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SCHEDULES

SCHEDULE 9

ADAPTATION AND INTERPRETATION OF ENACTMENTS, ETC.

PART II

SPECIFIC ADAPTATIONS, AMENDMENTS AND MODIFICATIONS

The Town and Country Planning Act 1962 (c. 38)

- 11 Any reference to section 68 of the Act shall be construed (according as the context may require) as including, or as being replaced by, a reference to section 28 of this Act.
- 12 In section 3(1) (delegation of functions of local planning authorities) the reference to the functions specified in subsection (2) of that section (that is to say, functions under Parts III and IV and section 180 of the Act) shall be construed as including a reference to functions under Parts II and V and sections 65 to 68, 78 and 80 of this Act.
- 13 In section 15(1)(b) (certain planning applications not to be determined by local planning authority before expiration of a specified period), for the words from " appearing from the evidence " onwards there shall be substituted the words " of the application ".
- 14 In section 16(1) (application for planning permission to be accompanied by certificate that the applicant is the owner or a tenant of the land, or that he has served on the owners notice of his intention to apply, or that he does not know who the owners are),—
- (a) in paragraph (c) for the words " and that " to the end of the paragraph there shall be substituted the words " that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so "; and
 - (b) in paragraph (d), for the words " and that " to the end of the paragraph there shall be substituted the words " that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) of this subsection and that he has been unable to do so ".
- 15 In section 17 (determination of planning applications),—
- (a) at the beginning of subsection (1)(a) there shall be inserted the words " Subject to sections 65 and 66 of the Act of 1968 "; and
 - (b) in subsection (2), for the words from " appearing from the evidence " onwards there shall be substituted the words " of the application ".

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- 16 In section 19 (provision which can be made by regulations or a development order with respect to the manner in which planning applications are to be dealt with), in subsection (2)(a), after the word " authority " there shall be inserted the words " either indefinitely or ".
- 17 In section 32(4) (duty of Minister to notify the owner and occupier of a building when it has become, or ceased to be, listed) for the words " the Minister shall serve a notice " there shall be substituted the words " the council of the county borough, London borough or county district in whose area the building is situated, on being informed of the fact by the Minister, shall serve a notice in the prescribed form ".
- 18 So much of section 34(4) (definition of areas of special control in connection with the control of advertisements) as provides for the definition of such areas by reference to the provisions of a development plan shall cease to have effect.
- 19 In section 37(1) (power of local planning authority to make agreements with land-owners restricting or regulating the development or use of their land), the words " with the approval of the Minister " shall be omitted.
- 20 In section 49(1) (supplementary provisions as to enforcement notices) for the words " any development " there shall be substituted the words " any breach of planning control (as defined by section 15 of the Act of 1968) " and for the words " by whom the development was carried out " there shall be substituted the words " by whom the breach of planning control was committed ".
- 21 In section 63 (enforcement of control of advertising) in subsection (1), after the words " this Part of this Act " there shall be inserted the words " or Part II of the Act of 1968 ".
- 22 In section 64 (supplementary provisions as to appeals under Part IV)—
- (a) in subsection (1), after the words " this Part of this Act " there shall be inserted the words " or under Part II of the Act of 1968 or Part IV of Schedule 5 to that Act ";
 - (b) in the second of the subsections numbered (3), after the words " this Part of this Act " there shall be inserted the words " or under Part II of the Act of 1968 or Part IV of Schedule 5 to that Act ".
- 23 In section 65 (recovery by local planning authority of expenses of enforcement), after the word " Act " there shall be inserted the words " or of the provisions of Part II of the Act of 1968 or Part IV of Schedule 5 to that Act ".
- 24 In section 66 (local authority land),—
- (a) in subsection (1), after the words " this Part of this Act " there shall be inserted the words " and Part II of the Act of 1968 ";
 - (b) in subsection (2) after the words " this Part of this Act " there shall be inserted the words " or Part II of the Act of 1968 ".
- 25 In section 71(1) (acquisition of land by agreement), for paragraph (b) there shall be substituted the following paragraphs:—
- “(b) any building appearing to them to be of special architectural or historic interest; and
 - (c) any land comprising or contiguous or adjacent to it which appears to the Minister to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.”

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- 26 In section 73(1) (appropriation of land for planning purposes), the words " specified in a development plan (being a purpose " shall cease to have effect.
- 27 In section 78(2) (cases where the Minister's consent is needed for the disposal of land held for planning purposes) for paragraph (b) there shall be substituted the following paragraph:—
“(b) of land acquired or appropriated for planning purposes for a reason mentioned in section 28(1)(a) to (c) of the Act of 1968 ; or”.
- 28 In section 78(7) (special provisions as to land comprised in or contiguous or adjacent to areas of comprehensive development), for paragraphs (a) and (b) there shall be substituted the words " to land acquired or appropriated for planning purposes for a reason mentioned in section 28(1)(a) to (c) of the Act of 1968 ".
- 29 In section 86(1) of the principal Act (objections to compulsory purchase orders), for the words from the beginning to " acquisition " there shall be substituted the words " Where it is proposed that land should be acquired compulsorily under section 28 or 29 of the Act of 1968 ".
- 30 In section 126 (compensation for restrictions on advertising), in paragraph (a) for the words " on the seventh day of January, nineteen hundred and forty-seven and was being displayed on the date on which the regulations came into force, or " there shall be substituted the words " on 1st August 1948, or ".
- 31 In section 127 (general provisions as to compensation for depreciation under Part VII), in subsection (2), after the word " thereof " there shall be inserted the words " or under Part V or section 92 of the Act of 1968 ".
- 32 In section 128(1) (determination of claims for compensation) after the word " Act ", in the second place where it occurs, there shall be inserted the words " or Part II or Part V or section 92 of the Act of 1968 ".
- 33 In section 159 (determination of applications etc. by statutory undertakers in respect of operational land) the following amendments shall be made:—
(a) in subsection (1), after the words " such an application " there shall be inserted the words " or such an application is deemed to be made under section 16(7) of the Act of 1968 on an appeal under that section by statutory undertakers ";
- (b) after subsection (1) there shall be inserted the following subsection:—
“(1A) An application for planning permission which is deemed to have been made by virtue of section 18(6) of the Act of 1968 shall be determined by the Minister and the appropriate Minister.”
- 34 In section 160(2) (Ministers responsible for dealing with planning application by statutory undertakers where development authorised by a government department), for the words " as mentioned in the preceding subsection " there shall be substituted the words " in respect of any development of operational land ".
- 35 In section 176 (validity of development plans, and of certain orders and certain actions of the Minister, not to be questioned in legal proceedings, subject to following provisions of Part XI of the Act), the following amendments shall be made:—
(a) for subsection (1)(a) there shall be substituted the following paragraph—
“(a) a structure plan, a local plan or any alteration, repeal or replacement of any such plan, whether before or after the

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plan, alteration, repeal or replacement has been approved or adopted, or”;

- (b) in subsection (1)(b), after the word " Act " there shall be inserted the words " or sections 91, 92, 94 or 95 of the Act of 1968 ";
- (c) at the end of subsection (2) there shall be added the following paragraph:—
 “(f) any order under Part II of Schedule 5 to the Act of 1968”.
- (d) in subsection (3), at the end of paragraph (c) there shall be inserted the words " under section 129 of this Act or section 42 of the Act of 1968 ", in paragraph (d) for the words " a purchase notice " (wherever occurring) there shall be substituted the words " such a purchase notice " , and at the end of the subsection there shall be inserted the following paragraphs:—
 - “(g) any decision of the Minister to grant planning permission under section 16(5)(a) of the Act of 1968 ;
 - (h) any decision of the Minister on an application for an established use certificate referred to him under section 18(1) of the Act of 1968 ;
 - (f) any decision of the Minister on an appeal under section 18(2) of the Act of 1968 ;
 - (j) any decision by the Minister to confirm a completion notice under section 68 of that Act;
 - (k) any decision of the Minister on an application referred to him under paragraph 3 of Schedule 5 to the Act of 1968, being an application for listed building consent for any works ;
 - (l) any decision of the Minister on an appeal to him under paragraph 7 of that Schedule ;
 - (m) any decision of the Minister under paragraph 18(5)(a) of that Schedule to grant listed building consent for any works or under paragraph 18(5)(b) of that Schedule to grant planning permission in respect of any works.”

36 In section 177 (validity of enforcement notices and similar notices) the following subsections shall be substituted for subsections (1) to (3) :—

- “(1) Subject to this section—
 - (a) the validity of an enforcement notice shall not, except by way of an appeal under Part II of the Act of 1968, be questioned in any proceedings whatsoever on any of the grounds specified in paragraphs (b) to (e) of section 16(1) of that Act;
 - (b) the validity of a listed building enforcement notice under section 44 of the Act of 1968 shall not, except by way of an appeal under Part IV of Schedule 5 to that Act be questioned in any proceedings whatsoever on any of the grounds specified in sub-paragraphs (b) or (e) of paragraph 18(1) of that Schedule.
- (2) Subsection (1)(a) above shall not apply to proceedings brought under section 47(5) of this Act against a person who—
 - (a) has held an interest in the land since before the enforcement notice was served under Part II of the Act of 1968; and
 - (b) did not have the enforcement notice served on him thereunder ; and
 - (c) satisfies the court that—

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- (i) he did not know and could not reasonably have been expected to know that the enforcement notice had been served ; and
- (ii) his interests have been substantially prejudiced by the failure to serve him.”

37 For section 178 (proceedings for questioning validity of development plans and certain orders) there shall be substituted the following section:—

“~~178~~(1) If any person aggrieved by a structure plan or local plan or by any alteration, repeal or replacement of any such plan, desires to question the validity of the plan, alteration, repeal or replacement on the ground that it is not within the powers conferred by Part I of the Act of 1968, or that any requirement of the said Part I or of any regulations made thereunder has not been complied with in relation to the approval or adoption of the plan, alteration, repeal or replacement, he may, within six weeks from the date of the publication of the first notice of the approval or adoption of the plan, alteration, repeal or replacement required by regulations under section 13(1) of that Act, make an application to the High Court under this section.

(2) On any application under this section the High Court—

- (a) may by interim order wholly or in part suspend the operation of the plan, alteration, repeal or replacement, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ;
- (b) if satisfied that the plan, alteration, repeal or replacement is wholly or to any extent outside the powers conferred by Part I of the Act of 1968, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of the said Part I or of any regulations made thereunder, may wholly or in part quash the plan, alteration, repeal or replacement, as the case may be, either generally or in so far as it affects any property of the applicant.

(3) The preceding provisions of this section shall apply to an order under section 153 or 155 of this Act or under section 91 or 92 of the Act of 1968 as they apply to a structure plan, as if, in subsection (1) of this section, for the reference to the notice therein mentioned, there were substituted a reference to the notice required by section 154(6) of this Act.

(4) The said provisions shall apply to an order under section 94 or 95 of the Act of 1968 as they apply to a structure plan as if, in subsection (1) of this section, for the reference to the date on which the notice therein mentioned is first published there were substituted a reference to the date on which the notice required by paragraph 6 of Schedule 7 to that Act is first published in accordance with that paragraph.

(5) Subsections (1) and (2) of this section shall apply, subject to any necessary modifications, to an order under section 168 of this Act as they apply to a structure plan.”

38 In section 179(6) (construction of references in that section to confirmation of an order) the words from " do not " to " (with that exception) " shall be omitted.

39 In section 180 (appeals to High Court relating to enforcement notices)—

- (a) for subsection (1) there shall be substituted the following subsection:—

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- “(1) Where the Minister gives a decision in proceedings on an appeal—
- (a) under Part II of the Act of 1968 against an enforcement notice: or
 - (b) under Part IV of Schedule 5 to that Act against an enforcement notice under section 44 of that Act,
- the appellant or the local planning authority or any person (other than the appellant) on whom the notice was served may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Minister to state and sign a case for the opinion of the High Court.”;
- (b) subsection (2) shall be omitted ; and
 - (c) in subsection (3), for the words " in either of the preceding subsections " there shall be substituted the words " in subsection (1) of this section ".
- 40 In section 183 (orders subject to special parliamentary procedure), after the word " Act ", where first occurring, there shall be inserted the words " or section 91 or 92 of the Act of 1968 ".
- 41 In section 188 (contributions by Ministers towards compensation paid by local authorities) after the words " Part III of this Act " there shall be inserted the words " or Part II, III or V of the Act of 1968 ".
- 42 In section 189 (contribution by local authorities and statutory undertakers)—
- (a) in subsection (2)(b) after the words " Part V of this Act " there shall be inserted the words " or Part II or Part V of the Act of 1968 or Schedule 5 to that Act ";
 - (b) in subsection (3), after the words " Part III of this Act " there shall be inserted the words " or Part II or V of the Act of 1968 ".
- 43 In section 196 (expenses of county councils), after the word " thereto ", there shall be inserted the words " or under the provisions of the Act of 1968 ".
- 44 In section 197(1) (power to modify Act in relation to minerals) after the word " thereto " there shall be inserted the words " and the provisions of the Act of 1968 ".
- 45 In section 199 (exercise of powers in relation to Crown land) the following amendments shall be made:—
- (a) in subsection (1)(a) after the words " Part II of this Act " there shall be inserted the words " or the Greater London development plan ";
 - (b) in subsection (2)(a) for the words " sections twenty-eight to thirty-one, section thirty-six or section forty-five of this Act " there shall be substituted the words " section 28, 29 or 36 of this Act or section 15 or 44 of the Act of 1968 ";
 - (c) for subsection (3) there shall be substituted the following subsections :—
- “(3) No enforcement notice shall be served under section 15 of the Act of 1968 in respect of development carried out by or on behalf of the Crown after the appointed day on land which was Crown land at the time when the development was carried out.
- (3A) No enforcement notice under section 44 of the Act of 1968 shall be served in respect of works executed by or on behalf of the Crown in respect of a building which was Crown land at the time when the works were executed.”

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- (d) in subsection (4), after the words " No purchase notice " there shall be inserted the words " under section 129 of this Act or section 42 of the Act of 1968 ".
- 46 In section 203(1) (Scilly Isles) after the words " Eighth Schedule thereto " there shall be inserted the words " and of the provisions of the Act of 1968 ".
- 47 In section 204(1) (application to the National Coal Board of provisions of the principal Act relating to statutory undertakers), the reference to any of the provisions of that Act specified in paragraph 1 of Schedule 8 thereto shall be construed as including a reference to sections 69 to 71 of this Act.
- 48 In section 205 (ecclesiastical property)—
- (a) in subsection (1), the words " specified in paragraph 1 of the Eighth Schedule thereto " shall be omitted ; and
- (b) in subsection (3), after the words " under Part VII of this Act " there shall be inserted the words " or under section 20, 49 or 92 of the Act of 1968 ".
- 49 Section 207 (default powers of Minister) shall be amended as follows: —
- (a) in subsection (2) the following shall be substituted for paragraph (c):—
- “(c) tree preservation orders and orders amending or revoking them”;
- (b) in subsection (4), for paragraphs (a) and (b) there shall be substituted the following paragraphs :—
- “(a) an enforcement notice under section 15 of the Act of 1968 or under the provisions of that section as applied by regulations made under section 34 of this Act; or
- (b) a notice under section 36 of this Act; or
- (c) a stop notice under section 19 of the Act of 1968 ; or
- (d) an enforcement notice under section 44 of that Act; or
- (e) a completion notice under section 68 of that Act”
- and for the words (in the proviso) from " an enforcement notice " to " this Act " there shall be substituted the words " an enforcement notice under section 15 or 44 of the Act of 1968 which is served by the Minister, the provisions of sections 47 to 51 of this Act or, as the case may be, sections 45 and 46 of that Act "; and
- (c) for subsection (5)(a) there shall be substituted the following paragraph:—
- “(a) that the council of a county, county borough, London borough or county district or the Common Council of the City of London have failed to take steps for the acquisition of any land which, in the opinion of the Minister, ought to be acquired by that council under section 28 of the Act of 1968 for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated ; or”.
- 50 Section 211 (general powers of entry) shall be amended as follows:—
- (a) at the end of subsection (1)(c) there shall be added the words " or to serve any notice under Part II or Part V of the Act of 1968 " ;
- (b) after that subsection there shall be inserted the following subsection :—
- “(1A) Any person duly authorised in writing by the Minister may at any reasonable time enter any land for the purpose of surveying

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any building thereon in connection with a proposal to include the building in, or exclude it from, a list compiled or approved under section 32 of this Act.

(1B) Any person duly authorised in writing by the Minister or a local planning authority may at any reasonable time enter any land for the purpose of ascertaining whether, with respect to any building on the land, an offence has been, or is being, committed under Part V of the Act of 1968, or whether the building is being maintained in a proper state of repair.”

- (c) in subsection (3), at the end there shall be added the words " or under any provision of the Act of 1968 " ;
- (d) in subsection (4), for the words from " a Minister " to " so designated " there shall be substituted the words " a local authority or Minister authorised to acquire land under section 28 or 29 of the Act of 1968 ".

51 In section 215(1) (power to require information as to interests in land), the words " specified in paragraph 1 of the Eighth Schedule thereto " shall be omitted.

52 In section 217 (regulations and orders)—

- (a) in subsection (1)(a) the words " specified in paragraph 1 of the Eighth Schedule thereto " shall be omitted ; and
- (b) in subsection (3), the words " specified in paragraphs 1 and 3 of the Eighth Schedule thereto " shall be omitted ;
- (c) after subsection (3), there shall be inserted the following subsection:—

“(3A) Without prejudice to subsection (3) above, where an order has been made—

- (a) by the Minister of Transport, either before or after the commencement of section 89 of the Act of 1968, under section 153(1) of this Act or section 49 of the Town and Country Planning Act 1947 ; or
- (b) by the Minister of Housing and Local Government under the said section 153(1),

so much of the order as relates to a footpath or bridleway may be varied or revoked by an order made under the said section 153(1) by either of those two Ministers.”

53 Section 221(1) (interpretation) shall be amended as follows:—

- (a) after the definition of " the Act of 1959 " there shall be inserted the following:—
“the Act of 1968 ' means the Town and Country Planning Act 1968”;
- (b) in the definition of " enforcement notice " for the words " section forty-five of this Act " there shall be substituted the words " section 15 of the Act of 1968 ";
- (c) in the definition of " owner ", the reference to section 47 of the principal Act and the words " or agent " shall be omitted.

54 In paragraph 5 of Schedule 2 (joint advisory committees for advising constituent authorities as to the preparation of development plans and other matters) the reference to development plans shall be construed as a reference to structure plans and local plans.

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- 55 In Schedule 8 (provisions of principal Act listed for the purposes of sections of the Act referred to in the Schedule heading), the following amendments shall be made:—
- (a) in paragraph 1(1)—
 - for the words " Sections 1 to 12 " there shall be substituted the words " Sections 1 to 3 ; section 12 " ;
 - for the words " sections 27 to 39 ; sections 41 to 87 " there shall be substituted the words " sections 27 to 29 ; section 32 ; sections 34 to 39 ; sections 41 to 44 ; sections 47 to 51 ; sections 56 to 66 ; sections 70 to 73 ; sections 77 to 87 " ; and
 - the words " section 210 " shall be omitted ; and
 - for the words " the 1st, 2nd, 3rd and 4th Schedules " ; there shall be substituted the words " the 1st, 2nd and 3rd Schedules " ;
 - (b) in paragraph 3(1) for the words " sections 138 to 151 " there shall be substituted the words " sections 138 to 142 ; sections 144 to 151 " .
- 56 In Schedule 13 (savings and transitional provisions) in paragraph 6(2), for the words " Part IV of this Act " there shall be substituted the words " Part II of the Act of 1968 " .