



Town and Country Planning (Scotland) Act 1947

1947 CHAPTER 53

PART IX

SUPPLEMENTAL.

Supplementary provisions as to local planning authorities.

96 Default powers of Secretary of State.

- (1) If it appears to the Secretary of State after consultation with the local planning authority to be expedient that an enforcement notice should be served under section twenty-one of this Act, or under that section as applied by any order or regulations under Part II of this Act, or that a notice should be served under section thirty-one of this Act, in respect of any land, he may give directions to the local planning authority requiring them to serve such a notice, or may himself serve such a notice, and any notice so served by the Secretary of State shall have the like effect as a notice served by the local planning authority:

Provided that in relation to an enforcement notice so served by the Secretary of State, section twenty-two of this Act shall have effect as if for any reference therein to the local planning authority there were substituted a reference to the Secretary of State.

- (2) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that any of the following orders should be made under Part II of this Act, that is to say:—
- (a) an order under section nineteen of this Act revoking or modifying any permission to develop land,
 - (b) an order under the said section nineteen as applied by any order or regulations under Part II of this Act,

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- (c) an order under section twenty-four of this Act requiring any use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed,
- (d) a tree preservation order, or an order amending or revoking a tree preservation order, or
- (e) a building preservation order, or an order amending or revoking a building preservation order,

he may give directions to the local planning authority requiring them to submit to him such an order for his confirmation, or may himself make such an order, and any order so made by the Secretary of State shall have the like effect as if it had been made by the local planning authority and confirmed by the Secretary of State under Part II of this Act.

- (3) In relation to the making by the Secretary of State of any order under the last foregoing subsection, the provisions of Part II of this Act, and of any regulations made thereunder, with respect to the procedure to be followed in connection with the submission of such an order by the local planning authority, the confirmation thereof by the Secretary of State, and the service of copies thereof as so confirmed, shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make the order, to the making thereof by the Secretary of State and to the service of copies thereof as so made.
- (4) If the Secretary of State is satisfied, after holding a local inquiry—
 - (a) that a local planning authority have failed to take steps for the acquisition of any land which in the opinion of the Secretary of State ought to be acquired by them under section thirty-five of this Act for the purpose of securing its use in the manner proposed by the development plan or, during the period before a development plan has become operative under this Act with respect to the district of that authority, for the purpose of securing the proper planning of that district, or
 - (b) that any local planning authority have failed to carry out, on land acquired by them under the said section thirty-five, or appropriated by them under section thirty-nine of this Act, any development which in the opinion of the Secretary of State ought to be carried out,

the Secretary of State may by order require the authority to take such steps as may be specified in the order for acquiring the land or carrying out the development, as the case may be.

- (5) Any order under the last foregoing subsection shall be enforceable, on the application of the Secretary of State, by proceedings under section ninety-one of the Court of Session Act, 1868.

97 Power to transfer planning functions of town councils of small burghs to county councils.

- (1) If at any time the Secretary of State considers it expedient in the public interest that the functions under this Act of a local planning authority being the town council of a small burgh should be transferred to the county council of the county within which that burgh is situated, he may by order transfer those functions to the county council, and where any such functions are so transferred any reference in this Act to the local planning authority shall in relation to the district of the small burgh be construed as a reference to the county council.

- (2) An order under the foregoing subsection may make provision for such incidental and consequential matters as the Secretary of State may think fit, including the transfer to the county council of officers, property, rights and liabilities of the town council and the compensation of officers.

98 Applications for planning permission, determination of development charges, etc.

- (1) An application to a local planning authority for planning permission under Part II of this Act, and an application to the Central Land Board for the making or confirmation of any determination under Part VI of this Act, shall be made in such manner as may be prescribed by regulations under this Act and shall include such particulars and shall be verified by such evidence as may be required by the regulations or by any directions given by the local planning authority or the Board thereunder.
- (2) Subject to the following provisions of this section, regulations made under this Act may provide for the combination in one document of—
- (a) an application for planning permission in respect of any development;
 - (b) an application for a determination of the Central Land Board in respect of that development;
 - (c) any application or submission required to be made to a local authority in respect of that development under any enactment specified in the regulations;
- and for the making of any such combined application in such form and manner and to such authority as may be prescribed by the regulations, and for the transmission of copies of the application by that authority to such other authorities or persons as may be so prescribed.
- (3) Any regulations made for the purposes of the last foregoing subsection shall be made by the Secretary of State after consultation with such associations of local authorities as appear to him to be concerned; and different provision may be made by such regulations in relation to areas in which different enactments are in force.
- (4) An application or submission required to be made to a local authority under any enactment specified in regulations made under subsection (2) of this section shall, if made in accordance with the provisions of the regulations, be deemed to be valid notwithstanding anything in that enactment, prescribing or enabling any authority to prescribe the form in which or the manner in which such an application or submission is to be made, but without prejudice to the validity of any application or submission made in accordance with that enactment, and without prejudice to any provision of that enactment enabling any such authority to require further particulars of the matters to which the application or submission relates.

General Provisions.

99 Powers of entry.

- (1) Any person duly authorised in writing by the Secretary of State or by a local planning authority may, at any reasonable time, enter upon any land for the purpose of surveying it in connection with—

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- (a) the preparation, approval, making or amendment of a development plan relating to the land, including the carrying out of any survey under Part II of this Act;
- (b) any application under the said Part II, or under any order or regulations made thereunder, for any permission, consent or determination to be given or effected in relation to that or any other land under the said Part II or under any such order or regulations ;
- (c) any proposal by the local planning authority or by the Secretary of State to serve or make any notice or order under the said Part II or under any such order or regulations as aforesaid;

and any person being an officer of the Valuation Office or a person duly authorised in writing by a local planning authority may, at any reasonable time, enter upon any land for the purpose of surveying it or estimating its value in connection with any claim for compensation payable by that authority in respect of that or any other land under Part II or Part VII of this Act.

- (2) Any officer of the Valuation Office, or any person duly authorised in writing by a Minister having power to acquire land designated by a development plan under this Act as subject to compulsory acquisition or to authorise the acquisition of land so designated, and any person being an officer of the Central Land Board or a person duly authorised in writing by a local authority having power to acquire land under Part III of this Act, may, at any reasonable time, enter upon any land for the purpose of surveying it or estimating its value in connection with any proposal to acquire that or any other land or in connection with any claim for compensation in respect of any such acquisition.
- (3) Any officer of the Valuation Office or of the Central Land Board may, at any reasonable time, enter upon any land for the purpose of surveying it or estimating its value in connection with—
 - (a) any claim for a payment in respect of that or any other land under Part V of this Act;
 - (b) any determination of the Board in respect of that or any other land under Part VI of this Act.
- (4) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any land which is occupied unless twenty-four hours notice of the intended entry has been given to the occupier.
- (5) Any person who wilfully obstructs a person acting in the exercise of his powers under this section shall be liable on summary conviction to a fine not exceeding twenty pounds.
- (6) If any person who, in compliance with the provisions of this section, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of his duty in connection with the survey or estimate for which he was authorised to enter the premises, be liable on summary conviction to, a fine not exceeding one hundred pounds or to imprisonment' for a term not exceeding three months.
- (7) Where any land is damaged in the exercise of a power of entry conferred under this section or in the making of any survey for the purpose of which any such power of entry has been so conferred, compensation in respect of that damage may be recovered

by any person interested in the land from the Minister, Board or authority on whose behalf the entry was effected.

- (8) Any expenses incurred by a Minister or the Central Land Board under the last foregoing subsection shall be defrayed out of moneys provided by Parliament.
- (9) Any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein:

Provided that a person shall not carry out any works authorised by this subsection unless notice of his intention so to do has been included in the notice required by subsection (4) of this section, and if the land in question is held by any statutory undertakers and those undertakers object to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the appropriate Minister.

100 Local inquiries, etc.

- (1) The provisions of section fifty of the Act of 1945 (which relate to local inquiries) shall be incorporated with this Act, subject to the amendments specified in the second column of the Eighth Schedule to this Act.
- (2) Any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure, and any hearing in connection with an appeal against the refusal, or the grant subject to conditions, of an application by statutory undertakers for permission to develop operational land, or with any such application made by such undertakers and referred to the Secretary of State, or with the revocation or modification of permission to develop operational land granted to such undertakers, shall, if the Ministers concerned so direct, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936; and any direction so given shall be deemed to have been given under section two as read with section ten of the Statutory Orders (Special Procedure) Act, 1945.
- (3) Paragraphs 4 and 5 of the First Schedule to the Act of 1945 shall not apply in relation to any order under this Act which in certain events becomes subject to special parliamentary procedure.
- (4) Nothing in subsections (2) to (9) of section fifty of the Act of 1945 shall apply to any inquiry under this section by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936.

101 Service of notices.

- (1) Subject to the provisions of this section any notice or other document required or authorised to be served or given under this Act may be served or given either—
 - (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
 - (b) by leaving it at the usual or last known place of abode of that person, or, in a case in which an address for service has been furnished by that person, at that address; or

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- (c) by sending it in a registered letter addressed to that person at his usual or last known place of abode, or in a case in which an address for service has been furnished by that person, at that address; or
 - (d) in the case of a person on whom the notice is required to be served as being a person appearing from the valuation roll to have an interest in land, by sending it in a registered letter addressed to that person at his address as entered in the valuation roll; or
 - (e) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a registered letter addressed to the secretary or clerk of the company or body at that office.
- (2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice shall be deemed to be duly served if—
- (a) being addressed to him either by name or by the description of " the owner ", "the lessee " or "the occupier ", as the case may be, of the premises (describing them) it is delivered or sent in the manner prescribed by paragraph (a), (b) or (c) of the last foregoing subsection; or
 - (b) being addressed as aforesaid and marked in such manner as may be prescribed by regulations under this Act for securing that it shall be plainly identifiable as a communication of importance, it is sent in a registered letter to the premises and is not returned to the authority sending it, or is delivered to some person on those premises or is affixed conspicuously to some object on those premises.
- (3) Where the notice or other document is required to be served on or given to all persons having interests in or being occupiers of premises comprised in any land, and it appears to the authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice shall be deemed to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has furnished that authority with an address for the service of the notice on him) if it is addressed to " the owners and any lessees and occupiers " of that part of the land (describing it), and is affixed conspicuously to some object on the land.

102 Power to require information as to ownership of land.

The Secretary of State, the Central Land Board or a local authority may, for the purpose of enabling them to make any order or serve any notice or other document which they are by this Act authorised or required to make or serve, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as superior, owner, heritable creditor, lessee or otherwise; and any person who, having been required in pursuance of this section to give any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding five pounds.

103 Expenses of tribunals, etc.

- (1) The Secretary of State may pay to the chairman and members of any tribunal established for the purposes of this Act, or of regulations made thereunder, such remuneration (whether by way of salaries or by way of fees) and such reasonable allowances in respect of expenses properly incurred in the performance of their duties, as the Treasury may determine.
- (2) Any expenditure incurred by the Secretary of State under the last foregoing subsection, or in the payment of the expenses of any committee established under section twenty-nine of this Act, shall be defrayed out of moneys provided by Parliament.

104 Expenses of Ministers.

There shall be paid out of moneys provided by Parliament—

- (a) any expenses incurred by a Minister in the acquisition of land under Part III of this Act, other than expenses so incurred which are required to be defrayed out of the Road Fund;
- (b) any sums payable into the Road Fund for the purpose of defraying expenses of the Minister of Transport under this Act;
- (c) any sums authorised or required to be paid out of moneys provided by Parliament by virtue of any of the provisions of the Act of 1945 incorporated with Part III of this Act;
- (d) any administrative expenses incurred by the Secretary of State for the purposes of this Act.

105 Determination of disputes as to compensation, etc.

- (1) Except so far as may be otherwise provided by or under this Act, any question of disputed compensation under this Act (other than compensation payable in respect of the compulsory acquisition of land) shall be determined in the same manner as compensation on the acquisition of land falls to be determined under the Acquisition of Land (Assessment of Compensation) Act, 1919, and sections one, three, five, six and eight of that Act shall accordingly have effect subject to any necessary modifications.
- (2) Any dispute arising under any provisions of this Act in relation to any land as to what is the use which prevails generally in the case of contiguous or adjacent land shall, if application in that behalf is made by any party to the dispute within such time and in such manner as may be prescribed, by regulations made under this Act, be referred to and determined by the Central Land Board.
- (3) Any party to any such dispute "as aforesaid who is dissatisfied with the determination of the Central Land Board may, within such time and in such manner as may be prescribed by regulations made under this Act, appeal to the Secretary of State, whose decision shall be final.

106 Appointment of arbiters under 9 & 10 Geo. 5. c. 57.

On appointing a person to be a member of the panel of official arbiters formed under section one of the Acquisition of Land (Assessment of Compensation) Act, 1919, the Reference Committee may make it a condition of his appointment that while holding office he shall not himself engage, or be a partner of any other person who engages, in private practice or business.

107 Regulations and orders.

- (1) The Secretary of State may make regulations under this Act—
 - (a) for prescribing the form of any notice, order or other document authorised or required by this Act to be served, made or issued by any local authority;
 - (b) for any purpose for which regulations are authorised or required to be made under this Act, not being a purpose for which such regulations are authorised or required to be made by any other Minister, and in particular for prescribing anything which by this Act is required or authorised to be prescribed by regulations.
- (2) Any regulations made under this Act (other than regulations which, by virtue of any provision of this Act, are of no effect unless they are approved by resolution of each House of Parliament) shall be laid before Parliament immediately after they are made, and if either House, within the period of forty days after the regulations are so laid before it, resolves that the regulations be annulled, the regulations shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.
- (3) In reckoning for the purposes of the last foregoing subsection any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (4) Any power to make an order conferred by the foregoing provisions of this Act shall include power to amend or revoke that order by a subsequent order made in like manner:

Provided that an order made by the Secretary of State for the purposes of paragraph 5 of Part II of the Third Schedule to this Act shall not be amended or revoked at any time after the appointed day.

108 Assumptions as to planning permission.

- (1) For the avoidance of doubt it is hereby declared that where, under any provision of this Act, the value of any interest in land is required to be assessed on the assumption that planning permission would be granted for development of any class specified in the Third Schedule to this Act, that assumption is to be made on the footing that any such development must comply with the provisions of any enactment, other than this Act, which would be applicable thereto.
- (2) For the purposes of paragraph 1 of Part II of the said Third Schedule, the erection on land within the curtilage of any such building as is mentioned in that paragraph of an additional building to be used in connection with the original building shall be treated as the enlargement of the original building; and where on the appointed day any two or more buildings comprised in the same curtilage are used as one unit for the purposes of any institution or undertaking, the reference in the said paragraph 1 to the cubic content of the original building shall be construed as a reference to the aggregate cubic content of those buildings.
- (3) Any reference in the said Third Schedule to the cubic content of a building shall be construed as a reference to that content as ascertained by external measurement.

109 Amendments and repeals.

- (1) Subject to the provisions of this section, the enactments specified in the first column of the Eighth Schedule to this Act shall have effect, on and after the appointed day, subject to the amendments specified in the second column of that Schedule, being minor amendments and amendments consequential on the provisions of this Act.
- (2) Subject to the provisions of this section, the enactments specified in the Ninth Schedule to this Act are hereby repealed, in the case of enactments specified in Part I of that Schedule as from the passing of this Act, and in the case of the enactments specified in Part II of that Schedule as from the appointed day, to the extent specified in relation thereto in the third column of that Schedule:

Provided that the repeal by virtue of this subsection of any enactment specified in Part I of the said Ninth Schedule shall not affect the operation of that enactment in its application to compensation in respect of land, compulsorily acquired in pursuance of a notice to treat served before the date of the passing of this Act or compensation in respect of any order or direction made or given before that date.

- (3) The repeal or amendment by virtue of this Act of any enactment contained in Part I or Part III of the Act of 1945, other than an enactment specified in Part I of the Ninth Schedule to this Act, shall not affect the operation of that enactment as applied by the New Towns Act, 1946, but without prejudice to any amendment of the last mentioned Act effected by this Act.
- (4) His Majesty may by Order in Council repeal or modify so much of any local enactment in force on the appointed day as confers any such powers or imposes any such prohibitions or restrictions as could be conferred or imposed by regulations made under section twenty-nine of this Act:

Provided that any Order in Council made under this subsection shall be subject to special parliamentary procedure.

- (5) Without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), the provisions of the Tenth Schedule to this Act (being transitory and consequential provisions) shall have effect in relation to the repeals effected by this section.
- (6) In accordance with the foregoing provisions of this section the Act of 1945 shall have effect on and after the appointed day as set out in the Eleventh Schedule to this Act.

110 Exercise of functions of Board of Trade.

Anything required or authorised under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, undersecretary or assistant secretary of the Board or any person authorised in that behalf by the President of the Board.

111 Saving for Postmaster General.

- (1) Subject to the provisions of this section, and to the provisions of subsection (4) of section twenty-two of the Act of 1945 as incorporated with this Act, nothing in this Act or in any order or regulations made thereunder shall affect any powers or duties of the Postmaster General under the provisions of the Telegraph Acts, 1863 to 1943, or apply to any telegraphic lines placed or maintained by virtue of any of those provisions.

- (2) Where in pursuance of an order made by the Minister of Transport under section forty-six of this Act any highway is stopped up or diverted and, immediately before the date on which the order became operative, there was under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Postmaster General, the Postmaster General shall have the same powers in respect of that line as if the order had not become operative:

Provided that if any person entitled to land over which the highway subsisted requires that the telegraphic line should be altered, paragraphs (1) to (8) of section seven of the Telegraph Act, 1878, shall apply to the alteration and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered.

- (3) Where any order made under the said section forty-six provides for the improvement of any highway, not being a trunk road, and, immediately before the date on which the order became operative, there was under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Postmaster General; then if the local highway authority require that that line should be altered, paragraphs (1) to (8) of the said section seven shall apply to the alteration and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the local highway authority.
- (4) In this section the expressions "alter" and "telegraphic line" have the same meanings as in the Telegraph Act, 1878.

112 Application to land regulated by special enactments.

- (1) For the avoidance of doubt it is hereby declared that the provisions of this Act, and any restrictions or powers thereby imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the passing of this Act, or by any local Act passed at any time during the present Session of Parliament, for authorising or regulating any development of the land.
- (2) Without prejudice to the generality of the foregoing provision, references in any enactment contained in a local Act (including any such Act passed as aforesaid) to Part II of the Act of 1945 shall be construed—
- (a) in relation to compensation payable on a compulsory acquisition of land thereunder in pursuance of a notice to treat served before the passing of this Act, as a reference to the said Part II as amended by this Act;
 - (b) in relation to compensation payable or a compulsory acquisition of land thereunder in pursuance of a notice to treat served after the passing of this Act, as a reference to Part IV of this Act:

Provided that no such enactment shall, by virtue of this subsection, be construed as excluding the application of the said Part IV in relation to compensation payable in respect of any compulsory acquisition of land.

113 Interpretation.

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

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" Act of 1932 " means the Town and Country Planning (Scotland) Act, 1932;

" Act of 1945 " means the Town and Country Planning (Scotland) Act, 1945;

" advertisement " means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction, and without prejudice to the foregoing provision includes any hoarding or similar structure used or adapted for use for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

" agriculture " includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and " agricultural " shall be construed accordingly;

" appointed day " means such day as the Secretary of State may by order appoint;

" appropriate Minister " means—

- (a) in relation to statutory undertakers carrying, on an undertaking for the supply of electricity, gas or hydraulic power, the Minister of Fuel and Power;
- (b) in relation to the undertaking of the North of Scotland Hydro-Electricity Board, the Secretary of State;
- (c) in relation to statutory undertakers carrying on an undertaking for the supply of water, the Secretary of State; and
- (d) in relation to any other statutory undertakers as defined by this Act, the Minister of Transport;

" area of extensive war damage " and " area of bad lay-out or obsolete development " mean an area consisting of land shown to the satisfaction of the Secretary of State to have sustained war damage of, as the case may be, to be badly laid out or of obsolete development, or consisting of such land together with other land, contiguous or adjacent thereto, being in each case land comprised in an area which is defined by a development plan as an area of comprehensive development;

" building " includes any structure or erection and any part of a building as so defined, but does not include plant or machinery comprised in a building;

" buildings or works " includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly;

" building operations " includes rebuilding operations, structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder;

" building preservation order " has the meaning assigned to it by section twenty-seven of this Act;

" clearing ", in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of

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such other operations in relation thereto as may be prescribed by regulations made for the purposes of this Act;

" common " includes any town or village green and " open space " means any land laid out as a public garden or used for the purposes of public recreation or land being a disused burial ground;

" Consolidated Fund " means the Consolidated Fund of the United Kingdom, and includes the growing produce thereof;

" development " has the meaning assigned to it by section ten of this Act, and " develop " shall be construed accordingly;

" development charge " means the development charge payable under Part VI of this Act;

" development order " has the meaning assigned to it by section eleven of this Act;

" development plan " has the meaning assigned to it by section three of this Act, and includes a plan made under subsection (5) of that section;

" enactment " includes an enactment in any local or private Act of Parliament and an order, rule, regulation, byelaw or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;

" engineering operations " includes the formation or laying out of means of access to highways;

" erection " in relation to buildings includes extension, alteration and re-erection;

" feu charter " includes a feu contract and any other instrument by which land is feued;

" functions " includes powers and duties;

" government department " includes the Electricity Commissioners;

" heritable security " means—

- (a) a heritable security within the meaning of the Conveyancing (Scotland) Act, 1924, exclusive of a security by way of ground annual and a real burden *ad factum praestandum* but inclusive of a security constituted by way of *ex facie* absolute disposition; or
- (b) an assignation in security of a lease recorded under the Registration of Leases (Scotland) Act, 1857; and the expression " heritable creditor " shall be construed accordingly;

" improvement " in relation to a highway has the same meaning as the expression " improvement of roads " has in Part II of the Development and Road Improvement Funds Act, 1909;

" industrial building " has the same meaning as in the Distribution of Industry Act, 1945;

" interim development authority " means a local authority or joint committee empowered by an interim development order to permit the development of land;

" interim development order " means an order made under subsection (1) of section ten of the Act of 1932;

" land " includes land covered with water and any building as defined by this section, and, in relation to the acquisition of land under Part III of this Act, includes any interest or right in or over land;

" large burgh " has the meaning assigned to it in the Local Government (Scotland) Act, 1947;

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- " lease " includes a sub-lease, but does not include an option to take a lease;
- " local authority " means a county council, town council or district council, or any other authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891, and includes any joint board or joint committee of which all the constituent authorities are such local authorities as aforesaid;
- " local highway authority " means a highway authority other than the Minister of Transport;
- " local planning authority " has the meaning assigned to it by section two of this Act;
- " means of access " includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street;
- " minerals " includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or by surface working;
- " mining lease " means a lease, sub-lease, tenancy or licence conferring a right to win or work minerals;
- " Minister " includes the Treasury, the Admiralty, the Board of Trade and any other government department;
- " National Coal Board " means the National Coal Board established under the Coal Industry Nationalisation Act, 1946;
- " National Trust for Scotland " means The National Trust for Scotland for Places of Historic Interest or . Natural Beauty incorporated by the Order confirmed by the National Trust for Scotland Order Confirmation Act, 1935;
- " operational land ", in relation to any statutory undertakers, means land which is used for the purpose of carrying on the undertakings of those undertakers and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in , general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings;
- " owner " in relation to any land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking;
- " planning permission " means the permission for development of land which is required by virtue of section ten of this Act;
- " planning permission granted for a limited period only " has the meaning assigned to it by section twelve of this Act;
- " planning scheme " means a scheme under the Act of ' 1932 or any enactment repealed by that Act;
- " purchase notice " has the meaning assigned to it by section seventeen of this Act;
- " relocation of population or industry " means, in relation to an area of extensive war damage or an area of bad lay-out or obsolete development, the rendering available elsewhere than in that area, whether in an existing community or a community to be newly established, of accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and v; other requirements, being accommodation to be : rendered available for persons or undertakings who are living or carrying on business or other activities in that area or who were doing so but by reason of war circumstances are no longer for the time being doing so, and whose

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

continued or resumed location ;j in that area would be inconsistent with the proper planning thereof;

" replacement of open space " means, in relation to an area of extensive war damage or an area of bad layout or obsolete development, the rendering of land available for use as an open space or otherwise in an undeveloped state in substitution for land in that area which is so used;

" requisitioned land, " and " period of requisition, " have the meanings assigned to them by section eighty-five of this Act;

" small burgh " has the meaning assigned to it in the Local Government (Scotland) Act, 1947;

" statutory Undertakers " means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse v undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and , " statutory undertaking " shall be construed accordingly;

" tree preservation order " has the meaning assigned to it by section twenty-six of this Act;

" use ", in relation to land, does not include the use of land by the carrying out of any building or other operations thereon;

" Valuation Office " means the Valuation Office of the Inland Revenue Department;

" war damage " has the same meaning as in the War Damage Act, 1943.

- (2) If any question arises, in relation to anything required or authorised to be done under this Act, which Minister was or is the appropriate Minister as defined by this section in relation to any statutory undertakers, that question shall be determined by the Treasury, and if any question so arises whether land of statutory undertakers is operational land as defined by this section, that question shall be determined by the Minister who is the appropriate Minister in relation to those undertakers.
- (3) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of the Sixth Schedule to the Act of 1945, or of any other enactment, is to be deemed to be served.
- (4) Any reference in this Act to the compensation payable in respect of the compulsory acquisition of land shall be construed as including a reference to compensation to be estimated, in connection with the acquisition, for damage sustained by reason of the severing of the land from other land held therewith or otherwise injuriously affecting such other land, and compensation to be so estimated for disturbance or any other matter not directly based on the value Of the land.
- (5) References in this Act to any enactment shall- be construed as references to that enactment as amended by any subsequent enactment including, except where the context otherwise requires, this Act.

114 Short title, commencement and extent.

- (1) This Act may be cited as the Town and Country Planning (Scotland) Act, 1947.
- (2) This Act shall come into force on the appointed day:

Provided that—

- (a) section one of this Act, and
- (b) subsection (2) of section thirty-four of this Act and subsection (2) of section thirty-five of this Act and any other provisions in Part III of this Act which relate to the acquisition of land under either of those subsections, and
- (c) Part IV of this Act, so much of section eighty-seven of this Act as relates to land acquired before the appointed day, subsection (2) of section one hundred and nine of this Act so far as it relates to Part I of the Ninth Schedule to this Act, and Part I of the said Ninth Schedule, and
- (d) sections ninety-five, one hundred and two, one hundred and four, one hundred and six and one hundred and eleven,

shall come into force on the date of the passing of this Act.

- (3) This Act shall extend to Scotland only.