

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1.

#### PROCEDURE FOR DESIGNATING SITE OF NEW TOWN

##### *Making of orders under section 1*

- 1 (1) Where the Secretary of State proposes to make an order under section 1 of this Act, he shall prepare a draft of the order, describing the area to be designated as the site of the proposed new town by reference to a map, either with or without descriptive matter, together with such statement as he considers necessary for indicating the size and general character of the proposed new town.
- (2) In the case of any discrepancy between the map and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the draft order.

- 2 Before making the order the Secretary of State shall publish in the Edinburgh Gazette, in one or more newspapers circulating in the locality in which the proposed new town will be situated, and in such other newspapers, if any, as he considers appropriate in the circumstances, a notice—

- (a) describing the area to be designated as the site of the proposed new town;
- (b) stating that the draft of an order under section 1 of this Act has been prepared by the Secretary of State in relation to that area and is about to be considered by him;
- (c) naming a place within that area where a copy of the draft order (including any map or descriptive matter annexed thereto) and of the statement required by paragraph 1 above may be seen at any reasonable hour; and
- (d) specifying the time (not being less than 28 days from the publication of the notice in the Gazette) within which, and the manner in which, objections to the proposed order may be made;

and shall, not later than the date on which the notice is published in the Gazette, serve a like notice on the [<sup>F1</sup>local authority in whose area] the land, or any part of the land, to which the order relates is situated, and on any other local authority who appear to him to be concerned with the order.

#### Textual Amendments

- F1** Words in Sch. 1 para. 2 substituted (1.4.1996) by virtue of 1994 c. 39, s. 180(1), Sch. 13 para. 73(6); S.I. 1996/323, art. 4(1)(c)

- 3 If any objection is duly made to the proposed order and is not withdrawn, the Secretary of State shall, before making the order, cause a public local inquiry to be held with respect to the objection, and shall consider the report of the person by whom the inquiry was held.

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- 4 Subject to the provisions of paragraph 3 above, the Secretary of State may make the order either in terms of the draft or subject to such modifications as he thinks fit: Provided that, except with the consent of all persons interested, the Secretary of State shall not make the order subject to a modification including in the area designated as the site of the proposed new town any land not so designated in the draft order.
- 5 As soon as may be after an order has been made as aforesaid, the Secretary of State shall publish in the Edinburgh Gazette, in one or more newspapers circulating in the locality in which the proposed new town will be situated, and in such other newspapers, if any, as he considers appropriate in the circumstances, a notice stating that the order has been made and naming a place within the area designated by the order as the site of the proposed new town where a copy of the order may be seen at any reasonable hour, and shall serve a like notice—
- (a) on any local authority on whom notice of the proposed order was served under paragraph 2 above; and
  - (b) on any other person who has duly made an objection to the proposed order and, at the time of making it or thereafter, has sent to the Secretary of State a request in writing to serve him with the notice required by this paragraph, giving an address for service.

*Validity and date of operation of orders under section 1*

- 6 If any person aggrieved by an order under section 1 of this Act desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with in relation to the order, he may, within six weeks from the date on which notice of the making of the order is first published in accordance with the provisions of this Schedule in that behalf, make an application to the Court of Session: and on any such application the Court—
- (a) may by interim order suspend the operation of the order or any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
  - (b) if satisfied that the order or any provision contained therein is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.
- 7 Subject to the provisions of paragraph 6 above, an order under section 1 of this Act shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in that paragraph.

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## [<sup>F2</sup>SCHEDULE 1A

### EFFECT OF ORDER FOR REDUCTION OF DESIGNATED AREA

#### Textual Amendments

- F2** Sch. 1A inserted by New Towns and Urban Development Corporations act 1985 (c. 5, SIF 123:4), s. 10(2), Sch. 1

#### *Disposal of Land*

- 1 (1) Subject to sub-paragraphs (2) to (4) below, and without prejudice to any other power it may have to dispose of land under this Act, the development corporation shall dispose of any land which it has acquired—
- (a) which falls within the excluded land; and
  - (b) which is not required for purposes connected with the development of the new town or for the provision of services for the purposes of the new town.
- (2) Subsection (4) of section 18 applies to disposals under this Schedule as it applies to disposals under that section.
- (3) A corporation shall comply with such directions as the Secretary of State may give—
- (a) for preventing the duty mentioned in sub-paragraph (1) above from being performed; or
  - (b) for restricting the duty; or
  - (c) for requiring it to be performed in a manner specified in the directions.
- (4) The development corporation shall not, except with the consent of the Secretary of State, dispose of any excluded land otherwise than on the best terms that can reasonably be obtained.
- (5) Before giving a direction under sub-paragraph (3) above, the Secretary of State shall consult with the chairman of the corporation, or, if the chairman is not available, with the deputy chairman, unless he is satisfied that because of urgency consultation is impracticable.
- (6) A transaction between a person and a development corporation acting in purported exercise of their powers under this Schedule shall not be void by reason only that it was carried out either—
- (a) in contravention of a direction given by the Secretary of State under sub-paragraph (3) above, or
  - (b) without the consent mentioned in sub-paragraph (4) above having been obtained.]

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## SCHEDULE 2

Section 2.

### CONSTITUTION AND PROCEEDINGS OF DEVELOPMENT CORPORATIONS

#### *Appointment of members and tenure of office*

- 1 (1) The members of a development corporation (in this Schedule referred to as “the corporation”) shall be appointed by the Secretary of State after consultation with such local authorities as appear to him to be concerned with the development of the new town, and in appointing members of the corporation the Secretary of State shall have regard to the desirability of securing the services of one or more persons resident in or having special knowledge of the locality in which the new town will be situated.
- (2) The Secretary of State shall appoint two of the members to be respectively chairman and deputy chairman of the corporation.

2 Subject to the following provisions of this Schedule, a member of the corporation, and the chairman and deputy chairman of the corporation, shall hold and vacate office as such in accordance with the terms of the instrument by which they are respectively appointed.

3 If the chairman or deputy chairman of the corporation ceases to be a member of the corporation, he shall also cease to be chairman or deputy chairman, as the case may be.

4 Any member of the corporation may, by notice in writing addressed to the Secretary of State, resign his membership: and the chairman or deputy chairman may, by the like notice, resign his office as such.

- 5 If the Secretary of State is satisfied that a member of the corporation—
- (a) has become bankrupt or made an arrangement with his creditors; or
  - (b) is incapacitated by physical or mental illness; or
  - (c) has been absent from meetings of the corporation for a period longer than three consecutive months without the permission of the corporation; or
  - (d) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member.

the Secretary of State may remove him from his office as a member of the corporation.

6 A member of the corporation who ceases to be a member or ceases to be chairman or deputy chairman shall be eligible for reappointment.

#### *Remuneration*

7 The corporation shall pay to their members, in respect of their office as such, such remuneration and such reasonable allowances in respect of expenses properly incurred in the performance of their duties as may be determined by the Secretary of State with the consent of the Treasury, and shall pay to the chairman and deputy chairman, in respect of their office as such, such additional remuneration as may be so determined.

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*<sup>F3</sup> Pension benefits for chairmen*

**Textual Amendments**

**F3** Para. 7A inserted by [New Towns Act 1975 \(c. 42\), s. 2\(3\)](#)

- 7A In the case of any such person, who is or has been the chairman of the corporation, as the Secretary of State may with the consent of the Minister for the Civil Service determine, the Secretary of State may direct the corporation—
- (a) to pay to or in respect of that person on his retirement or death such pension, allowance or gratuity as may be so determined, or
  - (b) to make payments towards the provision of such a pension, allowance or gratuity.]

*Meetings and proceedings*

- 8 The quorum of the corporation and the arrangements relating to their meetings shall, subject to any directions given by the Secretary of State, be such as the corporation may determine.
- 9 The validity of any proceeding of the corporation shall not be affected by any vacancy among their members or by any defect in the appointment of any of their members.

*Instruments, etc.*

<sup>F4</sup>10 .....

**Textual Amendments**

**F4** [Sch. 2 paras. 10, 11](#) repealed (1.8.1995) by [1995 c.7, ss. 14\(2\), 15\(2\)](#), [Sch. 5](#) (with [ss. 9\(3\)\(5\)\(7\), 13, 14\(3\)](#))

<sup>F5</sup>11 .....

**Textual Amendments**

**F5** [Sch. 2 paras. 10, 11](#) repealed (1.8.1995) by [1995 c.7, ss. 14\(2\), 15\(2\)](#), [Sch. 5](#) (with [ss. 9\(3\)\(5\)\(7\), 13, 14\(3\)](#))

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## SCHEDULE 3

Sections 7, 8, 10.

### PROCEDURE FOR AUTHORISING COMPULSORY ACQUISITIONS

#### PART I

##### *Acquisitions by development corporations and local highway authorities*

- 1 (1) A compulsory purchase order made under this Act by a development corporation or local [<sup>F6</sup>roads] authority—
- (a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and
  - (b) subject to that, shall be in such form as may be prescribed.
- (2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.

#### **Textual Amendments**

**F6** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(16\)\(a\)](#)

- 2 (1) After submitting the order to the Secretary of State, the acquiring authority—
- (a) shall publish a notice in the prescribed form describing the land, stating that an order authorising the compulsory acquisition thereof has been submitted to the Secretary of State, naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the first local advertisement) within which, and the manner in which, objections to the order may be made; and
  - (b) shall serve on every person appearing from the valuation roll to have an interest in any of the land to which the order relates and on such other persons as the Secretary of State may specify, whether individually or as members of a class of persons, a notice to the like effect as the notice required to be published under head (a) above;
- Provided that head (b) above shall not apply if the order relates only to land within the area of a new town.
- (2) The notice required to be published by sub-paragraph (1)(a) above shall be published in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land to which the order relates is situated, and by affixing a copy of the notice, addressed to “the owners and any occupiers” of the land (describing it), to some conspicuous object or objects on the land.
- (3) Publication and, if applicable, service in accordance with the foregoing provisions of this paragraph shall be effected—
- (a) in the case of an order relating only to land within the area of a new town, as soon as may be after the order has been submitted;
  - (b) in any other case, as soon as may be after the order has been submitted and service as aforesaid has been effected.

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- (4) In this paragraph “the first local advertisement”, in relation to a notice, means the first publication of the notice in a newspaper circulating in the locality where the land to which the notice relates is situated, and includes, in relation to a notice so published once only, the publication thereof.
- 3 Subject to the provisions of paragraph 4 below in any case in which those provisions have effect, the Secretary of State may confirm the order with or without modification, but shall not, unless all persons interested consent, so modify it as to extend it to any land which was not designated by the order as submitted.
- 4 (1) If any objection is duly made to the order and is not withdrawn, the following provisions of this paragraph shall have effect.
- For the purposes of this Schedule an objection shall not be treated as duly made unless—
- (a) it is made within the time and in the manner specified in the notice required by paragraph 2 above, and
  - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- (2) Unless the Secretary of State decides apart from the objection not to confirm the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the Secretary of State shall, before making a final decision, consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- (3) In so far as the Secretary of State, after considering the grounds of the objection as set out in the original statement and any such further statement, is satisfied—
- (a) that the objection relates to a matter which can be dealt with by the official arbiter in assessing compensation, or
  - (b) in the case of an order relating to land within the area of a new town, that the objection is made on the ground that the acquisition is unnecessary or inexpedient,
- the Secretary of State may treat the objection as irrelevant for the purpose of making a final decision.
- (4) If, after considering the grounds of the objection as set out in the original statement and any such further statement, the Secretary of State is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is not submitted within the specified period, the Secretary of State may make a final decision without further investigation as to those matters.
- (5) Subject to sub-paragraphs (3) and (4) above, the Secretary of State, before making a final decision, shall afford to the objector an opportunity of appearing before and being heard by a person appointed for the purpose by the Secretary of State; and if the objector avails himself of that opportunity, the Secretary of State shall afford an opportunity of appearing and being heard on the same occasion to the acquiring authority and to any other persons to whom it appears to the Secretary of State to be expedient to afford it.
- (6) Notwithstanding anything in the foregoing provisions of this paragraph, if it appears to the Secretary of State that the matters to which the objection relates are such as

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to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time when he so determines shall be dispensed with.

- (7) In this paragraph any reference to making a final decision, in relation to an order, is a reference to deciding whether to confirm the order or what modification, if any, ought to be made.
- 5 As soon as may be after the order has been confirmed the acquiring authority shall publish in one or more newspapers circulating in the locality in which the land thereby designated is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at any reasonable hour, and shall serve a like notice on—
- (a) any owner or occupier of any of the land thereby designated who, at any time after the publication of the notice of the order as submitted, has sent to the acquiring authority a request in writing to serve him with the notice required by this paragraph giving an address for service and the prescribed particulars of his interest;
  - (b) any person who has duly made an objection to the order and at the time of making it or thereafter has sent to the acquiring authority such a request as aforesaid; and
  - (c) such other persons, if any, as the Secretary of State may specify, whether individually or as members of a class of persons.
- 6 The Secretary of State may by regulations make provisions for enabling proceedings required to be taken for the purposes of paragraphs 1, 2 and 4 above in relation to an order authorising a compulsory acquisition of land in an area proposed to be designated as the site of a new town by an order a draft of which has been published in accordance with Schedule 1 to this Act, to be taken, so far as may be practicable, contemporaneously with the proceedings on the last-mentioned order.

## PART II

### *Special provisions applying to acquisitions by local highway authorities*

- 7 (1) Subject to this paragraph, where a compulsory purchase order under section 8(1) of this Act is submitted to the Secretary of State, the notice required to be published under paragraph 2 above shall be published not only as mentioned in that paragraph but also by being exhibited at such places in the locality to which the order relates as appear to the acquiring authority to be suitable for bringing it to the attention of all persons concerned.
- (2) Sub-paragraph (1) above shall not apply in any case where the Secretary of State is satisfied that the land to which the compulsory purchase order relates is required for the purpose of a project—
- (a) which was adequately set out in a statement prepared for the purposes of an order under section 1 of this Act which has been made, or
  - (b) which has been the subject of an inquiry for the purposes of [F7] section 5 or 15 of the <sup>M1</sup>Roads (Scotland) Act 1984, or of either of the following enactments no longer in force—



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- (i) section 1 of the <sup>M2</sup>Trunk Roads Act 1946 (additional trunk roads and reorganisation of trunk road system);
- (ii) section 14(1) of the <sup>M3</sup>Special Roads Act 1949 (amendments of law relating to trunk roads).]

#### Textual Amendments

**F7** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(16\)\(b\)](#)

#### Marginal Citations

**M1** [1984 c. 54\(108\)](#).  
**M2** [1946 c. 30](#).  
**M3** [1949 c. 32](#).

- 8 Where there is submitted to the Secretary of State a compulsory purchase order under section 8(1) of this Act authorising the acquisition of any land forming a frontage to, or abutting on or adjacent to, a road, and the Secretary of State is satisfied as respects the whole or any part of the land—
- (a) that the acquisition would be requisite only for the purpose of controlling development, and
  - (b) that every owner has entered, or is willing to enter, into such an agreement with the local [<sup>F8</sup>roads] authority or the Secretary of State as is provided for by section 6(4) of this Act, or is bound by such an agreement, and that the agreement or proposed agreement is satisfactory for the said purpose.
- the order shall not be confirmed so as to authorise the acquisition of any part of the land as to which the Secretary of State is satisfied as aforesaid.

#### Textual Amendments

**F8** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(16\)\(c\)](#)

### PART III

#### *Acquisitions by Secretary of State*

- 9 (1) A compulsory purchase order made under section 8(2) of this Act by the Secretary of State—
- (a) shall designate the land to which it relates by reference to a map or maps annexed thereto, either with or without descriptive matter, and
  - (b) subject to that, shall be in such form as the Secretary of State may determine.
- (2) In the case of any discrepancy between the map or maps and any such descriptive matter, the descriptive matter shall prevail except in so far as may be otherwise provided by the order.
- 10 Where the Secretary of State proposes to make such an order, he shall prepare a draft thereof, and as soon as may be thereafter shall—
- (a) publish in the manner mentioned in paragraph 2 above, and

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- (b) serve on every person appearing from the valuation roll to have an interest in any of the land to which the draft relates and on any other persons on whom he may think it proper to effect such service,
- a notice, in such form as he may determine, similar, with requisite adaptations, to the notice mentioned in paragraph 2(1) above.
- 11 Paragraphs 3, 4, 5, 7 and 8 above shall have effect in relation to such an order—
- (a) with the substitution, for references to the acquiring authority, of references to the Secretary of State;
  - (b) with the substitution, for references to an order as submitted and to the confirmation of an order, of references respectively to an order as prepared in draft and to the making of an order;
  - (c) with the omission, in paragraph 4(5), of the reference to the acquiring authority;
  - (d) with the substitution, for the references to a compulsory purchase order under section 8(1) of this Act and to the notice required by paragraph 2 above, of references respectively to a compulsory purchase order under section 8(2) of this Act and to the notice required by paragraph 10 above; and
  - (e) with the substitution, in paragraph 8, of the words “the Secretary of State proposes to make” for the words “there is submitted to the Secretary of State”.

#### PART IV

##### *Special provisions as to certain descriptions of land*

- 12 In so far as a compulsory purchase order authorises the acquisition of land which is the property of a local authority, or of land belonging to the National Trust which is held by the Trust inalienably, the order shall be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the local authority or the National Trust, as the case may be, and has not been withdrawn.
- 13 (1) In so far as a compulsory purchase order authorises the acquisition of any land forming part of any common or open space, the order shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—
- (a) that there has been or will be given in exchange for such land other land, not being less in area (unless the persons in whom the land was vested otherwise agree), and being equally advantageous to the persons (if any) entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land acquired was vested, and subject to the like rights, trusts and incidents as attached to the land acquired; or
  - (b) that the land is required for the widening of an existing [<sup>F9</sup>road] and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,
- and certifies accordingly.

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- (2) Where it is proposed to give a certificate under this paragraph, the Secretary of State shall give public notice of his intention so to do, and—
- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
  - (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,
- the Secretary of State may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who made the inquiry, give the certificate.
- (3) As soon as may be after the giving of a certificate under this paragraph the acquiring authority shall publish in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land designated by the order is situated, a notice in the prescribed form stating that the certificate has been given.

#### Textual Amendments

**F9** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(16\)\(d\)](#)

## PART V

### *Validity and date of operation of compulsory purchase orders and certificates*

- 14 If any person aggrieved by a compulsory purchase order, or by a certificate under paragraph 13 above, desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provisions of this Schedule in that behalf, make an application to the Court of Session; and on any such application the Court—
- (a) may by interim order suspend the operation of the order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
  - (b) if satisfied that the order or any provision contained therein, or the certificate, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act or of any regulation made thereunder not having been complied with, may quash the order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.
- 15 Subject to the provisions of paragraph 14 above, a compulsory purchase order or a certificate under paragraph 13 above shall not, either before or after it has been made or confirmed or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the said paragraph 14.

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- 16 This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section 2(4) or 6 of the <sup>M4</sup>Statutory Orders (Special Procedure) Act 1945 but, except as aforesaid, shall have effect in relation to a compulsory purchase order to which that Act applies as if in paragraph 14 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Schedule in that behalf there were substituted a reference to the date on which the order becomes operative under the said Act of 1945, and as if in paragraph 15 the words from “and shall become operative” to the end were omitted.

**Marginal Citations**

**M4** 1945 c. 18 (9 & 10 Geo. 6)(89).

SCHEDULE 4

Section 10.

PROCEDURE FOR AUTHORISING COMPULSORY ACQUISITION  
OF STATUTORY UNDERTAKERS’ OPERATIONAL LAND

PART I

*Acquisitions by development corporations and local highway authorities*

- 1 An application by a development corporation or local [<sup>F10</sup>roads] authority for the purposes of section 10(1)(a) of this Act shall be in such form as may be prescribed, and shall describe by reference to a map the land to which the application relates.

**Textual Amendments**

**F10** Words substituted by virtue of [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 61\(17\)](#) (where the substitution is expressed to be in Sch. 4(1))

- 2 As soon as may be after submitting the application to the Secretary of State and the appropriate Minister the acquiring authority shall serve on every owner, lessee and occupier of any land to which the application relates a notice in the prescribed form describing the land, stating that an application under the said section 10(1) (a) has been submitted in relation to the land and is about to be considered by the Secretary of State and the appropriate Minister, naming a place where a copy of the application and of the map referred to therein may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the service of the notice) within which, and the manner in which, objections to the application may be made.
- 3 (1) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Secretary of State and the appropriate Minister may, if they think fit, make a compulsory purchase order in accordance with the application, with or without modification, but shall not, unless all persons interested consent, make the order with any modification which would extend it to any land to which the application did not relate.

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- (2) If any objection is duly made by any of the persons on whom notices are required to be served and is not withdrawn, the Secretary of State and the appropriate Minister shall, before making an order on the application, consider the objection and shall, if either the objector or the acquiring authority so desire, cause an inquiry to be held, and may then, if they think fit, make an order as aforesaid.
- (3) An objection shall not be deemed for the purposes of section 10 of this Act or this Schedule to be duly made unless—
- (a) it is made within the time and in the manner specified in the notice in that behalf, and
  - (b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.
- 4 A compulsory purchase order made on such an application shall be in such form as the Secretary of State and the appropriate Minister may determine, and shall describe by reference to a map the land to which the order relates.
- 5 As soon as may be after a compulsory purchase order has been made on such an application the acquiring authority shall serve on every owner, lessee and occupier of any land to which the order relates a notice in the prescribed form stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at any reasonable hour.

## PART II

### *Acquisitions by Secretary of State and appropriate Minister*

- 6 A compulsory purchase order made by the Secretary of State and the appropriate Minister in pursuance of section 10(1)(b) of this Act shall be in such form as they may determine, and shall describe by reference to a map and land to which the order relates.
- 7 Where the Secretary of State and the appropriate Minister propose to make such an order they shall prepare a draft thereof, and shall as soon as may be thereafter serve on every owner, lessee and occupier of any land to which the draft relates a notice in such form as they may determine describing the land, stating that the making of the order is proposed, naming a place where a copy of the draft and of the map referred to therein may be seen at any reasonable hour, and specifying the time (not being less than 28 days from the service of the notice) within which, and the manner in which, objections to the proposal may be made.
- 8 Paragraphs 3 and 5 of this Schedule shall have effect in relation to such an order—
- (a) with the substitution, for references to an application and to the making of a compulsory purchase order thereon, of references to such an order as prepared in draft and to the making of such an order, and
  - (b) with the omission of the references in paragraph 3(2) to the acquiring authority.

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*Changes to legislation: There are currently no known outstanding effects  
for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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### PART III

#### *Modification of Schedule 3, Part V in relation to compulsory purchase orders made in pursuance of s. 10*

- 9 Part V of Schedule 3 to this Act shall have effect in relation to a compulsory purchase order made in pursuance of section 10(1) of this Act with the substitution, for the references to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of that Schedule in that behalf, of references to the date on which the service of notices required by paragraph 5 above is completed.

### SCHEDULE 5

Sections 13, 26.

#### ASSESSMENT OF COMPENSATION TO STATUTORY UNDERTAKERS

### PART I

#### *Measure of compensation*

- 1 (1) Where statutory undertakers are entitled to compensation as mentioned in section 13 or section 26(7) of this Act, the amount of the compensation shall (subject to paragraph 2 below) be an amount calculated in accordance with the following provisions of this paragraph.
- (2) The said amount, subject to sub-paragraph (3) below, shall be the aggregate of the following amounts, that is to say—
- (a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation;
  - (b) whichever of the following is applicable, namely—
    - (i) where such an adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment, or
    - (ii) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation;
  - (c) where the compensation is under section 26(7) of this Act, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (3) Where any such adjustment as is mentioned in sub-paragraph (2)(a) above is made, the aggregate amount mentioned in that sub-paragraph shall be reduced by such amount (if any) as appears to the tribunal to be appropriate to offset—
- (a) the estimated value of any property (whether moveable or heritable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used, in so far as the value of the property has not been taken into account under sub-paragraph (2)(c) above, and
  - (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under sub-paragraph (2)(b) above and is directly attributable to the adjustment.
- and by any further amount which appears to the tribunal to be appropriate having regard to any increase in the capital value of heritable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under head (b) of this sub-paragraph.
- (4) References in this paragraph to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or a balance of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances; and references to an increase in net receipts shall be construed accordingly.
- (5) In this paragraph “proceeding giving rise to compensation” means the particular action (that is to say, the acquisition, the extinguishment of a right or the imposition of a requirement) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken.

*Exclusion of paragraph 1 at option of statutory undertakers*

- 2 (1) Where statutory undertakers are entitled to compensation in respect of a compulsory acquisition, the statutory undertakers may by notice in writing under this paragraph elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section 12 of the <sup>M5</sup>Land Compensation (Scotland) Act 1963) which would be applicable apart from paragraph 1 above, and if the undertakers so elect the compensation shall be ascertained accordingly.
- (2) An election under this paragraph may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of any part of that land.
- (3) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

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**Marginal Citations**

M5 1963 c. 51(28:2).

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*Changes to legislation: There are currently no known outstanding effects  
for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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*Procedure for assessing compensation where paragraph 1 applies*

- 3 Where the amount of any such compensation as is mentioned in paragraph 1(1) above falls to be ascertained in accordance with the provisions of the said paragraph 1, the compensation shall, in default of agreement, be assessed by the arbitration of the tribunal.
- 4 In this Part of this Schedule, “the tribunal” means the tribunal constituted in accordance with the provisions of Part II of this Schedule.

**PART II**

*Tribunal for assessment of compensation*

- 5 (1) The tribunal for the assessment of compensation referred to in Part I of this Schedule shall consist of four persons, namely—
- (a) an advocate or solicitor of not less than seven years’ standing appointed by the Lord President of the Court of Session to act as chairman;
  - (b) two persons appointed by the Secretary of State as persons having special knowledge and experience of the valuation of land and of civil engineering respectively; and
  - (c) for each claim coming before the tribunal, a person selected by the appropriate Minister, as a person having special knowledge and experience of statutory undertakings of the kind carried on by the claimant, from the members of a panel appointed by appropriate Ministers of persons appearing to them to have such knowledge and experience of statutory undertakings.
- (2) The Treasury may pay out of moneys provided by Parliament to the members of the tribunal such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine.
- (3) For the purposes of any proceedings arising before the tribunal the provisions of sections 3, 5 and 39 of the Land Compensation (Scotland) Act 1963 shall apply as they apply to proceedings on a question referred to the official arbiter under section 2 of that Act, but with the substitution, in sections 5 and 39 of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed.

SCHEDULE 6

Section 12.

MODIFICATIONS OF ENACTMENTS FOR PURPOSES OF THIS ACT

**PART I**

*The Lands Clauses Acts*

- 1 (1) The following sections of the <sup>M6</sup>Lands Clauses Consolidation (Scotland) Act 1845 (hereafter in this Schedule referred to as “the Act of 1845”) shall be excepted from incorporation with this Act, that is to say—
- (a) sections 120 to 124 (sale of superfluous land);



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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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- (b) section 127 (promoters to make good deficiencies in land tax and rates); and
  - (c) sections 142 and 143 (access to the special Act).
- (2) In construing the Lands Clauses Acts and the <sup>M7</sup>Railways Clauses Consolidation (Scotland) Act 1845 as incorporated with this Act—
- (a) this Act or, in relation to a compulsory acquisition, this Act and the compulsory purchase order, shall be deemed to be the special Act;
  - (b) in relation to a compulsory acquisition, references to the promoters of the undertaking or to the railway company shall be construed as references to the acquiring authority;
  - (c) references to the execution of the works or to the construction of the railway shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by this Act;
  - (d) in relation to any erection, construction or carrying out of any building or works so authorised, references in section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (compensation for injurious affection) to the railway company shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out; and
  - (e) references to the execution of the works or to the construction of the railway shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of the Secretary of State on land acquired by him under section 8 of this Act, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

**Marginal Citations**

**M6** 1845 c. 19(28:2).

**M7** 1845 c. 33(102).

- 2 For the purposes of section 116 of the Act of 1845 (powers of compulsory purchase not to be exercised after the expiration of the prescribed period) the prescribed period shall, in relation to any acquisition, be three years from the coming into operation of the compulsory purchase order.
- 3 The acquiring authority shall, without prejudice to any power in that behalf exercisable by them apart from this paragraph, be entitled, notwithstanding anything in section 17 of the Act of 1845 or in any other provision of the Lands Clauses Acts, to acquire one or some of two or more interests subsisting in the land without acquiring the other interest or interests subsisting therein.
- 4 (1) If the acquiring authority have, in respect of any of the land, served notice to treat on every owner of that land, they may at any time thereafter serve a notice—
- (a) on every occupier of any of that land, and
  - (b) on every person (other than such an occupier) who, having been served with a notice to treat in respect of that land, has requested the acquiring authority in writing to serve him with any notice under this sub-paragraph and has furnished them with an address for service thereof,
- describing the land to which the notice relates and stating their intention to enter on and take possession thereof at the expiration of such period (not being less than 28 days from the date on which the notice is served) as may be specified in the notice.

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- (2) At the expiration of the period specified in such a notice (or, where two or more such notices are required, and the periods specified in the several notices do not expire at the same time, of the last of those periods to expire), or at any time thereafter, the acquiring authority may enter on and take possession of the land to which the notice or notices relate without previous consent or compliance with sections 83 to 88 of the Act of 1845, but subject to payment of the like compensation for the land of which possession is taken, and interest on the compensation agreed or awarded, as they would have been required to pay if those provisions had been complied with.

**Modifications etc. (not altering text)**

- C1** Para. 4 modified by *Agriculture (Miscellaneous Provisions) Act 1968 (c. 34, SIF 2:1)*, s. 14(3), Sch. 4 paras. 4, 5 and *Land Compensation (Scotland) Act 1973 (c. 56, SIF 28:2)*, s. 53(2)
- C2** Sch. 6, para. 4 modified (25.9.1991) by *Agricultural Holdings (Scotland) Act 1991 (c. 55, SIF 2:3)*, ss. 57(4), 89(2), **Sch. 8 para. 6(d)**(with s. 45(3), Sch. 12 para. 3)

- 5 (1) The provisions of this paragraph shall have effect in substitution for the provisions of section 90 of the Act of 1845.
- (2) No person shall be required to sell a part only—
- (a) of any house, building or manufactory, or
  - (b) of a park or garden belonging to a house,
- if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the arbiter determines that—
- (i) in the case of a house, building or manufactory, the part proposed to be acquired can be taken without material detriment to the house, building or manufactory, or
  - (ii) in the case of a park or garden, the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house,
- and, if he so determines, he shall award compensation in respect of any loss due to the severance of the part proposed to be acquired, in addition to its value: and thereupon the party interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.
- 6 Notices required to be served by the acquiring authority may, notwithstanding anything in section 18 of the Act of 1845, be served and addressed in the manner specified in section 45 of this Act in relation to notices required to be served under this Act.

## PART II

### *The Land Compensation (Scotland) Act 1963*

- 7 The arbiter shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the arbiter is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case

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may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

8 ..... F11

**Textual Amendments**

**F11** Sch. 6 para. 8 repealed with saving by Land Compensation Act 1973 (c. 26, SIF 28:1), Sch. 3

**F12**SCHEDULE 7

**Textual Amendments**

**F12** Sch. 7 repealed by Town and Country Planning (Scotland) Act 1969 (c. 30, SIF 123:2), Sch. 11

..... F12

SCHEDULE 8

Sections 23, 28, 30.

PROCEDURE FOR DEALING WITH OBJECTIONS TO ORDERS UNDER SS 23, 28 AND 30

- 1 (1) In this Schedule “the relevant Minister” means—
- (a) in relation to an order under section 23 of this Act, the Secretary of State;
  - (b) in relation to an order under section 28 of this Act, the Secretary of State and the appropriate Minister;
  - (c) in relation to an order under section 30 of this Act, the appropriate Minister.
- (2) In this Schedule any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification, if any, ought to be made.
- 2 Unless the relevant Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the relevant Minister shall, before making a final decision, consider the grounds of the objection as set out in the statement comprised in or submitted with the objection, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- 3 In so far as the relevant Minister, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with by the official arbiter in assessing compensation, the relevant Minister may treat the objection as irrelevant for the purpose of making a final decision.
- 4 If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the relevant Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is

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not submitted within the specified period, the relevant Minister may make a final decision without further investigation as to those matters.

- 5 Subject to paragraphs 3 and 4 above, the relevant Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the relevant Minister; and if the objector avails himself of that opportunity, the relevant Minister shall afford an opportunity of appearing and being heard on the same occasion to the statutory undertakers, development corporation or other person, if any, on whose representation the order is proposed to be made, and to any other persons to whom it appears to the relevant Minister to be expedient to afford such an opportunity.
- 6 Notwithstanding anything in the foregoing provisions of this Schedule, if it appears to the relevant Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.

## SCHEDULE 9

Section 48.

### SAVING AND TRANSITIONAL PROVISIONS

- 1 In so far as any order, regulation, certificate, declaration or other instrument made, given or executed under any enactment repealed by this Act, or any other thing done under or by virtue of any such enactment, could have been made, given, executed or done under or by virtue of a corresponding provision of this Act, it shall not be invalidated by the repeals effected by section 48 of this Act but, subject to paragraph 3 below, shall have effect as if made, given, executed or done under or by virtue of that corresponding provision.
- 2 Without prejudice to paragraph 1 above, any provision of this Act relating to anything done or required or authorised to be done under, or by reference to, that provision or any other provision of this Act shall, subject to paragraph 3 below, have effect as if any reference to that provision or that other provision, as the case may be, included a reference to the corresponding provision of the enactments repealed by this Act.
- 3 Notwithstanding anything in paragraph 1 or 2 above, any advance made to a development corporation before the commencement of this Act under section 12(1) of the <sup>M8</sup>New Towns act 1946 shall be regarded for the purpose of section 43 of the <sup>M9</sup>New Towns Act 1965 as having been made under the said section 12(1) and not under section 37(1) (the corresponding provision) of this Act.

#### **Marginal Citations**

**M8** 1946 c. 68.

**M9** 1965 c. 59.

- 4 Nothing in this Act shall affect the enactments repealed thereby in their operation in relation to offences committed before the commencement of this Act.

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

- 5 Where any Act (whether passed before, or in the same Session as, this Act) or any document refers, either expressly or by implication, to an enactment (including an enactment as applied by the <sup>M10</sup>New Towns Act 1946) repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

**Marginal Citations**

**M10** 1946 c. 68.

- 6 (1) Notwithstanding section 8(3) of this Act, paragraph 12 of Schedule 3 to this Act shall not apply to a compulsory purchase order under section 8 of this Act in the case of which any of the following things is done before the commencement of this Act, that is to say—
- (a) the order is submitted to the Secretary of State under Part I of Schedule 3 to this Act or an application for the order is submitted to the Secretary of State and the appropriate Minister under Part I of Schedule 4 to this Act;
  - (b) a notice relating to a draft of the order is published under Part III of the said Schedule 3 or served under Part II of the said Schedule 4.
- (2) Notwithstanding the said section 8(3), paragraph 13 of Schedule 3 to this Act shall not apply to a compulsory purchase order under section 8(2) of this Act in the case of which either of the things mentioned in sub-paragraph (1)(b) above is done before the commencement of this Act.
- 7 Without prejudice to paragraph 5 above, the reference to section 51 of the <sup>M11</sup>Town and Country Planning (Scotland) Act 1945 as applied by the <sup>M12</sup>New Towns Act 1946 contained in Part II of Schedule 3 to the <sup>M13</sup>War Damage Act 1964 (which lists enactments repealed as from 1st October 1968) shall be construed as a reference to section 15(2) of this Act.

**Marginal Citations**

**M11** 1945 c. 33.

**M12** 1946 c. 68.

**M13** 1964 c. 25.

- 8 Nothing in this Schedule shall be taken as prejudicing the operation of section 38 of the <sup>M14</sup>Interpretation Act 1889 (which relates to the effect of repeals).

**Marginal Citations**

**M14** 1889 c. 63.

*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

## SCHEDULE 10

Section 48

### CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

**Modifications etc. (not altering text)**

- C3** The text of s. 48(2)(3), Schs. 10, 11 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### *M15 Rivers (Prevention of Pollution) (Scotland) Act 1951*

**Marginal Citations**

**M15** 1951 c. 66.

In section 35(1), in the definition of “local authority”, for the words “Act, 1946” there shall be substituted the words “(Scotland) Act 1968”, and for the words from “subsection (2)” to “Act, 1897,” there shall be substituted the words “section 34(1) of that Act entitled to exercise any powers”.

#### *M16 New Towns Act 1965*

**Marginal Citations**

**M16** 1965 c. 59.

In section 43(b), for the words from “whether” to the end of the paragraph, there shall be substituted the words “before the commencement of the New Towns (Scotland) Act 1968 under section 12(1) of the <sup>M17</sup>New Towns (Scotland) Act 1946 in its application to Scotland (to which section 37(1) of the said Act of 1968 corresponds), and after the commencement of the said Act of 1968 under the said section 37(1); and”.

**Marginal Citations**

**M17** 1946 c. 68.

## SCHEDULE 11

Section 48.

### REPEALS

**Modifications etc. (not altering text)**

- C4** The text of s. 48(2)(3), Schs. 10, 11 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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*Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968. (See end of Document for details)*

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<b>Chapter</b>	<b>Short Title</b>	<b>Extent of Repeal</b>
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act 1945.	The whole Act as applied by the New Towns Act 1946.
9 & 10 Geo. 6. c. 18.	The Statutory Orders (Special Procedure) Act 1945.	In Schedule 2, the entries relating to the Town and Country Planning (Scotland) Act 1945.
9 & 10 Geo. 6. c. 68.	The New Towns Act 1946.	The whole Act.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act 1947.	Section 43.  In Schedule 8, the entry relating to the New Towns Act 1946.
12 & 13 Geo. 6. c. 59.	The Licensing Act 1949.	Section 4(1).
6 & 7 Eliz. 2. c. 12.	The New Towns Act 1958.	The whole Act.
7 & 8 Eliz. 2. c. 62.	The New Towns Act 1959.	The whole Act, except— in section 14(1), the words from the beginning to “the New Towns Act 1959”; paragraph 1(10) of Schedule 1.
1964 c. 8.	The New Towns Act 1964.	The whole Act.
1964 c. 68.	The New Towns (No. 2) Act 1964.	The whole Act.
1966 c. 44.	The New Towns Act 1966.	Section 3.

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**Changes to legislation:**

There are currently no known outstanding effects for the New Towns (Scotland) Act 1968.