authority for any purpose other than that for which it was so acquired,
- if (in either case) it is a disposal which, apart from this section, could not be effected except with the consent of a Minister, shall not be effected except with such consent as is mentioned in the next following subsection.
- (3) The said consent—
- (a) in a case falling within paragraph (a) of the last preceding subsection, is the consent of the Secretary of State, and
  - (b) in a case falling within paragraph (b) of that subsection, is the consent of the Minister who, at the time of the disposal, is the Minister concerned with the function for the purposes of which the land was acquired by the authority.
- (4) Subject to the provisions of this Act, section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947 (which makes provision as to price and other matters relating to the disposal of land by local authorities) shall apply to any disposal of land by an authority to whom this Part of this Act applies in the exercise of a power in relation to which subsection (1) of this section has effect (not being a power under Part VIII of the said Act of 1947) as it applies to the like disposal of land by a local authority within the meaning of the said Act of 1947 in the exercise of any power under the said Part VIII.
- (5) Subsection (1) of this section shall not apply—
- (a) to any exercise of the powers conferred by paragraph (d) of subsection (1) of section sixty-five of the Housing (Scotland) Act, 1950 (which confers powers

- of disposing of houses provided under Part V of that Act), in respect of any house, if in respect of the provision of that house an Exchequer contribution has (whether before or after the commencement of this Act) been paid under any of the enactments specified in Part I of the Sixth Schedule to the said Act of 1950;
- (b) to any exercise of the powers conferred by section eighteen of the Town and Country Planning (Scotland) Act, 1945 (which, as amended by the Act of 1947, relates to the disposal or appropriation by local authorities of land held by them for the purposes of Part III of the Act of 1947), in respect of land falling within subsection (5) of the said section eighteen (which makes special provision as to land comprised in an area defined by a development plan as an area of comprehensive development) and that subsection as extended by section seventeen of the Housing and Town Development (Scotland) Act, 1957;
  - (c) to any exercise of the powers conferred by subsection (2) of section one hundred and seventy-one of the Local Government (Scotland) Act, 1947 (which relates to the disposal in certain circumstances of land forming part of the common good of a burgh); or
  - (d) to any local enactment in so far as it provides (in what soever terms), that, except with the consent of a Minister specified therein, land shall not be disposed of thereunder for a rent, price, feu duty or other consideration of a value less than the current market value thereof.
- (6) In determining, for the purposes of subsection (2) of this section, whether a disposal of land under a local enactment is a disposal which apart from this section could not be effected except with the consent of a Minister, any such provision as is mentioned in paragraph (d) of the last preceding subsection shall be disregarded.

**28 Amendment of s. 168 of Local Government (Scotland) Act, 1947, as to adjustment of accounts on disposal of land**

Section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947 (which makes provision, among other things, for the adjustment in certain cases of the accounts of local authorities in respect of capital money received on the disposal of land), shall have effect as if for the proviso to subsection (1) of that section there were substituted the following proviso, that is to say—

“Provided that—

- (a) on any application by a local authority of capital money received by them as mentioned in this subsection, other than an application falling within the next following paragraph, such adjustment shall be made in the accounts of the authority as may be requisite in the circumstances;
- (b) where any capital money received by a local authority as mentioned in this subsection in respect of land held by them for the purposes of any of their functions is applied by them for the purposes of some other function of theirs (including the purposes of the repayment of any debt incurred by them for the purposes of that other function), then, if either of those functions is a grant-aided function, such adjustment shall be made in the accounts of the authority as the Secretary of State may direct.”

## **29 Protection of persons deriving title under transactions requiring consent**

- (1) Where after the commencement of this Act an authority to whom this Part of this Act applies purport to acquire, appropriate or dispose of land under an enactment whereby power to acquire, appropriate or dispose of land is conferred on that authority, or on a class of authorities to whom this Part of this Act applies, then—
  - (a) in favour of any person claiming under the authority, the acquisition, appropriation or disposal so purporting to be made shall not be invalid by reason that any consent of a Minister which (whether by virtue of this Part of this Act or otherwise) is required thereto has not been given, and
  - (b) a person dealing with the authority, or with a person claiming under the authority, shall not be concerned to see or inquire whether any such consent has been given.
- (2) The preceding subsection shall have effect in substitution for the provisions of subsection (2) of section one hundred and sixty-eight of the Local Government (Scotland) Act, 1947, in so far as those provisions relate to the consent of a Minister, but without prejudice to the operation of those provisions in cases to which the preceding subsection does not apply.

## **30 General provisions relating to Part II**

- (1) Any reference in this Part of this Act to a provision that a power is not to be exercised except with the consent of a Minister is a reference to a provision which either—
  - (a) requires such consent generally in respect of any exercise of the power, or
  - (b) requires such consent in respect of the exercise of the power in such circumstances as may be specified therein.
- (2) For the purposes of this Part of this Act any provision whereby a power is to be exercised only if a Minister specified therein is satisfied as to any matters so specified shall be taken to be a provision that the power shall not be exercised except with the consent of the Minister.
- (3) Any reference in this Part of this Act to an enactment whereby a power is conferred on an authority to whom this Part of this Act applies, or on a class of such authorities.—
  - (a) shall be taken to include any enactment whereby the power in question is conferred on local authorities generally, or on a class of local authorities which includes a class of authorities to whom this Part of this Act applies, or is conferred on a class of authorities to whom this Part of this Act applies together with any other class of local authorities, but
  - (b) shall not be taken to include any enactment whereby (without particular reference to local authorities, or to bodies of any description specified in the Fourth Schedule to this Act) a power is conferred generally on persons of a description specified in the enactment, notwithstanding that one or more authorities to whom this Part of this Act applies may fall within the description specified in the enactment.
- (4) For the purposes of any provision of this Part of this Act whereby the consent of a Minister is required, or directions may be given by a Minister, for any purpose therein mentioned, the consent or directions may be given by that Minister either generally to all authorities to whom the provision relates, or to any class of such authorities, or may be given specifically in any particular case, and (whether given generally or

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otherwise) may be given either unconditionally or subject to such conditions as the Minister giving the consent or directions may consider appropriate.

- (5) For the purposes of this Part of this Act land shall be taken to have been acquired by an authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them compulsorily or was acquired by them by agreement at a time when they were authorised by or under an enactment to acquire the land compulsorily:

Provided that land shall not be taken to have been acquired by an authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them (whether compulsorily or by agreement) in consequence of the service in pursuance of any enactment (including any enactment contained in this Act) of a notice requiring the authority to purchase the land.

### PART III

#### ADMINISTRATIVE PROCEDURES AND RELATED PROCEEDINGS

#### **31 Proceedings for challenging validity of certain orders and decisions**

- (1) If any person—
- (a) is aggrieved by any order to which this section applies and desires to question the validity of that order, on the grounds that the order is not within the powers of the Act of 1947, or that any of the relevant requirements have not been complied with in relation to that order, or
  - (b) is aggrieved by any action on the part of the Secretary of State to which this section applies and desires to question the validity of that action, on the grounds that the action is not within the powers of the Act of 1947, of the Act of 1954, or of this Act, as the case may be, or that any of the relevant requirements have not been complied with in relation to that action,
- he may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the Court of Session under this section.
- (2) Without prejudice to the preceding subsection, if—
- (a) the authority directly concerned with any order to which this section applies desire to question the validity of that order on any of the grounds mentioned in paragraph (a) of the preceding subsection, or
  - (b) the authority directly concerned with any action on the part of the Secretary of State to which this section applies desire to question the validity of that action on any of the grounds mentioned in paragraph (b) of the preceding subsection,
- the authority may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the Court of Session under this section.
- (3) This section applies to the following orders made after the commencement of this Act, that is to say—
- (a) any order under section nineteen of the Act of 1947 (which relates to the revocation or modification of planning permission) or under the provisions of that section as applied by or under any other provision of that Act;

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- (b) any order under section twenty-four of that Act (which relates to orders requiring a use of land to be discontinued, or imposing conditions on the continuance of such a use);
  - (c) any order under section twenty-six of that Act (which relates to the preservation of trees and woodlands);
  - (d) any order under section twenty-seven of that Act (which relates to the preservation of buildings of special architectural or historic interest);
  - (e) any order made in pursuance of subsection (4) of section twenty-nine of that Act (which relates to the definition of areas of special control for the purposes of the control of advertisements).
- (4) This section applies to action on the part of the Secretary of State, taken after the commencement of this Act, of any of the following descriptions, that is to say—
- (a) any decision of the Secretary of State on an application for planning permission referred to him under section thirteen of the Act of 1947 ;
  - (b) any decision of the Secretary of State on an appeal under section fourteen of that Act (which relates to appeals against planning decisions of local planning authorities);
  - (c) any decision of the Secretary of State to confirm a notice under section seventeen of that Act (which relates to notices requiring the purchase of land by a local authority where permission to develop is refused) or under the provisions of that section as applied by or under any other provision of that Act or of the Act of 1954, and any decision of the Secretary of State not to confirm such a notice (including any decision not to confirm such a notice in respect of part of the land to which it relates, and including any decision to grant any permission, or give any direction, in lieu of confirming such a notice, either wholly or in part);
  - (d) any decision of the Secretary of State relating to an application for consent under an order made by virtue of section twenty-six or section twenty-seven of the Act of 1947 or under any regulations made under that Act in accordance with section twenty-nine of that Act, or relating to any certificate or direction under such an order or under any such regulations, being either a decision of the Secretary of State on appeal or a decision on an application referred to him for determination in the first instance;
  - (e) the giving by the Secretary of State of any direction under section twenty-three of the Act of 1954 (which relates to the review of planning decisions where compensation is claimed) or under subsection (3) or subsection (4) of section forty-seven of that Act (which relates to the review of past planning decisions and orders);
  - (f) any decision of the Secretary of State on an appeal under section six of this Act.
- (5) On any application under this section the Court of Session—
- (a) may by interim order suspend the operation of the order or action, the validity whereof is questioned by the application, until the final determination of the proceedings;
  - (b) if satisfied that the order or action in question is not within the powers of the Act of 1947, of the Act of 1954, or of this Act, as the case may be, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation thereto, may quash that order or action:

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Provided that paragraph (a) of this subsection shall not apply to applications questioning the validity of orders under section twenty-six or section twenty-seven of the Act of 1947.

- (6) In relation to any such order as is mentioned in paragraph (c) or paragraph (e) of subsection (3) of this section, the powers conferred on the Court of Session by the last preceding subsection shall be exercisable by way of quashing or (where applicable) suspending the operation of the order either in whole or in part, as the court may determine.
- (7) Subject to the preceding provisions of this section, the validity of an order to which this section applies, whether before or after it has been confirmed, and the validity of any action on the part of the Secretary of State to which this section applies, shall not be questioned in any legal proceedings whatsoever.
- (8) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any action to which this section applies.
- (9) In relation to any action which—
  - (a) apart from the provisions of the Fifth Schedule to the Act of 1947 (which contains special provisions relating to development by statutory undertakers) would fall to be taken by the Secretary of State and, if so taken, would be action to which this section applies, but
  - (b) by virtue of that Schedule is required to be taken by the Secretary of State and the appropriate Minister,

the preceding provisions of this section shall have effect as if any reference in those provisions to the Secretary of State were a reference to the Secretary of State and the appropriate Minister:

Provided that where, by virtue of that Schedule, any such action is required to be embodied in an order, and that order is subject to special parliamentary procedure, then—

- (i) if the order in which the action is embodied is confirmed by Act of Parliament under subsection (4) of section two, or under section six, of the Statutory Orders (Special Procedure) Act, 1945, the preceding provisions of this section shall not apply ;
  - (ii) in any other case, subsections (1) and (2) of this section shall apply with the substitution, for any reference to the date on which the action is taken, of a reference to the date on which the order becomes operative under the said Act of 1945.
- (10) References in this section to the confirmation of an order do not include the provisional confirmation of an order in pursuance of the proviso to subsection (5) of section twenty-six or the proviso to subsection (4) of section twenty-seven of the Act of 1947, but (with that exception) include the confirmation of an order subject to modifications as well as the confirmation of an order in the form in which it was made.
  - (11) In this section "the relevant requirements", in relation to any order or action to which this section applies, means any requirements of the Act of 1947, the Act of 1954, the Tribunals and Inquiries Act, 1958, or this Act, or of any order, regulations or rules made under any of those Acts, which are applicable to that order or action; and any reference to the authority directly concerned with any order or action to which this section applies is a reference to the local planning authority, and, in relation to any

such decision as is mentioned in paragraph (c) of subsection (4) of this section, being a decision confirming the notice in question subject to the substitution of another local authority or statutory undertakers for the local planning authority, shall be construed as including a reference to that other local authority or those statutory undertakers.

### **32 Appeals from certain decisions under Town and Country Planning Acts**

- (1) Subsections (1) and (6) of section nine of the Tribunals and Inquiries Act, 1958 (which relates to appeals from certain tribunals), shall have effect in relation to any decision of the Secretary of State to which this section applies as they have effect in relation to a decision of any of the tribunals mentioned in that subsection, but with the substitution, for the reference to a party to proceedings before such a tribunal, of a reference to either of the following, that is to say, the person who made the application to which the Secretary of State's decision relates and the local planning authority.
- (2) This section applies to any decision of the Secretary of State made after the commencement of this Act—
  - (a) on an application under section fifteen of the Act of 1947 (which relates to applications to determine whether proposed operations or changes of use involve development) which is referred to the Secretary of State under the provisions of section thirteen of that Act as applied by that section; or
  - (b) on an appeal from a decision of the local planning authority under the said section fifteen, being an appeal brought under the provisions of section fourteen of that Act as so applied.
- (3) Where an application under section fifteen of the Act of 1947 is made as part of an application for planning permission, the preceding provisions of this section shall have effect in relation to that application in so far as it is an application under the said section fifteen, but not in so far as it is an application for planning permission.
- (4) Subsection (3) of section nine of the said Act of 1958 (which relates to the power to make rules of court) shall have effect in relation to proceedings brought by virtue of subsections (1) and (6) of that section as applied by this section, as if in the said subsection (3) any reference to the tribunal were a reference to the Secretary of State.
- (5) Without prejudice to the last preceding subsection, the power to make rules of court in relation to proceedings in the Court of Session brought by virtue of the said subsections (1) and (6) as applied by this section shall include power to make rules providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.

### **33 Procedure in connection with statutory inquiries**

In the Tribunals and Inquiries Act, 1958, the following section shall be inserted after section seven:—

- (1) The Lord Chancellor, after consultation with the Council, may make rules for regulating the procedure to be followed in connection with statutory inquiries held by or on behalf of the Ministers ; and different provision may be made by any such rules in relation to different classes of such inquiries.
- (2) Any rules made by the Lord Chancellor under this section shall have effect, in relation to any statutory inquiry, subject to the provisions of the enactment

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under which the inquiry is held, and of any rules or regulations made under that enactment.

- (3) Subject to the last foregoing subsection, rules made under this section may regulate procedure in connection with matters preparatory to such statutory inquiries as are mentioned in subsection (1) of this section, and in connection with matters subsequent to such inquiries, as well as in connection with the conduct of proceedings at such inquiries,
- (4) The power to make rules under this section shall be exercisable by statutory instrument; and any instrument containing any such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In the application of this section to inquiries held in Scotland, for any reference to the Lord Chancellor there shall be substituted a reference to the Lord President of the Court of Session, and the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing rules made by the Lord President of the Court of Session under this section in like manner as if the Lord President of the Court of Session were a Minister of the Crown; and the Council, in exercising their functions under this section in relation to rules to be made by the Lord President of the Court of Session, shall consult with the Scottish Committee.”

### **34 Provisions as to purchase notices**

- (1) Section seventeen of the Act of 1947 (which relates to purchase notices) shall have effect, in relation to any purchase notice served after the commencement of this Act, as if the following subsections were inserted after subsection (1) of that section:—

“(1A) The local planning authority on whom a purchase notice is served under this section shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner by whom the purchase notice was served a notice stating either—

- (a) that the local planning authority are willing to comply with the purchase notice ; or
- (b) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place; or
- (c) that, for reasons specified in the notice under this subsection, the local planning authority are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place, and that they have transmitted a copy of the purchase notice to the Secretary of State, on a date specified in the notice under this subsection, together with a statement of the reasons so specified.

- (1B) Where the local planning authority upon whom a purchase notice is served under this section have served on the owner by whom the purchase notice was served a notice in accordance with paragraph (a) or paragraph (b) of the last foregoing subsection, the local planning authority, or the other local authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part III of this Act, and to have served a



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notice to treat in respect thereof on the date of service of the notice under the last foregoing subsection.”

- (2) In its application to purchase notices served after the commencement of this Act, the said section seventeen shall have effect as if, after subsection (5) of that section, there were added the following subsections:—

“(6) In the last foregoing subsection, any reference to the taking of action in lieu of confirming a purchase notice includes a reference to the taking of a decision not to confirm the notice on the grounds that any of the conditions specified in paragraphs (a) to (c) of subsection (1) of this section are not fulfilled.

(7) Where the Secretary of State has given notice under subsection (5) of this section of his proposed action, and any of the persons, authorities and statutory undertakers concerned have appeared before and been heard by a person appointed by the Secretary of State for the purpose, and it then appears to the Secretary of State to be expedient to take action under this section otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.”

- (3) Where the Secretary of State has notified the owner by whom a purchase notice has been served of any such decision on his part as is mentioned in paragraph (c) of subsection (4) of section thirty-one of this Act, and that decision of the Secretary of State is quashed under that section, the purchase notice shall be, treated as cancelled, but the owner may serve a further purchase notice in its place.
- (4) For the purposes of any regulations made under the Act of 1947 as to the time within which a purchase notice may be served, the service of a purchase notice under the last preceding subsection shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with those regulations if the planning decision, in consequence of which the notice is served, had been made on the date on which the decision of the Secretary of State was quashed as mentioned in the last preceding subsection.

### **35 Publication of notice of applications for planning permission**

- (1) An application made after the commencement of this Act for planning permission for development of any class to which this section applies—
- (a) shall not be entertained by the local planning authority unless it is accompanied by a copy of a notice of the application, in such form as may be prescribed by a development order, and by such evidence as may be so prescribed that the notice has been published in a local newspaper circulating in the locality in which the land to which the application relates is situated; and
  - (b) shall not be determined by the local planning authority before the end of the period of twenty-one days beginning with the date appearing from the evidence accompanying the application to be the date on which the notice was published as mentioned in the preceding paragraph.
- (2) Any such notice as is mentioned in paragraph (a) of the preceding subsection shall (in addition to any other matters required to be contained therein) name a place within the locality where a copy of the application, and of all plans and other documents submitted therewith, will be open to inspection by the public at all reasonable hours during such period (not being less than twenty-one days, beginning with the date of publication of the notice) as may be specified in the notice.

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- (3) Provision may be made by a development order for designating the classes of development to which this section applies, and this section shall apply accordingly to any class of development which is for the time being so designated.
- (4) In determining any such application for planning permission as is mentioned in subsection (1) of this section, the local planning authority shall take into account any representations relating to that application which are received by them before the end of the period of twenty-one days mentioned in paragraph (b) of subsection (1) of this section.
- (5) Subsection (1) of this section and the last preceding subsection shall apply, with the necessary modifications, in relation to applications referred to the Secretary of State under section thirteen of the Act of 1947 or made to the Secretary of State in pursuance of regulations made under subsection (3) of section thirty-two of that Act (which relates to applications for planning permission by local planning authorities) as they apply in relation to applications for planning permission which fall to be determined by the local planning authority.

### **36 Notification of applications for planning permission to owners and agricultural tenants**

- (1) Without prejudice to the last preceding section, a local planning authority shall not entertain any application for planning permission made after the commencement of this Act unless it is accompanied by one or other of the following certificates signed by or on behalf of the applicant, that is to say—
  - (a) a certificate stating that in respect of every part of the land to which the application relates the applicant is the proprietor of the dominium utile or is the lessee under a lease thereof;
  - (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, were owners of any of the land to which the application relates, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice ;
  - (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding paragraphs, that he has given the requisite notice of the application to such one or more of the persons mentioned in the last preceding paragraph as are specified in the certificate (setting out their names, the addresses at which the notice of the application was given to them respectively, and the date of the service of each such notice) and that he does not know the names and addresses of the remainder of those persons;
  - (d) a certificate stating that the applicant is unable to issue a certificate in accordance with paragraph (a) of this subsection, and that he does not know the names and addresses of any of the persons mentioned in paragraph (b) of this subsection.
- (2) Any such certificate as is mentioned in paragraph (c) or paragraph (d) of the preceding subsection shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (being a date not earlier than the beginning of the period mentioned in paragraph (b) of the preceding

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subsection) been published in a local newspaper circulating in the locality in which the land in question is situated.

- (3) In addition to any other matters required to be contained in a certificate issued for the purposes of this section, every such certificate shall contain one or other of the following statements, that is to say.—
- (a) a statement that none of the land to which the application relates constitutes or forms part of an agricultural holding;
  - (b) a statement that the applicant has given the requisite notice of the application to every person who, at the beginning of the period of twenty-one days ending with the date of the application, was a tenant of any agricultural holding any part of which was comprised in the land to which the application relates, and setting out the name of each such person, the address at which notice of the application was given to him, and the date of service of that notice.
- (4) Where an application for planning permission is accompanied by such a certificate as is mentioned in paragraph (b), paragraph (c) or paragraph (a) of subsection (1) of this section, or by a certificate containing a statement in accordance with paragraph (b) of the last preceding subsection.—
- (a) the local planning authority shall not determine the application before the end of the period of twenty-one days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or the date of publication of a notice as therein mentioned, whichever is the later;
  - (b) the local planning authority, in determining the application, shall take into account any representations relating thereto which are made to them, before the end of the period specified in the preceding paragraph, by any person who satisfies them that he is an owner of any of the land to which the application relates or that he is the tenant of an agricultural holding any part of which is comprised in that land;
  - (c) the local planning authority shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with the last preceding paragraph.
- (5) The preceding provisions of this section shall apply, with the necessary modifications.
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- (a) in relation to an application for planning permission which is referred to the Secretary of State under section thirteen of the Act of 1947, or is made to the Secretary of State in pursuance of regulations made under subsection (3) of section thirty-two of that Act, and
  - (b) in relation to an appeal to the Secretary of State under section fourteen of that Act from a decision of the local planning authority,
- as they apply in relation to an application for planning permission which falls to be determined by the local planning authority.
- (6) If any person issues any certificate which purports to comply with the requirements of this section and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds.

- (7) Any certificate issued for the purposes of this section shall be in such form as may be prescribed by a development order; and any reference in any provision of this section to the requisite notice, where a form of notice is prescribed by a development order for the purposes of that provision, is a reference to a notice in that form.
- (8) In this section "owner" in relation to any land means any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and any person entitled to possession of the land as lessee under a lease the unexpired period of which is not less than ten years, and "agricultural holding" has the same meaning as in the Agricultural Holdings (Scotland) Act, 1949.

### **37 Enforcement of limitations imposed by development orders**

- (1) Where by a development order (whether made before or after the commencement of this Act) permission is granted for any development subject to limitations specified in the order, sections twenty-one and twenty-two of the Act of 1947 (which relate to the enforcement of planning control) shall, subject to the provisions of this section, have effect in relation to any non-compliance with those limitations as they have effect in relation to non-compliance with any conditions subject to which permission is granted for any development.
- (2) For the purposes of this section and of the Act of 1947, any provision of a development order (whether made before or after the commencement of this Act) whereby permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision shall (without prejudice to the generality of references to limitations in this section or in that Act) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall not be used for any one purpose in pursuance of that permission on more than that number of days in that period.
- (3) The validity of a notice purporting to be an enforcement notice under the said section twenty-one (whether served before or after the commencement of this Act) shall not depend on whether any non-compliance to which the notice relates was a non-compliance with conditions, or with limitations, or with both; and any reference in such a notice to non-compliance with conditions or limitations (whether both expressions are used in the notice or only one of them) shall be construed as a reference to non-compliance with conditions, or with limitations, or both with conditions and limitations, as the case may require.

## **PART IV**

### **OBLIGATION TO PURCHASE INTERESTS OF OWNER-OCCUPIERS AFFECTED BY PLANNING PROPOSALS**

### **38 Notice requiring purchase of owner-occupier's interest**

- (1) The provisions of this Part of this Act shall have effect in relation to land which—
- (a) is land designated by a development plan as subject to compulsory acquisition, or
  - (b) is land allocated by a development plan for the purposes of any functions of a government department, local authority or statutory undertakers, or of the

- National Coal Board, or is land defined in such a plan as the site of proposed development for the purposes of any such functions, or
- (c) is land indicated in a development plan (otherwise than by being allocated or defined as mentioned in the last preceding paragraph) as land on which a road is proposed to be constructed or land to be included in a road as proposed to be improved or altered, or
  - (d) is land authorised by a special enactment to be compulsorily acquired, or land falling within the limits of deviation within which powers of compulsory acquisition conferred by a special enactment are exercisable, or
  - (e) is land on or adjacent to the line of a road proposed to be constructed, improved or altered, as indicated in an order or scheme which has come into operation under the provisions of the Trunk Roads Act, 1946, or the Special Roads Act, 1949, being land in relation to which a power of compulsory acquisition conferred by section thirteen of the Restriction of Ribbon Development Act, 1935, as read with any of the following enactments, that is to say section four of the Trunk Roads Act, 1936, section five of the Trunk Roads Act, 1946, and sections nine, ten and fourteen of the Special Roads Act, 1949, may become exercisable, as being land required for purposes of construction, improvement or alteration as indicated in the order or scheme, or
  - (f) is land shown on plans approved by a resolution of a local highway authority as land comprised in the site of a road as proposed to be constructed, improved or altered by that authority.
- (2) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions, and a person claims that—
- (a) he is entitled to an interest in that hereditament or unit, and
  - (b) the interest is one which qualifies for protection under this Part of this Act, and
  - (c) since the relevant date he has made reasonable endeavours to sell that interest, and
  - (d) he has been unable to sell it except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were comprised in land of any of the specified descriptions,
- he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, the following provisions of this Part of this Act.
- (3) The last preceding subsection shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the entirety of a hereditament or agricultural unit:
- Provided that this subsection shall not enable any person—
- (a) if he is entitled to an interest in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under the last preceding subsection in respect of his interest in part of the hereditament or unit, or
  - (b) if he is entitled to an interest only in part of a hereditament or agricultural unit, to make or serve any such claim or notice in respect of his interest in less than the entirety of that part.

- (4) An interest in the whole or part of a hereditament shall be taken to be an interest qualifying for protection under this Part of this Act if, on the date of service of a notice under this section in respect thereof, either—
- (a) the annual value of the hereditament does not exceed the prescribed limit, and the interest in question is the interest of an owner-occupier of the hereditament, or
  - (b) in a case not falling within the preceding paragraph, the interest in question is the interest of a resident owner-occupier of the hereditament.
- (5) An interest in the whole or part of an agricultural unit shall be taken to be an interest qualifying for protection under this Part of this Act if, on the date of service of a notice under this section in respect thereof, it is the interest of an owner-occupier of the unit.
- (6) In the following provisions of this Part of this Act " the claimant", in relation to a notice served under this section, means the person who served that notice, and any reference to the interest of the claimant, in relation to such a notice, is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in subsection (2) of this section.

### **39 Objection to notice requiring purchase of claimant's interest**

- (1) Where a notice has been served under the last preceding section in respect of a hereditament or agricultural unit, the appropriate authority, at any time before the end of the period of two months beginning with the date of service of that notice, may serve on the claimant a counter-notice in the prescribed form objecting to the notice.
- (2) The grounds on which objection may be made in a counter-notice to a notice served under the last preceding section are:—
- (a) that no part of the hereditament or agricultural unit to which the notice relates is comprised in land of any of the specified descriptions;
  - (b) that the appropriate authority (unless compelled to do so by virtue of this Part of this Act) do not propose to acquire any part of the hereditament, or (in the case of an agricultural unit) any part of the affected area, in the exercise of any relevant powers;
  - (c) that (in the case of an agricultural unit) the appropriate authority propose in the exercise of relevant powers to acquire a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of this Part of this Act) do not propose to acquire any other part of that area in the exercise of any such powers;
  - (d) that, on the date of service of the notice under the last preceding section, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates ;
  - (e) that (for reasons specified in the counter-notice) the interest of the claimant is not an interest qualifying for protection under this Part of this Act;
  - (f) that the conditions specified in paragraphs (c) and (d) of subsection (2) of the last preceding section are not fulfilled.
- (3) Any counter-notice served under this section in respect of a notice under the last preceding section shall specify the grounds (being one or more of the grounds mentioned in the last preceding subsection) on which the appropriate authority object to the notice.

- (4) In this section " relevant powers ", in relation to any land falling within any of the specified descriptions, means any powers under which the appropriate authority are or could be authorised—
- (a) to acquire that land compulsorily as being land falling within that description, or
  - (b) to acquire that land compulsorily for any of the relevant purposes;
- and " the relevant purposes ", in relation to any such land, means the purposes for which, in accordance with the circumstances by virtue of which that land falls within the description in question, it is liable to be acquired or is indicated as being proposed to be acquired.

#### **40 Reference of objection to Lands Tribunal**

- (1) Where a counter-notice has been served under the last preceding section, objecting to a notice served under section thirty-eight of this Act, the claimant, at any time before the end of the period of two months beginning with the date of service of the counter-notice, may require the objection to be referred to the Lands Tribunal.
- (2) On any such reference, if the objection is not withdrawn, the Lands Tribunal shall consider the matters set out in the notice served by the claimant and the grounds of the objection specified in the counter-notice; and, subject to the next following subsection, unless it is shown to the satisfaction of the Tribunal that the objection is not well-founded, the Tribunal shall uphold the objection.
- (3) An objection on the grounds mentioned in paragraph (b) or paragraph (c) of subsection (2) of the last preceding section shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.
- (4) If the Tribunal determines not to uphold the objection, the Tribunal shall declare that the notice to which the counter-notice relates is a valid notice.
- (5) If the Tribunal upholds the objection, but only on the grounds mentioned in paragraph (c) of subsection (2) of the last preceding section, the Tribunal shall declare that the notice is a valid notice in relation to the part of the affected area specified in the counter-notice as being the part which the appropriate authority propose to acquire as therein mentioned, but not in relation to any other part of the affected area.
- (6) In any case falling within subsection (4) or subsection (5) of this section, the Tribunal shall give directions specifying the date on which notice to treat (as mentioned in the next following section) is to be deemed to have been served.

#### **41 Effect of valid notice requiring purchase of claimant's interest**

- (1) Where a notice has been served under section thirty-eight of this Act and either—
- (a) no counter-notice objecting to that notice is served in accordance with the preceding provisions of this Part of this Act, or
  - (b) where such a counter-notice has been served, the objection is withdrawn, or, on a reference to the Lands Tribunal, is not upheld by the Tribunal,
- the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in the hereditament, or (in the case of an agricultural unit) the interest of the claimant in so far as it subsists

in the affected area, and to have served a notice to treat in respect thereof on the date mentioned in the next following subsection.

- (2) The said date—
- (a) in a case where, on a reference to the Lands Tribunal, the Tribunal determines not to uphold the objection, is the date specified in directions given by the Tribunal in accordance with subsection (6) of the last preceding section;
  - (b) in any other case, is the date on which the period of two months beginning with the date of service of the notice under section thirty-eight of this Act comes to an end.
- (3) Where the notice under section thirty-eight of this Act relates to an agricultural unit, and the appropriate authority have served a counter-notice objecting to that notice on the grounds mentioned in paragraph (c) of subsection (2) of section thirty-nine of this Act, then if either—
- (a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired, gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the affected area specified in the counter-notice, and withdraws his claim as to the remainder of that area, or
  - (b) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with subsection (5) of the last preceding section in respect of that part of the affected area,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the affected area specified in the counter-notice (but not in so far as it subsists in any other part of that area) and to have served a notice to treat in respect thereof on the date mentioned in the next following subsection.

- (4) The said date—
- (a) in a case falling within paragraph (a) of the last preceding subsection, is the date on which notice is given in accordance with that paragraph, and
  - (b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Lands Tribunal in accordance with subsection (6) of the last preceding section.

## 42 Supplementary provisions relating to Part IV

- (1) The provisions of the Fifth Schedule to this Act shall have effect for the purposes of this Part of this Act.
- (2) Subject to the provisions of that Schedule, in this Part of this Act "owner-occupier", in relation to a hereditament, means a person who—
- (a) occupies the whole or part of the hereditament in right of an owner's interest therein, and has so occupied the hereditament or that part thereof during the whole of the period of six months ending with the date of service, or
  - (b) occupied, in right of an owner's interest, the whole or part of the hereditament during the whole of a period of six months ending not more than six months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.
- (3) Subject to the provisions of the said Schedule, in this Part of this Act "owner-occupier", in relation to an agricultural unit, means a person who—



- (a) occupies the whole of that unit, and has occupied it during the whole of the period of six months ending with the date of service, or
- (b) occupied the whole of that unit during the whole of a period of six months ending not more than six months before the date of service,

and, at all times material for the purposes of paragraph (a) or paragraph (b) of this subsection, as the case may be, has been entitled to an owner's interest in the whole or part of that unit.

(4) In this Part of this Act "resident owner-occupier", in relation to a hereditament, means an individual who—

- (a) occupies the whole or part of the hereditament as a private dwelling in right of an owner's interest therein, and has so occupied the hereditament or that part thereof, as the case may be, during the whole of the period of six months ending with the date of service, or
- (b) occupied, in right of an owner's interest, the whole or part of the hereditament as a private dwelling during the whole of a period of six months ending not more than six months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.

(5) Subject to the provisions of the said Schedule, in this Part of this Act the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" the affected area ", in relation to an agricultural unit, means so much of that unit as, on the date of service, consists of land falling within any of the specified descriptions;

" agricultural unit " means land which is occupied as a unit for agricultural purposes, including any dwelling-house or other building occupied by the same person for the purpose of farming the land ;

" annual value ", in relation to a hereditament, means the value which, on the date of service, is shown in the valuation roll as the rateable value of that hereditament, except that, where the rateable value differs from the net annual value, it means the value which on that date is shown in the valuation roll as the net annual value thereof;

" the appropriate authority ", in relation to any land, means the government department, local authority or other body by whom, in accordance with the circumstances by virtue of which the land falls within any of the specified descriptions, the land is liable to be acquired or is indicated as being proposed to be acquired;

" the appropriate enactment ", in relation to land falling within any of the specified descriptions, means the enactment which provides for the compulsory acquisition of land as being land falling within that description ;

" hereditament ", means the aggregate of the lands and heritages (not being agricultural lands and heritages within the meaning of section seven of the Valuation and Rating (Scotland) Act, 1956) which form the subject of a single entry in the valuation roll for the time being in force for a valuation area;

" the prescribed limit " means such amount as may be prescribed for the purposes of paragraph (a) of subsection (4) of section thirty-eight of this Act by an order made by the Secretary of State;

" the relevant date "—

- (a) in relation to land designated, allocated, defined or indicated as mentioned in any of paragraphs (a) to (c) of subsection (1) of section

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- thirty-eight of this Act, means the date (whether before or after the commencement of this Act) on which the development plan, or the amendment of the development plan, by virtue of which the land was first so designated, allocated, defined or indicated came into operation;
- (b) in relation to any such land as is mentioned in paragraph (d) of that subsection, means the date (whether before or after the commencement of this Act) on which the special enactment in question came into operation;
- (c) in relation to land falling within paragraph (e) of that subsection, means the date (whether before or after the commencement of this Act) of the coming into operation of the order or scheme by virtue of which it falls within that paragraph;
- (d) in relation to land falling within paragraph (J) of that subsection, means the date (whether before or after the commencement of this Act) of the passing of the resolution by virtue of which it falls within that paragraph;
- " the specified descriptions " means the descriptions contained in paragraphs (a) to (f) of subsection (1) of section thirty-eight of this Act.
- (6) Any reference in this Part of this Act to a development plan is a reference to such a plan in the form in which (whether as originally made or approved by the Secretary of State or as subsequently amended) that plan is for the time being in force.
- (7) In this section ' date of service', in relation to a hereditament or agricultural unit, means the date of service of a notice in respect thereof under section thirty-eight of this Act, and " owner's interest " in relation to a hereditament or agricultural unit or part thereof, includes the interest of the lessee under a lease thereof, being a lease the unexpired period of which on the date of service is not less than three years.

## PART V

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### **43 Land declared (otherwise than by development plan) to be subject to compulsory purchase**

- (1) Where by virtue of paragraph 17 of the Tenth Schedule to the Act of 1947 (which relates to land declared by an order under section one of the Town and Country Planning (Scotland) Act, 1945, to be subject to compulsory purchase) the provisions of Part III of the Act of 1947 apply in relation to any land as mentioned in that paragraph.
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- (a) the provisions of Part IV of, and the Fifth Schedule to, this Act, and
- (b) subject to the following provisions of this section, subsection (3) of section four of the Act of 1947 (which empowers the Secretary of State to amend development plans) and subsection (1) of section seven of that Act (which relates to land which has for a long period been designated by a development plan as subject to compulsory acquisition),
- shall have effect in relation to that land as if it were land designated by a development plan as subject to compulsory acquisition.
- (2) For the purposes of the application to any land, by virtue of the preceding subsection, of subsection (1) of section seven of the Act of 1947, the reference in the said

subsection (1) to the date therein mentioned shall be construed as a reference to the date of the coming into operation of the order under section one of the Town and Country Planning (Scotland) Act, 1945, whereby the land was declared to be subject to compulsory purchase.

- (3) Notwithstanding anything in subsection (1) of this section, no notice shall be served under subsection (1) of the said section seven as applied by that subsection before the end of the period of twelve months beginning with the commencement of this Act.
- (4) In relation to any land to which subsection (1) of this section applies, subsections (2) and (3) of section seven of the Act of 1947 shall have effect with the substitution, in subsection (2) of that section, for the words " the development plan shall have effect, after the expiration of the said six months, as if the land were not designated as subject to compulsory acquisition " , of the words "on the expiration of the said six months paragraph 17 of the Tenth Schedule to this Act shall cease to apply to the land ".
- (5) Any reference in this section to subsection (1) of section seven of the Act of 1947 shall be construed as including a reference to that subsection as modified by subsection (5) of that section (which, in the case of agricultural land, substitutes a period of eight years for the period of twelve years mentioned in subsection (1)).

#### **44 Compensation for damage to requisitioned land**

- (1) In relation to compensation accruing due after the twenty-ninth day of October, nineteen hundred and fifty-eight, by virtue of paragraph (b) of subsection (1) of section two of the Compensation (Defence) Act, 1939 (which relates to compensation payable in respect of damage occurring to requisitioned land during the period of requisition), section fifty-five of the Act of 1954 (which limits the amount of that compensation) shall have effect as if any reference to the price which, at the relevant time and in the relevant circumstances, would be the compulsory purchase price of the land were a reference to the value which, at that time and in those circumstances, would be the value of such an interest in the land as is mentioned in paragraph (a) of subsection (2) of the said section fifty-five (that is to say, the dominium utile in the land, subject to any feu duty, any ground annual and any servitude or other restriction affecting the land at the relevant time, but otherwise free from burdens).
- (2) In this section " the relevant time " means the time when the compensation accrues due, and " in the relevant circumstances " means if the land were at the relevant time in the state in which it was when possession of the land was taken in the exercise of emergency powers.

#### **45 Acquisition of land in connection with town development schemes**

- (1) The power of the Secretary of State under subsection (1) of section thirteen of the Housing and Town Development (Scotland) Act, 1957, to authorise a receiving authority to acquire land compulsorily for purposes connected with a town development scheme under Part II of that Act shall, subject to the provisions of this section, be exercisable notwithstanding that it is not immediately necessary for the proper execution of the town development scheme that the land should be so acquired.
- (2) The compulsory acquisition of land shall not be authorised by virtue of the preceding subsection unless the Secretary of State is satisfied that it is likely to become, within ten years from the date on which he confirms the compulsory purchase order, necessary

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for the purpose mentioned in subsection (1) of this section that the land should be acquired as therein mentioned.

- (3) In this section " town development scheme " and " receiving authority " have the same meanings respectively as in the said Act of 1957.

#### **46 Acquisition of land for trunk and special roads**

Any power of the Secretary of State under section thirteen of the Restriction of Ribbon Development Act, 1955, as read with any of the following enactments, that is to say, section four of the Trunk Roads Act, 1936, section five of the Trunk Roads Act, 1946, and sections nine, ten and fourteen of the Special Roads Act, 1949, to acquire by agreement land required for a purpose mentioned in that section (as so read) shall be exercisable in respect of any land which, in the opinion of the Secretary of State, may be required for that purpose, notwithstanding that the land is not immediately required for that purpose.

#### **47 Advances to highway authorities in respect of land acquired for roads**

- (1) The power of the Secretary of State under section eight of the Development and Road Improvement Funds Act, 1909, to make advances to highway authorities shall include power to make such advances in respect of the acquisition of land by a highway authority, where the Secretary of State is satisfied that the land has been or is to be acquired by that authority with a view to the construction of a new road or the improvement of an existing road.
- (2) Where any land is acquired by a highway authority, and the Secretary of State is satisfied as mentioned in the preceding subsection, the power of the Secretary of State to make advances under the said section eight shall also include power to make such advances in respect of either or both of the following, that is to say—
- (a) any amount by which the annual expenditure incurred by the authority in maintaining the land, during the period between its acquisition and the construction or improvement of the road in question, and in the payment of loan charges accruing due during that period in respect of any debt incurred by the authority for the purpose of acquiring the land, exceeds the annual income accruing to the authority from the land during that period; and
  - (b) any loan charges accruing due after the end of that period in respect of any money borrowed by the authority for the purpose of acquiring the land.
- (3) In this section " loan charges ", in relation to any borrowed money, means the sums required for the payment of interest on that money and for the repayment thereof either by instalments or by means of a sinking fund, and expressions used in this section and in the said section eight have the same meanings in this section as in that section.

#### **48 Amendment of s. 81 of Lands Clauses Consolidation (Scotland) Act, 1845**

- (1) Section eighty-one of the Lands Clauses Consolidation (Scotland) Act, 1845 (which relates to expenses of conveyances) shall, in relation to any conveyance of lands granted after the commencement of this Act, have effect as if any reference therein to the charges and expenses of establishing the title to the lands included a reference to any expenses necessarily incurred by the seller in taking any action he may be requested by the promoters of the undertaking to take in connection with the conveyance in question

- (2) In this section " conveyance ", " seller " and " promoters of the undertaking " have the same meanings as in the said section eighty-one.

#### **49 Recovery of certain sums from acquiring authorities**

- (1) Section fifty-four of the Act of 1954 (which relates to the recovery from acquiring authorities of certain sums payable under Part I of that Act in respect of land acquired under compulsory powers) shall have effect, and shall be deemed always to have had effect, with the substitution, in subsection (2) of that section (which specifies cases in which no sum is to be recoverable thereunder), of the following paragraph for paragraph (b) (which relates to interests in land acquired for the purposes of the development or re-development of an area as a whole):—

“(b) the interest was acquired under Part I of the Town and Country Planning (Scotland) Act, 1945, or under Part III of the principal Act, or in accordance with the provisions of the said Part III as applied by section seventeen of the principal Act, and was so acquired in pursuance of a notice to treat served, or a contract made, before the eighteenth day of November, nineteen hundred and fifty-two, for the purposes of the development or re-development of any area as a whole, or was acquired in pursuance of such a notice to treat or contract under powers conferred by a local Act, and for purposes, which are certified by the Secretary of State to have been powers and purposes similar respectively to those mentioned in the preceding provisions of this paragraph; or”.

- (2) Section fifty-four of the Act of 1954 shall also have effect, and shall be deemed always to have had effect, as if the following subsection were inserted after subsection (2) of that section:—

“(2A) Without prejudice to the last preceding subsection, where the interest was acquired in pursuance of a notice to treat served, or a contract made, before the eighteenth day of November, nineteen hundred and fifty-two, and on the date of service of the notice to treat, or on the date on which the contract was made, as the case may be, the land in which the interest subsisted was used wholly or mainly for agricultural purposes, subsection (1) of this section shall not apply to so much of any payment referred to in that subsection as is attributable to any part of the land in respect of which it is certified by the Secretary of State that he is satisfied that the acquiring authority have no intention—

- (a) of using it (otherwise than temporarily) for purposes other than agricultural purposes, or  
(b) of disposing of it by way of sale, exchange or letting with a view to its being so used”.

- (3) In relation to compulsory acquisitions to which section one of this Act applies, and in relation to any sale of an interest in land by agreement in circumstances corresponding to such an acquisition, section fifty-four of the Act of 1954 shall have effect with the substitution, for subsection (6) of that section, of the following subsections:—

“(6) Where in the case of a compulsory acquisition to which section one of the Town and Country Planning (Scotland) Act, 1959, applies, or of a sale of an interest in land which (within the meaning of that Act) is a sale thereof by agreement in circumstances corresponding to such an acquisition, any of the land comprised in the acquisition or sale is land in respect of which a notice

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under subsection (1) of section twenty-nine, or subsection (4) of section forty-one, of this Act, or under the provisions of the said subsection (1) as applied by section forty-eight of this Act, is recorded (whether before or after the completion of the acquisition or sale) in respect of a planning decision or order made before the service of the notice to treat, or the making of the contract, in pursuance of which the acquisition or sale is effected, the Secretary of State shall be entitled to recover from the acquiring authority a sum equal to so much of the amount of the compensation specified in the notice as (in accordance with subsection (2) of section twenty-nine of this Act) is to be treated as attributable to that land:

Provided that—

- (a) if, immediately after the completion of the acquisition or sale, there is outstanding some interest in that land to which a person other than the acquiring authority is entitled, the said sum shall not accrue due until that interest either ceases to exist or becomes vested in the acquiring authority;
- (b) no sum shall be recoverable under this subsection in the case of a compulsory acquisition or sale where the Secretary of State is satisfied that the interest in question is being acquired for the purposes of the use of the land as a public open space.

(6A) Where by virtue of the last preceding subsection the Secretary of State recovers a sum in respect of any land, by reason that it is land in respect of which a notice is recorded under subsection (4) of section forty-one of this Act, subsections (2) and (3) of section forty-three of this Act shall have effect in relation to that sum as if it were a sum recovered as mentioned in subsection (2) of the said section forty-three.”

- (4) In subsection (4) of section sixty-four of the Act of 1954 (which provides for the payment into the Exchequer of certain sums received by the Secretary of State or the Central Land Board under that Act) the references to subsections (1) to (5) of section fifty-four of that Act, and to subsection (6) of that section, shall be construed as including references respectively to subsections (1) to (5) and to subsection (6) of that section as amended by the preceding provisions of this section.

## **50 Application of Act to Crown**

- (1) The provisions of Part I of this Act, and of the First, Second, Third and Sixth Schedules thereto, apply in relation to the acquisition of interests in land (whether compulsorily or by agreement) by government departments, being public authorities possessing compulsory purchase powers, as they apply in relation to the acquisition of interests in land by such authorities which are not government departments; and any reference in this Act to a compulsory acquisition to which section one of this Act applies, or to a sale of an interest in land by agreement in circumstances corresponding to such an acquisition, shall be construed accordingly.
- (2) The provisions of sections thirty-five and thirty-six of this Act shall apply in relation to any application for planning permission relating to Crown land as they apply in relation to applications for planning permission relating to any other land.
- (3) The rights conferred by Part IV of this Act shall be exercisable by a person who (within the meaning of that Part of this Act) is an owner-occupier of a hereditament or agricultural unit which is Crown land, or is a resident owner-occupier of a

hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and the provisions of Part IV of this Act, and of the Fifth Schedule to this Act, shall apply accordingly.

- (4) In so far as any power conferred by section thirteen of the Housing and Town Development (Scotland) Act, 1957, is exercisable in respect of Crown land, that power as extended by section forty-five of this Act shall be exercisable in respect of Crown land to the like extent.
- (5) In this section " Crown land " has the same meaning as in section eighty-three of the Act of 1947.

## **51 Adjustment of unexpended balances of established development value**

The provisions of the Sixth Schedule to this Act shall have effect as to the reduction or extinguishment of unexpended balances of established development value (within the meaning of the Act of 1954) in consequence of compulsory acquisitions to which section one of this Act applies, and of sales of interests in land by agreement in circumstances corresponding to such acquisitions.

## **52 Provisions as to inquiries, notices and regulations**

- (1) Section one hundred of the Act of 1947 (which authorises the Secretary of State to hold local inquiries for the purposes of that Act) and section one hundred and one of that Act (which relates to the service of notices) shall apply for the purposes of this Act.
- (2) The Secretary of State may make regulations under this Act for any purpose for which regulations are authorised or required to be made under this Act.
- (3) Any power conferred by this Act to make an order shall include power to vary or revoke the order by a subsequent order.
- (4) Any power conferred by this Act to make regulations or orders shall be exercisable by statutory instrument.
- (5) Any statutory instrument containing regulations or an order made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **53 Financial provisions**

There shall be paid out of moneys provided by Parliament—

- (a) any administrative expenses incurred by the Secretary of State in consequence of the passing of this Act;
- (b) any sums necessary to enable any government department to make payments in pursuance of section thirteen of this Act;
- (c) any sums necessary to enable any government department to pay any compensation or additional consideration becoming payable by them under the provisions of section eighteen or nineteen of this Act, or under those provisions as extended by section twenty-two of this Act;
- (d) any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

## 54 Interpretation

(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" acquiring authority ", in relation to the acquisition of an interest in land (whether compulsorily or by agreement) or to a proposal so to acquire such an interest, means the government department, local authority or other body by whom the interest is, or is proposed to be, acquired;

" the Act of 1919 " means the Acquisition of Land (Assessment of Compensation) Act, 1919 ;

" the Act of 1947 " means the Town and Country Planning (Scotland) Act, 1947;

" the Act of 1954 " means the Town and Country Planning (Scotland) Act, 1954;

" authority to whom the Act of 1919 applies " means a government department or local or public authority within the meaning of that Act, or a person or body of persons to whom that Act applies as it applies to such a department or authority;

" compulsory acquisition " and " public authority possessing compulsory purchase powers " have the same meanings as in the Act of 1954 ;

" disposal " means disposal by way of sale, excambion or lease, or by way of the creation of any servitude, right or privilege, or in any other manner, except by way of appropriation, gift, or the creation of a heritable security, and " dispose of " shall be construed accordingly;

" function " means a power or a duty, and " grant-aided function ", in relation to a body, means a function in respect of which a grant or contribution (other than any grant under the Local Government and Miscellaneous Financial Provisions (Scotland) Act, 1958, and any Exchequer subsidy under any of the enactments specified in Part I of the Sixth Schedule to the Housing (Scotland) Act, 1950) is payable to that body by a government department out of moneys provided by Parliament;

" government department " includes a Minister of the Crown;

" local enactment " means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

" outline application " means an application for planning permission subject to subsequent approval on any matters;

" planning decision " means a decision made on an application under Part II of the Act of 1947 ;

" planning permission " means permission under Part II of the Act of 1947 ;

" prescribed " (except in relation to matters required or authorised by this Act to be prescribed by an order) means prescribed by regulations under this Act;

" special enactment " means a local enactment, or a provision contained in an Act other than a local or private Act, being a local enactment or provision authorising the compulsory acquisition of land specifically identified therein.

(2) In this Act, in relation to a compulsory acquisition in pursuance of a notice to treat, " the relevant interest " means the interest acquired in pursuance of that notice, " the relevant land " means the land in which the relevant interest subsists, and " the notice to treat " means the notice to treat in pursuance of which the relevant interest is acquired.



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- (3) Subject to the preceding subsections, and except in so far as the context otherwise requires, expressions used in this Act and in the Act of 1947 have the same meanings in this Act as in that Act.
- (4) Subsections (3), (4), (6), (7) and (9) of section sixty-nine of the Act of 1954 (which relates to the interpretation of that Act) shall apply for the purposes of this Act as they apply for the purposes of that Act.
- (5) Subsections (2) and (3) of section one hundred and eight of the Act of 1947 shall apply for the purposes of the construction of references in this Act to the Third Schedule to the Act of 1947.
- (6) For the purposes of this Act a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—
  - (a) to both of them beneficially, or
  - (b) to both of them as trustee of one particular trust, or
  - (c) to both of them as personal representative of one particular person;and in this subsection " trustee " has the same meaning as in the Trusts (Scotland) Act, 1921.
- (7) In this Act any reference to a sale or purchase includes a reference to a sale or purchase by way of feu, and any reference to the price in relation to a sale or purchase includes a reference to grassum, feu-duty and ground annual.
- (8) Any reference in this Act to a sale of an interest in land by agreement in circumstances corresponding to a compulsory acquisition to which section one of this Act applies is a reference to a sale thereof to a public authority possessing compulsory purchase powers, being a sale in pursuance of a contract made after the twenty-ninth day of October, nineteen hundred and fifty-eight.
- (9) For the purposes of this Act development of land shall be taken to be initiated—
  - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
  - (b) if the development consists of a change in use, at the time when the new use is instituted;
  - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.
- (10) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.

## **55 Consequential amendments and repeals**

- (1) Subject to the following provisions of this section, and without prejudice to any amendments having effect by virtue of the preceding provisions of this Act.—
  - (a) the enactments specified in the Seventh Schedule to this Act shall have effect subject to the amendments specified in that Schedule; and
  - (b) the enactments specified in the Eighth Schedule to this Act are hereby repealed to the extent specified in relation thereto in the third column of that Schedule.

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- (2) The amendments of section seventeen of the Act of 1947 specified in the Seventh Schedule to this Act shall not have effect in relation to any purchase notice served before the commencement of this Act, but those amendments, and the amendments made by section thirty-four of this Act, shall have effect in relation to any purchase notice served after the commencement of this Act—
  - (a) under the provisions of the said section seventeen as applied by any other provisions of that Act or of the Act of 1954, or
  - (b) under any order made (whether before or after the commencement of this Act) under any other provision of the Act of 1947, except in so far as a contrary intention is expressed in any such order made after the commencement of this Act.
- (3) The amendments of, and repeals in, section fifty-five of the Act of 1954 specified in the Seventh and Eighth Schedules to this Act shall not have effect in relation to any compensation accruing due on or before the twenty-ninth day of October, nineteen hundred and fifty-eight.
- (4) The repeals specified in the Eighth Schedule to this Act shall not affect the operation of any enactment in relation to compulsory acquisitions to which section one of this Act does not apply, or in relation to sales of interests in land by agreement, not being sales in circumstances corresponding to compulsory acquisitions to which section one of this Act applies.
- (5) In accordance with subsections (1) and (2) of section thirty-four of this Act, and with the preceding provisions of this section, section seventeen of the Act of 1947 shall have effect, in relation to purchase notices served after the commencement of this Act, as set out in the Ninth Schedule to this Act.

## **56 Short title, citation, commencement and extent**

- (1) This Act may be cited as the Town and Country Planning (Scotland) Act, 1959; and the Town and Country Planning (Scotland) Acts, 1947 to 1954, and this Act, except Part II thereof, may be cited together as the Town and Country Planning (Scotland) Acts, 1947 to 1959.
- (2) The Town and Country Planning Act, 1959, is hereby repealed; and (without prejudice to the operation of subsection (1) of section thirty-eight of the Interpretation Act, 1889, which relates to the effect of repeals and re-enactments) any enactment instrument or other document referring to that Act, or any provision of that Act, in its application to Scotland shall be construed as referring to this Act or, as the case may be, the corresponding provision of this Act.
- (3) The preceding provisions of this section shall come into operation on the passing of this Act, and, save as aforesaid, this Act shall come into operation on the sixteenth day of August, nineteen hundred and fifty-nine.
- (4) For the purposes of this Act and of the application thereto of section thirty-seven of the Interpretation Act, 1889 (which relates to the exercise of statutory powers between the passing and the commencement of an Act) references to the commencement of this Act shall, notwithstanding the provisions of section thirty-six of the said Act of 1889 with respect to the construction of the expression " commencement", be construed as references to the time at which this Act, except subsections (1) and (2) of this section, comes into operation.

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(5) This Act shall extend to Scotland only.

## SCHEDULES

### FIRST SCHEDULE

Sections 9, 50.

#### PROVISIONS FOR TAKING ACCOUNT OF INCREASES IN VALUE OF CONTIGUOUS OR ADJACENT LAND

- 1 Subsection (4) of section nine of this Act shall not apply to any compulsory acquisition in respect of which the compensation payable is subject to the provisions of any of the following enactments (which contain provisions for taking account in certain cases of increases in the value of contiguous or adjacent land), that is to say.—
- (a) section thirteen of the Light Railways Act, 1896 ;
  - (b) sub-paragraph (C) of paragraph (2) of the Schedule to the Development and Road Improvement Funds Act, 1909 ;
  - (c) paragraph (a) of the proviso to subsection (1) of section thirteen of the Restriction of Ribbon Development Act, 1935 ;
  - (d) paragraph 5 of the Fourth Schedule to the Housing (Scotland) Act, 1950.
- 2 Subsection (4) of section nine of this Act shall also not apply to any compulsory acquisition in respect of which the compensation payable is subject to the provisions of any local enactment which provides (in whatsoever terms) that, in assessing compensation in respect of a compulsory acquisition thereunder, account shall be taken of any increase in the value of an interest in contiguous or adjacent land which is attributable to any of the works authorised by that enactment.
- 3 Where any such local enactment as is mentioned in the last preceding paragraph includes a provision restricting the assessment of the increase in value thereunder by reference to existing use (that is to say, by providing, in whatsoever terms, that the increase in value shall be assessed on the assumption that planning permission in respect of the contiguous or adjacent land in question would be granted for development of any class specified in the Third Schedule to the Act of 1947, but would not be granted for any other development thereof), the enactment shall have effect, in relation to compulsory acquisitions to which section one of this Act applies, as if it included no such provision restricting the assessment of the increase in value.
- 4 (1) Where, for the purpose of assessing compensation in respect of a compulsory acquisition of an interest in land, an increase in the value of an interest in other land has, in any of the cases mentioned in the table, been taken into account by virtue of subsection (4) of section nine of this Act or any corresponding enactment, then, in connection with any subsequent acquisition to which this paragraph applies, that increase shall not be left out of account by virtue of subsection (2) of section nine of this Act, or taken into account by virtue of subsection (4) of that section or any corresponding enactment, in so far as it was taken into account in connection with the previous acquisition.
- (2) Where, in connection with a compulsory acquisition of an interest in land, a diminution in the value of an interest in other land has, in any of the cases

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mentioned in the table, been taken into account in assessing compensation for injurious affection, then, in connection with any subsequent acquisition to which this paragraph applies, that diminution shall not be left out of account, by virtue of subsection (2) of section nine of this Act, in so far as it was taken into account in connection with the previous acquisition.

- (3) This paragraph applies to any subsequent acquisition where either—
- (a) the interest acquired by the subsequent acquisition is the same as the interest previously taken into account (whether the acquisition extends to the whole of the land in which that interest previously subsisted or only to part of that land), or
  - (b) the person entitled to the interest acquired is, or derives title to that interest from, the person who at the time of the previous acquisition was entitled to the interest previously taken into account;

and in this sub-paragraph any reference to the interest previously taken into account is a reference to the interest the increased or diminished value whereof was taken into account as mentioned in sub-paragraph (1) or sub-paragraph (2) of this paragraph.

- (4) Where, in connection with a sale of an interest in land by agreement, the circumstances were such that, if it had been a compulsory acquisition, an increase or diminution of value would have fallen to be taken into account as mentioned in sub-paragraph (1) or sub-paragraph (2) of this paragraph, the preceding provisions of this paragraph shall apply, with the necessary modifications, as if that sale had been a compulsory acquisition and that increase or diminution of value had been taken into account accordingly.
- (5) In this paragraph " corresponding enactment" means any such enactment as is mentioned in paragraph 1 or paragraph 2 of this Schedule, and any reference to a case mentioned in the table is a reference to a case mentioned in the first column of the table set out in subsection (2) of section nine of this Act.

## SECOND SCHEDULE

Sections 10, 50.

### ACQUISITION OF HOUSES AS BEING UNFIT FOR HUMAN HABITATION

- 1 (1) The provisions of this paragraph shall have effect in relation to any compulsory acquisition, being—
- (a) an acquisition under Part III of the Act of 1947, or
  - (b) an acquisition under section thirteen of the Housing and Town Development (Scotland) Act, 1957, or
  - (c) an acquisition in pursuance of Part IV of this Act, or
  - (d) an acquisition of land within the area designated by an order under section one of the New Towns Act, 1946, as the site of a new town, or
  - (e) an acquisition by a development corporation or a local highway authority or the Secretary of State under the New Towns Act, 1946, or under any enactment as applied by any provision of that Act,

and being (in any such case) an acquisition where the land in question comprises a house which, in the opinion of an appropriate local authority, is unfit for human habitation and not capable at reasonable expense of being rendered fit for human habitation.

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- (2) The local authority may make and submit to the Secretary of State an order, in such form as may be prescribed by regulations made under section one hundred and seventy-two of the Act of 1950, declaring the house to be in the state referred to in the preceding sub-paragraph ; and if—
- (a) that order is confirmed by the Secretary of State, either before or concurrently with the confirmation of a compulsory purchase order for the acquisition of the land, or
  - (b) in a case where the acquisition is in pursuance of a notice to treat deemed to have been served in consequence of the service of a notice under section seventeen of the Act of 1947 or the provisions of that section as applied by or under any other enactment or in consequence of the service of a notice under subsection (4) of section six of the New Towns Act, 1946, or under Part IV of this Act, the order is made before the date on which the notice to treat is deemed to have been served and is subsequently confirmed by the Secretary of State,
- the provisions of subsection (2) of section thirty-six of the Act of 1950, and the provisions of section forty of that Act as read with section twenty of the Housing and Town Development (Scotland) Act, 1957 (which relate to certain payments in respect of houses purchased or demolished under the Act of 1950) shall apply as if the house had been purchased under Part III of the Act of 1950 as being in the state referred to in the preceding sub-paragraph, and as if any reference in those sections to the local authority were a reference to the acquiring authority.
- (3) Before submitting to the Secretary of State an order under this paragraph, the local authority by whom the order was made shall serve on every owner, and (so far as it is reasonably practicable to ascertain such persons) on the superior of, and the holder of every heritable security over, the land or any part thereof, a notice in such form as may be prescribed as mentioned in the last preceding sub-paragraph, stating the effect of the order and that it is about to be submitted to the Secretary of State for confirmation, and specifying the time within which, and the manner in which, objection thereto can be made.
- (4) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Secretary of State may, if he thinks fit, confirm the order; but in any other case he shall, before confirming the order, consider any objection not withdrawn, and shall, if either the person by whom the objection was made or the local authority so desires, afford to that person and the authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (5) Subsection (2) of section one hundred and eighty-four of the Act of 1950 shall have effect in determining for the purposes of this paragraph whether a house is fit for human habitation as it has effect in so determining for the purposes of that Act.
- (6) In this paragraph " appropriate local authority " means a local authority who, in relation to the area in which the land in question is situated, are a local authority for the purposes of the provisions of Part III of the Act of 1950 relating to clearance areas.
- 2 (1) The provisions of this paragraph shall have effect in relation to any compulsory acquisition to which section one of this Act applies where—
- (a) the relevant land consists of or includes the whole or part of a house (in this paragraph referred to as " the relevant house ") and, on the date of the making of the compulsory purchase order in pursuance of which the acquisition is

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effected, the person then entitled to the relevant interest was, in right of that interest, in occupation of the relevant house or part thereof as a private dwelling, and

- (b) that person either continues, on the date of service of the notice to treat, to be entitled to the relevant interest, or, if he has died before that date, continued to be entitled to that interest immediately before his death, and
- (c) the acquisition is under the Act of 1950, in such circumstances that any of the following provisions of that Act, that is to say, subsection (2) of section twelve, subsection (4) of section seventeen, and subsection (2) of section thirty-six (which relate to compensation at site value) have effect in relation to the acquisition, or is an acquisition in connection with which an order is made and confirmed under the last preceding paragraph in respect of the relevant house.

In the following provisions of this paragraph any reference to " the dwelling" is a reference to so much of the relevant house as the person referred to in head (a) of this sub-paragraph occupied as therein mentioned.

- (2) Subject to the next following sub-paragraph, if the amount of the compensation payable in respect of the acquisition of the relevant interest would, apart from this paragraph, be less than the gross annual value of the dwelling, the amount of the compensation payable in respect of the acquisition of that interest shall be an amount equal to the gross annual value of the dwelling.
- (3) Where a payment falls to be made under section forty of the Act of 1950 to the person entitled to the relevant interest, and that payment is attributable to the relevant house, any reference in the last preceding sub-paragraph to the amount of the compensation payable in respect of the acquisition of the relevant interest shall be construed as a reference to the aggregate of that amount and of the amount of the payment.
- (4) For the purposes of this paragraph the gross annual value of the dwelling shall be determined as follows:—
  - (a) if the dwelling constitutes the whole of the relevant house, the gross annual value of the dwelling shall be taken to be the value which, on the date of service of the notice to treat, is shown in the valuation roll then in force as the gross annual value of that house for rating purposes ;
  - (b) if the dwelling is only part of the relevant house, an apportionment shall be made of the gross annual value of the relevant house for rating purposes, as shown in the valuation roll in force on the date of service of the notice to treat, and the gross annual value of the dwelling shall be taken to be the amount which, on such an apportionment, is properly attributable to the dwelling.
- (5) Any reference in this paragraph to the compensation payable in respect of the acquisition of the relevant interest shall be construed as excluding so much (if any) of that compensation as is attributable to disturbance or to severance or injurious affection.
- (6) Nothing in this paragraph shall affect the amount which is to be taken for the purposes of section sixty-two of the Act of 1954 (which relates to the consideration payable for the discharge of land from feu duty and other incumbrances) as the amount of the compensation payable in respect of the acquisition of the relevant interest.

- 3 Paragraph 3 of the Fourth Schedule to the Act of 1950 (which makes special provision as to the assessment of compensation in the case of premises which are purchased under that Act otherwise than at site value, but are in a state of defective

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sanitation or not in reasonably good repair) shall cease to have effect, except for the purpose of assessing compensation (where applicable) in respect of compulsory acquisitions to which section one of this Act does not apply.

- 4 (1) Where, in the case of a compulsory acquisition to which section one of this Act applies.—
- (a) the acquisition is under the Act of 1950, in such circumstances that any of the following provisions of that Act, that is to say, subsection (2) of section twelve, subsection (4) of section seventeen, and subsection (2) of section thirty-six (which relate to compensation at site value) have effect in relation to the acquisition, or is an acquisition in connection with which an order is made and confirmed under paragraph 1 of this Schedule, and
  - (b) the relevant land consists of or includes a hereditament, or part of a hereditament, which has sustained war damage, and any of that damage has not been made good at the date of service of the notice to treat,
- there shall be added to the compensation which, apart from this paragraph, would be payable in respect of the acquisition an amount calculated in accordance with the next following sub-paragraph.
- (2) The said amount shall be an amount equal to the value, as at the date of service of the notice to treat, of the prospective right to receive such payment (if any) under the War Damage Act, 1943, in respect of that hereditament or part of a hereditament, as might reasonably have been expected to become payable if the relevant land had not been compulsorily acquired.
- (3) In this paragraph " hereditament" has the same meaning as in the War Damage Act, 1943.
- 5 (1) Where a local authority have before the commencement of this Act made and submitted to the Secretary of State an order under paragraph 8 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1945 (which contains provisions similar to those of paragraph 1 of this Schedule), but the Secretary of State has not confirmed that order before the commencement of this Act, sub-paragraphs (2), (4) and (5) of paragraph 1 of this Schedule shall apply in relation to that order as if—
- (a) the order had been made under paragraph 1 of this Schedule, and
  - (b) the reference in sub-paragraph (4) of paragraph 1 of this Schedule to persons on whom notices are required to be served were a reference to persons on whom notices are required to be served under sub-paragraph (2) of the said paragraph 8.
- (2) Any reference in paragraph 2 or paragraph 4 of this Schedule to an order made and confirmed under paragraph 1 of this Schedule shall be construed as including a reference to an order—
- (a) made and confirmed under the said paragraph 8, or
  - (b) made under the said paragraph 8 and confirmed under the provisions of paragraph 1 of this Schedule applied by the preceding sub-paragraph.
- (3) In this paragraph any reference to the said paragraph 8 includes a reference to the provisions of that paragraph as extended or applied by or under any other enactment.
- 6 In this Schedule " Act of 1950 " means the Housing (Scotland) Act, 1950, and " house " has the meaning assigned to it by section one hundred and eighty-four of that Act.



## THIRD SCHEDULE

Sections 18, 50.

### APPLICATION OF SECTIONS EIGHTEEN AND NINETEEN TO SPECIAL CASES

#### PART I

##### *Disturbance, severance and injurious affection*

- 1 The provisions of the next following paragraph shall have effect for the purposes of the application of section eighteen of this Act to cases where the compensation or purchase price in respect of the interest acquired or purchased—
- (a) included an amount attributable to disturbance, or attributable to damage sustained in respect of an interest in land held with the land comprised in the acquisition or sale (in this Schedule referred to as " the interest affected") by reason that the land so held was severed from the land comprised in the acquisition or sale, or was injuriously affected, or
  - (b) would have included such an amount if the planning decision referred to in subsection (1) of that section had been made before the relevant date, and the planning permission thereby granted had been in force on that date.
- 2 (1) Subject to the next following sub-paragraph.—
- (a) any reference in subsection (2) of that section to the principal amount of the compensation which was payable in respect of the compulsory acquisition, or, in the case of a sale by agreement, the amount of the purchase price, shall be construed as including any amount which was included therein as mentioned in sub-paragraph (a) of the preceding paragraph; and
  - (b) any reference in subsection (2) of that section to the principal amount of the compensation which would have been payable as therein mentioned shall be construed as including any amount which would have been included therein as mentioned in sub-paragraph (b) of the preceding paragraph.
- (2) If, at the time of the planning decision in question, the person entitled to the compensation under section eighteen of this Act is not entitled to the interest affected, either in respect of the whole of the land in which that interest subsisted at the time of the acquisition or sale or in respect of part of that land, any such reference as is mentioned in the preceding sub-paragraph shall be construed as excluding so much of the compensation or purchase price in question as was or would have been attributable to severance or injurious affection of the land in which the interest affected subsisted, or of the part thereof in respect of which that person is not entitled to the interest affected, as the case may be.

##### *Increase in value of contiguous or adjacent land*

- 3 The provisions of the next following paragraph shall have effect for the purposes of the application of section eighteen of this Act to cases where the compensation or purchase price in respect of the interest acquired or purchased—
- (a) was reduced (whether by virtue of subsection (4) of section nine of this Act or otherwise) by reason of an increase in the value of an interest in contiguous or adjacent land (in this Schedule referred to as " the interest in adjacent land ") being an interest belonging to the person who on the relevant date was entitled to the interest acquired or purchased, or

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- (b) would have been so reduced if the planning decision referred to in subsection (1) of the said section eighteen had been made before the relevant date, and the planning permission thereby granted had been in force on that date.
- 4 (1) Subject to the following provisions of this paragraph—
- (a) any reference in subsection (2) of section eighteen of this Act to the principal amount of the compensation which was payable in respect of the compulsory acquisition, or, in the case of a sale by agreement, the amount of the purchase price, shall be construed as a reference to that amount as reduced as mentioned in sub-paragraph (a) of the last preceding paragraph ; and
- (b) any reference in subsection (2) of that section to the principal amount of the compensation which would have been payable as therein mentioned shall be construed as a reference to that amount as it would have been reduced in the circumstances mentioned in sub-paragraph (b) of the last preceding paragraph.
- (2) If, at the time of the planning decision in question, the person entitled to the compensation under section eighteen of this Act is not entitled to the interest in adjacent land, any such reference as is mentioned in the preceding sub-paragraph shall be construed as a reference to the amount which would have been the principal amount of the compensation or the amount of the purchase price, as mentioned in subsection (2) of the said section eighteen, if the circumstances, by reason of which the compensation or purchase price was or would have been reduced, had not existed.
- (3) If, at the time of the planning decision in question, the person entitled to the compensation under section eighteen of this Act is entitled to the interest in adjacent land, but only in respect of part of the land in which that interest subsisted at the time of the acquisition or sale, any such reference shall be construed as a reference to the amount which would have been the principal amount of the compensation or the amount of the purchase price, as mentioned in subsection (2) of the said section eighteen, if the interest in adjacent land had subsisted only in that part of that land.

*Land subject to a heritable security*

- 5 Subject to the provisions of this Schedule relating to land subject to a trust, where, in a case falling within subsection (1) of section eighteen or subsection (1) of section twenty-two of this Act, the interest in land which was acquired or sold was subject to a heritable security, any reference in section eighteen of this Act to the person to whom the compensation or purchase price was payable, or to the person referred to in subsection (2) of the said section eighteen, and any reference in section twenty of this Act to the person entitled to receive the compensation or purchase price, shall be construed as a reference to the person who, subject to the heritable security, was entitled to that interest, and not as a reference to the heritable creditor.
- 6 For the purposes of the application of section eighteen or section twenty-two of this Act, and of the provisions of this Schedule other than this-paragraph, to a case falling within the last preceding paragraph, any reference to the principal amount of the compensation which was payable in respect of the compulsory acquisition shall be construed as a reference to the principal amount of the compensation which would have been payable in respect thereof if the interest in question had not been subject to a heritable security ; and any reference to the principal amount of the compensation which would in any particular circumstances have been payable in respect of a compulsory acquisition shall be construed as a reference to the principal

amount of the compensation which would in those circumstances have been payable in respect of such a compulsory acquisition if the interest in question had not been subject to a heritable security.

- 7 No compensation shall be payable by virtue of section eighteen of this Act, or by virtue of the provisions of that section as extended by section twenty-two of this Act, in respect of a compulsory acquisition or sale by agreement, where the interest acquired or sold was the interest of a heritable creditor (as distinct from an interest subject to a heritable security).

*Land subject to a trust*

- 8 (1) Where, in a case falling within subsection (1) of section eighteen or subsection (1) of section twenty-two of this Act, the interest in land which was acquired or sold was subject to a trust, and accordingly the compensation or purchase price was payable to the trustees of that trust, any reference in section eighteen of this Act to the person to whom the compensation or purchase price was payable, and any reference in section twenty of this Act to the person entitled to receive the compensation or purchase price, shall be construed as a reference to the trustees for the time being of the trust.
- (2) Where the preceding sub-paragraph applies, subsection (5) of section eighteen of this Act shall not apply.
- (3) Any compensation paid to the trustees of a trust by virtue of section eighteen of this Act, or by virtue of the provisions of that section as extended by section twenty-two of this Act, in respect of a compulsory acquisition or sale by agreement, shall be applicable by the trustees as if it were proceeds of the sale of the interest acquired or sold.

*General provisions*

- 9 In any case where the conditions mentioned both in paragraph 1 and in paragraph 3 of this Schedule are fulfilled in respect of the same interest in land, other than the interest acquired or purchased (whether by reason that the case falls within sub-paragraph (a) of paragraph 1 of this Schedule and within sub-paragraph (b) of paragraph 3 thereof, or falls within sub-paragraph (b) of paragraph 1 and within sub-paragraph (a) of paragraph 3), the provisions of paragraphs 2 and 4 of this Schedule, so far as applicable, shall apply with the necessary modifications.
- 10 (1) The provisions of this Part of this Schedule shall have effect, in relation to any planning permission which, in accordance with any direction or provision given or made by or under an enactment, is deemed to have been granted, as if a planning decision granting that permission had been made at the time when, by virtue of that direction or provision, the permission is deemed to have been granted.
- (2) Subsection (1) of section twenty-two of this Act shall apply for the purposes of this Part of this Schedule as it applies for the purposes of section eighteen of this Act.

**PART II**

- 11 (1) Where in a case falling within subsection (3) of section nineteen of this Act, or that subsection as extended by subsection (1) of section twenty-two of this Act, the consideration under section one hundred and eight of the Lands Clauses Consolidation (Scotland) Act, 1845 (as read with section sixty-two of the Act of

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1954) was paid to the trustees of a trust, any reference in the said subsection (3), or in subsection (7) of section twenty of this Act, to the person who has received the consideration shall be construed as a reference to the trustees for the time being of the trust.

- (2) Where the preceding sub-paragraph applies, subsection (4) of section nineteen of this Act shall not apply.
- (3) Any additional consideration paid to the trustees of a trust by virtue of section nineteen of this Act, or by virtue of the provisions of that section as extended by section twenty-two of this Act, in respect of a compulsory acquisition or sale by agreement, shall be applicable by the trustees as if it were consideration received by them under section one hundred and eight of the Lands Clauses Consolidation (Scotland) Act, 1845, as read with section sixty-two of the Act of 1954.

### PART III

- 12 In this Schedule " the relevant date " has the same meaning as in section eighteen of this Act, and " trust " has the same meaning as in the Trusts (Scotland) Act, 1921.

## FOURTH SCHEDULE

Sections 23, 30.

### AUTHORITIES TO WHOM PART II APPLIES

- 1 A local authority within the meaning of the Local Government (Scotland) Act, 1947.
- 2 A joint board or joint committee constituted for the purpose of performing all or any of the functions of two or more local authorities within the meaning of the said Act of 1947 under that Act or any of the following enactments, that is to say—  
     the Burial Ground (Scotland) Act, 1855 ;  
     the Cremation Act, 1902 ;  
     the Fire Services Act, 1947 ;  
     the Town and Country Planning (Scotland) Act, 1947 ;  
     the National Health Service (Scotland) Act, 1947 ;  
     the Children Act, 1948 ;  
     the Civil Defence Act, 1948 ;  
     the Police (Scotland) Act, 1956.
- 3 A local water authority within the meaning of the Water (Scotland) Act, 1946.
- 4 A river purification board established under the Rivers (Prevention of Pollution) (Scotland) Act, 1951.
- 5 Any authority constituted under a local enactment.

FIFTH SCHEDULE

Sections 42, 50.

SUPPLEMENTARY PROVISIONS AS TO PURCHASE OF OWNER-OCCUPIER'S INTEREST

*Interpretation of Part IV of Act*

- 1 (1) If any question arises—
  - (a) whether the appropriate authority in relation to any land for the purposes of Part IV of this Act is the Secretary of State or a local highway authority, or
  - (b) which of two or more local highway authorities is the appropriate authority in relation to any land for those purposes,that question shall be referred to the Secretary of State, whose decision shall be final.
- (2) Subject to the preceding sub-paragraph, if any question arises as to which of two or more local authorities is the appropriate authority in relation to any land for the purposes of Part IV of this Act, that question shall be referred to the Secretary of State, whose decision shall be final.
- 2 (1) The definition of " the appropriate enactment" in Part IV of this Act shall have effect subject to the following provisions of this paragraph.
- (2) In relation to land falling within the description contained in paragraph (b) of subsection (1) of section thirty-eight of this Act, an enactment shall, for the purposes of that definition, be taken to be an enactment which provides for the compulsory acquisition of land as being land falling within that description if—
  - (a) the enactment provides for the compulsory acquisition of land for the purposes of the functions which are indicated in the development plan as being the functions for the purposes of which the land is allocated or is proposed to be developed, or
  - (b) where no particular functions are so indicated in the development plan, the enactment provides for the compulsory acquisition of land for the purposes of any of the functions of the government department, local authority or other body for the purposes of whose functions the land is allocated or is defined as the site of proposed development.
- (3) Where, in accordance with the circumstances by virtue of which any land falls within any of the specified descriptions, it is indicated that the land is proposed to be acquired for road purposes, any enactment under which a highway authority are or (subject to the fulfilment of the relevant conditions) could be authorised to acquire that land compulsorily for road purposes shall, for the purposes of the said definition, be taken to be an enactment providing for the compulsory acquisition of that land as being land falling within the description in question.
- (4) In the last preceding sub-paragraph the reference to the fulfilment of the relevant conditions is a reference to such one or more of the following as are applicable to the circumstances in question, that is to say—
  - (a) the coming into operation of any requisite order under the Trunk Roads Act, 1946 ;
  - (b) the coming into operation of any requisite scheme or order under the Special Roads Act, 1949 ;
  - (c) the making or approval of any requisite plans.
- (5) If, apart from this sub-paragraph, two or more enactments would be the appropriate enactment in relation to any land for the purposes of Part IV of this Act, the

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appropriate enactment for those purposes shall be taken to be that one of those enactments under which, in the circumstances in question, it is most likely that (apart from the provisions of Part IV of this Act) the land would have been acquired by the appropriate authority.

- (6) If any question arises as to which enactment is the appropriate enactment in relation to any land for the purposes of Part IV of this Act, that question shall be referred—
- (a) where the appropriate authority are a government department, to the Minister or Board in charge of that department ;
  - (b) where the appropriate authority are a local highway authority, to the Secretary of State ;
  - (c) where the appropriate authority are statutory undertakers, to the appropriate Minister ; and
  - (d) in any other case, to the Secretary of State,
- and the decision of the Minister or Board to whom a question is referred under this sub-paragraph shall be final.
- 3 (1) The provisions of this paragraph shall have effect in relation to the definition of " hereditament" in Part IV of this Act.
- (2) Where any land is on the boundary between two or more valuation areas, and accordingly—
- (a) different parts of that land form the subject of single entries in the valuation rolls for the time being in force for those areas respectively, but
  - (b) if the whole of that land had been in one of those areas, it would have formed the subject of a single entry in the valuation roll for that area,
- the whole of that land shall be treated, for the purposes of that definition, as if it formed the subject of a single entry in the valuation roll for a valuation area.
- (3) Land which forms the subject of an entry in the valuation roll by reason only that it is land over which any shooting, fishing or other sporting rights are exercisable, or that it is land over which a right of exhibiting advertisements is let out or reserved, shall not be taken to be a hereditament within the said definition.
- 4 Where, in accordance with the last preceding paragraph, land whereof different parts form the subject of single entries in the valuation rolls for the time being in force for two or more valuation areas is treated as if it formed the subject of a single entry in the valuation roll for a valuation area, the definition of " annual value " in Part IV of this Act shall apply as if any reference therein to a value shown in the valuation roll were a reference to the aggregate of the values shown (as rateable values or as net annual values, as the case may be) in those valuation rolls in relation to the different parts of that land.
- 5 (1) For the purposes of the application of Part IV of this Act to a hereditament or agricultural unit occupied for the purposes of a partnership firm—
- (a) occupation for the purposes of the firm shall be treated as occupation by the firm, and not as occupation by any one or more of the partners individually, and the definitions of " owner-occupier" in Part IV of this Act shall apply in relation to the firm accordingly ; and
  - (b) if, after the service by the firm of a notice under section thirty-eight of this Act, any change occurs (whether by death or otherwise) in the constitution of the firm, any proceedings, rights or obligations consequential upon that

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notice may be carried on or exercised by or against, or (as the case may be) shall be incumbent upon, the partners for the time being constituting the firm.

- (2) Nothing in Part IV of this Act or in this paragraph shall be construed as indicating an intention to exclude the operation of section nineteen of the Interpretation Act, 1889 (whereby, unless the contrary intention appears, " person" includes any body of persons corporate or unincorporate) in relation to any of the provisions of Part IV of this Act of this Schedule.
- (3) Sub-paragraph (1) of this paragraph shall not affect the definition of " resident owner-occupier " in Part IV of this Act.

*Compensation for compulsory acquisition in pursuance of notice under Part IV of Act*

- 6 The compensation payable in respect of a compulsory acquisition in pursuance of a notice served under section thirty-eight of this Act in respect of a hereditament—
- (a) shall not include any amount attributable to damage sustained by reason that the hereditament is severed from other land held therewith, and
- (b) shall not include any amount attributable to disturbance:

Provided that sub-paragraph (a) of this paragraph shall not apply to an amount attributable to damage sustained by reason that the hereditament is severed from agricultural land held therewith.

- 7 The compensation payable in respect of a compulsory acquisition in pursuance of a notice served under section thirty-eight of this Act in respect of an agricultural unit shall not include any amount attributable to disturbance.

*Withdrawal of notice under Part IV of Act*

- 8 Subject to the next following paragraph, the person by whom a notice has been served under section thirty-eight of this Act may withdraw the notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been determined by the Lands Tribunal, or at any time before the end of the period of six weeks beginning with the date on which the compensation is so determined ; and, where such a notice is withdrawn by virtue of this paragraph, any notice to treat deemed to have been served in consequence thereof shall be deemed to have been withdrawn.
- 9 A person shall not be entitled by virtue of the last preceding paragraph to withdraw a notice after the appropriate authority have exercised a right of entering upon and taking possession of land in pursuance of a notice to treat deemed to have been served in consequence of that notice.
- 10 No compensation shall be payable in respect of the withdrawal of a notice to treat which is deemed to have been withdrawn by virtue of paragraph 8 of this Schedule.

*Effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire*

- 11 (1) The provisions of this paragraph shall have effect where the grounds of objection specified in a counter-notice served under section thirty-nine of this Act consist of or include the grounds mentioned in paragraph (b) of subsection (2) of that section, and either—
- (a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal, or

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- (b) the time for referring that objection to the Lands Tribunal expires without its having been so referred.
  - (2) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes the whole or part of the hereditament or agricultural unit to which the counter-notice relates, or if the land in question falls within paragraph (d) of subsection (1) of section thirty-eight of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in the hereditament or agricultural unit or any part thereof shall cease to have effect.
  - (3) If the land in question falls within paragraph (a) of subsection (1) of section thirty-eight of this Act, then (without prejudice to the effect of any subsequent designation) the development plan shall have effect as if no part of the hereditament, or (in the case of an agricultural unit) no part of the affected area, were designated therein as land subject to compulsory acquisition.
- 12 (1) The provisions of this paragraph shall have effect where the grounds of objection specified in a counter-notice under section thirty-nine of this Act consist of or include the grounds mentioned in paragraph (c) of subsection (2) of that section, and either—
- (a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal, or
  - (b) the time for referring that objection to the Lands Tribunal expires without its having been so referred.

In the following provisions of this paragraph any reference to 'the part of the affected area not required' is a reference to the whole of that area except the part specified in the counter-notice as being the part which the appropriate authority propose to acquire as therein mentioned.

- (2) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes any of the part of the affected area not required, or if the land in question falls within paragraph (d) of subsection (1) of section thirty-eight of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in any land comprised in the part of the affected area not required shall cease to have effect.
- (3) If the land in question falls within paragraph (a) of subsection (1) of section thirty-eight of this Act, then (without prejudice to the effect of any subsequent designation) the development plan shall have effect as if no land comprised in the part of the affected area not required were designated therein as land subject to compulsory acquisition.

*Supplementary and general provisions*

- 13 In relation to any time after the death of a person who has served a notice under section thirty-eight of this Act, any reference in subsection (1) of section thirty-nine, subsection (1) of section forty or subsection (3) of section forty-one of this Act to the claimant shall be construed as a reference to the person who, on the claimant's death, has succeeded to his interest in the hereditament or agricultural unit in question.
- 14 Without prejudice to the provisions of paragraph 8 of this Schedule, the power conferred by subsection (2) of section five of the Act of 1919 to withdraw a notice



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to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of Part IV of this Act.

15 Expressions used in this Schedule and in Part IV of this Act have the same meanings in this Schedule as in that Part of this Act.

16 Where by any provision of this Schedule power is conferred to determine any question for the purposes of Part IV of this Act, any exercise of that power shall have effect for the purposes of this Schedule as well as for the purposes of that Part of this Act.

## SIXTH SCHEDULE

Sections 50, 51.

### REDUCTION OR EXTINGUISHMENT OF UNEXPENDED BALANCE OF ESTABLISHED DEVELOPMENT VALUE

#### PART I

##### GENERAL PROVISIONS

- 1 (1) Where in the case of—
- (a) a compulsory acquisition to which section one of this Act applies, or
  - (b) a sale of an interest in land by agreement in circumstances corresponding to such an acquisition,
- any of the land in which the interest acquired or sold subsisted had an unexpended balance of established development value immediately before the relevant date (in this paragraph referred to as "the relevant balance"), the following provisions of this paragraph shall have effect for the purpose of determining whether that land or any part thereof has an unexpended balance of established development value at any subsequent time.
- (2) Unless, immediately after the acquisition or sale, there is outstanding some interest (other than an excepted interest) in that land to which some person other than the acquiring authority is entitled, the original unexpended balance of established development value of that land shall be treated for the purposes of the Act of 1954 as having been extinguished immediately before that subsequent time.
- (3) If, immediately after the acquisition or sale, there is such an outstanding interest (other than an excepted interest) as is mentioned in the last preceding sub-paragraph, there shall be deducted from the said original balance an amount equal to any part of the relevant balance which is not attributable to any such outstanding interest, and the original balance of established development value of that land or that part thereof shall be treated for the purposes of the Act of 1954 as having been reduced or extinguished accordingly immediately before that subsequent time.
- (4) For the purposes of this paragraph any question as to the portion of the relevant balance which is attributable to an interest in land—
- (a) in relation to a compulsory acquisition to which section one of this Act applies, shall be determined in accordance with the provisions of Part II of this Schedule, and

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- (b) in relation to a sale of an interest in land by agreement in circumstances corresponding to such an acquisition, shall be determined in accordance with the provisions of Part II of this Schedule as those provisions would apply if the sale had been a compulsory acquisition in pursuance of a notice to treat served on the relevant date.
- 2 (1) Where, in connection with a compulsory acquisition to which section one of this Act applies, compensation is payable in respect of an interest in land other than the relevant land, for damage sustained by reason that the relevant land is severed from other land held therewith, or that any other land (whether held with the relevant land or not) is injuriously affected, then, for the purpose of determining whether that other land or any part thereof has an unexpended balance of established development value at any subsequent time, there shall be deducted from the original unexpended balance of established development value (if any) of that other land an amount calculated in accordance with the next following sub-paragraph, and the original balance of that land, or of the part thereof in question, as the case may be, shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.
- (2) The amount referred to in the preceding sub-paragraph is the amount (if any) by which the compensation payable as mentioned in that sub-paragraph exceeds the compensation which would have been so payable if the extent of the damage sustained in respect of the other land in question had fallen to be ascertained on the assumption that planning permission would be granted for development of any class specified in the Third Schedule to the Act of 1947, but would not be granted for any other development of that land.
- 3 The last preceding paragraph shall have effect in relation to a sale of an interest in land by agreement in circumstances corresponding to a compulsory acquisition to which section one of this Act applies as that paragraph has effect in relation to such an acquisition, but subject to the modification that—
- (a) any reference to the relevant land shall be construed as a reference to the land sold, and
- (b) any reference to compensation payable in respect of an interest in land shall be construed as a reference to an amount included in the purchase price in respect of that interest.
- 4 In this Schedule " interest in land ", " unexpended balance of established development value " and " original unexpended balance of established development value " have the same meanings as in the Act of 1954; " excepted interest " means the interest of any such person as is mentioned in section one hundred and fourteen of the Lands Clauses Consolidation (Scotland) Act, 1845 (which relates to persons having no greater interest than as tenant for a year or from year to year); and " the relevant date " means the date of service of the notice to treat or the date of the contract in pursuance of which the interest was sold, as the case may be.

## PART II

### SPECIAL PROVISIONS FOR APPORTIONMENT

#### *Determination of relevant area*

- 5 (1) Where, in the case of a compulsory acquisition to which section one of this Act applies, any area of the relevant land which, immediately before the service of the

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notice to treat, had an unexpended balance of established development value does not satisfy the condition set out in the next following sub-paragraph, that area shall be treated as divided into as many separate areas as may be requisite to ensure that each of those separate areas satisfies that condition.

- (2) The condition referred to in the preceding sub-paragraph is that all the interests (other than excepted interests) subsisting in the area in question subsist in the whole thereof.
- (3) Any area of the relevant land which has an unexpended balance of established development value and which complies with the condition set out in the last preceding sub-paragraph is in this Part of this Schedule referred to in relation to the interests subsisting therein as "the relevant area", and the subsequent provisions of this Part of this Schedule shall have effect separately in relation to each relevant area.

#### *Preliminary calculations*

- 6 In the case of the interest of the lessor under any lease there shall be calculated the capital value as at the time immediately before the service of the notice to treat of the right to receive a sum equal to the unexpended balance of established development value of the relevant area at that time, but payable at the expiration of the lease ; and the amount so calculated in the case of any such interest is in this Part of this Schedule referred to as " the reversionary development value " of that interest.

#### *Apportionment of unexpended balance between interests*

- 7 Where two or more interests, other than excepted interests, subsist in the relevant area, the portion of the unexpended balance of established development value of the relevant area attributable to each respectively of those interests shall be taken to be the following, that is to say—
  - (a) in the case of the interest of the lessor under any lease, so much, if any, of the reversionary development value of that interest, as remains after the deduction therefrom of the aggregate of—
    - (i) the reversionary development value of the interest of the person, if any, to whom that lessor stands in the relationship of lessee ; and
    - (ii) in a case where the restricted value of the first-mentioned interest is a minus quantity, an amount equal to that minus quantity;
  - (b) in the case of the interest of the lessee under any lease which is not subject to a sub-lease, so much, if any, of the said balance as remains after the deduction therefrom of the aggregate of—
    - (i) the reversionary development value of the interest of the lessor under the lease, and
    - (ii) in a case where the restricted value of the first-mentioned interest is a minus quantity, an amount equal to that minus quantity.

#### *Interpretation*

- 8 In this Part of this Schedule the expression "lease" does not include any lease in the case of which the interest of the lessee is an excepted interest.

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## SEVENTH SCHEDULE

Section 55.

## ENACTMENTS AMENDED

*The Town and Country Planning (Scotland) Act, 1947*

In section sixteen, after subsection (5), there shall be inserted the following subsection:—

“(6) Where permission to develop land is granted by a development order subject to limitations, nothing in this Part of this Act shall be construed as requiring permission to be obtained thereunder for the use of that land which (apart from its use in accordance with that permission) is the normal use of that land, unless the last-mentioned use was begun in contravention of the provisions of this Part of this Act or was begun before the appointed day in contravention of previous planning control within the meaning of section seventy-two of this Act.”

In section seventeen, in subsection (2), for the words " that authority shall forthwith transmit a copy of the notice to the Secretary of State " there shall be substituted the words " and that authority propose to serve on the owner a notice in accordance with paragraph (c) of subsection (1a) of this section, they shall transmit a copy of the purchase notice to the Secretary of State, together with a statement of their reasons " ; for the words " the foregoing subsection " there shall be substituted the words " subsection (1) of this section " ; and in paragraph (c) of the proviso to that subsection, after the word " authority ", in the first place where it occurs, there shall be inserted the words " or statutory undertakers " and after the word " authority ", in the second place where it occurs, there shall be inserted the words " or, as the case may be, those statutory undertakers " ; in subsection (3), for the words " the date on which a purchase notice is served under this section ", there shall be substituted the words " the end of the period specified in subsection (1a) of this section, or the date on which a copy of the purchase notice is transmitted to the Secretary of State, whichever is the earlier ", and in subsection (5), after the word "authority" in paragraph (c), there shall be inserted the words " or statutory undertakers ", for the words "or authority" there shall be substituted the words " authority or statutory undertakers ", and for the words "and authorities " there shall be substituted the words " authorities and undertakers " .

In section eighteen, in subsections (3) and (4) for the words " compulsory purchase value ", in each place where they occur, there shall be substituted the words " existing use value " ; and at the end of subsection (4) there shall be added the words " and the purchase were not a compulsory acquisition to which section one of the Town and Country Planning (Scotland) Act, 1959, applies " .

In section twenty-one, in subsections (1), (2) and (4), after the word " conditions ", in each place where that word occurs, there shall be inserted the words " or limitations " .

In section twenty-two, in subsection (3), after the word "conditions " there shall be inserted the words " or limitations " .

In section twenty-five, in paragraph (a) of subsection (3), for the words " the foregoing subsection" there shall be substituted the words " subsection (1) of this section " .

In section fifty-one, after subsection (2), there shall be inserted the following subsection:—

“(2A) Where, in the case of a compulsory acquisition to which section one of the Town and Country Planning (Scotland) Act, 1959, applies.—

- (a) Part VIII of the Requisitioned Land and War Works Act, 1945, applies to the acquisition, and

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(b) the land is requisitioned land and the period of requisition had begun before the appointed day,  
subsections (3) and (4) of section three of the said Act of 1959 shall have effect as if for any reference to the appointed day in the Third Schedule to this Act there were substituted a reference to the beginning of the period of requisition”;  
and in subsection (3), after the words " paragraph (a) " there shall be inserted the words " of subsection (2) of this section or by virtue " /

*The Town and Country Planning (Scotland) Act, 1954*

In section thirty, in subsection (6), after the words " section fifty-four of this Act" there shall be inserted the words " (either as originally enacted or as amended by section forty-nine of the Town and Country Planning (Scotland) Act, 1959) ", and for the words " that section " there shall be substituted the words " the said section fifty-four " .

In section fifty-five, in subsection (1), for the word " price " there shall be substituted the word " value " ; and in subsection (2) for the words " value and price" there shall be substituted the word " values " , and for paragraph (b) there shall be substituted the following paragraph:—

“(b) the value which such dominium utile (subject as mentioned in the preceding paragraph but otherwise free from burdens) would have at that time if the land were then in the state in which it was when possession thereof was taken in the exercise of emergency powers.”

In section sixty-two, in subsection (8), at the end, there shall be inserted the following proviso, that is to say.—

“Provided that, where the acquisition in question is a transaction in relation to which the repeal of the said subsection (4) by section fifty-five of the Town and Country Planning (Scotland) Act, 1959, has effect, this subsection shall have effect as if for the words from ' the dominium utile in question' to the word ' applied' (in the second place where that word occurs) there were substituted the words ' the said Rule (5) had not applied '”

EIGHTH SCHEDULE

Section 55.

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
6 & 7 Geo. 6. c. 21.	The War Damage Act, 1943.	Section fourteen.
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act, 1945.	The Fifth Schedule.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act, 1947.	In section forty-one, subsection (3). Sections forty-eight to fifty. In section fifty-one, in subsection (1), the words "in accordance with the foregoing provisions of

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Session and Chapter	Short Title	Extent of Repeal
14 Geo. 6. c. 34.	The Housing (Scotland) Act, 1950.	<p>this Part of this Act" and the words from " and in particular " to the end of the subsection.</p> <p>Section fifty-two.</p> <p>In section fifty-three, in subsection (2), the words from " and the right to receive any value payment " to the end of the subsection, and subsections (3) and (4).</p> <p>In section seventy-nine, subsection (5).</p> <p>In section eighty-one, subsection (4).</p> <p>In section eighty-two, subsection (4).</p> <p>In section one hundred and five, subsections (2) and (3).</p> <p>The Fifth Schedule to the Town and Country Planning (Scotland) Act, 1945, as reprinted in the Eleventh Schedule.</p>
2 & 3 Eliz. 2. c. 73.	The Town and Country Planning (Scotland) Act, 1954.	<p>In the Fourth Schedule, paragraph 3.</p> <p>In section thirty-one, subsection (2).</p> <p>Sections thirty-two to thirty-eight.</p> <p>In section thirty-nine, in subsection (2), the words " otherwise than by virtue of section thirty-two of this Act and ".</p> <p>In section fifty-four, paragraph (c) of subsection (8).</p> <p>In section fifty-five, subsection (5).</p> <p>In section sixty-one, subsection (3).</p> <p>In section sixty-seven, subsection (4).</p>

Session and Chapter	Short Title	Extent of Repeal
5 & 6 Eliz. 2. c. 38.	The Housing and Town Development (Scotland) Act, 1957.	The Fifth and Sixth Schedules. In section thirteen, in subsection (3), the words from " and the reference to subsection (2) " to the end of the subsection.

## NINTH SCHEDULE

Section 55.

### SECTION SEVENTEEN OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1947, AS AMENDED

- “17 (1) Where planning permission is refused, whether by the local planning authority or by the Secretary of State, or is granted by that authority or by the Secretary of State subject to conditions, then, if any owner or lessee of the land concerned claims—
- (a) that the land has become incapable of reasonably beneficial use in its existing state ; and
  - (b) in a case where planning permission was granted as aforesaid subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying Out of the permitted development in accordance with those conditions ;
  - (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been or is deemed to be granted or for which the local planning authority or the Secretary of State have undertaken to grant such permission,
- he may, within the time and in the manner prescribed by regulations made under this Act, serve on the local planning authority in whose district the land is situated a notice (hereinafter referred to as a " purchase notice ") requiring that authority to purchase his interest in the land in accordance with the provisions of this section.
- (1A) The local planning authority on whom a purchase notice is served under this section shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner by whom the purchase notice was served a notice stating either—
- (a) that the local planning authority are willing to comply with the purchase notice ;  
or
  - (b) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place ; or
  - (c) that, for reasons specified in the notice under this subsection, the local planning authority are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place, and that they have transmitted a copy of the purchase notice to the Secretary of State, on a date specified in the notice under this subsection, together with a statement of the reasons so specified.
- (1B) Where the local planning authority upon whom a purchase notice is served under this section have served on the owner by whom the purchase notice was served a notice

in accordance with paragraph (a) or paragraph (b) of the last foregoing subsection, the local planning authority, or the other local authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part III of this Act, and to have served a notice to treat in respect thereof on the date of service of the notice under the last foregoing subsection.

- (2) Where a purchase notice is served on any local planning authority under this section and that authority propose to serve on the owner a notice in accordance with paragraph (c) of subsection (1a) of this section, they shall transmit a copy of the purchase notice to the Secretary of State, together with a statement of their reasons ; and subject to the following provisions of this section the Secretary of State shall, if he is satisfied that the conditions specified in subsection (1) of this section are fulfilled, confirm the notice, and thereupon the authority shall be deemed to be authorised to acquire the interest of that person compulsorily in accordance with the provisions of Part III of this Act, and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct:

Provided that—

- (a) if it appears to the Secretary of State to be expedient so to do, he may, in lieu of confirming the purchase notice, grant planning permission for the development in respect of which the application was made or, where planning permission for that development was granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development;
  - (b) if it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which permission ought to be granted, he may, in lieu of confirming the notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that such permission shall be so granted in the event of an application being made in that behalf;
  - (c) if it appears to the Secretary of State to be expedient that another local authority or statutory undertakers should acquire the interest for the purpose of any of their functions, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land to which it relates by substituting that other authority or, as the case may be, those statutory undertakers for the local planning authority on whom the notice is served, and in any such case the foregoing provisions of this subsection shall have effect accordingly,
- (3) If within the period of six months from the end of the period specified in subsection (1a) of this section, or the date on which a copy of the purchase notice is transmitted to the Secretary of State, whichever is the earlier, the Secretary of State has neither confirmed the notice nor taken any such other action as is mentioned in paragraph (a) or paragraph (b) of the proviso to the last foregoing subsection, nor notified the owner or lessee, as the case may be, by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the expiration of that period, and the authority on whom the notice was served shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the provisions of Part III of this Act, and to have served notice to treat in respect thereof at the expiration of the said period.



- (4) The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.
- (5) Before confirming a purchase notice, or taking any other action in lieu thereof, under this section, the Secretary of State shall give notice of his proposed action—
- (a) to the person by whom the notice was served ;
  - (b) to the local planning authority on which the notice was served; and
  - (c) to any other local authority or statutory undertakers whom the Secretary of State proposes, under subsection (2) of this section, to substitute for the said local planning authority ;
- and if within the period prescribed by the notice under this subsection (not being less than twenty-eight days from the service thereof) any person authority or statutory undertakers on whom that notice is served so require, the Secretary of State shall, before confirming the purchase notice or taking any such other action as aforesaid, afford to those persons authorities and undertakers an opportunity of appearing before and being heard by a person appointed by him for the purpose.
- (6) In the last foregoing subsection, any reference to the taking of action in lieu of confirming a purchase notice includes a reference to the taking of a decision not to confirm the notice on the grounds that any of the conditions specified in paragraphs (a) to (c) of subsection (1) of this section are not fulfilled.
- (7) Where the Secretary of State has given notice under subsection (5) of this section of his proposed action, and any of the persons, authorities and statutory undertakers concerned have appeared before and been heard by a person appointed by the Secretary of State for the purpose, and it then appears to the Secretary of State to be expedient to take action under this section otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.”

## TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Lands Clauses Consolidation (Scotland) Act, 1845	8 & 9 Vict. c. 19.
Burial Ground (Scotland) Act, 1855	18 & 19 Vict. c. 68.
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Light Railways Act, 1896	59 & 60 Vict. c. 48.
Cremation Act, 1902	2 Edw. 7. c. 8.
Development and Road Improvement Funds Act, 1909.	9 Edw. 7. c. 47.
Acquisition of Land (Assessment of Compensation) Act, 1919.	9 & 10 Geo. 5. c. 57.
Land Settlement (Scotland) Act, 1919	9 & 10 Geo. 5. c. 97.
Trusts (Scotland) Act, 1921	11 & 12 Geo. 5. c. 58.

*Status: This is the original version (as it was originally enacted).*

Short Title	Session and Chapter
Restriction of Ribbon Development Act, 1935	25 & 26 Geo. 5. c. 47.
Trunk Roads Act, 1936	1 Edw. 8 & 1 Geo. 6. c. 5.
Compensation (Defence) Act, 1939	2 & 3 Geo. 6. c. 75.
War Damage Act, 1943	6 & 7 Geo. 6. c. 21.
Town and Country Planning (Scotland) Act, 1945	8 & 9 Geo. 6. c. 33.
Requisitioned Land and War Works Act, 1945	8 & 9 Geo. 6. c. 43.
Statutory Orders (Special Procedure) Act, 1945	9 & 10 Geo. 6. c. 18.
Trunk Roads Act, 1946	9 & 10 Geo. 6. c. 30.
Statutory Instruments Act, 1946	9 & 10 Geo. 6. c. 36.
Water (Scotland) Act, 1946	9 & 10 Geo. 6. c. 42.
New Towns Act, 1946	9 & 10 Geo. 6. c. 68.
National Health Service (Scotland) Act, 1947	10 & 11 Geo. 6. c. 27.
Fire Services Act, 1947	10 & 11 Geo. 6. c. 41.
Local Government (Scotland) Act, 1947	10 & 11 Geo. 6. c. 43.
Town and Country Planning (Scotland) Act, 1947	10 & 11 Geo. 6. c. 53.
Children Act, 1948	11 & 12 Geo. 6. c. 43.
Civil Defence Act, 1948	12, 13 & 14 Geo. 6. c. 5.
Special Roads Act, 1949	12, 13 & 14 Geo. 6. c. 32.
Agricultural Holdings (Scotland) Act, 1949	12, 13 & 14 Geo. 6. c. 75.
Housing (Scotland) Act, 1950	14 Geo. 6. c. 34.
Rivers (Prevention of Pollution) (Scotland) Act, 1951.	14 & 15 Geo. 6. c. 66.
Town and Country Planning (Scotland) Act, 1954	2 & 3 Eliz. 2. c. 73.
Police (Scotland) Act, 1956	4 & 5 Eliz. 2. c. 26.
Valuation and Rating (Scotland) Act, 1956	4 & 5 Eliz. 2. c. 60.
Housing and Town Development (Scotland) Act, 1957	5 & 6 Eliz. 2. c. 38.
Land Powers (Defence) Act, 1958	6 & 7 Eliz. 2. c. 30.
Local Government and Miscellaneous Financial Provisions (Scotland) Act, 1958.	6 & 7 Eliz. 2. c. 64.
Tribunals and Inquiries Act, 1958	6 & 7 Eliz. 2. c. 66.

Short Title	Session and Chapter
Town and Country Planning Act, 1959	7 & 8 Eliz. 2. c. 53.