
STATUTORY INSTRUMENTS

1972 No. 1634 (N.I. 17)

NORTHERN IRELAND

The Planning (Northern Ireland) Order 1972

Laid before Parliament in draft

Made

1st November 1972

Coming into operation in accordance with Article 1 (2)



LONDON

HER MAJESTY'S STATIONERY OFFICE: 1972

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At the Court at Buckingham Palace, the 1st day of November 1972

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 1 (3) of the Northern Ireland (Temporary Provisions) Act 1972 (a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I PRELIMINARY

Title and commencement

1.—(1) This Order may be cited as the Planning (Northern Ireland) Order 1972.

(2) This Article shall come into operation on the making of this Order and the other provisions of this Order shall come into operation on such day or days as the Minister of Development may, by order, appoint and if different days are so appointed, reference in any provision of this Order to the commencement of this Order shall, unless otherwise provided by the Order appointing the day or days, be construed as references to the time at which that provision comes into operation.

Interpretation and temporary provision

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) shall apply to Article 1 and to the following provisions of this Order as it applies to an Act of the Parliament of Northern Ireland.

(2) In this Order—

“Act” includes an Act of the Parliament of the United Kingdom;

“the Act of 1944” means the Planning (Interim Development) Act (Northern Ireland) 1944 (c);

“the Act of 1965” means the Land Development Values (Compensation) Act (Northern Ireland) 1965 (d);

(a) 1972 c. 22. (b) 1954 c. 33 (N.I.). (c) 1944 c. 3 (N.I.). (d) 1965 c. 23 (N.I.).

- “the Act of 1971” means the Planning and Land Compensation Act (Northern Ireland) 1971 (a);
- “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 partly for the purposes of advertisement, announcement or direction, and (without prejudice to the preceding provisions of this definition) 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 and livestock breeding and keeping, the use of land as grazing lands, meadow 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;
- “the appointed day” means such day or days as the Minister of Development may by order appoint;
- “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;
- “compensatable estate” has the same meaning as in the Act of 1965;
- “conservation area” has the meaning assigned to it by Article 37;
- “development” has the meaning assigned to it by Article 11;
- “development order” has the meaning assigned to it by Article 13;
- “enactment” includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, bye-law or scheme made under an Act of Parliament;
- “enforcement notice” means a notice under Article 42;
- “engineering operations” includes the formation or laying out of means of access to roads;
- “erection” in relation to buildings includes extension, alteration and re-erection;
- “lease” includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage, and “leasehold interest” means the interest of the tenant under a lease as so defined;
- “listed building” has the meaning assigned to it by Article 31;
- “listed building consent” has the meaning assigned to it by Article 32;
- “listed building enforcement notice” has the meaning assigned to it by Article 49;
- “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 surface working, except that it does not include turf cut for purposes other than sale;

“mining operations” means the winning and working of minerals in, on, or under land whether by surface or underground working;

“the Ministry” means the Ministry of Development;

“mortgage” includes any charge or lien on any property for securing money or money’s worth;

“new development” has the meaning assigned to it by the Act of 1965;

“outline planning permission” has the meaning assigned to it by Article 26 (1);

“owner” in relation to land, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let;

“planning authority” means an interim development authority or, in relation to an area where under the New Towns Act (Northern Ireland) 1965 (a), the Ministry exercised, before the commencement of this Order, the functions of such an authority, the Ministry;

“planning decision” means a decision made on an application in accordance with Part IV;

“planning permission” means permission under Part IV and in construing references to planning permission to develop land or to carry out any development of land, or to applications for such permission regard shall be had to Article 19 (2);

“planning permission granted for a limited period” has the meaning assigned to it by Article 18 (2);

“prescribed” means prescribed by regulations under this Order;

“public body” has the same meaning as in the Local Government Act (Northern Ireland) 1972 (b);

“purchase notice” means a notice served under Article 70;

“re-location of population or industry”, in relation to any area, means 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 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 and whose continued or resumed location in that area would be inconsistent with the proper planning thereof;

“replacement of open space” in relation to any area means 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;

“road” has the same meaning as in the Roads Act (Northern Ireland) 1948 (c);

“statutory provision” has the same meaning as in the Interpretation Act (Northern Ireland) 1954;

“statutory undertaker” means persons authorised by any statutory provision to carry on any railway, road transport, air transport, water transport, inland navigation, dock or harbour undertaking, or any undertaking for the supply of electricity or gas, or the Post Office;

(a) 1965 c. 13 (N.I.). (b) 1972 c. 9 (N.I.). (c) 1948 c. 28 (N.I.).

- “stop notice” has the meaning assigned to it by Article 45;
- “tenancy” includes a tenancy created by an agreement for a lease and a tenancy created under any enactment, but does not include—
 - (a) a mortgage term; or
 - (b) a tenancy for a year (or any shorter term) or from year to year (or any other periodic tenancy) having reference to any period less than a year; or
 - (c) a tenancy at will;
- “transferred provision” has the same meaning as in the Interpretation Act (Northern Ireland) 1954;
- “tree preservation order” has the meaning assigned to it by Article 39;
- “trustee” has the same meaning as in the Act of 1965;
- “use” in relation to land, does not include the use of land for the carrying out of any building or other operations thereon.

(3) So long as section 1 of the Northern Ireland (Temporary Provisions) Act 1972 has effect, subsection (1) (a) of that section applies to all functions conferred by this Order on the Governor or any Minister of Northern Ireland.

PART II

FUNCTIONS OF MINISTRY OF DEVELOPMENT IN RELATION TO DEVELOPMENT OF LAND

General functions of Ministry of Development with respect to development of land

3.—(1) The Ministry shall formulate and co-ordinate policy for securing the orderly and consistent development of land and the planning of that development.

(2) The Ministry may undertake, or cause to be undertaken, such surveys or studies as it may consider necessary, including surveys or studies relating to any of the following matters—

- (a) the physical and economic characteristics of any area, including the purposes for which land is used;
- (b) the size, composition and distribution of the population of an area;
- (c) the communications, transport system and traffic of an area;
- (d) any changes in relation to the foregoing matters and the effect which the changes are likely to have on the development of Northern Ireland or any part thereof or the planning of that development.

PART III

DEVELOPMENT PLANS

Preparation of development plans

4.—(1) The Ministry may prepare a development plan for any area.

(2) A development plan shall consist of a map and a written statement formulating, in such detail as the Ministry thinks appropriate, proposals for the development and other use of land in the area to which the plan relates.

(3) A development plan shall contain or be accompanied by such diagrams, illustrations and descriptive matter as the Ministry thinks appropriate for the

purpose of explaining or illustrating the proposals in the plan; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.

(4) The Ministry shall, before preparing a development plan for any area, consult with any district council situated within the area to which the plan relates.

Publicity and consultation during preparation of development plans

5. Where the Ministry proposes to prepare a development plan, it shall take such steps as will in its opinion secure—

- (a) that adequate publicity is given, in the area to which the proposed plan relates, to any relevant matter arising out of any survey undertaken for or in connection with the plan and to matters proposed to be included in the plan;
- (b) that persons who may be expected to desire an opportunity of making representations to the Ministry with respect to those matters are made aware that they are entitled to an opportunity of doing so; and
- (c) that such persons are given an adequate opportunity of making such representations;

and the Ministry shall consider any representations made to it within the prescribed period.

Inspection of, and inquiries relating to, development plans

6.—(1) When the Ministry has prepared a development plan, it shall, before adopting it, make copies of the plan available for inspection at such place as the Ministry considers appropriate; and each copy made available for inspection shall be accompanied by a statement of the time within which objections to the plan may be made to the Ministry.

(2) For the purpose of considering objections made to a development plan the Ministry may cause a public local inquiry to be held by the planning appeals commission.

Adoption of development plans

7.—(1) After the expiry of the period afforded for making objections to a development plan or, if such objections have been duly made during that period, after considering the objections so made, and, where a public local inquiry is held, the report of the planning appeals commission, the Ministry may by order adopt the plan, in whole or in part (whether with or without modifications) or reject it.

(2) The Ministry may by order adopt as a development plan, in whole or in part and with or without modifications, any plan prepared before the commencement of this Order with respect to the development or other use of land, notwithstanding that the plan was not prepared in accordance with this Part, if it is satisfied that adequate opportunity has been given for the hearing of objections to or other representations with regard to the proposals of the plan.

Alteration of development plans

8.—(1) The Ministry may at any time make proposals for the alteration, repeal or replacement of a development plan adopted by it for any area or part of an area.

(2) This Part shall apply in relation to the making of proposals for the alteration, repeal or replacement of a development plan under this Article, and to alterations to a development plan so proposed as it applies to the preparation of a development plan under Article 4 and to a development plan prepared thereunder.

SUPPLEMENTARY PROVISIONS

Incorporation in development plans of certain proposals

9. Where the Ministry—

- (a) makes an order under section 1 of the Roads Act (Northern Ireland) 1948 or section 1 of the Special Roads Act (Northern Ireland) 1963 (a); or
- (b) makes an order under section 1 of the New Towns Act (Northern Ireland) 1965; or
- (c) approves, amplifies or modifies a redevelopment scheme under section 10 of the Housing (Miscellaneous Provisions) and Rent Restriction Law (Amendment) Act (Northern Ireland) 1956 (b); or
- (d) adopts a development scheme under Article 53;

any development plan adopted for any area which includes the land to which the order or scheme relates shall have effect as if the provisions of the order or scheme were included in the plan.

Regulations as to development plans

10.—(1) Without prejudice to Articles 4 to 9, the Ministry may make regulations with respect to the form and content of development plans and with respect to the procedure to be followed in connection with their preparation, adoption, alteration, repeal and replacement.

(2) A development plan or any alteration, revocation or replacement thereof shall become operative on a date appointed for the purpose in the order adopting it or order affecting the alteration, repeal or replacement.

PART IV PLANNING CONTROL

“DEVELOPMENT” AND REQUIREMENT OF PLANNING PERMISSION

Meaning of “development”

11.—(1) In this Order, subject to paragraphs (2) to (4), “development” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(2) The following operations or uses of land shall not be taken for the purposes of this Order to involve development of the land—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;

(a) 1963 c. 12 (N.I.).

(b) 1956 c. 10 (N.I.).

- (b) the carrying out by a district council or statutory undertaker of any works for the purpose of inspecting, repairing or renewing any mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
 - (c) the use of any buildings or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;
 - (d) the use of any land for the purposes of agriculture or forestry and the use for any of those purposes of any building occupied together with land so used;
 - (e) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Ministry for the purpose of this Article, the use thereof for any other purpose of the same class.
- (3) For the purposes of this Article—
- (a) the use as two or more separate dwelling-houses of any building previously used as a single dwelling-house involves a material change in the use of the building and of each part thereof which is so used;
 - (b) the deposit of refuse or waste material on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if either the superficial area of the deposit is thereby extended, or the height of the deposit is thereby extended and exceeds the level of the land adjoining the site.

(4) Without prejudice to any regulations made under this Order relating to the control of advertisements, a use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this Article as involving a material change in the use of that part of the building.

Development requiring planning permission

12. Subject to this Order, planning permission is required for the carrying out of any development of land.

DEVELOPMENT ORDERS

Development orders

13.—(1) The Ministry shall by order (in this Order referred to as a “development order”) provide for the granting of planning permission.

- (2) A development order may either—
- (a) itself grant planning permission for development specified in the order or for development of any class so specified; or
 - (b) in respect of development for which planning permission is not granted by the order itself, provide for the grant of planning permission by the Ministry on an application in that behalf made to the Ministry in accordance with the order.

(3) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.

(4) Without prejudice to the generality of paragraph (3), where planning permission is granted by a development order for development of a specified class, the order may enable the Ministry to direct that the permission shall not apply either in relation to development in a particular area or in relation to any particular development.

(5) Any provision of a development order 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 other references in this Order to limitations) 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 provision on more than that number of days in that period.

(6) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with a development plan, a development order may authorise the Ministry to suspend the operation of any enactment contained in a local Act or of any regulations, orders, or bye-laws made at any time under any statutory provision in relation to any development specified under the order.

PLANNING APPLICATIONS

Form and content of applications

14.—(1) Any application to the Ministry for planning permission—

- (a) shall be made in such manner as may be prescribed; and
- (b) shall include such particulars, and be verified by such evidence, as may be required by the regulations or by any directions given by the Ministry thereunder; and
- (c) shall be accompanied by the prescribed fee.

(2) Provision shall be made by regulations for regulating the manner in which applications for planning permission to develop land are to be dealt with by the Ministry and in particular—

- (a) for requiring the Ministry before granting or refusing planning permission for any development to consult with the appropriate district council and with such authorities or persons as may be prescribed;
- (b) for requiring the Ministry to give to any applicant for planning permission, within such time as may be prescribed, such notice as may be prescribed as to the manner in which his application has been dealt with.

Publication of notices of applications

15. Where an application for planning permission is made to the Ministry, the Ministry—

- (a) shall publish notice of the application in at least one newspaper circulating in the locality in which the land to which the application relates is situated; and
- (b) shall not determine the application before the expiration of fourteen days from the date on which notice of the application is first published in a newspaper in pursuance of paragraph (a).

Notification of applications to certain persons

16.—(1) Subject to paragraph (2), the Ministry shall not entertain an application for planning permission in relation to any land (in this Article and in Article 17 referred to as “the designated land”) unless it is accompanied by one or other of the following certificates, that is to say,—

- (a) a certificate stating that the application is made by or on behalf of a person who at the date of the application is in the actual possession of all

the designated land, being a person entitled to one of the following estates in that land, namely—

(i) a legal or equitable fee simple absolute, a legal or equitable fee tail or a legal or equitable life estate;

(ii) a tenancy of which not less than forty years of the term thereof remain unexpired;

(b) a certificate stating that the application is made by or on behalf of the trustees of a trust or settlement which affects all the designated land and that, at the date of the application—

(i) a beneficiary under the trust or settlement is in the actual possession of the designated land; and

(ii) no person other than a beneficiary under the trust or settlement is entitled to enter into the actual possession of the designated land within a period of forty years;

(c) a certificate stating that the requisite notice of the application has been given by or on behalf of the applicant to each person who at the beginning of the period of twenty-one days ending with the date of the application, in relation to the designated land or any part thereof fell into any of the following classes, namely—

(i) that he was such a person as is described in sub-paragraph (a) or (b);

(ii) that (not being such a person as is described in sub-paragraph (a) or (b)) he was in the actual possession of the designated land;

(iii) that (not being a person falling under head (i) or (ii)) he was entitled to enter into the actual possession of the designated land within a period of forty years;

(d) a certificate stating—

(i) that the applicant is unable to issue a certificate in accordance with sub-paragraph (a) or (b); and

(ii) that he has made due inquiries and is of the opinion, for the reasons specified in the certificate, that he is unable to issue a certificate which would satisfy the requirements of sub-paragraph (c); and

(iii) that he has given the requisite notice of the application to any person who, at the beginning of the period of twenty-one days ending with the date of the application, was in the actual possession of any part of the designated land.

(2) Paragraph (1) shall not apply to an application for planning permission made—

(a) by the Northern Ireland Housing Executive in pursuance of a redevelopment scheme approved by the Ministry or proposed by the Executive;

(b) by the Northern Ireland Electricity Service to place an electricity line above or below ground across any land.

(3) A certificate for the purposes of sub-paragraph (c) or (d) of paragraph (1) shall set out the names and addresses of the persons to whom the requisite notice was given in accordance with that sub-paragraph and the date of service of the notice.

(4) Where an application for planning permission is accompanied by such a certificate as is mentioned in paragraph (1) (c) or (d), the Ministry shall not determine the application before the end of the period of fourteen 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.

- (5) Where a tenancy subsists in any land, and—
 - (a) it is necessary, for the purposes of this Article, to determine whether a person is entitled to enter into the actual possession of that land; and
 - (b) by reason of any option or other contractual right with respect to the determination, renewal or continuance of the tenancy the date of expiry of the tenancy is not ascertainable with certainty;

that date shall be taken to be such as appears reasonable and probable having regard to the interests of the party by whom the option is exercisable, or in whose favour the right operates, and to any other material consideration.

- (6) If any person—
 - (a) issues a certificate which purports to comply with the requirements of this Article and which contains a statement which he knows to be false or misleading in a material particular; or
 - (b) 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 £100.

(7) Any certificate issued for the purposes of this Article shall be in such form as may be prescribed; and any reference in this Article to the requisite notice is a reference to a notice in the prescribed form.

DETERMINATION OF PLANNING APPLICATIONS

Determination of planning applications

17.—(1) Subject to this Part, where an application is made to the Ministry for planning permission, the Ministry, in dealing with the application shall have regard to the development plan, so far as material to the application, and to any other material considerations, and—

- (a) subject to Articles 25 and 26, may grant planning permission, either unconditionally or subject to such conditions as it thinks fit, or
- (b) may refuse planning permission.

(2) In determining any application for planning permission, the Ministry shall take into account any representations relating to that application which are received by it before the expiration of the period of fourteen days from the date on which notice of the application is first published in a newspaper.

(3) Where an application for planning permission is accompanied by such a certificate as is mentioned in Article 16 (1) (c) or (d), the Ministry—

- (a) in determining the application, shall take into account any representations relating thereto which are made to it by any person who satisfies it that, in relation to any of the designated land, he is such a person as is described in Article 16 (1) (c); and
- (b) shall give notice of its decision on the application to every person who made representations which it was required to take into account under sub-paragraph (a).

Conditional grant of planning permission

18.—(1) Without prejudice to the generality of Article 17 (1), conditions may be imposed on the grant of planning permission—

- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the Ministry to be expedient for the purposes of or in connection with the development authorised by the permission;
- (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.

(2) Any planning permission granted subject to such a condition as is mentioned in paragraph (1) (b) is in this Order referred to as “planning permission granted for a limited period”.

Permission to retain buildings, etc.

19.—(1) An application for planning permission may relate to buildings or works constructed or carried out, or a use of land instituted, before the date of the application, whether—

- (a) the buildings or works were constructed or carried out or the use instituted without planning permission or in accordance with planning permission granted for a limited period; or
- (b) the application is for permission to retain the buildings or works or to continue the use of land without complying with some condition subject to which a previous planning permission was granted.

(2) Any power to grant planning permission to develop land under this Order shall include power to grant planning permission for the retention on land of buildings or works constructed or carried out, or for the continuance of a use of land instituted, as mentioned in paragraph (1); and references in this Order to planning permission to develop land or carry out any development of land and to applications for such permission, shall be construed accordingly.

(3) Any planning permission granted under paragraph (2) may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or (in the case of buildings or works constructed or a use instituted in accordance with planning permission granted for a limited period) so as to take effect from the end of that period, as the case may be.

Effect of planning decisions

20.—(1) Without prejudice to Articles 25 to 29, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being having an estate therein.

(2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified the permission shall be construed as including permission to use the building for the purpose for which it is designed.

Register of applications and decisions

21.—(1) The Ministry shall keep one or more registers containing information with respect to applications for planning permission including information as to the manner in which such applications have been dealt with.

(2) Every register kept under paragraph (1) shall be available for inspection by the public at all reasonable hours.

Special procedure for major planning applications

22.—(1) Where, in relation to an application for planning permission, or an application for any approval required under a development order, the Ministry considers that the development for which the permission or approval is sought would, if permitted—

- (a) involve a substantial departure from the development plan for the area to which it relates; or
- (b) be of significance to the whole or a substantial part of Northern Ireland; or
- (c) affect the whole of a neighbourhood;

the Ministry may within two months from the date of the application serve on the applicant a notice in the prescribed form applying this Article to the application.

(2) For the purpose of considering representations made in respect of an application for planning permission to which this Article applies, the Ministry may cause a public local inquiry to be held by the planning appeals commission.

(3) Where a public local inquiry is not held under paragraph (2), the Ministry shall, before determining the application, serve a notice on the applicant indicating the decision which it proposes to make on the application; and if within such period as may be specified in that behalf in the notice (not being less than twenty-eight days from the date of service thereof) the applicant so desires, the Ministry shall afford to him an opportunity of appearing before and being heard by the planning appeals commission.

(4) In determining an application for planning permission to which this Article has been applied, the Ministry shall, where any inquiry or hearing is held, take into account the report of the planning appeals commission.

(5) The decision of the Ministry on an application for planning permission to which this Article has been applied shall be final.

APPEALS

Appeals

23.—(1) This Article has effect in relation to an application for planning permission other than an application in relation to which the Ministry serves a notice under Article 22 (1).

- (2) Where an application is made to the Ministry—
 - (a) for planning permission to develop land; or
 - (b) for any approval of the Ministry required under a development order;

then if that permission or approval is refused or is granted subject to conditions, the applicant may by notice in writing under this Article appeal to the planning appeals commission.

- (3) Any notice under this Article—
 - (a) shall be served on the planning appeals commission within six months from the date of notification of the decision to which it relates or such longer period as the commission may allow;
 - (b) shall be accompanied by the prescribed fee.

(4) Where an appeal is brought under this Article from a decision of the Ministry, the planning appeals commission, subject to paragraphs (5) and (6), may allow or dismiss the appeal or may reverse or vary any part of the decision whether the appeal relates to that part thereof or not.

(5) Before determining an appeal under this Article, the planning appeals commission shall if either the applicant or the Ministry so desires, afford to each of them an opportunity of appearing before and being heard by the Commission.

(6) Subject to paragraph (5), Articles 15 to 18 shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this Article as they apply to an application for planning permission.

Appeal in default of planning decision

24. Where an application is made to the Ministry for planning permission, or for any approval required under a development order, then unless within such period as may be prescribed, or within such extended period as may be agreed upon in writing between the applicant and the Ministry, the Ministry either—

- (a) gives notice to the applicant of its decision on the application; or
- (b) gives notice to him that the application is one to which Article 22 applies, Article 23 shall apply in relation to the application—
 - (i) as if the permission or approval to which it relates had been refused by the Ministry; and
 - (ii) as if notification of the Ministry's decision had been received by the applicant at the end of the said prescribed period, or at the end of the said extended period, as the case may be.

DURATION OF PLANNING PERMISSION

Duration of planning permission

25.—(1) Subject to this Article, every planning permission granted shall be granted subject to the condition that the development to which it relates must be begun within—

- (a) five years of the date on which the permission is granted; or
- (b) such other period (whether longer or shorter) as the Ministry considers appropriate.

(2) If planning permission is granted without the condition required by paragraph (1), it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun within five years of the date of the grant.

- (3) Nothing in paragraphs (1) and (2) applies—
 - (a) to any outline planning permission; or
 - (b) to any planning permission granted by a development order; or
 - (c) to any planning permission granted for a limited period; or
 - (d) to any planning permission granted under Article 19.

Duration of outline planning permission

26.—(1) In this Article and in Article 25 “outline planning permission” means planning permission granted in accordance with the provisions of a development order, conditional on the subsequent approval by the Ministry of the particulars of the proposed development (in this Article referred to as “reserved matters”).

(2) Subject to this Article, where outline planning permission is granted for development consisting of or including the carrying out of building or other operations it shall be granted subject to conditions to the following effect—

- (a) that in the case of any reserved matter application for approval must be made within three years of the date of the grant of outline planning permission; and
- (b) that the development to which the permission relates must be begun by whichever is the later of the following dates—
 - (i) the expiration of five years from the date of the grant of outline planning permission; or
 - (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

(3) If outline planning permission is granted without the conditions required by paragraph (2), it shall be deemed to have been granted subject to those conditions.

(4) The Ministry may, in applying paragraph (2), substitute for the periods of three years, five years or two years referred to in that paragraph, such other periods respectively (whether longer or shorter) as it considers appropriate.

(5) The Ministry may, in applying paragraph (2), specify separate periods under paragraph (2) (a) in relation to separate parts of the development to which the planning permission relates; and if it does so, the condition required by paragraph (2) (b) shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.

Provisions supplementary to Articles 25 and 26

27.—(1) For the purposes of Articles 25 and 26, development shall be taken to have begun on the earliest date on which any of the following operations comprised in the development begins to be carried out—

- (a) where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building;
- (b) where the development consists of or includes alterations to a building, any work involved in the alterations;
- (c) where the development consists of or includes a change of use of any building or other land, that change of use;
- (d) where the development consists of or includes mining operations, any of those operations.

(2) For the purposes of Article 26 (2), a reserved matter shall be treated as finally approved when an application for approval is granted, or, where there is an appeal under Article 23, on the date of the determination of the appeal.

(3) Where the Ministry grants planning permission on an application to which Article 22 does not apply the fact that any of the conditions of the permission are required by this Order to be imposed or are deemed by this Order to be imposed, shall not prevent the conditions being the subject of an appeal under Article 23 against the decision of the Ministry.

(4) Where a planning permission (whether outline or other) has conditions attached to it by or under Article 25 or 26—

- (a) development commenced and carried out after the date by which the conditions of the permission require it to be commenced shall be treated as not authorised by the permission; and

(b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.

(5) Compensation under Part II of the Act of 1965 shall not be payable in respect of the application to any planning permission of any of the conditions referred to in Articles 25 and 26.

(6) The said conditions shall be disregarded for the purposes of section 29 of the Act of 1965 (compensation for planning decisions restricting development other than new development).

Termination of planning permission by reference to time limit

28.—(1) Paragraphs (2) to (6) shall have effect where by virtue of Article 25 or 26, a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period and that development has been begun within that period but the period has elapsed without the development having been completed.

(2) If the Ministry is of the opinion that the development will not be completed within a reasonable period, it may make an order (in this Article referred to as a “completion order”) whereby the planning permission will cease to have effect at the expiration of a further period specified in the order, being a period of not less than twelve months after the order takes effect.

(3) Before making a completion order, the Ministry shall serve notice of its intention to make the order on the owner and occupier of the land affected and on any other person who in its opinion would be affected by the order; and if within such period as may be specified in that behalf in the notice (not being less than twenty-eight days from the date of service thereof) any person on whom the notice is served so desires, the Ministry shall afford to him an opportunity of appearing before and being heard by the planning appeals commission.

(4) Where a completion order is made, the planning permission therein referred to shall at the expiration of the period specified in the order be invalid except so far as it authorises any development carried out thereunder up to the end of that period.

(5) Where the Ministry makes an order under this Article it shall serve a notice on any person mentioned in paragraph (3) stating the general effect of the order.

(6) The Ministry may withdraw a completion order at any time before the expiration of the period specified therein as the period at the expiration of which the planning permission is to cease to have effect; and if it does so it shall forthwith give notice of the withdrawal to every person who was served with notice of the making of the order.

REVOCATION OR MODIFICATION OF PLANNING PERMISSION

Revocation or modification of planning permission

29.—(1) If it appears to the Ministry, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part, the Ministry may, subject to paragraphs (2) to (4), by order revoke or modify the permission to such extent as (having regard to those matters) it considers expedient.

(2) Before making an order under this Article, the Ministry shall serve notice on the owner and occupier of the land affected and on any other person

who in its opinion would be affected by the order; and if within such period as may be specified in that behalf in the notice (not being less than twenty-eight days from the date of service thereof) any person on whom notice is served so desires, the Ministry shall afford to him an opportunity of appearing before and being heard by the planning appeals commission.

(3) The power conferred by this Article to revoke or modify permission to develop land may be exercised—

(a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;

(b) where the permission relates to a change of use of any land, at any time before the change has taken place;

except that the revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

(4) An order made under this Article in respect of mining operations by surface working shall not prevent the continuation of those operations on any land in use for the purpose of those operations at the date on which the order comes into operation.

(5) Where the Ministry makes an order under this Article it shall serve a notice on any person mentioned in paragraph (2) stating the general effect of the order.

DETERMINATION WHETHER PLANNING PERMISSION REQUIRED

Applications to determine whether planning permission required

30. If any person who proposes to carry out any operations on land, or to make any change in the use of land, wishes to have it determined—

(a) whether the carrying out of those operations or the making of that change would constitute or involve development of the land; and

(b) if so whether an application for planning permission in respect thereof is required under this Part, having regard to the development order,

he may apply in writing to the Ministry and the Ministry may determine that question.

PART V

ADDITIONAL PLANNING CONTROL

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

Lists of buildings of special architectural or historic interest

31.—(1) The Ministry—

(a) shall compile lists of buildings of special architectural or historic interest, and

(b) may amend any list so compiled.

(2) In considering whether to include a building in a list compiled under this Article the Ministry may take into account not only the building itself but also—

(a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and

(b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building which consists of a man-

made object or structure fixed to the building or which forms a part of the land and which is comprised within the curtilage of the building.

(3) Before compiling or amending any list under this Article, the Ministry shall consult with the Historic Buildings Council and with the appropriate district council.

(4) As soon as may be after any list has been compiled under this Article, or any amendments of such a list have been made, the Ministry shall cause a copy of so much of the list, or so much of the amendments, as relates to the area of a district council to be deposited with the clerk of that council.

(5) As soon as may be after the inclusion of any building in a list under this Article, whether on the compilation of the list or by its amendment, or as soon as may be after any such list has been amended by the exclusion of any building from it, the Ministry shall serve a notice in the prescribed form on every owner and occupier of the building, stating that the building has been included in, or excluded from the list, as the case may be.

(6) The Ministry shall keep available for inspection by the public at all reasonable hours copies of lists and amendments of lists compiled or made under this Article.

(7) In this Order "listed building" means a building which is for the time being included in a list compiled under this Article; and, for the purposes of the provisions of this Order relating to listed buildings, any object or structure fixed to a building, or forming part of the land and comprised within the curtilage of a building, shall be treated as part of the building.

Control of works for demolition, alteration or extension of listed buildings

32.—(1) Subject to this Part, if a person executes or causes to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised under this Part, he shall be guilty of an offence.

(2) Works for the demolition, alteration or extension of a listed building are authorised under this Part only if—

(a) written consent (in this Order referred to as "listed building consent") for the execution of the works has been granted by the Ministry and the works are carried out in accordance with the terms of the consent and any conditions which may be attached to the consent under Article 33; and

(b) in the case of demolition—

(i) a person duly authorised in writing by the Ministry has been afforded reasonable access to the building for a period of at least one month following the grant of listed building consent and before the commencement of the works, for the purpose of recording it; or

(ii) the Ministry has stated in writing that it has completed its recording of the building or that it does not wish to record it.

(3) Without prejudice to paragraph (1), if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent under Article 33, he shall be guilty of an offence.

(4) A person guilty of an offence under paragraph (1) or (3) shall be liable on summary conviction to a fine of not more than £400 or on conviction on

indictment to a fine and in determining the amount of any fine imposed on a person convicted on indictment the court shall have particular regard to any financial benefit which has accrued or is likely to accrue to him in consequence of the offence.

(5) In proceedings for an offence under this Article it shall be a defence to prove that the works were urgently necessary—

(a) in the interests of safety or health; or

(b) for the preservation of the building;

and in either case that written notice specifying the need for the works was given to the Ministry as soon as reasonably practicable.

Provisions supplementary to Article 32

33.—(1) Article 32 shall not apply to works for the demolition, alteration or extension of—

(a) an ecclesiastical building which is for the time being used for ecclesiastical purposes or would be so used but for the works; or

(b) a building which is the subject of a guardianship or protection order under the Historic Monuments Act (Northern Ireland) 1971 (a); or

(c) a building for the time being included in a schedule of historic monuments published by the Ministry of Finance under that Act.

For the purposes of this paragraph, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.

(2) Where, on an application in that behalf, planning permission is granted and—

(a) the development for which the permission is granted includes the carrying out of any works for the alteration or extension of a listed building; and

(b) the planning permission or any condition subject to which it is granted is so framed as expressly to authorise the execution of the works (describing them),

the planning permission shall operate as listed building consent in respect of those works; but, except as provided by this paragraph, the grant of planning permission for any development shall not make it unnecessary for such consent to be obtained in respect of any works to which Article 32 applies.

(3) In considering whether to grant planning permission for development which consists in or includes works for the alteration or extension of a listed building, and in considering whether to grant listed building consent for any works, the Ministry shall have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses.

(4) Without prejudice to Article 17 (1), the conditions which may be attached to a grant of planning permission shall, in the case of such development as is referred to in paragraph (2), include conditions with respect to—

(a) the preservation of particular features of the building either as part of it or after severance therefrom;

(b) the making good, after the works are completed, of any damage caused to the building by the works; and

(a) 1971 c. 17 (N.I.).

(c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.

(5) Listed building consent may be refused, or granted either unconditionally or subject to conditions which may include such conditions as are mentioned in paragraph (4).

Applications for listed building consent

34. Articles 14 to 16 and 17 (2) and (3), 20, 21, 23 and 24 shall, with any necessary modifications, apply to applications for listed buildings consent as they apply to applications for planning permission.

Revocation or modification of listed building consent

35. Article 29 shall, with any necessary modifications, apply to the revocation or modification of listed building consent as it applies to the revocation or modification of planning permission.

Acts causing or likely to result in damage to listed buildings

36.—(1) Where a building, not being a building excluded by Article 33 from the operation of Article 32, is included in a list compiled under Article 31, then, if any person who, but for this Article, would be entitled to do so—

(a) does or permits the doing of any act which causes or is likely to result in damage to the building (other than an act for the execution of excepted works); and

(b) does or permits the act with the intention of causing such damage;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(2) In paragraph (1) “excepted works” means—

(a) works authorised by planning permission granted in pursuance of an application under this Order; or

(b) works for which listed building consent has been given under this Order.

(3) Where a person convicted under this Article fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £20 for each day on which the failure continues.

AREAS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

Conservation areas

37.—(1) The Ministry may designate areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance.

(2) The Ministry may vary or cancel a designation under paragraph (1).

(3) Before making, varying or cancelling a designation under this Article, the Ministry shall consult with the Historic Buildings Council and with any appropriate district council.

(4) The Ministry shall publish notice of the designation of any conservation area and of any variation or cancellation of any such designation, with sufficient

particulars to identify the area affected, in at least one newspaper circulating in the locality of the area.

(5) Where any area is for the time being designated as a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance in the exercise, with respect to any buildings or other land in that area, of any powers under this Order.

(6) In this Order "conservation area" means an area designated under paragraph (1).

TREES

Duty of Ministry in relation to trees

38. The Ministry shall—

- (a) ensure wherever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and
- (b) make such orders under Article 39 as appear to the Ministry to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

Tree preservation orders

39.—(1) Where it appears to the Ministry that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in any area, it may for that purpose make an order (in this Order referred to as a "tree preservation order") with respect to such trees, groups of trees or woodlands as may be specified in the order; and in particular, provision may be made by any such order—

- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the Ministry, and for enabling the Ministry to give its consent subject to conditions;
- (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
- (c) for applying, in relation to any consent under the order and to applications for such consent, any of the provisions of Part IV, subject to such adaptations and modifications as may be specified in the order.

(2) The Ministry may make regulations as to the form of tree preservation orders and the procedure to be followed in connection with such orders; and the regulations may (without prejudice to the generality of this paragraph) make provision as follows—

- (a) that the Ministry may make a provisional tree preservation order, which shall take effect immediately, and notice of its making shall be given to the owners and occupiers of the land affected and to such other persons, if any, as may be specified in the regulations;
- (b) that objections and representations with respect to the provisional order may be made within twenty-eight days of the giving of the notice;
- (c) that if within that period any person on whom the notice is served so desires the Ministry shall afford to him an opportunity of appearing before and being heard by the planning appeals commission;
- (d) that—

- (i) after considering any objections and representations received within that period, and where a hearing is held the report of the planning appeals commission; or
- (ii) where no objections or representations are received within that period;

the Ministry may confirm the provisional tree preservation order, withdraw it or modify it, and shall give notice of the confirmation, withdrawal or modification to the persons on whom notice of the provisional tree preservation order was served.

(3) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, no such order shall apply to the cutting down, topping or lopping of trees which are dying or dead or have become dangerous or the cutting down, topping or lopping of any trees in compliance with any obligations imposed by or under any statutory provision or so far as may be necessary for the prevention or abatement of a nuisance.

Penalties for contravention of tree preservation orders

40.—(1) If any person, in contravention of a tree preservation order, cuts down or wilfully destroys a tree, or tops or lops a tree in such a manner as to be likely to destroy it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(2) If any person contravenes a tree preservation order otherwise than as mentioned in paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(3) If in the case of a continuing offence under this Article, the contravention is continued after the conviction, the offender shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding £5 for each day on which the contravention is continued.

ADVERTISEMENTS

Control of advertisements

41.—(1) Subject to this Article, provision shall be made by regulations under this Order for restricting or regulating the display of advertisements so far as appears to the Ministry to be expedient in the interests of amenity or public safety.

(2) Without prejudice to paragraph (1), any such regulations may provide—

- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed and the manner in which they are to be affixed to the land;
- (b) for requiring the consent of the Ministry to be obtained for the display of advertisements;
- (c) for applying in relation to any such consent and to applications for such consent any of the provisions of Part IV or IX, subject to such adaptations and modifications as may be specified in the regulations.

(3) Areas of special control for the purposes of regulations under this Article may be defined by means of orders made by the Ministry in accordance with the regulations.

(4) Where the Ministry is authorised by the regulations to make any such order as is mentioned in paragraph (3), the regulations shall provide for the publication of notice of the proposed order in such manner as may be prescribed

by the regulations, for the consideration of objections duly made thereto and for the holding of such inquiries or other hearings by the planning appeals commission as may be so prescribed before the order is made.

(5) Where the display of advertisements in accordance with regulations made under this Article involves development of land, planning permission for that development shall be deemed to be granted by virtue of this Article, and no application shall be necessary in that behalf under Part IV.

PART VI ENFORCEMENT

Enforcement notices

42.—(1) Where it appears to the Ministry that there has been a breach of planning control then, subject to this Article, the Ministry, if it considers it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may serve a notice under this Article (in this Order referred to as an “enforcement notice”) requiring the breach to be remedied.

(2) There is a breach of planning control if development has been carried out, whether before or after the commencement of this Order—

- (a) without the grant of planning permission required in that behalf in accordance with the Act of 1944 or Part IV of this Order; or
- (b) if any conditions or limitations subject to which planning permission was granted have not been complied with.

(3) An enforcement notice may be served only within the period of four years from the date of the breach of the planning control to which it relates.

(4) An enforcement notice shall be served on the owner and on the occupier of the land to which it relates and on any other person having an estate in that land, being an estate which in the opinion of the Ministry is materially affected by the notice.

(5) An enforcement notice shall specify—

- (a) the matters alleged to constitute a breach of planning control;
- (b) the steps required by the Ministry to be taken in order to remedy the breach, that is to say steps for the purpose of restoring the land to its condition before the development took place or (according to the particular circumstances of the breach) of securing compliance with the conditions or limitations subject to which planning permission was granted; and
- (c) the period for compliance with the notice, that is to say the period (beginning with the date when the notice takes effect) within which those steps are required to be taken.

(6) The steps which may be required by an enforcement notice to be taken include the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.

(7) Subject to paragraphs (8) and (9), an enforcement notice shall take effect at the end of such period (not being less than twenty-eight days from the date of service of the notice) as may be specified in the notice.

(8) If within the period specified under paragraph (7) an application for planning permission is made for permission for the retention on the land of any buildings or works, or for the continuance of any use of the land, to which the enforcement notice relates, the notice shall be of no effect pending the final determination of that application.

(9) Where an appeal is brought under Article 43 the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(10) If on a complaint by the owner of any land, it appears to a court of summary jurisdiction that the occupier of that land prevents the owner from executing any work which he is required to execute under this Part, the court may order the occupier to permit the execution of the work.

(11) The Ministry may withdraw an enforcement notice (without prejudice to its power to serve another) at any time before it takes effect; and if it does so it shall forthwith give notice of the withdrawal to every person who was served with the notice.

Appeal against enforcement notice

43.—(1) A person on whom an enforcement notice is served or any other person having an estate in the land may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to a court of summary jurisdiction for the petty sessions district within which the land to which the notice relates is situated against the notice on any of the following grounds—

- (a) that the matters alleged in the notice do not constitute a breach of planning control;
- (b) that the period of four years specified in Article 42 (3) has elapsed at the date of service;
- (c) that the enforcement notice was not served as required by Article 42 (4);
- (d) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control;
- (e) that the specified period for compliance with the notice falls short of what should reasonably be allowed.

(2) On an appeal under this Article—

- (a) the court may correct any informality, defect or error in the enforcement notice if it is satisfied that the informality, defect or error is not material;
- (b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by Article 42 (4) to be served with the notice was not served, the court may disregard that fact if neither the appellant nor the person has been substantially prejudiced by the failure to serve him.

(3) The court shall quash the enforcement notice, vary the terms of the notice in favour of the appellant or uphold the notice.

Penalties for non-compliance with enforcement notice

44.—(1) Subject to this Article, where an enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the land to which it relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(2) If a person against whom proceedings are brought under paragraph (1) has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this Article referred to as the "subsequent owner") brought before the court in the proceedings.

(3) If after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner—

- (a) the subsequent owner may be convicted of the offence, and
- (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.

(4) If, after a person has been convicted under paragraphs (1) to (3), he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £50 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of a use of land) remain unfulfilled.

(5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used or carries out those operations or causes or permits them to be carried out, in contravention of the notice—

- (a) he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £400; and
- (b) if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £50 for each day on which the use is so continued.

(6) Any reference in this Article to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith or such extended period as may be allowed for compliance with the notice.

Power to stop further development pending proceedings on enforcement notice

45.—(1) Where in respect of any land the Ministry has served an enforcement notice, it may at any time before the notice takes effect serve a further notice (in this Order referred to as a "stop notice") referring to, and having annexed to it a copy of, the enforcement notice and prohibiting any person on whom the stop notice is served from carrying out or continuing any specified operations on the land, being operations either alleged in the enforcement notice to constitute a breach of planning control or so closely associated therewith as to constitute substantially the same operations.

(2) The operations which may be the subject of a stop notice shall include the deposit of refuse or waste materials on land where that is a breach of planning control alleged in the enforcement notice.

(3) A stop notice may be served by the Ministry on any person who appears to it to have an estate in the land or to be concerned with the carrying out or continuance of any operations thereon.

(4) A stop notice—

(a) shall specify the date (not earlier than three days from the day on which the notice is first served on any person) when it is to take effect;

(b) in relation to any person served with it, shall have effect as from that date or the third day after the date of service on him, whichever is the later; and

(c) shall, without prejudice to paragraph (7), cease to have effect when the enforcement notice takes effect, or is withdrawn or quashed.

(5) If while a stop notice has effect in relation to him a person carries out, or causes or permits to be carried out, any operations prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400; and if the offence is continued after conviction he shall be liable on summary conviction to a further fine not exceeding £50 for each day on which it is continued.

(6) A stop notice shall not be invalid by reason that the enforcement notice to which it relates was not served as required by Article 42 (4) if it is shown that the Ministry took all such steps as were reasonably practicable to effect proper service.

(7) The Ministry may at any time withdraw a stop notice (without prejudice to its power to serve another) by serving notice to that effect on persons who were served with the stop notice, which shall cease to have effect as from the date of service of the notice under this paragraph.

(8) Where a person (in this paragraph referred to as “the contractor”) is under contract to another person (in this paragraph referred to as “the developer”) to carry out any operations on land and—

(a) a stop notice takes effect (whether in relation to the developer or the contractor, or both) prohibiting the carrying out or continuance of those operations; and

(b) the operations are countermanded or discontinued by the contractor accordingly,

then, unless and in so far as the contract makes provision explicitly to the contrary of this paragraph, the developer shall be under the same liability in contract as if the operations had been countermanded or discontinued on instructions given by him in breach of the contract.

This paragraph applies only to contracts entered into before the expiration of the period of one year beginning with the commencement of this Order.

Execution and cost of works required by enforcement notice

46.—(1) If, within the period specified in an enforcement notice for compliance therewith, or within such extended period as the Ministry may allow, any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, a person authorised in writing by the Ministry may enter upon the land and take those steps and the Ministry may recover from the person who is then the owner of the land any expenses reasonably incurred by it in that behalf and those expenses shall be a civil debt recoverable summarily.

(2) Any expenses incurred by the owner or occupier of any land for the purposes of complying with an enforcement notice in respect of any breach of planning control, and any sums paid by the owner of any land under paragraph (1), in respect of expenses incurred by the Ministry in taking steps required to be taken by such a notice, shall be deemed to be incurred for the use and at the request of the person by whom the breach of planning control was committed.

(3) The Ministry may sell any materials which have been removed by it from any land when carrying into effect this Part if, before the expiration of three days from their removal, they are not claimed by their owner and taken away by him.

(4) Where the Ministry sells any materials under paragraph (3), it shall pay the proceeds to the person to whom the materials belonged after deducting the amount of any expenses recoverable by it from him.

(5) Paragraphs (3) and (4) do not apply to refuse removed by the Ministry.

(6) Where the Ministry claims to recover any expenses under this Article from a person as being the owner of the land in respect of which the expenses were incurred and that person proves that he—

(a) is receiving the rent of that land merely as agent or trustee for some other person; and

(b) has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the Ministry,

his liability shall be limited to the total amount of the money which he has or has had in his hands as mentioned in sub-paragraph (b), but the Ministry where it is, or would be, debarred by this paragraph from recovering the whole of any such expenses from an agent or trustee may recover the whole of any unpaid balance thereof from the person on whose behalf the agent or trustee receives the rent.

(7) Any expenses recoverable by the Ministry under this Article shall, until recovered, be deemed to be charged on and payable out of the estate in the land in relation to which they have been incurred, of the owner of the land and of any person deriving title from him.

(8) The charge created by paragraph (7) shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the Ministry by the person on whose estate the charge has been created (with, where necessary, any authorisation or consent required by law) and the Ministry may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 (a) on mortgagees by deed accordingly.

Effect of planning permission on enforcement notice

47.—(1) If, after the service of an enforcement notice, planning permission is granted for the retention on land of buildings or works, or for the continuance of the use of land, to which the enforcement notice relates, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works or the discontinuance of that use, as the case may be.

(2) If the planning permission granted as mentioned in paragraph (1) is granted so as to permit the retention of buildings or works, or the continuance of a use of land, without complying with some condition subject to which a

(a) 1881 c. 41.

previous planning permission was granted, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.

(3) Paragraphs (1) and (2) shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the enforcement notice before the relevant provision of the enforcement notice ceased to have effect.

Enforcement notice to have effect against subsequent development

48.—(1) Compliance with an enforcement notice whether in respect of—

- (a) the demolition or alteration of any buildings or works, or
- (b) the discontinuance of any use of land,

or in respect of any other requirement contained in the enforcement notice, shall not discharge the enforcement notice.

(2) Without prejudice to paragraph (1), any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part IV; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(3) Without prejudice to paragraph (1), if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered; and, subject to paragraph (4), Article 46 shall apply accordingly.

(4) Where, at any time after an enforcement notice takes effect—

- (a) any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the notice, and
- (b) the Ministry proposes, under Article 46 (1), to take any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration,

the Ministry shall, not less than twenty-eight days before taking any such steps, serve on the owner and occupier of the land a notice of its intention to do so.

(5) A person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £400; and no person shall be liable under Article 44 (1) to (4) for failure to take any steps required to be taken by an enforcement notice by way of demolition or alteration of what has been so reinstated or restored.

LISTED BUILDINGS

Listed buildings enforcement notices

49.—(1) Where it appears to the Ministry that any works have been, or are being, executed to a listed building and are such as to involve a contravention of Article 32 (1) or (3), then, subject to paragraph (2), the Ministry may, if it

considers it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest serve a notice (in this Order referred to as “a listed building enforcement notice”)—

- (a) specifying the alleged contravention; and
- (b) requiring such steps as may be specified in the notice for restoring that building to its former state or, as the case may be, for bringing it to the state it would have been in if the terms and conditions of any listed building consent for the works had been complied with, to be taken within such period as may be so specified.

(2) A listed building enforcement notice may be served only within the period of four years from the date of the contravention to which it relates.

(3) Subject to paragraphs (4) and (5) a listed building enforcement notice shall take effect at the end of such period (not being less than twenty-eight days from the date of service of the notice) as may be specified in the notice.

(4) If within the period specified in paragraph (3) an application is made for listed building consent to carry out the works to which the listed building enforcement notice relates, the notice shall be of no effect pending the final determination of that application, and if that consent is granted on that application, the notice shall not take effect.

(5) Where an appeal is brought under Article 50 the listed building enforcement notice shall be of no effect pending the final determination or withdrawal of the appeal.

(6) Articles 42 (4), (10) and (11), and 44 and 46 shall with any necessary modifications apply to a listed building enforcement notice as they apply to an enforcement notice.

Appeal against listed building enforcement notice

50.—(1) A person on whom a listed building enforcement notice is served, or any other person having an estate in the building to which it relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to a court of summary jurisdiction for the petty sessions district within which the building to which the notice relates is situated against the notice on any of the following grounds:—

- (a) that the matters alleged to constitute a contravention of Article 32 do not involve such a contravention;
- (b) that the works were urgently necessary in the interests of safety or health, or for the preservation of the building;
- (c) that the period of four years referred to in Article 49 (2) has elapsed at the date on which the notice was served;
- (d) that the notice was not served as required by Article 49;
- (e) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (f) that the period specified in the notice as the period within which any steps required thereby are to be taken falls short of what should reasonably be allowed.

(2) Article 43 (2) and (3) shall, with any necessary modifications, apply to appeals against listed building enforcement notices as it applies to appeals against enforcement notices.

ADVERTISEMENTS

Enforcement of advertisement control

51.—(1) The matters for which provision may be made by regulations under Article 41 shall include provision for enabling the Ministry to require the removal of any advertisement which is being displayed in contravention of the regulations, or the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations, and for that purpose for applying any of the provisions of this Order with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations.

(2) Without prejudice to any provision included in regulations made under Article 41 by virtue of paragraph (1), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and, in the case of a continuing offence to a fine not exceeding £5 for each day during which the offence continues after conviction.

(3) For the purposes of paragraph (2) and without prejudice to the generality thereof, a person shall be deemed to display an advertisement if—

- (a) the advertisement is displayed on land of which he is the owner or occupier; or
- (b) the advertisement gives publicity to his goods, trade, business or other concerns,

but a person shall not be guilty of an offence under paragraph (2) by reason only that an advertisement is displayed on land of which he is the owner or occupier, or that his goods, trade, business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

PART VII

DEVELOPMENT SCHEMES AND ACQUISITION OF LAND

Development schemes

52. Where the Ministry considers it expedient that any area should be developed, redeveloped or improved as a whole the Ministry may, after consultation with the appropriate district council, prepare a development scheme defining, by reference to a map, the area of the scheme and indicating in general terms the manner in which it is intended that the area should be laid out and the land therein used.

Adoption of development schemes

53.—(1) The Ministry shall not adopt a development scheme under paragraph (2) or (3) until it has published in two successive weeks in one or more newspapers circulating in the locality to which the scheme relates a notice—

- (a) describing the area to which the scheme relates and referring to the preparation of the scheme;
- (b) specifying the place at which copies of the scheme may be inspected at reasonable times;

(c) stating the time (not being less than twenty-eight days from the last of the publications of the notice) during which objections to the scheme may be sent to the Ministry.

(2) If—

(a) no objections are made to a development scheme; or

(b) all objections to a development scheme are withdrawn;

the Ministry may by order adopt the scheme with or without amendment.

(3) If objections made to a development scheme are not withdrawn the Ministry shall, unless it considers them to be solely of a frivolous or vexatious nature,—

(a) cause a public local inquiry to be held by the planning appeals commission; and

(b) consider any objections not withdrawn and the report of that commission;

and may thereafter by order adopt the scheme with or without amendments.

(4) The Ministry may at any time prepare proposals for amending an adopted development scheme in so far as it relates to the manner in which the area of the development scheme is to be laid out and the land therein used.

(5) The Ministry may by order adopt any proposals prepared under paragraph (4) with or without amendment and may amend the development scheme accordingly.

ACQUISITION OF LAND, ETC.

Acquisition of land for planning purposes

54.—(1) The Ministry may, by agreement or compulsorily, acquire any land where it is satisfied—

(a) that the land is required in order to secure the treatment as a whole, by development, redevelopment or improvement, or partly by one and partly by another method, of the land or of any area in which the land is situated; or

(b) that it is expedient in the public interest that the land should be held together with land so required; or

(c) that the land is required for development or redevelopment, or both, as a whole for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the redevelopment or improvement of another area as a whole; or

(d) that it is expedient to acquire the land 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.

(2) Where the Ministry in exercise of the power conferred on it by paragraph (1) desires to acquire any land otherwise than by agreement, the Ministry may make an order (in this Article referred to as a “vesting order”) vesting the land in the Ministry.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications specified in Schedule 1, apply for the purposes of the acquisition of land by means of a vesting order made under this Article

in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(4) The power to make a vesting order in respect of land—

(a) which is the property of a public body which has power under any transferred provision to acquire land compulsorily; or

(b) which is declared by or under any transferred provision to be inalienable; shall not, where representations objecting to the proposal to make the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal to make the vesting order has been approved by a resolution of each House of Parliament.

(5) Before acquiring any land under paragraph (1) the Ministry shall consult with the district council in whose area the land is situated.

(6) Proceedings under this Article for the acquisition of land in connection with a development scheme may be taken concurrently (so far as practicable) with proceedings required by Article 53 to be taken for the purpose of the making of an order in relation to that development scheme, so, however, that a vesting order vesting any such land in the Ministry shall not be made until the order adopting the development scheme has been made.

(7) The Ministry may appropriate land for the purposes set out in paragraph (1).

(8) Nothing in this Article shall authorise the acquisition without the consent of the Ministry of Finance of any land on or in which there is, to the knowledge of the Ministry, any historic monument or archaeological object within the meaning of the Historic Monuments Act (Northern Ireland) 1971.

Compensation where unfit houses are acquired under this Part

55.—(1) Where—

(a) land is acquired compulsorily or is proposed to be acquired compulsorily by the Ministry under this Part for the purposes of a development scheme or proposed development scheme; and

(b) that land comprises a house in respect of which, if the development scheme or proposed development scheme had been a redevelopment scheme under Part I of the Housing (Miscellaneous Provisions) and Rent Restriction Law (Amendment) Act (Northern Ireland) 1956 in the opinion of the Ministry, compensation would be, or would have been, payable in accordance with section 6 of the Housing (Ireland) Act 1919 (a) (compensation for certain land restricted to site value);

the Ministry may, subject to paragraph (2), make an order, in such form as may be prescribed, declaring the house to be a house to which that section applies.

(2) Before making an order under this Article, the Ministry shall serve notice of its intention to make the order and stating the effect of the proposed order on the owner and occupier of the house affected and on any other person who in its opinion would be affected by the order; and if within such period as may be specified in that behalf in the notice (not being less than twenty-eight days from the date of service thereof) any person on whom the notice is served so desires, the Ministry shall afford to him an opportunity of appearing before and being heard by the planning appeals commission.

(a) 1919 c. 45.

(3) Where the Ministry makes an order under this Article it shall serve a notice on any person mentioned in paragraph (2) stating the general effect of the order.

Appropriation of land held for planning purposes

56. Where any land acquired or appropriated by the Ministry for planning purposes is for the time being held by the Ministry for those purposes, the Ministry may appropriate the land for any purpose for which it is or may be authorised in any capacity to acquire land under any transferred provision.

Disposal of land held for planning purposes

57.—(1) Where any land acquired or appropriated by the Ministry for planning purposes is for the time being held by the Ministry for those purposes, the Ministry may dispose of the land to such person as may appear to it to be expedient in order to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out thereon, whether by itself or by any other person, or to secure the erection, construction or carrying out thereon of any buildings or works appearing to it to be needed for the proper planning of the area in which the land is situated.

(2) The Ministry shall dispose of any land under this Article so as to secure, so far as may be practicable, to persons who were living or carrying on business or other activities on any such land, who desire to obtain accommodation on such land and who are willing to comply with any requirements of the Ministry as to the development and use of such land, an opportunity to obtain thereon accommodation suitable to their reasonable requirements.

(3) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 (a) (which contains provisions with respect to the disposal of land by government departments) shall not apply to the disposal of any land under this Article.

Development of land held for planning purposes

58.—(1) The Ministry may erect, construct or carry out any building or work on any land to which this Article applies.

(2) The Ministry may enter into an agreement with any person for the development of any land to which this Article applies.

(3) This Article applies to any land which has been acquired or appropriated by the Ministry for planning purposes and is for the time being held by it for those purposes.

(4) The Ministry may repair, maintain and insure any buildings or works on land to which this Article applies, and generally deal therewith in a proper course of management.

Recovery of possession of premises let by Ministry

59. On the termination of any tenancy of any premises let by the Ministry under Article 57 possession of the premises may (without prejudice to any other method of recovery) be recovered by the Ministry in a summary manner under sections 76 to 84 of the Magistrates' Courts Act (Northern Ireland) 1964 (b) whatever may be the rent or term of the tenancy.

(a) 1933 c. 6 (N.I.).

(b) 1964 c. 21 (N.I.).

PAYMENTS FOR BENEFIT OF CERTAIN PERSONS

Payments for benefit of certain persons vacating houses

60.—(1) Where a person residing in a house by virtue of his estate in that house vacates that house in order that it may be demolished or removed by the Ministry in the exercise of functions conferred by this Part or, at the request of the Ministry, vacates that house to facilitate its demolition or removal at a future date in the exercise of those functions, and that person has, at the date of that vacation, been residing in that house for not less than six months then last past, the Ministry shall, subject to the provisions of this Article and subject to such conditions as the Ministry may determine, apply for the benefit of that person a sum of £85 (or such other sum as the Ministry, under section 48 of the Housing Act (Northern Ireland) 1971 (a), prescribes for the purposes of the enactments specified in that section), such sum to be applied at the discretion of the Ministry towards—

- (a) expenditure which is or may be incurred by that person in removing to or furnishing other accommodation;
- (b) the cost of purchase or the payment of rent of that other accommodation;
- (c) any other expenditure which, in the opinion of the Ministry, has been or may be incurred by that person as a result of that vacation.

(2) No sum shall be applied by virtue of this Article for the benefit of any person who vacates a house in any of the circumstances mentioned in paragraph (1) if, in respect of that house, he is entitled to have or has had any sum applied for his benefit under section 6 of the Housing Act (Northern Ireland) 1961 (b), or section 28 of the Housing Act (Northern Ireland) 1963 (c) or section 37 of the New Towns Act (Northern Ireland) 1965 (which sections make provision for payments for the benefit of persons vacating houses).

(3) Where, on the vacation by any person of a house, any sum falls to be applied under paragraph (1) or under the said section 6, 28 or 37, for the benefit of that person, no sum shall be applied under that paragraph for the benefit of a person who acquires an estate in that house on or subsequent to that vacation.

(4) Where two or more persons hold an estate in a house as joint tenants or tenants in common, such persons shall, for the purpose of this Article, be treated as one person and the sum of £85 (or such other sum as is mentioned in paragraph (1)) to be applied under paragraph (1) shall be applied for the benefit of those persons in such shares as the Ministry may determine.

(5) Any payment falling to be made under this Article to a person to whom an allowance has been made under section 23 (1) (a) of the said Act of 1961 in respect of the same house or any part thereof shall be reduced by the amount of that allowance.

(6) Section 9 of the said Act of 1961 (avoidance of duplicate payments) shall apply in relation to payments made by the Ministry by virtue of this Article as it applies to payments made under Part I of that Act, as if—

- (a) references to payments under that Part included references to payments made by virtue of this Article;
- (b) the reference to a vesting order included a reference to a vesting order made under this Part;

(a) 1971 c. 16 (N.I.)

(b) 1961 c. 12 (N.I.).

(c) 1963 c. 26 (N.I.)

- (c) the compensation to which that section applies included any consideration payable by the Ministry in respect of the acquisition by agreement of a house.

Compensation to certain displaced persons for loss of goodwill

61.—(1) Section 7 of the Housing Act (Northern Ireland) 1961 (compensation for loss of goodwill for certain persons displaced from houses or other buildings) shall apply in relation to a house or other building from which a person is displaced in consequence of its acquisition by the Ministry under this Part as it applies in relation to a house or other building from which a person is displaced as mentioned in subsection (1) of that section, as if for the references, as originally enacted, to a local authority there were substituted references to the Ministry.

(2) Any payment falling to be made under this Article to a person to whom an allowance has been made under section 23 (1) (b) of the said Act of 1961 in respect of the same house or other building or any part thereof shall be reduced by the amount of that allowance.

(3) Any payment made under this Article to a person who claims, otherwise than under this Article, to be entitled to compensation for any loss sustained by reason of the disturbance of his trade or business consequent upon his having to quit a house or other building, shall be deemed to have been received by him in settlement, so far as the payment extends, of that compensation.

Supplementary provisions

62. Where the Ministry proposes to acquire land for planning purposes by means of a vesting order, the Ministry may disregard any objection to the proposed order which, in the opinion of the Ministry, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.

Interpretation Part VII

63. In this Part any reference to the acquisition or appropriation of land for planning purposes is a reference to its acquisition or appropriation under Article 54.

PART VIII
COMPENSATION

Compensation for refusal of consent to alteration, etc., of listed building

64.—(1) Paragraphs (2) to (4) shall have effect where an application is made for listed building consent for the alteration or extension of a listed building and—

- (a) either the works do not constitute development or they do so but the development is such that planning permission therefor is granted by a development order; and
(b) that consent is refused or is granted subject to conditions.

(2) If on a claim made to the Ministry within the time and in the manner prescribed it is shown that the value of any compensatable estate is less than it would have been if listed building consent had been granted or had been granted unconditionally, compensation of an amount equal to the difference shall be payable by the Ministry in respect of that compensatable estate.

(3) In determining for the purposes of paragraph (2) whether or to what extent the value of a compensatable estate in land is less than it would have been

if the consent had been granted or had been granted unconditionally it shall be assumed that any subsequent application for the like consent would be determined in the same way.

(4) Sections 22, 24, 30, 31, 33, 38 and 39 of the Act of 1965 shall, subject to any necessary modifications, have effect for the purposes of a claim for compensation or compensation payable under this Article as they have effect for the purposes of a claim for compensation or compensation payable under section 29 of that Act.

Compensation where listed building consent revoked or modified

65.—(1) Where listed building consent is revoked or modified by an order under Article 35, then if on a claim made to the Ministry within the time and in the manner prescribed it is shown that a person interested in the building—

- (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or
- (b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification;

the Ministry shall pay to him compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this Article, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to paragraph (2), compensation shall not be paid under this Article in respect of—

- (a) any work carried out before the grant of the listed building consent which is revoked or modified; or
- (b) any other loss or damage (not being loss or damage consisting of depreciation of the value of a compensatable estate in any land) arising out of anything done or omitted to be done before the grant of that consent.

(4) Sections 22, 27 to 33 and 37 to 39 of the Act of 1965 shall, subject to any necessary modifications, have effect for the purposes of a claim for compensation or compensation payable under this Article as they have effect for the purposes of a claim for compensation or compensation payable under section 26 of that Act.

Compensation in respect of tree preservation orders

66.—(1) Any person who has suffered loss or damage in consequence of any refusal of consent to cut down, top or lop a tree which is the subject of a tree preservation order, or of the granting of any such consent subject to conditions, or of the revocation or modification of any such consent, shall, if he makes a claim to the Ministry within the time and in the manner prescribed be entitled to recover from the Ministry compensation in respect of the loss or damage.

(2) In assessing compensation payable under paragraph (1) account shall be taken of—

- (a) any compensation under paragraph (1) which has been paid whether to the claimant or to any other person, in respect of the same tree; and
- (b) any injurious affection to any land of the claimant which would result from the felling of the tree which is the subject of the claim.

(3) Any question of disputed compensation under this Article shall be determined by the Lands Tribunal.

Compensation for loss due to stop notice

67.—(1) Where a stop notice under Article 45 ceases to have effect, a person who, at the time when it was first served, had an estate in the land to which it relates shall, in any of the circumstances mentioned in paragraph (2), be entitled to be compensated by the Ministry in respect of any loss or damage suffered by him which is directly attributable to the prohibition contained in the notice.

(2) A person shall be entitled to compensation under paragraph (1) in respect of a prohibition contained in a stop notice in any of the following circumstances—

- (a) the enforcement notice is quashed on any of the grounds mentioned in Article 43 (1) (a), (b) or (c);
- (b) the allegation in the enforcement notice on which the prohibition in the stop notice is dependent is not upheld by reason that the enforcement notice is varied on one of those grounds;
- (c) the enforcement notice is withdrawn by the Ministry otherwise than in consequence of the grant of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a condition or limitation subject to which a previous planning permission was granted;
- (d) the stop notice is withdrawn.

(3) A prohibition in a stop notice shall be treated for the purposes of paragraph (2) as dependent on an allegation in an enforcement notice if and to the extent that the operations to which the prohibition in the stop notice relates are the same as those alleged in the enforcement notice to constitute a breach of planning control or are so closely associated therewith as to constitute substantially the same operations.

(4) A claim for compensation under this Article shall be made to the Ministry within the time and in the manner prescribed.

(5) The loss or damage in respect of which compensation is payable under this Article in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition or of any liability arising by virtue of Article 45 (8).

(6) Any question of disputed compensation under this Article shall be determined by the Lands Tribunal.

Compensation where planning permission required under this Order but not under the Act of 1944

68.—(1) This Article shall apply—

- (a) where the development of land was permitted before the appointed day by virtue of Article 4 of, and paragraph 5 of the Schedule to, the Planning (Interim Development) Order (Northern Ireland) 1944 (a) (development by mining undertakers); or

(a) S.R. & O. (N.I.) 1944 No. 58 (1944 p. 131)

(b) where by virtue of section 9 (1) (i) of the Act of 1944, the erection before the appointed day of certain buildings for the purpose of agriculture did not constitute development,

if in either such case, by virtue of this Order, planning permission is required, and that permission is refused or granted subject to conditions.

(2) In a case falling within paragraph (1), section 26 of the Act of 1965 shall apply as if—

(a) planning permission had been granted for the development; and

(b) on the date of the planning decision in question that permission had been revoked or modified under Article 29.

Compensation where planning permission assumed for other development

69. Where a claim for compensation is made to the Ministry under Part II, or section 26 or 29, of the Act of 1965 in relation to a planning decision or order, the Ministry may, if it appears to it that planning permission might reasonably be expected to be granted (either unconditionally or subject to conditions) for some development of the land to which the claim relates, direct that in assessing the compensation payable in respect of the decision or order it shall be assumed that permission for that development would be granted either unconditionally or subject to such conditions as may be specified in the direction.

PART IX

PURCHASE OF ESTATES IN CERTAIN LAND AFFECTED BY
PLANNING DECISIONS OR THE REVOCATION OR
MODIFICATION OF PLANNING PERMISSION

Service of purchase notice following refusal or conditional grant of planning permission or its revocation or modification

70.—(1) Where—

(a) on an application for planning permission under Part IV to develop any land permission is refused or is granted subject to conditions; or

(b) by an order under Article 29 planning permission in respect of any land is revoked, or is modified by the imposition of conditions;

then if any owner of the land claims—

(i) that the land has become incapable of reasonably beneficial use in its existing state; and

(ii) in a case where planning permission was granted subject to conditions, or was modified by the imposition of 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; and

(iii) 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 granted;

he may, within the time and in the manner prescribed, serve on the Ministry a notice requiring the Ministry to purchase his estate in the land in accordance with the following provisions.

(2) Where, for the purpose of determining whether the conditions in paragraph (1) (i) to (iii) are fulfilled in relation to any land, any question arises as to what is a reasonably beneficial use of that land, then in determining that question for that purpose no account shall be taken of any prospective use of that land which would involve the carrying out of new development as defined in section 43 (1) of the Act of 1965.

(3) For the purposes of this Article, the conditions referred to in Articles 25 and 26 shall be disregarded.

Action by Ministry following service of purchase notice

71. Where a purchase notice is served on the Ministry, it shall within two months serve on the owner by whom the notice was served—

- (a) a notice that the Ministry is willing to comply with the purchase notice; or
- (b) a counter-notice, objecting to the purchase notice, stating that for the reasons specified the Ministry is not willing to comply with the purchase notice; or
- (c) a counter-notice, objecting to the purchase notice and stating that the Ministry considers that planning permission for development other than that applied for might reasonably be expected to be granted being development which in the opinion of the Ministry would if carried out render the land capable of reasonably beneficial use.

Further ground of objection to purchase notice

72.—(1) This Article shall have effect where, on an application for planning permission to develop any land which has a restricted use by virtue of a previous planning permission, permission is refused or granted subject to conditions and the owner of the land serves a purchase notice.

(2) For the purposes of this Article, land has a restricted use by virtue of a previous planning permission if it is part of a larger area in respect of which planning permission was previously granted (and has not been revoked) and either—

- (a) it remains a condition of the planning permission (however expressed) that that part shall remain undeveloped or be preserved or laid out in a particular way as amenity land in relation to the remainder; or
- (b) the planning permission was granted on an application which contemplated (expressly or by necessary implication) that the part should not be comprised in the development for which planning permission was sought, or should be preserved or laid out as aforesaid.

(3) If a purchase notice is served on the Ministry, the Ministry, although satisfied that the land has become incapable of reasonably beneficial use, may nevertheless serve a counter-notice if it appears to the Ministry that the land ought, in accordance with the previous planning permission, to remain undeveloped or, as the case may be, to remain or be preserved or laid out as amenity land in relation to the remainder of the larger area for which that planning permission was granted.

Reference of counter-notices to Lands Tribunal

73.—(1) Where the Ministry serves a counter-notice under Article 71 (b) or (c), the owner who served the purchase notice may, within two months of the date of receipt of the counter-notice, refer the matter to the Lands Tribunal.

(2) On any such reference, if the counter-notice is not withdrawn, the Lands Tribunal shall consider the matters set out in the purchase notice and the

reasons specified in the counter-notice and shall determine whether the purchase notice or the counter-notice should be upheld.

(3) If the Tribunal determines to uphold the purchase notice it shall declare it valid.

Effect of valid purchase notice

74.—(1) Where a purchase notice has been served and either—

(a) a notice is served under Article 71 (a); or

(b) where 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 Ministry shall, on the date of acceptance, be deemed to have entered into a contract to purchase the estate of the person who served the purchase notice in respect of which the notice is effective and that person shall, on that date, be deemed to have entered into a contract to sell that estate to the Ministry.

(2) The amount to be paid for an estate by the Ministry under a contract deemed to have effect under paragraph (1) shall be the amount which the Ministry would have paid for the estate if it had compulsorily acquired the estate on the date of acceptance under Article 54.

(3) Any dispute as to the amount to be paid under paragraph (2) for an estate shall be determined by the Lands Tribunal.

(4) The date for the completion of the purchase of an estate in pursuance of a contract deemed to have effect under paragraph (1) shall, unless the owner of the estate and the Ministry otherwise agree, be three months from the date on which they agree upon the amount to be paid for that estate or, in default of agreement on that amount, from the date on which the Lands Tribunal determines that amount.

(5) If on the date for the completion of a contract deemed to have effect under paragraph (1), the Ministry fails to pay to the claimant the amount payable to him under this Article, the Ministry shall, unless that failure arises from a cause other than the Ministry's act or default, pay to him, from that date until the date on which it pays that amount, interest on that amount at such rate as may for the time being be determined by the Ministry of Finance under paragraph 18 (2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972.

(6) For the purposes of determining the amount to be paid for an estate under a contract deemed to have effect under paragraph (1), for any reference in Part II of the Act of 1971 to the date of acquisition there shall be substituted a reference to the date of acceptance.

(7) In this Article—

“the date of acceptance”—

(a) in a case where the Lands Tribunal, on a reference to it, does not uphold an objection, is the date of the Tribunal's determination;

(b) in any other case, is the date on which a notice is served under Article 71 (a) or two months from the date of service of the purchase notice, whichever is the earlier.

Special provision as to compensation under this Part

75. Where by virtue of section 26 of the Act of 1965 compensation is payable in respect of expenditure incurred in carrying out any work on land, then, if a

purchase notice is served in respect of an estate in that land, any compensation payable in respect of the acquisition of that estate in pursuance of the purchase notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable under that section.

Purchase notices in relation to listed building consent

76. This Part shall apply, with any necessary modifications, in relation to an application for listed building consent which is refused or granted subject to conditions, or to a listed building consent which is revoked or modified as it applies to an application for planning permission which is refused or granted subject to conditions or to a planning permission which is revoked or modified, as the case may require.

PART X
ROADS

Orders extinguishing right to use vehicle on road

77.—(1) The Ministry may, for the purpose of improving the amenity of any area, by order provide for the extinguishment of any right which persons may have to use vehicles on a road, being a road other than a trunk road or a special road.

(2) An order under paragraph (1) may include such provision as the Ministry thinks fit for permitting the use on the road of vehicles (whether mechanically propelled or not) in such cases as may be specified in the order, notwithstanding the extinguishment of any such right as is mentioned in that paragraph; and any such provision may be framed by reference to particular descriptions of vehicles, or to particular persons by whom, or on whose authority, vehicles may be used, or to the circumstances in which, or the times at which, vehicles may be used for particular purposes.

(3) No provision contained in, or having effect under, any transferred provision, being a provision prohibiting or restricting the use of footpaths shall affect any use of a vehicle on a road in relation to which an order made under paragraph (1) has effect, where the use is permitted in accordance with provisions of the order included by virtue of paragraph (2).

(4) Any person who, at the time of an order under paragraph (1) coming into force, has an estate in land having lawful access to a road to which the order relates shall be entitled to be compensated by the Ministry in respect of any depreciation in the value of his estate which is directly attributable to the order and of any other loss or damage which is so attributable.

In this paragraph “lawful access” means access authorised by virtue of section 18 of the Roads Act (Northern Ireland) 1948, or access in respect of which no such authorisation is necessary.

(5) A claim for compensation under paragraph (4) shall be made to the Ministry within the time and in the manner prescribed.

(6) Sections 31 to 33 of the Act of 1965 shall, subject to any necessary modifications, have effect in relation to compensation under paragraph (4) as they have effect in relation to compensation payable under Part II of that Act.

(7) Where the Ministry revokes an order under paragraph (1), the effect of the order shall be to reinstate any right to use vehicles on the road, being a right which was extinguished by virtue of the order under that paragraph.

(8) Any order made under this Article may contain provisions for the preservation of any rights of statutory undertakers in respect of any apparatus

of theirs which immediately before the date of the order is under, in, on, over, along or across the road to which the order relates.

- (9) This Article shall have effect without prejudice to—
- (a) any power conferred on the Ministry under any other enactment to authorise the stopping up or diversion of a road; or
 - (b) Article 79.

Provision of amenity for road reserved to pedestrians

78.—(1) Where in relation to a road an order has been made under Article 77, the Ministry may carry out and maintain any such works on or in the road, or place on or in it any such objects or structures, as appear to it to be expedient for the purposes of giving effect to the order or of enhancing the amenity of the road and its immediate surroundings or to be otherwise desirable for a purpose beneficial to the public.

(2) The powers exercisable by the Ministry under this Article shall extend to laying out any part of the road with lawns, trees, shrubs and flower beds and to providing facilities for recreation or refreshment.

(3) The Ministry may so exercise its powers under this Article as to restrict the access of the public to any part of the road, but shall not so exercise them as—

- (a) to prevent persons from entering the road at any place where they could enter it before the order under Article 77 was made; or
- (b) to prevent the passage of the public along the road; or
- (c) to prevent normal access by pedestrians to premises adjoining the road; or
- (d) to prevent any use of vehicles which is permitted by an order made under that Article and applying to the road; or
- (e) to prevent statutory undertakers from having access to any works of theirs under, in, on, over, along or across the road.

(4) An order under Article 77 (7) may make provision requiring the removal of any obstruction of the road resulting from the exercise by the Ministry of its powers under this Article.

(5) A district council may, with the consent of the Ministry, exercise any of the powers of the Ministry under this Article.

Extinguishment of public rights of way

79.—(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by the Ministry for the purposes for which it was acquired or appropriated, the Ministry may by order extinguish any public right of way over the land where it is satisfied that the extinguishment of the right of way is necessary for the proper development of the land.

(2) In this Article any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with Article 54 as if this Article were in Part VIII.

Procedure for making orders under Article 77 or 79

80.—(1) Before making an order under Article 77 or 79 the Ministry shall publish in at least one newspaper circulating in the relevant area a notice—

- (a) stating the general effect of the order;
- (b) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person at all

reasonable hours during a period of twenty-eight days from the date of publication of the notice; and

(c) stating that, within that period, any person may by notice to the Ministry object to the making of the order.

(2) Not later than the date on which that notice is so published, the Ministry shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan, on every district council in whose area any land to which the order relates is situated, and on the Post Office and on any gas or electricity undertakers having any cables, mains, pipes, or wires laid along, across, under or over any land over which a right of way is to be extinguished, under the order.

(3) The Ministry may cause a public local inquiry to be held by the planning appeals commission to hear objections to the proposed order.

(4) After considering any objections to the order which are not withdrawn and, where a public local inquiry is held, the report of the planning appeals commission, the Ministry may make the order either without modification or subject to such modifications as it thinks fit.

(5) Where the Ministry makes an order under Article 77 or 79 the Ministry shall publish, in the manner specified in paragraph (1), a notice stating that the order has been made, and naming a place where a copy of the order may be seen at all reasonable hours; and paragraph (2) shall have effect in relation to any such notice as it has effect in relation to a notice under paragraph (1).

(6) In this Article “the relevant area”, in relation to an order, means the area in which any land to which the order relates is situated.

Telegraphic lines

81.—(1) Where an order is made under Article 79 and immediately before the date on which the order became operative, there was under, in, on, over, along or across the right of way a telegraphic line belonging to or used by the Post Office, the Post Office shall, subject to paragraph (2), have the same powers in respect of that line as if the order had not become operative.

(2) If the Ministry requires that the telegraphic line should be altered, paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 (a) 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 Ministry.

(3) If the Post Office removes the telegraphic line or any part of it and serves a notice on the Ministry notifying the Ministry of the removal, the Post Office shall be entitled to recover from the Ministry the expense of providing, in substitution for the line or part and any telegraphic line connected therewith which is rendered useless in consequence of the removal of the line or part, a telegraphic line in such other place as the Post Office may require.

(4) In this Article “telegraphic line” and “alter” have the same meanings as in the Telegraph Act 1878.

PART XI

FURTHER PROVISIONS AS TO HISTORIC BUILDINGS

Historic Buildings Council

82.—(1) There shall be constituted a Council, to be called “the Historic Buildings Council” (in this Order referred to as “the Council”), for the purpose of exercising such functions as may be conferred on the Council by this Order.

(a) 1878 c. 76.

(2) Schedule 2 shall have effect with respect to the Council.

Grants and loans for preservation of listed buildings

83.—(1) The Ministry may make grants or loans towards the whole or part of any expenditure incurred or to be incurred in the repair or maintenance of a listed building other than a building specified in Article 33 (1), or in the upkeep of any land comprising, or contiguous or adjacent to any such building, or in the repair or maintenance of any objects ordinarily kept in the building.

(2) The Ministry may attach to any grant or loan under this Article such conditions as it thinks fit for securing public access to the whole or part of the property to which the grant or loan relates.

(3) Before making any grant or loan under this Article the Ministry shall consult with the Council both as to the making of the grant or loan and as to the conditions subject to which it should be made.

(4) Any loan under this Article shall be made on such terms as to repayment, payment of interest and otherwise as the Ministry may, with the approval of the Ministry of Finance, determine.

Acquisition of listed buildings by agreement

84.—(1) The Ministry may acquire by agreement, whether by purchase, lease or otherwise, or may accept the gift of—

- (a) any listed building;
- (b) any land comprising, or contiguous or adjacent to any such building.

(2) The Ministry may purchase by agreement, or accept a gift of, any objects which are or have been ordinarily kept in a listed building which, or any estate in which, is vested in the Ministry, or in a listed building which is under its control or management.

(3) The Ministry may make such arrangements as it thinks fit for the management, custody and use of any property acquired or accepted by it under this Article.

(4) Where the Ministry is of the opinion that any property acquired by it under this Article would be more expediently or efficiently managed or preserved by—

- (a) the National Trust for Places of Historic Interest or Natural Beauty; or
- (b) any government department; or
- (c) a district council; or
- (d) such other body as the Ministry thinks suitable;

the Ministry may, with the approval of the Ministry of Finance, convey either for value or otherwise and upon such terms and conditions as the Ministry may think fit, that property to that Trust, government department, district council or other body, and may—

- (i) impose such restrictions as the Ministry may think necessary on the user of the land so conveyed; and
- (ii) grant or reserve such rights over such land as the Ministry thinks fit.

Acceptance by Ministry of endowments in respect of listed buildings

85.—(1) Where any instrument coming into operation after the making of this Order contains a provision purporting to be a gift of property to the Min-

istry upon trust to use the income thereof (either for a limited time or in perpetuity) for or towards the upkeep of a listed building or other property acquired or accepted by the Ministry under Article 84 or a building which the Ministry proposes so to acquire or accept, the Ministry may accept the gift, and if it does so, and the provision does not constitute a charitable trust, paragraphs (2) to (7) shall have effect.

(2) The validity of the gift and of the trust to use the income as aforesaid (in this Article referred to as “the endowment trust”) shall be deemed not to be, or ever to have been, affected by any rule of law or equity which would not have affected their validity if the trust had been charitable.

(3) In relation to the property (of whatsoever nature) comprised in the gift and any property for the time being representing that property (in this Article collectively referred to as “the trust fund”) the Ministry shall during the continuance of the endowment trust have the like powers of management, disposition and investment as, in the case of settled land are conferred by law on the tenant for life and the trustees of the settlement in relation to the land and the proceeds of its sale, respectively.

(4) Paragraph (3) does not prejudice any additional or larger powers conferred on the Ministry by the trust instrument.

(5) If while the endowment trust continues an event happens such that immediately thereafter the Ministry is neither entitled to any estate in the building to which the trust relates nor has the building under its control or management, and apart from this paragraph the endowment trust would not then be determined or be deemed to have failed, then on the happening of that event the endowment trust shall cease by virtue of this paragraph and the trust fund shall devolve accordingly as on a failure of the trust.

(6) If the trust instrument contains a provision whereby on the failure or determination of the endowment trust, the trust fund purports to be given, or to be directed to be held, on charitable trusts, the validity of that gift or direction shall be deemed not to be, or ever to have been, affected by any rule of law or equity relating to perpetuities.

(7) In this Article “gift” includes devise, bequest, appointment, conveyance, assignment, transfer and any other assurance of property, and “property” means real or personal property of any description.

Compulsory acquisition of listed buildings

86.—(1) If it appears to the Ministry that, owing to the neglect of the owner or person having control of a listed building, the listed building is liable to fall into disrepair, the Ministry may, if it considers it expedient in order to preserve the building, compulsorily acquire the building and any land comprising or contiguous or adjacent to it which appears to the Ministry to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

(2) Paragraph (1) applies to any listed building, except—

- (a) a building which is the subject of a guardianship or protection order under the Historic Monuments Act (Northern Ireland) 1971; or
- (b) a building for the time being included in a schedule of historic monuments published by the Ministry of Finance under that Act.

(3) Where the Ministry desires to acquire, otherwise than by agreement, any land under paragraph (1), the Ministry may make an order vesting that land

in the Ministry; and Articles 54 to 63 shall, with any necessary modifications, apply in relation to such acquisitions accordingly.

Compensation on compulsory acquisition of listed buildings

87. For the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which, before the date of the order vesting the land, was listed, it shall be assumed that listed building consent would be granted for any works for the alteration or extension of the building, or for its demolition.

PART XII

THE PLANNING APPEALS COMMISSION

The Planning Appeals Commission

88.—(1) There shall be established a Planning Appeals Commission (in this Part referred to as the “appeals commission”).

(2) Schedule 3 shall have effect with respect to the constitution and staff of the appeals commission.

Procedure

89.—(1) Where, under this Order or any other transferred provision, the appeals commission may determine an appeal, or hold an inquiry or hearing, the appeal or the inquiry or hearing held shall be heard by such member of the appeals commission as the chief commissioner may appoint in that behalf, but any decision on the appeal or report on the inquiry or hearing shall be made by the appeals commission.

(2) Where, under this Order or any other transferred provision, the appeals commission may determine an appeal in relation to a decision of the Ministry, the commission may confirm, reverse or vary the decision and any determination of the commission on the appeal shall have the like effect as a decision of the Ministry for the purpose of this Order or any such provision, except a provision relating to appeals.

(3) The Ministry, after consultation with the appeals commission, may make rules for regulating the procedure for proceedings before the appeals commission and, subject to this Order and any such rules, that procedure shall be such as the appeals commission may determine.

(4) Where, under this Order or any other transferred provision a person has been afforded an opportunity of appearing before and being heard by the appeals commission or the appeals commission holds an inquiry, the appeals commission shall make a report on the hearing or inquiry to the Ministry and the Ministry shall consider that report.

PART XIII

AMENDMENTS OF ACT OF 1965 IN RELATION TO PART I APPLICATIONS AND OF ACT OF 1971 AS TO PLANNING ASSUMPTIONS IN RELATION TO COMPENSATION FOR COMPULSORY ACQUISITION OF LAND

Part I applications under the Act of 1965 in relation to registered land

90. Where a person would have been entitled to make a Part I application (within the meaning of the Act of 1965) in relation to any land if that land had not at the specified date (as defined in section 5 (11) of that Act) been registered land he shall be deemed to have been so entitled at that date.

Special planning assumptions

91. The following section shall be inserted after section 12 of the Act of 1971—

“Special assumptions deriving from development plans.

12A.—(1) If the relevant land or any part thereof (not being land in a proposed redevelopment area or in the area of a proposed development scheme) consists or forms part of an area shown in the 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.

(2) If the relevant land or any part thereof (not being land in a proposed redevelopment area or in the area of a proposed development scheme) consists or forms part of an area shown in the 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.”.

Amendments of s. 13 of the Act of 1971 as to certificates of alternative development

92.—(1) The following shall be substituted for section 13 (1) of the Act of 1971—

“(1) Where an interest in land is proposed to be acquired by an authority possessing compulsory acquisition powers and that land or part thereof is in a proposed redevelopment area or in the area of a proposed development scheme or does not consist or form part of an area—

- (a) which the acquiring authority propose to develop for residential, commercial or industrial use or for a range of two or more uses any of which is residential, commercial or industrial; or
- (b) indicated in the development plan for a use which is primarily residential, commercial or industrial or for a range of two or more uses any of which is residential, commercial or industrial;

then, subject to subsection (2), either of the parties directly concerned may apply to the Ministry for a certificate under this section.”.

(2) The following shall be inserted after section 13 (7) of the Act of 1971—

“(7A) In determining, for the purposes of the issue of a certificate under this section, whether planning permission for any particular class of development might reasonably have been expected to be granted in respect of any land, the Ministry 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.”.

Appeal against certificate under s. 13 of the Act of 1971

93.—(1) Where the Ministry has issued a certificate under section 13 of the Act of 1971 in respect of an interest in land—

- (a) the person for the time being entitled to that interest; or
- (b) any authority possessing compulsory acquisition powers by whom that interest is proposed to be acquired;

may appeal to the planning appeals commission against that certificate.

(2) On any appeal under this Article against a certificate, the planning appeals commission shall consider the matters to which the certificate relates as if the application therefor had been made to it 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 the commission may consider appropriate.

(3) Before determining any appeal under this Article the commission shall, if any such person or authority as is mentioned in paragraph (1) (a) or (b) so desires, afford to each such person or authority and to the Ministry an opportunity of appearing before and being heard by the commission.

Extension of s. 14 of the Act of 1971

94. Regulations under section 14 of the Act of 1971 may include provisions as to the manner in which notices of appeals are to be given and the time for giving any such notice.

**PART XIV
MINERALS**

Minerals

95.—(1) This Order shall apply to development consisting of the winning and working of minerals subject to the adaptations and modifications specified in paragraph (2).

(2) For the purposes of this Order “use” in relation to the development of land does not include the use of land by the carrying out of mining operations, so, however, that—

- (a) Article 11 (3) shall apply in relation to the deposit of refuse or waste materials in the course of mining operations; and
- (b) in the following provisions:—
 - (i) Article 18 (1) (b);
 - (ii) Article 19;
 - (iii) Article 29 (4);
 - (iv) Article 42 (6) and (8), 44 (5), 47 and 48;references to the use of land or the purpose for which land may be used shall include the carrying out of mining operations and references to the continuance or discontinuance of a use of land shall include the continuance or discontinuance of mining operations.

Amendment of s. 8 of the Act of 1965 in relation to minerals

96.—(1) After section 8 (3) of the Act of 1965 insert—

“(3A) Where the development value of any land relates to a compensatable estate in land comprising minerals and since 25th February 1963 the fee simple estate or a tenancy in those minerals or part of them has, by sale or reservation or otherwise, been severed from the fee simple estate or a tenancy, as the case may be, in the remainder of the land, then if a payment falls to be made under this Part in respect of an act or event subsequent to the date of severance, that value shall be apportioned between the minerals and the remainder of the land and the minerals and the remainder of the land shall be regarded as separate areas of land for the purposes of the claim for compensation.”.

(2) In section 8 (4) of the Act of 1965, after “section” insert “‘fee simple estate’ means a legal or equitable fee simple absolute and”.

Modification of s. 26 (1) of the Act of 1965 in relation to minerals

97.—(1) Where any planning permission for development consisting of the winning and working of minerals is revoked or modified, a claim for expenditure or loss shall not be entertained under section 26 (1) of the Act of 1965 in respect of buildings, plant or machinery unless the claimant proves that he is unable to use the buildings, plant or machinery or (as the case may be) to use them except at the loss claimed.

(2) For the purposes of a claim for expenditure or loss to which paragraph (1) applies the Lands Tribunal may give a direction that the claim be severed from the remainder of the claim and be dealt with at such later date as may be fixed by the Tribunal either in such direction or subsequently on application by either party.

PART XV

AMENDMENTS OF AMENITY LANDS ACT (NORTHERN IRELAND)
1965

Agreements for management of land as nature reserve

98. After section 2 of the Amenity Lands Act (Northern Ireland) 1965 (a), insert—

“Agreements for management of land as nature reserve.

2A.—(1) The Ministry may enter into an agreement with any owner, lessee or occupier of any land, being land which in the opinion of the Ministry should be managed as a nature reserve, for securing that it is so managed.

(2) An agreement under subsection (1) may impose such restrictions as may be expedient on the exercise of rights over the land by persons who can be bound by the agreement.

(3) An agreement under subsection (1)—

(a) may provide for the management of the land in such manner, the carrying out thereon of such work, and the doing thereon of such other things as may be expedient for the purposes of the agreement;

(b) may provide for any of the matters mentioned in subsection (2) being carried out, or for the cost thereof being defrayed, either by the said owner or other persons, or by the Ministry, or partly in one way and partly in another;

(c) may contain such other provisions as to the making of payments by the Ministry, and in particular for the payment by

(a) 1965 c. 9 (N.I.).

it of compensation for the effect of the restrictions mentioned in subsection (2), as may be specified in the agreement.

(4) Where an owner of land, or other person having an estate in land, by such an agreement as is mentioned in subsection (1) grants or agrees to grant any right as respects the land, the grant or agreement shall be binding upon any person deriving title or otherwise claiming under the grantor to the same extent as it is binding upon the grantor notwithstanding that it would not have been binding upon that person apart from this subsection.

(5) An agreement under subsection (1) may be made irrevocably or subject to such provisions for revocation or variation as may be specified in the agreement.

(6) Subsection (3) of section 2 shall apply in relation to an agreement under subsection (1) as it applies in relation to an agreement under subsection (1) of that section.”.

Proposals as to National Parks

99. After section 7 of the Amenity Lands Act (Northern Ireland) 1965, insert—

“Proposals in relation to National Park. 7A.—(1) The Ministry may formulate proposals for the achievement, in relation to the area of a National Park, of the purposes referred to in section 6.

(2) Before formulating any proposals under subsection (1) the Ministry shall consult the Ulster Countryside Committee and each district council the whole or part of whose area is within the area of the National Park.”.

PART XVI GENERAL

Grants for research and bursaries

100.—(1) The Ministry may, with the consent of the Ministry of Finance, make grants for assisting establishments engaged in promoting or assisting research relating to, and education with respect to, the planning and design of the physical environment.

(2) For the purpose of enabling persons to undertake a course in town planning, the Ministry may, with the consent of the Ministry of Finance, make provision for the payment by the Ministry of sums by way of bursaries in respect of those persons.

Rights of entry

101.—(1) Any person duly authorised in writing by the Ministry may at any reasonable time enter any land for the purpose of surveying it in connection with—

- (a) the preparation, adoption or amendment of a development plan relating to the land under Part III or a development scheme under Part VII;
- (b) any application under Part IV or Articles 34, 39 and 41, or under any order or regulations made thereunder, for any permission, consent or determination to be given or made in connection with that land or any other land under Part IV or any of those Articles, or under any such order or regulations;

(c) any proposal by the Ministry to make or serve any order or notice under Part IV, V or VI, or under any order or regulations made thereunder.

(2) Any person duly authorised in writing by the Ministry may at any reasonable time enter any land for the purpose of surveying any building thereon in connection with a proposal to include the building in, or exclude it from, a list compiled under Article 31.

(3) Any person duly authorised in writing by the Ministry 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 Article 32 or 36, or whether the building is being maintained in a proper state of repair.

(4) Any person, being an officer of the Valuation Office of the Ministry of Finance or a person duly authorised in writing by the Ministry, may at any reasonable time enter any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land under this Order, or in connection with any claim for compensation in respect of any such acquisition.

(5) Any person duly authorised in writing by the Ministry may at any reasonable time enter any land in respect of which an order or notice has been made or served as mentioned in paragraph (1) (c), for the purpose of ascertaining whether the order or notice has been complied with.

(6) Subject to Article 102, any power conferred by this Article to survey land shall be construed as conferring power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein.

Supplementary provisions as to powers of entry

102.—(1) A person authorised under Article 101 to enter upon any land—

- (a) shall, if so required, produce evidence of his authority before so entering;
- (b) shall not demand admission as of right to any land which is occupied unless three days' notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a person acting in the exercise of his powers under Article 101 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20.

(3) If any person who, in compliance with Article 101, is admitted into a factory, workshop or work place 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 performing his duty in connection with the survey or estimate for which he was authorised to enter the premises, be guilty of an offence and liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months.

(4) Where any property is damaged in the exercise of a right of entry conferred under Article 101, or in the making of a survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the property from the Ministry.

(5) Any question of disputed compensation recoverable under paragraph (4) shall be determined by the Lands Tribunal.

(6) Where under Article 101 a person proposes to carry out any works authorised by virtue of paragraph (6) of that Article, he shall not carry out those works unless notice of his intention to do so was included in the notice required by paragraph (1) (b).

Local inquiries

103.—(1) The Ministry may cause a public local inquiry to be held for the purpose of the exercise of any of its functions under this Order.

(2) Without prejudice to section 23 of the Interpretation Act (Northern Ireland) 1954, the Ministry may make rules regulating the procedure to be followed in connection with inquiries held by or on behalf of the Ministry under this Order.

Information as to estates in land

104.—(1) For the purpose of enabling the Ministry to make an order or serve a notice or other document, which by any of the provisions of this Order, it is authorised or required to make or serve, the Ministry may 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 estate therein, and the name and address of any other person known to him as having an estate therein, whether as the owner of the fee simple, or as mortgagee, lessee or otherwise.

(2) Any person who, having been required in pursuance of this Article to give any information, fails to give that information, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(3) Any person who having been so required to give any information knowingly makes any misstatement in respect thereof shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

Power of Minister to appoint advisory bodies or committees

105. The Minister may appoint such advisory bodies or committees as he considers necessary to assist the Ministry in the exercise and performance of the functions conferred on the Ministry by this Order.

Regulations and orders

106.—(1) The Ministry may make regulations for prescribing anything which, under this Order is authorised or required to be prescribed.

(2) Any regulations made under this Order and orders made under Articles 11 (2) (e) and 13 shall be subject to negative resolution.

Financial provision

107.—(1) Any expenses incurred by the Ministry under this Order shall be defrayed either out of moneys hereafter appropriated for the purposes of defraying such expenses or, if the Ministry of Finance so directs, by means of sums charged on and issued out of the Consolidated Fund.

(2) The Ministry of Finance may borrow moneys for the purpose of providing money for issues out of the Consolidated Fund under paragraph (1).

(3) Any money borrowed under paragraph (2) shall be repaid within any period or periods not exceeding twenty-five years from the date of borrowing, and provision for such repayment may be made out of moneys thereafter appropriated for that purpose.

Registration of matters in Statutory Charges Register

108. There shall be included amongst the matters which are required to be registered in the Statutory Charges Register the matters set out in Schedule 4.

Savings and transitional provisions

109. The savings and transitional provisions set out in Schedule 5 shall have effect.

Amendments and repeals

110.—(1) The enactments set out in Schedule 6 shall have effect subject to the amendments specified in that Schedule.

(2) The enactments set out in columns 1 and 2 of Schedule 7 are hereby repealed to the extent specified in column 3 of that Schedule.

W. G. Agnew

SCHEDULES

SCHEDULE 1

Article 54 (3).

MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT
(NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 54 (3)

1. References to the Ministry or to the Council shall be construed as references to the Ministry within the meaning of this Order.
2. References to Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall be construed as references to that Schedule as modified by this Schedule.
3. Omit paragraph 1 of that Schedule.
4. In paragraph 2 of that Schedule—
 - (a) omit the words “in such form and manner as the Ministry directs”;
 - (b) in sub-paragraph (c) for the words “as may be prescribed” substitute the words “as the Ministry considers fit”.
5. In paragraph 3 (1) (b) after the word “held” insert the words “by the planning appeals commission or by any other person”.
6. In paragraph 4 omit the words from “and may provide” onwards.
7. In paragraph 5—
 - (a) in sub-paragraph (1) (a) omit the words “in the prescribed form and manner”;
 - (b) in sub-paragraph (1) (b) the two references to the said Act of 1972 shall be construed as references to this Order;
 - (c) in sub-paragraph (1) (d) omit the words “in the prescribed form”;
 - (d) in sub-paragraph (2) for the words “as may be prescribed” substitute the words “as the Ministry considers fit”.
8. In paragraph 6 (2) for the words “fund out of which the expenses of the Council in acquiring the land are to be defrayed” substitute the words “Consolidated Fund” and for the words “out of the Compensation Fund” there shall be substituted the words “made by the Ministry”.
9. In paragraph 11 (3) omit the words “in the prescribed form”.
10. In paragraph 12—
 - (a) in sub-paragraph (1) omit the words “such” and “as may be prescribed”;

(b) in sub-paragraph (2) for the words from “clerk” to “directs” substitute the words “Ministry as correct, and publish”.

11. In paragraph 14 (1) omit the words “in the prescribed form”.

12. In paragraph 15 (1) for the words “in the prescribed form” substitute the words “in such form as may be approved by the Ministry”.

13. Omit paragraph 19.

14. Omit paragraph 20 (2).

Article 82 (2).

SCHEDULE 2

THE HISTORIC BUILDINGS COUNCIL

1. The Council shall consist of a Chairman appointed by the Minister of Development and such number of other members so appointed as the Minister may determine.

2. A member of the Council shall hold office for a maximum period of three years but shall be eligible for re-appointment.

3. The Ministry may pay to the Chairman and members of the Council allowances for travelling and other out-of-pocket expenses incurred in connection with the business of the Council at such rates as the Ministry, with the approval of the Ministry of Finance, may determine.

4. The Council may regulate its own quorum and procedure.

5. The Council shall prepare and submit to the Minister an annual report, and the Minister shall lay a copy of the report before each House of Parliament.

6. The secretary to the Council shall be such person as the Ministry may appoint.

Article 88 (2).

SCHEDULE 3

CONSTITUTION AND STAFF OF PLANNING APPEALS COMMISSION

1.—(1) The appeals commission shall consist of the following persons appointed by the Governor, that is a chief commissioner and such number, if any, of other commissioners as the Ministry may, with the consent of the Ministry of Finance determine.

(2) A commissioner shall not engage, whether directly or indirectly, or be a partner of any person who engages, in a gainful profession, occupation or business if to do so would in any way be incompatible with his functions under this Order.

(3) There shall be paid to a commissioner such remuneration and allowances and to him, or in respect of his services, such pensions, allowances or benefits as the Ministry may determine with the approval of the Ministry of Finance.

(4) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (a), as applied to the Senate and House of Commons of Northern Ireland by Schedule 3 to that Act insert the following entry at the appropriate place in alphabetical order—
“The Planning Appeals Commission”.

2.—(1) The Ministry may appoint persons to assist the appeals commission in the performance of its functions.

(2) There shall be paid to persons appointed under sub-paragraph (1) such remuneration and allowances and to, or in respect of the service of, those persons such pensions, allowances or benefits as the Ministry may determine with the approval of the Ministry of Finance.

(a) 1957 c. 20

SCHEDULE 4

Article 108.

MATTERS REQUIRED TO BE REGISTERED IN THE STATUTORY CHARGES REGISTER

1. Any entry in a list compiled under Article 31.
2. Tree preservation orders.
3. Enforcement notices which take effect in relation to any land.
4. Listed building enforcement notices which take effect in relation to a building.

SCHEDULE 5

Article 109.

SAVINGS AND TRANSITIONAL PROVISIONS

1.—(1) Any application for permission to develop land made under the Act of 1944 to an interim development authority before the appointed day, being an application which has not been determined before that day, shall be treated for the purposes of this Order as an application made to the Ministry under Part IV for planning permission for the like development, and shall be treated as having been so made on the appointed day, except that so much of Article 15 as requires the publication of planning applications shall not apply.

(2) The repeal by Schedule 7 of sections 2 (6) and 5 of the Act of 1944 shall not affect the operation of those sections in their application to any appeal before the appointed day or to any planning decision given under that Act if before the appointed day no appeal has been brought against the decision and the period during which an appeal could have been brought has not expired.

(3) The repeal by Schedule 7 of section 6 of the New Towns Act (Northern Ireland) 1965 shall not affect the operation of that section in its application to an application for permission for the interim development of land if, before the appointed day, the Ministry has served a notice on the applicant, affording him an opportunity of appearing before a person appointed by the Ministry under section 6 (4) of that Act.

(4) Any application for permission for the interim development of land which, under section 6 of the said Act of 1965, is made to the Ministry, other than an application such as is mentioned in sub-paragraph (3), shall be treated for the purposes of this Order as an application made to the Ministry under Part IV for planning permission for the like development, and shall be treated as having been so made on the appointed day, except that so much of Article 15 as requires the publication of planning applications shall not apply.

2.—(1) Where any works on land existing at the appointed day were carried out, or any use to which land is put on that day, was begun otherwise than in accordance with planning permission granted under the Act of 1944 or under the terms of an interim development order then, subject to this paragraph, Part VI shall apply thereto as it applies in relation to development carried out after the appointed day without the grant of permission in that behalf under Part IV.

(2) The power of the Ministry under Article 19 to grant permission for the retention on land of buildings or works constructed or carried out before the date of application, or for the continuance of any use of land instituted before that date, shall include power to grant such permission in respect of which the Ministry is empowered to serve an enforcement notice by virtue of this paragraph; and where permission is so granted sub-paragraph (1) shall cease to apply to the works or use to which the permission relates, but without prejudice to the application thereto of the provisions of this Order relating to enforcement with respect to the contravention of conditions subject to which permission for development has been granted thereunder.

3.—(1) Where any works on land existing at the appointed day, or any use to which land is put on that day, has been authorised by a permission under the Act of 1944 granted subject to conditions, Part VI shall apply in relation to those works

or that use as if the conditions had been imposed on the grant of planning permission under Part IV.

(2) Without prejudice to the generality of sub-paragraph (1), where any such permission as aforesaid was granted subject to a condition in whatever form restricting the period for which the works or use may be continued on the land, then if that period has not expired at the appointed day and the works are not removed, or the use discontinued, at the end of that period, Part VI shall apply in relation thereto as if the works had been carried out, or the use begun, as the case may be, at the end of that period and without the grant of planning permission in that behalf under Part IV.

(3) The power of the Ministry under Article 19 to grant permission for the retention on land of buildings or works constructed or carried out before the date of the application, or the continuance of any use of land instituted before that date, shall include power to grant such permission in respect of any works or use authorised by a permission granted subject to any such conditions as are mentioned in sub-paragraph (2); and where permission is so granted sub-paragraph (2) shall cease to apply to the works or use to which the permission relates, but without prejudice to the application thereto of the provisions of Part VI with respect to the contravention of conditions subject to which permission for development has been granted under Part IV.

4. Articles 25 and 26 do not apply to planning permissions granted before 1st September 1971 but shall apply to planning permissions granted on or after that date.

5.—(1) Subject to sub-paragraph (2), every planning permission granted before 1st September 1971 shall, if the development to which it relates had not been begun before that date, be deemed to have been granted subject to a condition that the development must be begun within the period of five years following that date.

(2) Sub-paragraph (1) does not apply—

(a) to any planning permission which was granted before 1st September 1971 subject to an express condition that the development to which it relates should be begun or be completed not later than a specified date or within a specified period; or

(b) to any such planning permission as is mentioned in Article 25 (3).

6.—(1) Subject to sub-paragraph (2), where before 1st September 1971 outline planning permission (as defined by Article 26 (1)) has been granted for development consisting in or including the carrying out of building or other operations, and the development had not been begun before that date, that planning permission shall be deemed to have been granted subject to conditions to the following effect:—

(a) that, in the case of any reserved matter (as defined in that Article), application for approval must be made within three years of 1st September 1971; and

(b) that the development to which the permission relates must be begun by whichever is the later of the following dates:—

(i) the expiration of five years from 1st September 1971; or

(ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

(2) Sub-paragraph (1) does not apply to an outline planning permission granted before 1st September 1971 subject to an express condition that the development to which it relates should be begun, or be completed, or that application for approval of any reserved matter should be made, not later than a specified date or within a specified period.

(3) For the purposes of sub-paragraph (1), a reserved matter shall be treated as finally approved when an application for approval is granted or, when there is an appeal under section 2 (6) of the Act of 1944, on the date of the determination of the appeal.

7.—(1) In Articles 27 and 28, references to Articles 25 and 26 shall respectively include references to paragraphs 5 and 6.

(2) In Articles 27 and 70 (3) references to the conditions referred to in Articles 25 and 26 shall include references to the conditions referred to in paragraphs 5 and 6.

8. In respect of planning decisions given before the appointed day, references in Articles 25 and 26 and in paragraphs 5 and 6 to outline planning permission shall be construed as references to general planning permission and the reference in Article 27 (2) to an appeal under Article 23 shall be construed as a reference to an appeal under section 2 (6) of the Act of 1944.

9.—(1) Where permission for any development of land has been granted before the appointed day on an application made under the Act of 1944 or the New Towns Act (Northern Ireland) 1965 then if and so far as that development has not been carried out before the appointed day and the permission granted as aforesaid is in force immediately before that day, planning permission shall be deemed by virtue of this paragraph to be granted in respect thereof under Part IV, subject to the like conditions, if any, as were in force in respect of that permission at that time.

(2) Article 29 shall apply in relation to a permission which is deemed to be granted by virtue of sub-paragraph (1) as if it had been granted on an application made in that behalf under Part IV.

10. Where a hearing has been held under section 3 of the Act of 1944 before the appointed day but no order has been made under that section, the Ministry may make an order under Article 29 as if the hearing already held had been a hearing held under Article 29 following an application for the making of an order by the Ministry under that Article.

11. The repeal by Schedule 7 of sections 35 and 36 of the Act of 1965 shall not have effect in relation to a planning decision given under the Act of 1944 before the appointed day.

12.—(1) Where any planning permission granted in relation to any land before 4th February 1968 is subject to the conditions specified in paragraph 5 or 6, then notwithstanding anything in Part I of the Act of 1965, an application or a further application may, within five years from 1st September 1971, be made to the Ministry under section 5 of that Act requiring it to ascertain the development value of that land.

(2) In ascertaining the development value of any land in pursuance of an application or further application made by virtue of sub-paragraph (1), Part I of the Act of 1965 shall have effect as if—

- (a) any planning permission which, under section 3 (4) of that Act, would otherwise be taken into account in ascertaining the restricted or unrestricted value of the land, had not been granted;
- (b) for any reference to the specified date there were substituted a reference to 1st September 1971;
- (c) any reference (except in section 7 (a) of that Act) to a Part I application included a reference to such an application made by virtue of sub-paragraph (1).

(3) Except as provided by Article 81, nothing in this Order or in any instrument (within the meaning of the Interpretation Act (Northern Ireland) 1954) made under it shall affect any functions of the Post Office under the enactments relating to telegraphs or apply to any telegraphic lines (within the meaning of the Telegraph Act 1878) placed or maintained by virtue of those enactments.

SCHEDULE 6

Article 110 (1).

AMENDMENTS OF ENACTMENTS

The Planning and Housing Act (Northern Ireland) 1931 (c. 12)

1. In section 45 of the Planning and Housing Act (Northern Ireland) 1931—

- (a) in subsection (1) for “a scheme or” substitute “an”;
- (b) in subsection (2) for “a scheme or” substitute “an”;
- (c) in subsection (3) for “a scheme or” substitute “an”;
- (d) in subsection (4) for “a scheme or” substitute “an”;
- (e) in subsection (5) for “a scheme or” substitute “an”.

The Caravans Act (Northern Ireland) 1963 (c. 17)

2.—(1) In section 3 (3) for the words “Planning (Interim Development) Act (Northern Ireland) 1944 (in this Act referred to as ‘the Act of 1944’)” substitute “Planning (Northern Ireland) Order 1972 (in this Act referred to as ‘the Order of 1972’)”.

(2) In section 4 (1) for “Act of 1944” substitute “Order of 1972”.

(3) In section 4 (2) after “1944” insert “or by the planning appeals commission on an appeal under Article 23 of the Order of 1972”.

(4) In section 5 (3) for from “a local planning authority” to “1944” substitute “planning permission has been granted under the Order of 1972”.

(5) In section 8 (10) for the words from “a local planning authority” to “1944” substitute “planning permission has been granted under the Act of 1944 or the Order of 1972”.

(6) In section 25 (1) in the definition of “the Act of 1944” for from “has” onwards substitute “means the Planning (Interim Development) Act (Northern Ireland) 1944” and after the definition of “occupier” insert “‘the Order of 1972’ has the meaning assigned to it by section 3 (3)”.

(7) In section 25 (4) after “1944” insert “or the Order of 1972”.

(8) In the Schedule, in paragraph 9 for “Act of 1944” substitute “Order of 1972”.

The Amenity Lands Act (Northern Ireland) 1965 (c. 9)

3.—(1) In section 2 (3) of the Amenity Lands Act (Northern Ireland) 1965 for from “planning scheme” onwards substitute “development plan or development order under the Planning (Northern Ireland) Order 1972”.

(2) In section 3 (5) of that Act after “2” insert “or 2A”.

(3) In section 10 (1) of that Act for “local planning authority” and “authority” substitute “district council”.

(4) In section 12 (2) of that Act—

(a) for “local planning authority” and “authority” substitute “district council”;

(b) after “2” insert “or 2A”.

(5) In section 13 (1) (b) and (2) (b) after “2” insert “or 2A”.

(6) In section 15 (1) of that Act for “local planning authority” and “authority” substitute “district council”.

(7) In section 17 (1) of that Act after “2” insert “or 2A”.

(8) In section 18 (1) (b) of that Act after “2” insert “or 2A”.

The Land Development Values (Compensation) Act (Northern Ireland) 1965 (c. 23)

4.—(1) In section 15 (1) (b) (i) of the Land Development Values (Compensation) Act (Northern Ireland) 1965 for from “any plan” onwards substitute “a development plan for the area in which the land is situated”.

(2) In section 15 (5) of that Act after “1944” insert “or Article 23 of the Order of 1972”.

(3) In section 18 (2) (a) of that Act for from “undertaking” onwards substitute “direction under Article 69 of the Order of 1972”.

(4) In section 18 (2) (b) of that Act, for “undertaking” substitute “direction”.

(5) In section 18 (3) of that Act after “1944” insert “or Article 29 of the Order of 1972”.

(6) In section 18 (4) of that Act after “1944” insert “or Article 29 of the Order of 1972”.

(7) In section 26 (1) of that Act after “1944” where it first occurs insert “or Article 29 of the Order of 1972”.

(8) In section 26 (4) of that Act after “1944” insert “or Article 29 of the Order of 1972”.

(9) In section 26 (5) of that Act after “1944” insert “or Article 29 of the Order of 1972”.

(10) In section 26 (6) of that Act after “1944” insert “or Article 29 of the Order of 1972”.

(11) In section 27 (5) of that Act after “1944” insert “or Article 29 of the Order of 1972”.

(12) In section 29 of that Act, after subsection (6), insert—

“(6A) Section 24 shall have effect with respect to compensation payable under this section as it has effect with respect to compensation payable under Part II, except that the definition of “relevant development” shall have effect as if for the words “any new development” there were substituted the words “any development of a class specified in Schedule 1”.

(13) In section 30 of that Act after “1944” insert “or Article 29 of the Order of 1972”.

(14) In section 43 (1) of that Act, in the definition of “planning decision” after “application” insert “or an application under Part IV of the Order of 1972”; after the definition of “new development” insert “the Order of 1972 means the Planning (Northern Ireland) Order 1972”.

(15) In Schedule 1 to that Act—

(a) in paragraph 10 (b) after “1944” insert “or the Order of 1972”;

(b) in paragraph 12 (2) at the end insert “or an enforcement notice under Article 42 of the Order of 1972 served before that date has become or becomes effective”;

(c) in paragraph 12 (3) after “authority” insert “or the Ministry”, after “1944” insert “or under the Order of 1972” and after “that Schedule” insert “or that Order”.

The Land Registration Act (Northern Ireland) 1970 (c. 18)

5. In Schedule 11 to the Land Registration Act (Northern Ireland) 1970, in item 19 after “section 2 (3)” insert “or an agreement or waiver under section 2A,” and after item 26, insert—

“27. Any entry in a list compiled under Article 31 of the Planning (Northern Ireland) Order 1972.

28. Tree preservation orders made under the Planning (Northern Ireland) Order 1972.

29. Enforcement notices within the meaning of the Planning (Northern Ireland) Order 1972 which take effect in relation to any land.

30. Listed building enforcement notices within the meaning of the Planning (Northern Ireland) Order 1972 which take effect in relation to any building.”.

The Planning and Land Compensation Act (Northern Ireland) 1971 (c. 23)

6.—(1) In section 1 (1) (d) of the Planning and Land Compensation Act (Northern Ireland) 1971 for “planning authority” substitute “district council for the area”.

(2) In section 1 (1) (e) of that Act for “a local road authority” and “the planning authority has resolved to exercise, or” substitute “the Ministry”.

(3) After section 1 (1) (h) of that Act, insert—

- “(i) is land indicated in a development plan as land which may be required for the purposes of any function of a government department, district council or statutory undertaker”.
- (4) In section 5 (2) (g) of that Act for “or (e)” substitute “(e) or (i)”.
- (5) In section 6 (1) of that Act for “require the objection to be referred” substitute “refer the objection”.
- (6) In section 13 (7) of that Act after “(1)” insert “(a) or (b)”.
- (7) In section 17 (4) (b) of that Act, after “1944” insert “or Article 29 of the Order of 1972”.
- (8) In section 17 (5) of that Act, after “1944” insert “or Article 29 of the Order of 1972”.
- (9) In section 30 (1) of that Act, at the appropriate place in alphabetical order insert—
 “‘the Order of 1972’ means the Planning (Northern Ireland) Order 1972;”
 and, in the definition of “planning permission” after “application” insert “or under the Order of 1972”.

Article 110 (2).

SCHEDULE 7
ENACTMENTS REPEALED

| Chapter | Short Title | Extent of Repeal |
|-------------------------|--|---|
| 9 & 10 Geo. 5 c. 99 | The Housing (Additional Powers) Act 1919. | The whole Act, so far as unrepealed. |
| 11 & 12 Geo. 5 c. 19 | The Housing Act 1921. | Section 6. |
| 20 Geo. 5 c. 13 | The Petroleum (Consolidation) Act (Northern Ireland) 1929. | Section 11. |
| 21 & 22 Geo. 5 c. 12 | The Planning and Housing Act (Northern Ireland) 1931. | Part I. In section 45— in subsection (1), the words “planning schemes made under Part I of this Act, and”; in subsection (2), the words “scheme or” (four times) except where they occur the first time and “approved or” (three times); in subsections (3) to (5), the words “scheme or” wherever they occur, except the first time in each of those subsections and the words “approval or” wherever they occur; in subsection (6), the words from “to the” to “schemes) and” and “order or” (twice). Section 48. Schedules 1 to 3. In Schedule 4— paragraphs 1 and 2; in paragraph 3, the words “in Part I of this Act or”. |

| Chapter | Short Title | Extent of Repeal |
|------------------------------|--|---|
| 1 Edw. 8 & 1 Geo. 6 c. 10 | The Advertisements Regulation Act (Northern Ireland) 1937. | The whole Act. |
| 1944 c. 3 | The Planning (Interim Development) Act (Northern Ireland) 1944. | The whole Act. |
| 1944 c. 18 | The Planning Acts Amendment Act (Northern Ireland) 1944. | The whole Act. |
| 1948 c. 25 | The Development Services Act (Northern Ireland) 1948. | Section 4 (2). In section 6 (3), the words "the Planning Acts (Northern Ireland) 1931 and 1944". In section 10 (1), the definition of "planning authority". |
| 1948 c. 28 | The Roads Act (Northern Ireland) 1948. | In Schedule 4, in paragraph 2, the words "or the Planning Acts (Northern Ireland) 1931 and 1944". |
| 1963 c. 12 | The Special Roads Act (Northern Ireland) 1963. | Section 14. In section 29 the definition of "planning authority". |
| 1963 c. 17 | The Caravans Act (Northern Ireland) 1963. | In section 4 (2) the words "on an appeal under that section". Sections 13 to 20. In section 25 (1) the definition of "local planning authority". Section 25 (5). |
| 1964 c. 16 | The Clean Air Act (Northern Ireland) 1964. | Section 10 (4). |
| 1964 c. 29 | The Lands Tribunal and Compensation Act (Northern Ireland) 1964. | In Schedule 1, in Part I, the entry relating to the Planning and Housing Act (Northern Ireland) 1931. |
| 1965 c. 9 | The Amenity Lands Act (Northern Ireland) 1965. | Section 2 (1) (b) and the word "or" preceding it. Section 4 (1) (c) and the word "and" preceding it. Section 5 (1) (b) and the word "and" preceding it. |

| Chapter | Short Title | Extent of Repeal |
|-------------------|---|---|
| 1965 c. 9—(cont.) | The Amenity Lands Act (Northern Ireland) 1965—cont. | Sections 8 and 9. Section 10 (2) and (3). Section 15 (2) and (3). In section 25, the definitions of “local planning authority” and “Park Committee”. Schedule 4. |
| 1965 c. 13 | The New Towns Act (Northern Ireland) 1965. | Section 6. Schedule 3. |
| 1965 c. 23 | The Land Development Values (Compensation) Act (Northern Ireland) 1965. | In section 15 (5), the words from “or, where” onwards. In section 24 (14) in the definition of “proper development”, the words “after consultation with the relevant planning authority”. Section 29 (7) and (8). Sections 34 to 36. In section 43 (1), the definitions of “the Act of 1931” and of “planning authority” and the words from “and any expression” onwards. Section 46 (2). In Schedule 1, paragraph 4. |
| 1971 c. 16 | The Housing Act (Northern Ireland) 1971. | Section 42. |
| 1971 c. 23 | The Planning and Land Compensation Act (Northern Ireland) 1971. | Section 1 (1) (g). In section 10 (1) the definition of “local road authority”. In section 12 (2), the words “Subject to subsection (3),”. Section 12 (3). In section 13, in subsection (4), the words “Subject to subsection (5),” and subsection (5). Section 16. Sections 18 to 25. |

EXPLANATORY NOTE

(This Note is not part of the Order.)

Under this Order the Ministry of Development will become the planning authority for Northern Ireland in place of the local planning authorities. The Order also includes new procedures for the preparation of plans and development control, provides for the establishment of a Planning Appeals Commission, contains provisions for the protection of buildings of special architectural or historic merit and trees and gives powers for the carrying out of town centre redevelopment.

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