



# Town and Country Planning (Scotland) Act 1969

## 1969 CHAPTER 30

An Act to amend the law of Scotland relating to town and country planning, the compulsory acquisition of land and the disposal of land by public authorities; to make provision for Planning Inquiry Commissions; to make provision for grants for research relating to, and education with respect to, the planning and design of the physical environment; to extend the purposes for which Exchequer contributions may be made under the Housing and Town Development (Scotland) Act 1957; and for connected purposes. [25th June 1969]

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

### PART I

#### NEW PROVISIONS AS TO DEVELOPMENT PLANS

##### *Survey and structure plan*

#### **1 Survey of planning districts**

- (1) It shall be the duty of the local planning authority to institute a survey of their district, in so far as they have not already done so, examining the matters which may be expected to affect the development of that district or the planning of its development and to keep all such matters under review.
- (2) Notwithstanding that the local planning authority have carried out their duty under subsection (1) above, the authority may, if they think fit, and shall, if directed to do so

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by the Secretary of State, institute a fresh survey of their district examining the matters mentioned in that subsection.

- (3) Without prejudice to the generality of the foregoing provisions of this section, the matters to be examined and kept under review thereunder shall include the following, that is to say—
- (a) the principal physical and economic characteristics of the district of the authority (including the principal purposes for which land is used) and, so far as they may be expected to affect that district, of any neighbouring districts;
  - (b) the size, composition and distribution of the population of that district (whether resident or otherwise);
  - (c) without prejudice to paragraph (a) above, the communications, transport system and traffic of that district and, so far as they may be expected to affect that district, of any neighbouring districts ;
  - (d) any considerations not mentioned in any of the foregoing paragraphs which may be expected to affect any matters so mentioned;
  - (e) such other matters as may be prescribed or as the Secretary of State may in a particular case direct;
  - (f) any changes already projected in any of the matters mentioned in any of the foregoing paragraphs and the effect which those changes are likely to have on the development of that district or the planning of such development.
- (4) A local planning authority shall, for the purpose of discharging their functions under this section of examining and keeping under review any matters relating to the district of another such authority, consult with that other authority about those matters.
- (5) Subsection (1) above shall, as respects any period during which this section is in operation in part only of the district of a local planning authority, be construed as requiring a local planning authority to institute a survey of that part of that district and to keep under review matters affecting only that part of that district; and subsection (2) above shall, whether or not this section is in operation in the whole of such a district, have effect as if the power thereby conferred included power for a local planning authority to institute, and for the Secretary of State to direct them to institute, a fresh survey of part only of their district; and references in subsection (3) above to the district of a local planning authority or any neighbouring districts shall be construed accordingly.

## **2 Preparation of structure plans**

- (1) The local planning authority shall, within such period from the commencement of this section within their district as the Secretary of State may direct, prepare and send the Secretary of State a report of their survey under section 1 above and at the same time prepare and submit to him for his approval a structure plan for their district complying with the provisions of subsection (3) below.
- (2) The said report shall include an estimate of any changes likely to occur during such period as the Secretary of State may direct in the matters mentioned in section 1 (3) above; and different periods may be specified by any such direction in relation to different matters.
- (3) The structure plan for any district shall be a written statement—
  - (a) formulating the local planning authority's policy and general proposals in respect of the development and other use of land in that district

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- (including measures for the improvement of the physical environment and the management of traffic);
  - (b) stating the relationship of those proposals to general proposals for the development and other use of land in neighbouring districts which may be expected to affect that district'; and
  - (c) containing such other matters as may be prescribed or as the Secretary of State may in any particular case direct.
- (4) In formulating their policy and general proposals under subsection (3)(a) above the local planning authority shall secure that the policy and proposals are justified by the results of their survey under section 1 above and by any other information which they may obtain, and shall have regard—
- (a) to current policies with respect to the economic planning and development of the region as a whole ;
  - (b) to the resources likely to be available for the carrying out of the proposals of the structure plan; and
  - (c) to such other matters as the Secretary of State may direct them to take into account.
- (5) A local planning authority's general proposals under this section with respect to land in their district shall indicate any area of that district (in this Act referred to as an " action area ") which they have selected for the commencement during a prescribed period of comprehensive treatment, in accordance with a local plan prepared for the selected area as a whole, by development, redevelopment or improvement of the whole or part of the area selected, or partly by one and partly by another method, and the nature of the treatment selected.
- (6) A structure plan for any district shall contain or be accompanied by such diagrams, illustrations and descriptive matter as the local planning authority think appropriate for the purpose of explaining or illustrating the proposals in the plan or as may be prescribed or as may in any particular case be specified in directions given by the Secretary of State ; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.
- (7) At any time before the Secretary of State has, under section 4 below, approved a structure plan with respect to the whole of the district of a local planning authority, the authority may with his consent, and shall, if so directed by him, prepare and submit to him for his approval a structure plan relating to part of that district; and where the Secretary of State has given a consent or direction for the preparation of a structure plan for part of such a district, references in this Part of this Act to such a district shall, in relation to a structure plan, be construed as including references to part of that district.

### **3 Publicity in connection with preparation of structure plan**

- (1) When preparing a structure plan for their district and before finally determining its content for submission to the Secretary of State, the local planning authority shall take such steps as will in their opinion secure—
- (a) that adequate publicity is given in their district to the report of the survey under section 1 above and to the matters which they propose to include in the plan;
  - (b) that persons who may be expected to desire an opportunity of making representations to the authority with respect to those matters are made aware that they are entitled to an opportunity of doing so ; and

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- (c) that such persons are given an adequate opportunity of making such representations;
- and the authority shall consider any representations made to them within the prescribed period.
- (2) Not later than the submission of a structure plan to the Secretary of State, the local planning authority shall make copies of the plan as submitted to the Secretary of State available for inspection at their office and at such other places as may be prescribed; and each copy shall be accompanied by a statement of the time within which objections to the plan may be made to the Secretary of State.
- (3) A structure plan submitted by the local planning authority to the Secretary of State for his approval shall be accompanied by a statement containing such particulars, if any, as may be prescribed—
- (a) of the steps which the authority have taken to comply with subsection (1) above; and
  - (b) of the authority's consultations with, and consideration of the views of, other persons with respect to those matters.
- (4) If after considering the statement submitted with, and the matters included in, the structure plan and any other information provided by the local planning authority, the Secretary of State is satisfied that the purposes of paragraphs (a) to (c) of subsection (1) above have been adequately achieved by the steps taken by the authority in compliance with that subsection, he shall proceed to consider whether to approve the structure plan; and if he is not so satisfied he shall return the plan to the authority and direct them—
- (a) to take such further action as he may specify in order better to achieve those purposes ; and
  - (b) after doing so, to resubmit the plan with such modifications, if any, as they then consider appropriate and, if so required by the direction, to do so within a specified period.
- (5) Where the Secretary of State returns the structure plan to the local planning authority under subsection (4) above, he shall inform the authority of his reasons for doing so and, if any person has made to him an objection to the plan, shall also inform that person that he has returned the plan.
- (6) A local planning authority who are given directions by the Secretary of State under subsection (4) above shall forthwith withdraw the copies of the plan made available for inspection as required by subsection (2) above.
- (7) Subsections (2) to (6) of this section shall apply, with the necessary modifications, in relation to a structure plan resubmitted to the Secretary of State in accordance with directions given by him under subsection (4) as they apply in relation to the plan as originally submitted.

#### **4 Approval or rejection of structure plan by Secretary of State**

- (1) The Secretary of State may, after considering a structure plan submitted (or resubmitted) to him, either approve it (in whole or in part and with or without modifications or reservations) or reject it.

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- (2) In considering any such plan the Secretary of State may take into account any matters which he thinks are relevant, whether or not they were taken into account in the plan as submitted to him.
- (3) Where on taking any such plan into consideration the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—
  - (a) consider any objections to the plan, so far as they are made in accordance with regulations under this Part of this Act;
  - (b) afford to any persons whose objections so made are not withdrawn an opportunity of appearing before, and being heard by, a person appointed by him for the purpose; and
  - (c) if a local inquiry or other hearing is held, also afford the like opportunity to the local planning authority and such other persons as he thinks fit.
- (4) Without prejudice to subsection (3) above, on considering a structure plan the Secretary of State may consult with, or consider the views of, any local planning authority or other persons, but shall not be under an obligation to consult with, or consider the views of, any other authority or persons or, except as provided by that subsection, to afford an opportunity for the making of any objections or other representations, or to cause any local inquiry or other hearing to be held.

## **5 Alteration of structure plans**

- (1) At any time after the approval of a structure plan for their district a local planning authority may submit to the Secretary of State and shall, if so directed by the Secretary of State, submit to him within a period specified in the direction, proposals for such alterations to that plan as appear to them to be expedient or as the Secretary of State may direct, as the case may be, and any such proposals may relate to the whole or to part of that district.
- (2) The local planning authority shall send with the proposals submitted by them under this section a report of the results of their review of the relevant matters under section 1 above together with any other information on which the proposals are based, and sections 3 and 4 above shall apply with any necessary modifications in relation to the proposals as they apply in relation to a structure plan.

### *Local plans*

## **6 Preparation of local plans**

- (1) A local planning authority who are in course of preparing a structure plan for their district, or have prepared for their district a structure plan which has not been approved or rejected by the Secretary of State, may prepare a local plan for any part of that district.
- (2) Where a structure plan for their district has been approved by the Secretary of State, the local planning authority shall as soon as practicable consider, and thereafter keep under review, the desirability of preparing and, if they consider it desirable and they have not already done so, shall prepare a local plan for any part of the district.
- (3) A local plan shall consist of a map and a written statement and shall—

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- (a) formulate in such detail as the authority think appropriate the authority's proposals for the development and other use of land in that part of their district or for any description of development or other use of such land (including in either case such measures as the authority think fit for the improvement of the physical environment and the management of traffic); and
  - (b) contain such matters as may be prescribed or as the Secretary of State may in any particular case direct.
- (4) Different local plans may be prepared for different purposes for the same part of any district.
- (5) A local plan shall contain or be accompanied by such diagrams, illustrations and descriptive matter as the local planning authority think appropriate for the purpose of explaining or illustrating the proposals in the plan or as may be prescribed or as may in any particular case be specified in directions given by the Secretary of State; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.
- (6) Where an area is indicated as an action area in a structure plan which has been approved by the Secretary of State, the local planning authority shall (if they have not already done so) as soon as practicable after the approval of the plan prepare a local plan for that area.
- (7) Without prejudice to the foregoing provisions of this section, the local planning authority shall, if the Secretary of State gives them a direction in that behalf with respect to a part of a district for which a structure plan has been, or is in course of being, prepared, as soon as practicable prepare for that part a local plan of such nature as may be specified in the direction.
- (8) Directions under subsection (7) above may be given by the Secretary of State either before or after he approves the structure plan, but no such directions shall require a local planning authority to take any steps to comply therewith until the structure plan has been approved by him.
- (9) In formulating their proposals in a local plan the local planning authority shall secure that the proposals conform generally to the structure plan as it stands for the time being (whether or not it has been approved by the Secretary of State) and shall have regard to any information and any other considerations which appear to them to be relevant or which may be prescribed, or which the Secretary of State may in any particular case direct them to take into account.
- (10) Before giving a direction under the foregoing provisions of this section to a local planning authority, the Secretary of State shall consult the authority with respect to the proposed direction.
- (11) Where a local planning authority are required by this section to prepare a local plan, they shall take steps for the adoption of the plan.

## **7 Publicity for preparation of local plans**

- (1) A local planning authority who propose to prepare a local plan shall take such steps as will in their opinion secure—
  - (a) that adequate publicity is given in their district to any relevant matter arising out of a survey of the district carried out by them under section 1 of this Act and to the matters proposed to be included in the plan;

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- (b) that persons who may be expected to desire an opportunity of making representations to the authority 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 authority shall consider any representations made to them within the prescribed period.
- (2) When the local planning authority have prepared a local plan, they shall, before adopting it or submitting it for approval under section 9(4) of this Act (but not before the Secretary of State has approved the structure plan so far as it applies to the area of that local plan), make copies of the local plan available for inspection at their office and at such other places as may be prescribed and send a copy to the Secretary of State; and each copy made available for inspection shall be accompanied by a statement of the time within which objections to the local plan may be made to the authority.
  - (3) A copy of a local plan sent to the Secretary of State under subsection (2) above shall be accompanied by a statement containing such particulars, if any, as may be prescribed—
    - (a) of the steps which the authority has taken to comply with subsection (1) above ; and
    - (b) of the authority's consultations with, and their consideration of the views of, other persons.
  - (4) If, on considering the statement submitted with, and the matters included in, the local plan and any other information provided by the local planning authority, the Secretary of State is not satisfied that the purposes of paragraphs (a) to (c) of subsection (1) above have been adequately achieved by the steps taken by the authority in compliance with that subsection, he may, within twenty-one days of the receipt of the statement, direct the authority not to take any further steps for the adoption of the plan without taking such further action as he may specify in order better to achieve those purposes and satisfying him that they have done so.
  - (5) A local planning authority who are given directions by the Secretary of State under subsection (4) above shall—
    - (a) forthwith withdraw the copies of the local plan made available for inspection as required by subsection (2) above, and
    - (b) notify any person by whom objections to the local plan have been made to the authority that the Secretary of State has given such directions as aforesaid.

## **8 Inquiries, etc. with respect to local plans**

- (1) For the purpose of considering objections made to a local plan the local planning authority may, and shall in the case of objections so made in accordance with regulations under this Part of this Act, cause a local inquiry or other hearing to be held by a person appointed by the Secretary of State or, in such cases as may be prescribed by regulations under this Part of this Act, by the authority themselves, and—
  - (a) subsections (4) to (6) of section 50 of the Act of 1945 (power to summon and examine witnesses) shall apply to an inquiry held under this section as it applies to an inquiry held under that section ;
  - (b) the Tribunals and Inquiries Act 1958 shall apply to a local inquiry or other hearing held under this section as it applies to a statutory inquiry held by

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the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by a Minister were a reference to a decision taken by a local authority.

- (2) Regulations made for the purposes of subsection (1) above may—
- (a) make provision with respect to the appointment and qualifications for appointment of persons to hold a local inquiry or other hearing under that subsection, including provision enabling the Secretary of State to direct a local planning authority to appoint a particular person, or one of a specified list or class of persons ;
  - (b) make provision with respect to the remuneration and allowances of a person appointed for the said purpose.

## **9 Adoption and approval of local plans**

- (1) After the expiry of the period afforded for making objections to a local plan or, if such objections have been duly made during that period, after considering the objections so made, the local planning authority may, subject to section 7 above and subsections (2) and (3) below, by resolution adopt the plan either as originally prepared or as modified so as to take account of any such objections or of any matters arising out of such objections.
- (2) The local planning authority shall not adopt a local plan unless it conforms generally to the structure plan as approved by the Secretary of State.
- (3) After copies of a local plan have been sent to the Secretary of State and before the plan has been adopted by the local planning authority, the Secretary of State may direct that the plan shall not have effect unless approved by him.
- (4) Where the Secretary of State gives a direction under subsection (3) above, the local planning authority shall submit the plan accordingly to him for his approval, and—
- (a) section 4 above shall, subject to paragraph (b) below, apply in relation to the plan as it applies in relation to a structure plan;
  - (b) before deciding whether or not to approve the plan, the Secretary of State shall consider any objections thereto which have been considered by the authority, but he shall not be obliged to cause an inquiry or other hearing to be held into the plan if any such inquiry or hearing has already been held at the instance of the authority; and
  - (c) after the giving of the direction the authority shall have no further power or duty to hold a local inquiry or other hearing under section 8 above in connection with the plan.

## **10 Alteration to local plans**

- (1) A local planning authority may at any time make proposals for the alteration, repeal or replacement of a local plan adopted by them and may at any time, with the consent of the Secretary of State, make proposals for the alteration, repeal or replacement of a local plan approved by him.
- (2) Without prejudice to subsection (1) above, a local planning authority shall, if the Secretary of State gives them a direction in that behalf with respect to a local plan adopted by them or approved by him, as soon as practicable prepare proposals of a



kind specified in the direction, being proposals for the alteration, repeal or replacement of the plan.

- (3) The provisions of sections 6(9) to (11), 7, 8, and 9 above shall apply in relation to the making of proposals for the alteration, repeal or replacement of a local plan under this section and to alterations to a local plan so proposed as they apply in relation to the preparation of a local plan under the said section 6 and to a local plan prepared thereunder, but as if the reference in section 9(4)(a) to section 4 above were a reference to section 5 above.

### *Supplementary provisions*

## **11 Disregarding of representations with respect to development authorised by or under other enactments**

Notwithstanding anything in the foregoing provisions of this Act, neither the Secretary of State nor a local planning authority shall be required to consider representations or objections with respect to a structure plan, a local plan or any proposal to alter, repeal or replace any such plan if it appears to the Secretary of State or the authority, as the case may be, that those representations or objections are in substance representations or objections with respect to things done or proposed to be done in pursuance of—

- (a) an order or scheme under section 1 of the Trunk Roads Act 1936, sections 1 and 4 of the Trunk Roads Act 1946 or section 1, 3 or 14 of the Special Roads Act 1949 (trunk road orders, special road schemes and ancillary orders);
- (b) an order under section 1 of the New Towns Act 1946 or section 1 of the New Towns (Scotland) Act 1968 (designation of sites of new towns).

## **12 Default powers of Secretary of State**

- (1) Where, by virtue of any of the foregoing provisions of this Part of this Act, any survey is required to be carried out or any structure or local plan or proposals for the alteration, repeal or replacement thereof are required to be prepared or submitted to the Secretary of State, or steps are required to be taken for the adoption of any such plan or proposals, then—
- (a) if at any time the Secretary of State is satisfied after holding a local inquiry or other hearing that the local planning authority are not carrying out the survey or are not taking the steps necessary to enable them to submit or adopt such a plan or proposals within a reasonable period; or
  - (b) in a case where a period is specified for the submission or adoption of any such plan or proposals, if no such plan or proposals have been submitted or adopted within that period;

the Secretary of State may carry out the survey or prepare and make a structure plan or local plan or, as the case may be, alter, repeal or replace it, as he thinks fit.

- (2) Where under subsection (1) above the Secretary of State has power to do anything which should have been done by a local planning authority, he may, if he thinks fit, authorise any other local planning authority who appear to the Secretary of State to have an interest in the proper planning of the district of the first-mentioned authority to do that thing.
- (3) Where under this section anything which ought to have been done by a local planning authority is done by the Secretary of State or another such authority, the foregoing

provisions of this Part of this Act shall, so far as applicable, apply with any necessary modifications in relation to the doing of that thing by the Secretary of State and the latter authority and the thing so done.

- (4) Where the Secretary of State incurs expenses under this section in connection with the doing of anything which should have been done by a local planning authority, so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by that authority to him.
- (5) Where under this section anything which should have been done by one local planning authority is done by another such authority, any expenses reasonably incurred in connection with the doing of that thing by the latter authority, as certified by the Secretary of State, shall be repaid to the latter authority by the former authority.

### **13 Supplementary provisions as to structure and local plans**

- (1) Without prejudice to the powers conferred on him by the foregoing provisions of this Part of this Act, the Secretary of State may make regulations with respect to the form and content of structure and local plans and with respect to the procedure to be followed in connection with their preparation, submission, withdrawal, approval, adoption, making, alteration, repeal and replacement; and in particular any such regulations may—
  - (a) provide for the publicity to be given to the report of any survey carried out by a local planning authority under section 1 of this Act;
  - (b) provide for the notice to be given of, or the publicity to be given to, matters included or proposed to be included in any such plan, and the approval, adoption or making of any such plan or any alteration, repeal or replacement thereof or to any other prescribed procedural step, and for publicity to be given to the procedure to be followed as aforesaid ;
  - (c) make provision with respect to the making and consideration of representations with respect to matters to be included in, or objections to, any such plan or proposals for its alteration, repeal or replacement;
  - (d) without prejudice to paragraph (b) above, provide for notice to be given to particular persons of the approval, adoption or alteration of any plan, if they have objected to the plan and have notified the local planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge for receiving it;
  - (e) require or authorise a local planning authority to consult with or consider the views of other persons before taking any prescribed procedural step;
  - (f) require a local planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request in that behalf with copies of any plan or document which has been made public for the purpose mentioned in section 3(1)(a) or 7(1)(a) of this Act or has been made available for inspection under section 3(2) or 7(2) of this Act, subject (if the regulations so provide) to the payment of a reasonable charge therefor;
  - (g) provide for the publication and inspection of any structure plan or local plan which has been approved, adopted or made, or any document approved, adopted or made altering, repealing or replacing any such plan, and for copies of any such plan or document to be made available on sale.

- (2) Regulations under this section may extend throughout Scotland or to specified areas only and may make different provisions for different cases.
- (3) Subject to the foregoing provisions of this Part of this Act and to any regulations under this section, the Secretary of State may give directions to any local planning authority, or to local planning authorities generally—
  - (a) for formulating the procedure for the carrying out of their functions under this Part of this Act;
  - (b) for requiring them to give him such information as he may require for carrying out any of his functions under this Part of this Act.
- (4) Subject to the provisions of section 14 below and section 31 of the Act of 1959 (proceedings for challenging validity of certain orders etc.), a structure plan or local plan or any alteration, repeal or replacement thereof shall become operative on a date appointed for the purpose in the relevant notice of approval, resolution of adoption or notice of the making, alteration, repeal or replacement of the plan.

#### **14 Proceedings for questioning validity of structure plans, etc.**

- (1) If any person aggrieved by a structure plan or local plan, or by any alteration, repeal or replacement of any such plan, desires to question the validity of the plan, alteration, repeal or replacement on the ground that it is not within the powers conferred by this Part of this Act, or that any requirement of that Part or of any regulations made thereunder has not been complied with in relation to the approval or adoption of the plan, alteration, repeal or replacement, he may, within six weeks from the date of the publication of the first notice of the approval or adoption of the plan, alteration, repeal or replacement required by regulations under section 13(1) above, make an application to the Court of Session under this section.
- (2) On any application under this section, the Court of Session—
  - (a) may by interim order, wholly or in part, suspend the operation of the plan, alteration, repeal or replacement, either generally or in so far as it effects any property of the applicant, until the final determination of the proceedings;
  - (b) if satisfied that the plan, alteration, repeal or replacement is wholly or to any extent outside the powers conferred by this Part of this Act, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of that Part or of any regulations made thereunder, may wholly or in part quash the plan, alteration, repeal or replacement, as the case may be, either generally or in so far as it affects any property of the applicant.
- (3) Subject to subsection (2) above, a structure plan, local plan or any alteration, repeal or replacement of any such plan shall not be questioned in any legal proceedings whatsoever.

## PART II

### ENFORCEMENT OF PLANNING CONTROL

#### *Enforcement notices*

#### **15 New provision as to enforcement notices**

- (1) Where it appears to the local planning authority that there has been a breach of planning control after the end of 1964, then, subject to any directions given by the Secretary of State and to the following provisions of this section, the authority, if they consider 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 section (in this Act and the Act of 1947 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 Part of this Act, without the grant of planning permission required in that behalf in accordance with Part II of the Act of 1947 or if any conditions or limitations subject to which planning permission was granted have not been complied with.
- (3) Where an enforcement notice relates to a breach of planning control consisting in—
  - (a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land ; or
  - (b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land ; or
  - (c) the making without planning permission of a change of use of any building to use as a single dwelling-house,it may be served only within the period of four years from the date of the breach.
- (4) If any dispute arises under the last foregoing subsection as to the date on which the breach of planning control occurred, the onus of proof as to that date shall rest on the person claiming the benefit of that subsection.
- (5) An enforcement notice shall be served on the owner, lessee and occupier of the land to which it relates and on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.
- (6) An enforcement notice shall specify—
  - (a) the matters alleged to constitute a breach of planning control;
  - (b) the steps required by the authority 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.

- (7) 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.
- (8) Subject to section 16 below, an enforcement notice shall take effect at the end of such period, not less than twenty-eight days after the service of the notice, as may be specified in the notice.
- (9) The local planning authority may withdraw an enforcement notice (without prejudice to their power to serve another) at any time before it takes effect; and, if they do so, they shall forthwith give notice of the withdrawal to every person who was served with the notice.

## **16 Appeal against enforcement notice**

- (1) A person on whom an enforcement notice is served, or any other person having an interest 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 the Secretary of State against the notice on any of the following grounds:—
  - (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged ;
  - (b) that the matters alleged in the notice do not constitute a breach of planning control;
  - (c) in the case of a notice which, by virtue of section 15(3) above, may be served only within the period of four years from the date of the breach of planning control to which the notice relates, that that period has elapsed at the date of service ;
  - (d) in the case of a notice not falling within paragraph (c) above, that the breach of planning control alleged by the notice occurred before the beginning of 1965;
  - (e) that the enforcement notice was not served as required by section 15(5) of this Act;
  - (f) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control;
  - (g) that the specified period for compliance with the notice falls short of what should reasonably be allowed.
- (2) An appeal under this section shall be made by notice in writing to the Secretary of State, which shall indicate the grounds of the appeal and state the facts on which it is based ; and on any such appeal the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (3) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (4) On an appeal under this section—
  - (a) the Secretary of State may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not material;

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- (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 section 15(5) of this Act to be served with the notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- (5) On the determination of an appeal under this section, the Secretary of State shall give directions for giving effect to his determination including, where appropriate, directions for quashing the enforcement notice or for varying the terms of the notice in favour of the appellant; and the Secretary of State may—
  - (a) grant planning permission for the development to which the enforcement notice relates or, as the case may be, discharge any condition or limitation subject to which planning permission for that development was granted;
  - (b) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used, having regard to any past use thereof and to any planning permission relating to the land.
- (6) In considering whether to grant planning permission under subsection (5) above, the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject-matter of the enforcement notice, and to any other material considerations, and any planning permission granted by him under that subsection may—
  - (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Secretary of State thinks fit;and where under that subsection he discharges a condition or limitation, he may substitute for it any other condition or limitation.
- (7) Where an appeal against an enforcement notice is brought under this section, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (5) above, the following provisions shall have effect:—
  - (a) any planning permission granted thereunder shall be treated as granted on the said application;
  - (b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and
  - (c) for the purposes of section 12(5) of the Act of 1947 (local planning authority's register of planning applications) the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.
- (8) The validity of an enforcement notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds specified in paragraphs (b) to (e) of subsection (1) above.
- (9) Subsection (8) above shall not apply to proceedings brought under section 22(3) of the Act of 1947 against a person who—
  - (a) has held an interest in the land since before the enforcement notice was served under section 15 above ; and
  - (b) did not have the enforcement notice served on him there under ; and

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

## **17 Enforcement notice to have effect against subsequent development**

- (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 requirements contained in the enforcement notice, shall not discharge the enforcement notice.
- (2) Without prejudice to the preceding subsection, 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 II of the Act of 1947; 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 subsection (1) of this section, 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.
- (4) 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 £100.

### *Established use*

## **18 Certification of established use**

- (1) For the purposes of this Part of this Act, a use of land is established if—
  - (a) it was begun before the beginning of 1965 without planning permission in that behalf and has continued since the end of 1964 ; or
  - (b) it was begun before the beginning of 1965 under a planning permission in that behalf granted subject to conditions or limitations, which either have never been complied with or have not been complied with since the end of 1964 ; or
  - (c) it was begun after the end of 1964 as the result of a change of use not requiring planning permission and there has been since the end of 1964 no change of use requiring planning permission.
- (2) Where a person having an interest in land claims that a particular use of it has become established, he may apply to the local planning authority for a certificate (in this Act referred to as an " established use certificate ") to that effect:

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Provided that no such application may be made in respect of the use of land as a single dwelling-house, or of any use not subsisting at the time of the application.

- (3) An established use certificate may be granted (either by the local planning authority, or under section 19 below by the Secretary of State)—
  - (a) either for the whole of the land specified in the application, or for a part of it; or
  - (b) in the case of an application specifying two or more uses, either for all those uses or for some one or more of them.
- (4) On an application to them under this section, the local planning authority shall, if and so far as they are satisfied that the applicant's claim is made out, grant to him an established use certificate accordingly; and if and so far as they are not so satisfied, they shall refuse the application.
- (5) Where an application is made to a local planning authority for an established use certificate, then unless within such period as may be prescribed by a development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority, the authority give notice to the applicant of their decision on the application, then, for the purposes of section 19(2) below, the application shall be deemed to be refused.
- (6) Schedule 1 to this Act shall have effect with respect to established use certificates and applications therefor and to appeals under section 19 below.
- (7) An established use certificate shall, as respects any matters stated therein, be conclusive for the purposes of an appeal to the Secretary of State against an enforcement notice served in respect of any land to which the certificate relates, but only where the notice is served after the date of the application on which the certificate was granted.
- (8) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for an established use certificate or on an appeal arising out of such an application—
  - (a) knowingly or recklessly makes a statement which is false in a material particular ; or
  - (b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any document which is false in a material particular ; or
  - (c) with intent to deceive, withholds any material information,he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

## **19 Grant of certificate by Secretary of State on referred application or appeal against refusal**

- (1) The Secretary of State may give directions requiring applications for established use certificates to be referred to him instead of being dealt with by local planning authorities; and, on any such application being referred to him in accordance with such directions, section 18(4) above shall apply in relation to the Secretary of State as it applies in relation to the local planning authority in the case of an application determined by them.



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- (2) Where an application is made to a local planning authority for an established use certificate and is refused, or is refused in part, the applicant may by notice under this subsection appeal to the Secretary of State; and on any such appeal the Secretary of State shall—
  - (a) if and so far as he is satisfied that the authority's refusal is not well-founded, grant to the appellant an established use certificate accordingly or, as the case may be, modify the certificate granted by the authority on the application ; and
  - (b) if and so far as he is satisfied that the authority's refusal is well-founded, dismiss the appeal.
- (3) On an application referred to him under subsection (1) above or on an appeal to him under subsection (2) above, the Secretary of State may, in respect of any use of land for which an established use certificate is not granted (either by him or by the local planning authority), grant planning permission for that use or, as the case may be, for the continuance of that use without complying with some condition subject to which a previous planning permission was granted.
- (4) Before determining an application or appeal under this section, the Secretary of State shall, if either the applicant or appellant (as the case may be) or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) In the case of any use of land for which the Secretary of State has power to grant planning permission under this section, the applicant or appellant shall be deemed to have made an application for such planning permission; and any planning permission so granted shall be treated as granted on the said application.

### *Stop notices*

## **20 Power to stop further development pending proceedings on enforcement notice**

- (1) Where in respect of any land the local planning authority have served an enforcement notice, they may at any time before the notice takes effect serve a further notice (in this Act 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 local planning authority on any person who appears to them to have an interest 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 nor later than fourteen 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

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- (c) shall, without prejudice to subsection (7) below, 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, or on conviction on indictment to a fine; and if the offence is continued after conviction he shall be liable on summary conviction to a further fine not exceeding £50 for every day on which it is continued, or on conviction on indictment to a further fine.
- (6) A stop notice shall not be invalid by reason that the enforcement notice to which it relates was not served as required by section 15(5) above if it is shown that the local planning authority took all such steps as were reasonably practicable to effect proper service.
- (7) The local planning authority may at any time withdraw a stop notice (without prejudice to their 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 subsection.
- (8) Where a person (in this subsection called " the contractor ") is under contract to another person (in this subsection called " 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 subsection, 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 subsection applies only to contracts entered into before the end of 1969, whether before or after the commencement of this section.

## **21 Compensation for loss due to stop notice**

- (1) Where a stop notice ceases to have effect, a person who, at the time when it was first served, had an interest in the land to which it relates shall, in any of the circumstances mentioned in subsection (2) below, be entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice.
- (2) A person shall be entitled to compensation under subsection (1) above 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 paragraph (b), (c), (d) or (e) of section 16(1) above;
  - (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 local planning authority otherwise than in consequence of the grant by them 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 subsection (2) above 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 section shall be made to the local planning authority within the time and in the manner prescribed by regulations under the Act of 1947.
- (5) The loss or damage in respect of which compensation is payable under this section 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 section 20(8) of this Act.

### PART III

#### APPEALS

## **22 Determination of planning and similar appeals by persons appointed by the Secretary of State**

- (1) An appeal to which this section applies, being an appeal of a prescribed class, shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.
- (2) This section applies to—
- appeals under section 14 of the Act of 1947 (planning decisions), or under that section as applied by or under any other provision of that Act;
  - appeals under section 14 of the Civic Amenities Act 1967 (default powers and appeals in connection with tree preservation orders);
  - appeals under section 16 of this Act, or under that section as applied by regulations under any provision of the Act of 1947 ;
  - appeals under section 19(2) of this Act;
  - appeals under Schedule 4 to this Act.
- (3) Regulations made for the purpose of this section may provide for the giving of publicity to any directions given by the Secretary of State under subsection (1) above.
- (4) Subsection (1) above shall not affect any provision contained in this Act or the Act of 1947 or any instrument thereunder that an appeal shall lie to, or a notice of appeal shall be served on, the Secretary of State.
- (5) A person appointed under this section to determine an appeal shall have the like powers and duties in relation to the appeal as the Secretary of State under whichever are relevant of the following provisions, that is to say—
- in relation to appeals under section 14 of the Act of 1947, subsection (2) of that section, subsections (1) and (2) of section 12 of that Act, and section 36 of the Act of 1959 ;

- (b) in relation to appeals under section 14 of the Civic Amenities Act 1967, section 16(4) and (5) above;
- (c) in relation to appeals under section 16 of this Act, subsections (4) to (6) of that section ;
- (d) in relation to appeals under section 19 of this Act, subsections (2) and (3) of that section ;
- (e) in relation to appeals under paragraph 6 of Schedule 4 to this Act, sub-paragraph (3) of that paragraph;
- (f) in relation to appeals under paragraph 17 of that Schedule, sub-paragraphs (4) and (5) of that paragraph ;

and those relevant provisions, subsection (3) and, where relevant, subsection (7) of section 16 above or paragraph 6(5) or 17(6) of the said Schedule, as the case may be, shall apply accordingly.

- (6) The provisions of section 13(2) of the Act of 1947 as applied by section 14(2) of that Act, sections 16(2) and 19(4) above and paragraphs 6(4) and 17(2) of the said Schedule 4, relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an appeal which falls to be determined by a person appointed under this section, but before the determination of any such appeal the Secretary of State shall ask the applicant or appellant, as the case may require, and the local planning authority whether they wish to appear before and be heard by the person so appointed, and—
  - (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard as aforesaid ; and
  - (b) the person so appointed shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.
- (7) Subject to subsection (8) below, the decision of a person appointed under this section on any appeal to which this section applies shall be final.
- (8) An appeal determined by any such person by virtue of this section shall be treated for the purposes of Part II of the Act of 1947, Part IV of the Act of 1954 and sections 31 and 32 of the Act of 1959 as having been determined by the Secretary of State.

### **23 Determination of appeals by the Secretary of State**

- (1) The Secretary of State may, if he thinks fit, direct that an appeal which, by virtue of section 22 above and apart from this subsection, falls to be determined by a person appointed by the Secretary of State shall instead be determined by the Secretary of State.
- (2) A direction under this section shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the applicant or appellant, the local planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section 36(4) (b) of the Act of 1959 (representations by owners and agricultural tenants).
- (3) Where in consequence of a direction under this section an appeal to which section 22 above applies falls to be determined by the Secretary of State, whichever of the following provisions are relevant, that is to say those of—
  - the Act of 1947 ;
  - section 16 of this Act;

section 19(2) to (5) of this Act;  
Part I of Schedule 4 to this Act; and  
section 14 of the Civic Amenities Act 1967,

shall, subject to the following provisions of this section, apply to the appeal as if section 22 above had never applied thereto.

- (4) Where in consequence of a direction under this section the Secretary of State determines an appeal himself, he shall afford to the applicant or appellant, the local planning authority and any person who has made any such representations as aforesaid an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose either—
- (a) if the reasons for the direction raise matters with respect to which either the applicant or appellant, or the local planning authority or any such person have not made representations; or
  - (b) if the applicant or appellant or the local planning authority had not been asked in pursuance of section 22(6) above whether they wished to appear before and be heard by a person appointed to hear the appeal, or had been asked that question and had expressed no wish in answer thereto, or had expressed a wish to appear and be heard as aforesaid, but had not been afforded an opportunity of doing so.
- (5) Except as provided by subsection (4) above, where the Secretary of State determines an appeal in consequence of a direction under this section he shall not be obliged to afford any person an opportunity of appearing before, and being heard by, a person appointed for the purpose, or of making fresh representations or making or withdrawing any representations already made, and in determining the appeal the Secretary of State may take into account any report made to him by the person previously appointed to determine it.

## **24 Appointment of another person to determine an appeal**

- (1) Where the Secretary of State has appointed a person to determine an appeal under section 22 above, the Secretary of State may, at any time before the determination of the appeal, appoint another person to determine it instead of the first-mentioned person.
- (2) Subsections (5) to (8) of the said section 22 shall, subject to subsection (3) below, apply in relation to an appeal which falls to be determined by a person appointed under this section as they apply in relation to an appeal which falls to be determined by a person appointed under that section.
- (3) If before the appointment of a person under this section to determine an appeal the Secretary of State had, with reference to the person previously appointed, asked the question referred to in section 22(6) above, the question need not be asked again with reference to the person appointed under this section, and any answers to the question shall be treated as given with reference to him, but—
- (a) the consideration of the appeal or any inquiry or other hearing in connection therewith, if already begun, shall be begun afresh ; and
  - (b) it shall not be necessary to afford any person an opportunity of making fresh representations or modifying or withdrawing any representations already made.

## 25 Local inquiries and hearings

- (1) A person appointed under section 22 or 24 above to determine an appeal may (whether or not the parties have asked for an opportunity to appear and be heard) hold a local inquiry in connection with the appeal and shall hold such an inquiry if the Secretary of State directs him to do so.
- (2) Subject to subsection (3) below, the expenses—
  - (a) of any hearing held by virtue of section 22(6)(b) above ; and
  - (b) of any inquiry held by virtue of this section,shall be defrayed by the Secretary of State.
- (3) Subsections (4) to (9) of section 50 of /the Act of 1945 (power to summon and examine witnesses, and expenses at inquiries) shall apply to an inquiry held under this section as they apply to an inquiry held under that section.

## 26 Stopping of appeals

If before or during the determination, whether by the Secretary of State or otherwise, of an appeal under section 14 of the Act of 1947 (appeals against planning decisions) in respect of an application for planning permission to develop land, the Secretary of State forms the opinion that, having regard to the provisions of subsections (1), (2) and (4) of section 12 of the Act of 1947 (planning permission and industrial development certificates), of section 1(3) of the Control of Office and Industrial Development Act 1965 (office development permits) and of the development order and to any directions given under that order, planning permission for that development—

- (a) could not have been granted by the local planning authority, or
- (b) could not have been granted by them otherwise than subject to the conditions imposed by them,

he may decline to determine the appeal or to proceed with the determination, or, as the case may be, may direct that the determination shall not be begun or proceeded with.

## 27 Supplementary

- (1) The Tribunals and Inquiries Act 1958 shall apply to a local inquiry or other hearing held in pursuance of this Part of this Act as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by a Minister were a reference to a decision taken by a person appointed to determine the relevant appeal under section 22 or 24 above.
- (2) The functions of determining an appeal and doing anything in connection therewith conferred by this Part of this Act on a person appointed to determine an appeal thereunder who is an officer of the Scottish Office shall be treated for the purposes of the Parliamentary Commissioner Act 1967 as functions of that Office.

## PART IV

### ACQUISITION AND DISPOSAL OF LAND

#### *Land acquisition by government departments and local authorities*

#### **28 Repeal of existing provisions for compulsory acquisition of land**

Section 34 of the Act of 1947 (compulsory acquisition of designated land by Ministers, local authorities and statutory undertakers) and section 35 of that Act (compulsory acquisition by local authorities of land for development) shall cease to have effect, and section 47 of the Post Office Act 1953 shall cease to have effect so far as it authorises the Postmaster General to acquire land compulsorily ; and—

- (a) sections 29 and 30 below shall have effect instead of those sections; and
- (b) references in any other enactment to the designation in a development plan of land as land subject to compulsory acquisition and to land so designated shall cease to have effect.

#### **29 Compulsory acquisition of land in connection with development and for other planning purposes**

- (1) The Secretary of State may authorise a local authority to whom this section applies to acquire compulsorily any land within their area if he is satisfied—
  - (a) that the land is required in order to secure or assist 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, or both, of another area as a whole ; or
  - (d) that it is expedient to acquire the land immediately 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 under subsection (1) above the Secretary of State has power to authorise a local authority to whom this section applies to acquire any land compulsorily, he may, after the requisite consultation, authorise the land to be so acquired by another authority, being a local authority within the meaning of the Act of 1947.
- (3) Before giving an authorisation under subsection (2) above, the Secretary of State shall—
  - (a) where the land is in a county, consult with the county council;
  - (b) where the land is in a large burgh, consult with the town council;
  - (c) where the land is in a small burgh, consult with the town council and with the county council within whose area the burgh is situated.
- (4) The Acquisition Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act.

- (5) The local authorities to whom this section applies are the councils of counties, large burghs and small burghs.

**30 Compulsory acquisition of land by certain Ministers**

- (1) The Minister of Public Building and Works may acquire compulsorily any land necessary for the public service.
- (2) The Postmaster General may acquire compulsorily any land required for the purposes of the Post Office as defined in section 87 of the Post Office Act 1953.
- (3) The power of acquiring land compulsorily under this section shall include power to acquire a servitude or other right over land by the grant of a new right :
- Provided that this subsection shall not apply to a servitude or other right over any land which would, for the purposes of the Acquisition Act 1947, form part of a common or open space.
- (4) The Acquisition Act 1947 shall apply to any compulsory acquisition by the Minister of Public Building and Works or the Postmaster General under this section as it applies to a compulsory acquisition by another Minister in a case falling within section 1(1) of that Act.

**31 Power of authorities possessing compulsory purchase powers to make general vesting declarations**

- (1) Schedule 2 to this Act shall have effect for the purpose of enabling any authority to whom this section applies to vest in themselves by a declaration land which they are authorised by a compulsory purchase order to acquire and, with respect to the effect of such a declaration, the payment and recovery of sums in respect of compensation for the acquisition of land so vested and other matters connected therewith.
- (2) This section applies to any Minister or local or other public authority authorised to acquire land by means of a compulsory purchase order, and any such authority is in the said Schedule 2 referred to as an acquiring authority.

**32 Compulsory purchase or appropriation of open spaces**

- (1) In paragraph 11 of Schedule 1 to the Acquisition Act 1947 (which applies special parliamentary procedure in the case of compulsory purchase of land forming part of a common or open space, and is applied by section 39 of the Act of 1947 to appropriation of land by local authorities under that section), in sub-paragraph (1)(b) (exemption where land is required for widening of an existing highway and the Secretary of State certifies that it is unnecessary to give land in exchange), for the words " that the land is " there shall be substituted the words " that the land does not exceed 250 square yards in extent or is ".
- (2) Nothing in this section applies to or affects an order made before the commencement of this section.



### **33 Grounds on which Secretary of State may refuse to confirm purchase notice**

- (1) This section 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 an owner of the land serves a purchase notice under section 17 of the Act of 1947.
- (2) For the purposes of this section, land is to be treated as having 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 copy of the purchase notice is transmitted to the Secretary of State under section 17(2) of the Act of 1947 (action to be taken by authority on whom a purchase notice is served, when they are unwilling to comply with the notice) the Secretary of State, although satisfied that the land has become incapable of reasonably beneficial use in its existing state, shall nevertheless not be required under that subsection to confirm the notice if it appears to him that the land ought, in accordance with the previous planning permission, to remain undeveloped or, as the case may be, 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.

#### *Planning blight*

### **34 New descriptions of land qualifying for protection**

- (1) Section 38(1) of the Act of 1959 (land affected by planning proposals and qualifying for protection under Part IV of that Act) shall have effect as if the land specified therein included land which—
  - (a) is land indicated in a structure plan in force either as land which may be required for the purposes of any functions of a government department, local authority or statutory undertakers, or of the National Coal Board, or as land which may be included in an action area; or
  - (b) is land allocated for the purposes of any such functions by a local plan in force, or is land defined in such a plan as the site of proposed development for the purposes of any such functions; or
  - (c) is land in respect of which a compulsory purchase order is in force, where the appropriate authority have power to serve, but have not served, notice to treat in respect of the land ; or
  - (d) is land on which the Secretary of State proposes to provide a trunk road or a special road and has given to the local planning authority written notice of his intention to provide the road, together with maps or plans sufficient to identify the proposed route of the road.
- (2) Subsection (1)(a) above shall not apply to land situated in an area for which a local plan is in force, where that plan—

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- (a) allocates any land in the area for the purposes of such functions as are mentioned in that paragraph; or
  - (b) defines any land in the area as the site of proposed development for the purposes of any such functions.
- (3) In section 38(2) of the Act of 1959 (notice requiring purchase of claimant's interest on ground of planning blight), and for the purposes of that subsection as applied by section 38(3) of that Act, " the relevant date "—
- (a) in relation to land mentioned in subsection (1)(c) above, means the date when the order for its compulsory purchase was confirmed or made by the Secretary of State; and
  - (b) in relation to land mentioned in subsection (1)(d) above means the date on which the Secretary of State gave to the local planning authority the written notice specified in that paragraph.
- (4) Paragraphs (a) and (b) of subsection (1) above shall have effect instead of paragraphs (a) and (b) of the said section 38(1).

### **35 Power of heritable creditor to serve blight notice**

- (1) The provisions of this section shall have effect for enabling heritable creditors to take advantage of the provisions of Part IV of the Act of 1959 (notice requiring purchase by local planning authority on grounds of planning blight).
- (2) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the descriptions contained in paragraphs (b) to (f) of section 38(1) of the Act of 1959 or paragraphs (a) to (d) of section 34(1) of this Act and a person claims that—
- (a) he is entitled as heritable creditor (by virtue of a power which has become exercisable) to sell an interest in the hereditament or unit, giving immediate vacant possession of the land ; and
  - (b) since the relevant date (within the meaning of section 42 of the Act of 1959 or, as the case may be, section 34(3) above) he has made reasonable endeavours to sell that interest; and
  - (c) he has been unable to sell it except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were comprised in land of any of the said descriptions,
- then, subject to the provisions of this section, he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, Part IV of the Act of 1959.
- (3) Subsection (2) above shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the entirety of a hereditament or agricultural unit:

Provided that this subsection shall not enable a person—

- (a) if his interest as heritable creditor is in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of any interest in part of the hereditament or unit; or
- (b) if his interest as heritable creditor is only in part of a hereditament or agricultural unit, to make or serve any such notice or claim in respect of any interest in less than the entirety of that part.

- (4) Notice under this section shall not be served unless one or other of the following conditions is satisfied with regard to the interest which the heritable creditor claims he has the power to sell:—
- (a) the interest could be the subject of a notice under section 38 of the Act of 1959 served by the person entitled thereto on the date of service of the notice under this section ; or
  - (b) the interest could have been the subject of such a notice served by that person on a date not more than six months before the date of service of the notice under this section.
- (5) If any question arises which authority are the appropriate authority for the purposes of subsection (2) above, subsection (4)(b) above shall then apply with the substitution for the period of six months of a reference to that period extended by so long as it takes to obtain a determination of the question.
- (6) No notice under this section shall be served in respect of a hereditament or agricultural unit, or any part of a hereditament or agricultural unit, at a time when a notice already served under section 38 of the Act of 1959 is outstanding with respect to the hereditament, unit or part; and no notice shall be so served under section 38 of that Act at a time when a notice already served under this section is so outstanding.
- (7) For the purposes of subsection (6) above, a notice served under this section or section 38 of the Act of 1959 shall be treated as outstanding with respect to a hereditament or agricultural unit, or to part of a hereditament or agricultural unit, until—
- (a) it is withdrawn in relation to the hereditament, unit or part; or
  - (b) an objection to the notice having been made by a counter-notice under section 39 of the Act of 1959, either—
    - (i) the period of two months specified in section 40(1) of the Act of 1959 elapses without the claimant having required the objection to be referred to the Lands Tribunal under that section ; or
    - (ii) the objection, having been so referred to the Lands Tribunal, is upheld by the Tribunal with respect to the hereditament, unit or part.
- (8) The grounds on which objection may be made in a counter-notice under section 39 of the Act of 1959 to a notice under this section are those specified in paragraphs (a) to (c) of subsection (2) of that section and, in a case to which section 36(1) below applies, the ground specified in that subsection and also the following grounds:—
- (a) that, on the date of service of the notice under this section, the claimant had no interest as heritable creditor in any part of the hereditament or agricultural unit to which the notice relates ;
  - (b) that (for reasons specified in the counter-notice) the claimant had not on that date the power referred to in subsection (2)(a) above;
  - (c) that the conditions specified in subsection (2)(b) and (c) above are not fulfilled ;
  - (d) that (for reasons specified in the counter-notice) neither of the conditions specified in subsection (4) above was, on the date of service of the notice under this section, satisfied with regard to the interest referred to in that subsection.
- (9) The provisions of the Act of 1959 specified in Schedule 3 to this Act (being provisions relating to blight notices and to proceedings arising out of such notices) shall be amended in accordance with that Schedule.

### **36 Extension of grounds of objection to blight notice**

- (1) Where a blight notice is served under section 38 of the Act of 1959 or section 35 above, then in the case of land—
- (a) falling within section 38(1)(c) of the Act of 1959 or section 34(1)(a) of this Act, and
  - (b) not falling within section 38(1)(e) or (f) of that Act or section 34(1)(d) of this Act,

the grounds on which an objection may be made in a counter-notice under section 39 of the Act of 1959 shall include the grounds that the appropriate authority (unless compelled to do so by virtue of Part IV of that Act and section 35 above) do not propose to acquire in the exercise of any relevant powers any part of the hereditament or (in the case of an agricultural unit) any part of the affected area during the period of fifteen years from the date of the counter-notice or such longer period from that date as may be specified in the counter-notice.

- (2) An objection may not be made as aforesaid on the grounds mentioned in subsection (1) above if it may be made on the grounds mentioned in section 39(2)(b) of the Act of 1959 (objection on the grounds that the appropriate authority do not propose to acquire any part of the hereditament or affected area in question).
- (3) An objection on the grounds mentioned in subsection (1) above which is referred to the Lands Tribunal shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.
- (4) Paragraph 11(1) and (2) of Schedule 5 to the Act of 1959 (lapsing of compulsory purchase powers when objection under section 39 of that Act is successful) shall apply in relation to an objection on the said grounds as they apply in relation to an objection on the grounds mentioned in section 39(2)(b) of that Act.
- (5) A county council or a town council may, subject to such conditions as may be approved by the Secretary of State, advance money to any person for the purpose of enabling him to acquire a hereditament or agricultural unit in respect of which a counter-notice has been served under section 39 of the Act of 1959 specifying the grounds mentioned in subsection (1) above as, or as one of, the grounds of objection, if, in the case of a hereditament, its annual value does not exceed such amount as may be prescribed for the purposes of section 38(4)(a) of that Act (interests qualifying for protection under that Act).
- (6) Paragraph (c) of section 39(2) of the Act of 1959 (objection on the grounds that the appropriate authority propose to acquire part only of the affected area of an agricultural unit) and the following provisions of that Act, that is to say, sections 40(5) and 41(3) (subsequent proceedings where such an objection made) and paragraph 12(1) and (2) of Schedule 5 to that Act (lapsing of compulsory purchase powers when objection under section 39 is successful) shall apply to hereditaments as they apply to any such area, references in those provisions to the affected area being construed as references to the hereditament.
- (7) Subsection (6) above shall not affect the right of a claimant under section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 to sell the whole of the hereditament, or (in the case of an agricultural unit) the whole of the affected area, which he has required the authority to purchase.
- (8) Subsection (6) above shall not affect the right of a claimant under paragraph 4 of Schedule 2 to the Acquisition Act 1947 to sell (unless the Lands Tribunal otherwise

determines) the whole of the hereditament, or (in the case of an agricultural unit) the whole of the affected area, which he has required the authority to purchase; and accordingly, in determining whether or not to uphold an objection relating to a hereditament on the grounds mentioned in paragraph (c) of section 39(2) of the Act of 1959, the Tribunal shall consider (in addition to the other matters which they are required to consider) whether—

- (a) 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
- (b) in the case of a park or garden belonging to a house the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house.

### **37 Compensation for compulsory purchase of land in clearance areas and of historic buildings**

Where an interest in land is acquired in pursuance of a blight notice and the interest is one—

- (a) in respect of which a compulsory purchase order is in force under section 1 of the Acquisition Act 1947 (as applied by section 50 of this Act) containing a direction for minimum compensation under section 53 of this Act; or
- (b) in respect of which a compulsory purchase order is in force under Part III of the Housing (Scotland) Act 1966,

the compensation payable for the acquisition shall, in a case falling within paragraph (a) above, be assessed in accordance with the direction mentioned in that paragraph and, in a case falling within paragraph (b) above, be assessed in accordance with Part III of the said Act of 1966, in either case as if the notice to treat deemed to have been served in respect of the interest under section 41 of the Act of 1959 had been served in pursuance of the compulsory purchase order.

### **38 Miscellaneous amendments of Act of 1959**

- (1) Paragraphs 6 and 7 of Schedule 5 to the Act of 1959 (exclusion of compensation for severance and disturbance) shall cease to have effect.
- (2) For a person to be treated under section 42(2) or (4) of the Act of 1959 (definitions for purposes of blight notice provisions) as owner-occupier or resident owner-occupier of a hereditament, his occupation thereof at a relevant time or during a relevant period, if not occupation of the whole of the hereditament, must be or, as the case may be, have been occupation of a substantial part of it.
- (3) In subsections (2)(b), (3)(b) and (4)(b) of the said section 42, the period of six months ending not more than six months before the date of service shall in each case be replaced by a period of six months ending not more than twelve months before that date.
- (4) If any question arises which authority is the appropriate authority for the purposes of the said Part IV or section 35 of this Act—
  - (a) section 39(1) of the Act of 1959 (objection to blight notice) shall have effect as if the reference to the date of service of that notice were a reference to that date or the date on which that question is determined, whichever is the later; and

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- (b) subsections (2)(b), (3)(b) and (4)(b) of section 42 of that Act shall apply with the substitution for the reference to twelve months before the date of service of a reference to that period extended by so long as it takes to obtain a determination of the question.

*Disposal of land by public authorities*

**39 Restriction on exercise by public authorities of power of disposing of land**

Section 27(1) of the Act of 1959 (power of local and other public authorities to dispose of land without consent of a Minister) shall not apply to the exercise of a power to dispose of land conferred by any enactment if the power is exercised in respect of

- (a) an approved house within the meaning of section 1 of the Housing (Financial Provisions) (Scotland) Act 1968; or
- (b) housing accommodation in respect of which there has been made to a local authority (whether before or after the commencement of the Act of 1959) an Exchequer contribution within the meaning of section 67(2) of the said Act of 1968.

**PART V**

**BUILDINGS OF ARCHITECTURAL OR HISTORIC INTEREST**

*Restrictions on demolition and other works*

**40 New provisions restricting demolition etc. of listed buildings**

- (1) In this Part of this Act the expression "listed building " means a building which is for the time being included in a list compiled or approved by the Secretary of State under section 28 of the Act of 1947 (buildings of special architectural or historic interest).
- (2) Subject to this Part of this Act, 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 of this Act, he shall be guilty of an offence.
- (3) For the purposes of this Part of this Act, 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.
- (4) Works for the demolition of a listed building, or for its alteration or extension, are authorised under this Part of this Act only if—
- (a) the local planning authority or the Secretary of State have granted written consent (hereafter in this Act referred to as " listed building consent") for the execution of the works and the works are executed in accordance with the terms of the consent and of any conditions attached to the consent under section 41 below; and
- (b) in the case of demolition, notice of the proposal to execute the works has been given to the Royal Commission and thereafter either—

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- (i) for a period of at least three months following the grant of listed building consent and before the commencement of the works, reasonable access to the building has been made available to members or officers of the Commission for the purpose of recording it; or
  - (ii) the Commission have, by their Secretary or other officer of theirs with authority to act on the Commission's behalf for the purposes of this section, stated in writing that they have completed their recording of the building or that they do not wish to record it.
- (5) In subsection (4) above " the Royal Commission " means the Royal Commission on the Ancient and Historical Monuments of Scotland; but the Secretary of State may, by order made by statutory instrument, provide that the said subsection shall, in the case of works executed or to be executed on or after such date as may be specified in the order, have effect with the substitution for the reference to the Royal Commission of a reference to such other body as may be so specified.
- (6) Without prejudice to subsection (2) above, 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 section 41 below, he shall be guilty of an offence.
- (7) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction to imprisonment for a term of not more than three months or a fine of not more than £250, or both ; or
  - (b) on conviction on indictment to imprisonment for a term not exceeding twelve months or a fine, or both;and in determining the amount of any fine to be imposed on a person convicted on indictment the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.
- (8) In proceedings for an offence under this section it shall be a defence to prove that the works were urgently necessary in the interests of safety or health, or for the preservation of the building, and that notice in writing of the need for the works was given to the local planning authority as soon as reasonably practicable.
- (9) Section 27 of the Act of 1947 (building preservation orders) and subsections (5) to (8) of section 28 of that Act (recording of list and effect of inclusion of building in a list under that section of the Act) shall cease to have effect.
- (10) Every building which, before the commencement of this Part of this Act, was subject to a building preservation order under section 27 of the Act of 1947, but was not then included in a list compiled or approved under section 28 of that Act, shall be deemed to be a listed building; but the Secretary of State may at any time direct, in the case of any building, that this subsection shall no longer apply to it and the local planning authority in whose district the building is situated, on being notified of the Secretary of State's direction, shall give notice of it to the owner, lessee and occupier of the building.
- (11) Before giving a direction under subsection (10) above in relation to a building, the Secretary of State shall consult with the local planning authority and with the owner, lessee and occupier of the building.

#### **41 Provisions supplementary to s. 40**

- (1) Section 40 above 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 scheme or order under the enactments for the time being in force with respect to ancient monuments; or
  - (c) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.

For the purposes of this subsection, 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 after the commencement of this Part of this Act 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 subsection, 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 section 40 above 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 local planning authority or the Secretary of State, as the case may be, 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 section 12(1) of the Act of 1947 (grant of planning permission unconditionally or subject to conditions), the conditions which may under that subsection be attached to a grant of planning permission shall, in the case of such development as is referred to in subsection (2) above, 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;
  - (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 granted either unconditionally or subject to conditions, which may include such conditions as are mentioned in subsection (4) above.
- (6) Part I of Schedule 4 to this Act shall have effect with respect to applications to local planning authorities for listed building consent, the reference of such applications to the Secretary of State and appeals against decisions on such applications; and Part II of that Schedule shall have effect with respect to the revocation of listed building



consent by a local planning authority or the Secretary of State and to the compensation payable in the case of revocation.

*Owner's and lessee's rights on refusal of consent to works*

**42 Purchase notice on refusal or conditional grant of listed building consent**

(1) Where, on an application for listed building consent in respect of a building, consent is refused or is granted subject to conditions or, by an order under Part II of Schedule 4 to this Act, listed building consent is revoked or modified, then if any owner or lessee of the land claims—

- (a) that the land has become incapable of reasonably beneficial use in its existing state; and
- (b) in a case where consent was granted subject to conditions with respect to the execution of the works, or, as the case may be, was modified by the imposition of such conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the works in accordance with those conditions; and
- (c) in any case that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other works for which listed building consent has been granted or for which the local planning authority or the Secretary of State have undertaken to grant such consent,

he may, within the prescribed time and manner, serve on the local planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with Part III of Schedule 4 to this Act.

(2) A notice under this section is in this Act referred to as a " listed building purchase notice ".

(3) In this section and in Part III of Schedule 4 to this Act, " the land" means the building in respect of which listed building consent has been refused, or granted subject to conditions, or modified by the imposition of conditions, and in respect of which its owner or lessee serves a notice under this section, together with any land comprising the building, or contiguous or adjacent to it, and owned or occupied with it, being land as to which the owner or lessee claims that its use is substantially inseparable from that of the building and that it ought to be treated, together with the building, as a single holding.

(4) Where, for the purpose of determining whether the conditions specified in paragraphs (a) to (c) of subsection (1) above are satisfied in relation to the land, any question arises as to what is or would in any particular circumstances be 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 or of any works requiring listed building consent which might be executed to the building, other than works for which the local planning authority or the Secretary of State have undertaken to grant such consent.

**43 Compensation for refusal of consent to alterations etc.**

(1) The provisions of this section shall have effect where an application is made for listed building consent for the alteration or extension of a listed building and—

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- (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) the Secretary of State, either on appeal or on the reference of the application to him, refuses such consent or grants it subject to conditions.
- (2) If, on a claim made to the local planning authority within the prescribed time and manner, it is shown that the value of the interest of any person in the land is less than it would have been if listed building consent had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation of an amount equal to the difference.
- (3) In determining, for the purposes of subsection (2) above, whether or to what extent the value of an interest in land is less than it would have been if the permission had been granted, or had been granted unconditionally—
- (a) it shall be assumed that any subsequent application for the like consent would be determined in the same way; but
  - (b) if, in the case of a refusal of listed building consent, the Secretary of State, on refusing that consent, undertook to grant such consent for some other works to the building in the event of an application being made in that behalf, regard shall be had to that undertaking.
- (4) No compensation shall be payable under this section in respect of an interest in land in respect of which a purchase notice is served, whether under section 17, or under that section as applied by section 20(4), of the Act of 1947 or under section 42 above, being a purchase notice which takes effect.

### *Enforcement*

#### **44 Notice to enforce s. 40 control**

- (1) Where it appears to the local planning authority that any works have been, or are being, executed to a listed building in their area and are such as to involve a contravention of section 40(2) or (6) of this Act, then, subject to any directions given by the Secretary of State, they may, if they consider 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—
- (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 notice under this section is hereafter in this Act referred to as a " listed building enforcement notice " .
- (3) Every local planning authority shall keep available for public inspection free of charge at reasonable hours and at a convenient place a list containing particulars of any building in their district in respect of which a listed building enforcement notice has been served.

- (4) Part IV of Schedule 4 to this Act shall have effect with respect to listed building enforcement notices and appeals against such notices.

#### **45 Penalties for non-compliance with notice under s. 44**

- (1) Where a listed building enforcement notice has been served in respect of any building and any steps required by the notice to be taken have not been taken within the period allowed for compliance with the notice, the person responsible for the contravention mentioned in section 44(1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine.
- (2) If, after a person has been convicted under the foregoing provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and be liable—
- (a) on summary conviction to a fine of not more than £50 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled; or
  - (b) on conviction on indictment to a fine.
- (3) Any reference in this section or section 46 below to the period allowed for compliance with a listed building enforcement notice is a reference to the period specified in the notice as that within which the steps specified in the notice are required thereby to be taken, or such extended period as the local planning authority may allow for taking them.

#### **46 Execution and cost of works required under enforcement procedure**

- (1) If, within the period allowed for compliance with a listed building enforcement notice, any steps required by the notice to be taken have not been taken, the authority may enter on the land and take those steps and may recover from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in doing so.
- (2) Any expenses incurred by the owner, lessee or occupier of a building for the purpose of complying with a listed building enforcement notice and any sums paid by the owner or lessee of a building under subsection (1) of this section in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.
- (3) Section 22(5) of the Act of 1947 (application by regulations of certain provisions of the Water (Scotland) Act 1946 in relation to enforcement) shall apply in relation to a listed building enforcement notice as they apply in relation to an enforcement notice; and any regulations made by virtue of this subsection may provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection (1) of this section.

#### **47 Enforcement by, or by direction of, the Secretary of State**

- (1) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that a listed building enforcement notice should be served in respect of any land, he may give directions to the local planning authority requiring them to serve such a notice, or may himself serve such a notice; and any notice so

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served by the Secretary of State shall have the like effect as a notice served by the local planning authority.

- (2) In relation to a listed building enforcement notice served by the Secretary of State, the provisions of sections 45(3) and 46 of this Act shall apply as if for any reference therein to the local planning authority there were substituted a reference to the Secretary of State.

*Other measures open to local planning authority and the Secretary of State*

#### **48 Building preservation notice in respect of building not listed**

- (1) If it appears to the local planning authority, in the case of a building in their district which is not a listed building, that it is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as such, they may (subject to subsection (2) below) serve on the owner, lessee and occupier of the building a notice (referred to in this section as a "building preservation notice")—
- (a) stating that the building appears to them to be of special architectural or historic interest and that they have requested the Secretary of State to consider including it in a list compiled or approved under section 28 of the Act of 1947; and
  - (b) explaining the effect of subsections (3) and (4) of this section.
- (2) A building preservation notice shall not be served in respect of—
- (a) an ecclesiastical building which is for the time being used for ecclesiastical purposes; or
  - (b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments; or
  - (c) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.

For the purposes of this subsection, 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.

- (3) A building preservation notice shall come into force as soon as it has been served on the owner, lessee and occupier of the building to which it relates and shall remain in force for six months from the date when it is served or, as the case may be, last served; but it shall cease to be in force if, before the expiration of that period, the Secretary of State either includes the building in a list compiled or approved under section 28 of the Act of 1947 or notifies the local planning authority in writing that he does not intend to do so.
- (4) While a building preservation notice is in force with respect to a building, the provisions of this Part of this Act shall have effect in relation to it as if the building were a listed building; and if the notice ceases to be in force (otherwise than by reason of the building being included in a list compiled or approved under the said section 28), the provisions of Part V of Schedule 4 to this Act shall have effect with respect to things done or occurring under the notice or with reference to the building being treated as listed.

- (5) If, following the service of a building preservation notice, the Secretary of State notifies the local planning authority that he does not propose to include the building in a list compiled or approved under section 28 of the Act of 1947, the authority—
- (a) shall forthwith give notice of the Secretary of State's decision to the owner, lessee and occupier of the building; and
  - (b) shall not, within the period of twelve months beginning with the date of the Secretary of State's notification, serve another such notice in respect of the said building.

#### **49 Compensation for loss or damage caused by service of building preservation notice**

- (1) The following provisions of this section shall have effect as respects compensation where a building preservation notice is served.
- (2) The local planning authority shall not be under any obligation to pay compensation under section 43 of this Act in respect of any refusal of listed building consent or its grant subject to conditions, unless and until the building is included in a list compiled or approved by the Secretary of State under section 28 of the Act of 1947; but this subsection shall not prevent a claim for such compensation being made before the building is so included.
- (3) If the building preservation notice ceases to have effect without the building having been included in a list so compiled or approved, then, subject to a claim in that behalf being made to the local planning authority within the prescribed time and in the prescribed manner, any person who at the time when the notice was served had an interest in the building shall be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.
- (4) The loss or damage in respect of which compensation is payable under subsection (3) above shall include a sum payable in respect of a breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect thereto.

#### **50 Compulsory acquisition of listed building in need of repair**

- (1) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, the Secretary of State may authorise the local planning authority for the district in which the building is situated to acquire compulsorily under this section the building and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.
- (2) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, he may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required for the purpose mentioned in subsection (1) of this section.
- (3) This section applies to any listed building, not being—
  - (a) an ecclesiastical building which is for the time being used for ecclesiastical purposes; or

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- (b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments; or
- (c) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.

For the purposes of this subsection, 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.

- (4) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.
- (5) The Acquisition Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect—
  - (a) as if this section had been in force immediately before the commencement of that Act; and
  - (b) as if references therein to the Minister of Transport and to the enactments specified in section 1(1)(b) of that Act included respectively references to the Secretary of State and to the provisions of this section.
- (6) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the notice required to be served under paragraph 3 of Schedule 1 to the Acquisition Act 1947, apply to the sheriff for an order prohibiting further proceedings on the compulsory purchase order; and, if the sheriff is satisfied that reasonable steps have been taken for properly preserving the building, he shall make an order accordingly.
- (7) A person aggrieved by a decision of the sheriff on an application under subsection (6) above may appeal against the decision to the Court of Session, but on a question of law only.

## **51 Repairs notice as preliminary to compulsory acquisition**

- (1) Neither a local planning authority nor the Secretary of State shall start the compulsory purchase of a building under section 50 above unless at least two months previously they have served on the owner of the building, and not withdrawn, a notice under this section (referred to in this section as a "repairs notice")—
  - (a) specifying the works which they consider reasonably necessary for the proper preservation of the building; and
  - (b) explaining the effect of sections 50 to 53 of this Act.
- (2) Where a local planning authority or the Secretary of State have served a repairs notice, the demolition of the building thereafter shall not prevent them from being authorised under section 50 above to acquire compulsorily the site of the building, if the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished.
- (3) An authority or the Secretary of State may at any time withdraw a repairs notice served by them; and if they do so, they shall forthwith give notice of the withdrawal to the person who was served with the notice.

- (4) A person on whom there has been served a repairs notice shall not in any case be entitled to serve a purchase notice under section 17 of the Act of 1947 or section 42 of this Act until the expiration of three months beginning with the date of the service of the repairs notice; and if during the said period of three months the local planning authority or the Secretary of State start the compulsory acquisition of the building in the exercise of their powers under section 50 above, the person shall not be so entitled unless and until the compulsory acquisition is discontinued.
- (5) For the purposes of this section a compulsory acquisition—
- (a) is started when the local planning authority or the Secretary of State, as the case may be, serve the notice required by paragraph 3(b) of Schedule 1 to the Acquisition Act 1947 ; and
  - (b) is discontinued, in the case of acquisition by a local planning authority, when they withdraw the compulsory purchase order or the Secretary of State decides not to confirm it and, in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order.

## **52 Compensation on compulsory acquisition**

Subject to section 53 below, for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which, immediately before the date of the compulsory purchase order, 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, other than works in respect of which such consent has been applied for before the date of the order and refused by the Secretary of State, or granted by him subject to conditions, the circumstances having been such that compensation thereupon became payable under section 43 of this Act.

## **53 Minimum compensation in case of building deliberately left derelict**

- (1) A local planning authority proposing to acquire a building compulsorily under section 50 above, if they are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or re-development of the site or any adjoining site, may include in the compulsory purchase order as submitted to the Secretary of State for confirmation an application for a direction for minimum compensation; and the Secretary of State, if he is so satisfied, may include such a direction in the order as confirmed by him.
- (2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 50 of this Act, he may, if he is satisfied as mentioned in subsection (1) above, include a direction for minimum compensation in the compulsory purchase order.
- (3) The notice required to be served in accordance with paragraph 3(b) of Schedule 1 to the Acquisition Act 1947 (notices stating effect of compulsory purchase order, or, as the case may be, draft order) shall, without prejudice to so much of that paragraph as requires the notice to state the effect of the order, include a statement that the authority have made application for a direction for minimum compensation or, as the case may be, that the Secretary of State has included such a direction in the draft order prepared by him in accordance with paragraph 7 of that Schedule and shall in either case explain the meaning of the expression " direction for minimum compensation " .

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- (4) A direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the Land Compensation (Scotland) Act 1963 or this Act, that planning permission would not be granted for any development or re-development of the site of the building and that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to, and maintaining it in, a proper state of repair ; and if a compulsory purchase order is confirmed or made with the inclusion of such a direction, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.
- (5) Where a local planning authority include in a compulsory purchase order made by them an application for a direction for minimum compensation, or the Secretary of State includes such a direction in a draft compulsory purchase order prepared by him, any person having an interest in the building may, within twenty-eight days after the service of the notice required by paragraph 3(b) of Schedule 1 to the Acquisition Act 1947, apply to the sheriff for an order that the local planning authority's application for a direction for minimum compensation be refused or, as the case may be, that such a direction be not included in the compulsory purchase order as made by the Secretary of State ; and if the sheriff is satisfied that the building has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1) of this section, he shall make the order applied for.
- (6) A person aggrieved by a decision of the sheriff on an application under subsection (5) above may appeal against the decision to the Court of Session, but on a question of law only.
- (7) The rights conferred by subsections (5) and (6) of this section shall not prejudice those conferred by section 50(6) and (7) of this Act.

#### *Miscellaneous*

#### **54 Matters which may be taken into account by Secretary of State in listing buildings under s. 28 of Act of 1947**

In considering whether to include a building in a list compiled or approved under section 28 of the Act of 1947, the Secretary of State 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 consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.

#### **55 Application of control to local planning authorities**

- (1) In relation to buildings of local planning authorities which are listed, and to the execution of works for their demolition, alteration or extension, this Part of this Act shall have effect subject to such exceptions and modifications as may be prescribed.
- (2) Regulations made under this section may in particular provide for securing—



- (a) that any application by a local planning authority for listed building consent shall be made to the Secretary of State; and
- (b) that any notice authorised to be served under this Part of this Act in relation to a listed building belonging to a local planning authority shall be served by the Secretary of State.

## **56 Directions by Secretary of State to local planning authorities with respect to development affecting Conservation Areas**

- (1) The Secretary of State may give directions to local planning authorities with respect to the matters which they are to take into consideration in determining an application—
  - (a) for planning permission for any such development as is referred to in section 1(6) of the Civic Amenities Act 1967 (special provisions as to publicity for applications affecting Conservation Areas); or
  - (b) for listed building consent for any works for the demolition, alteration or extension of a building in a Conservation Area,and with respect to the consultations which such authorities are to undertake before determining any such application.
- (2) Different directions may under this section be given to different local planning authorities ; and any such directions may require an authority—
  - (a) before determining an application, to consult such persons or bodies of persons as the Secretary of State may specify, being persons or bodies appearing to him to be competent to give advice in relation to the development or description of development to which the directions have reference;
  - (b) to supply to any person or body, whom they are required by the directions to consult, specified documents or information enabling that person or body to form an opinion on which to base their advice;
  - (c) to establish committees, consisting either of members of the authority or of other persons, or of both, to advise the authority in relation to the determination of such applications as are referred to in subsection (1) above.

## **57 Additional requirement of notice for development affecting Conservation Areas**

- (1) Where an application for planning permission for any development of land is made to a local planning authority and the case is one where the authority are required to comply with section 1(6) of the Civic Amenities Act 1967 (special publicity for planning applications affecting Conservation Areas) the authority shall also comply with the following subsection.
- (2) The authority shall, for not less than seven days, display a notice on or near the land to which the application relates, containing the same particulars as are required by section 1(6)(a) of the Civic Amenities Act 1967 to be contained in the notice to be published by the authority in a local newspaper.
- (3) An application for planning permission to which section 1(6) of the said Act of 1967 applies shall not be determined by the local planning authority before both of the following periods have elapsed, namely:—
  - (a) the period of twenty-one days referred to in paragraph (a) of that subsection; and
  - (b) the period of twenty-one days beginning with the date on which the notice required by subsection (2) of this section was first displayed;

and in determining the application the authority shall take into account any representations relating to the application which are received by them before both those periods have elapsed.

(4) In the said section 1(6), paragraphs (b) and (c) shall cease to have effect.

**58 Removal of need for Secretary of State's consent to certain local authority grants**

The power of a local authority under section 1(1)(b) of the Local Authorities (Historic Buildings) Act 1962 to contribute towards expenses incurred or to be incurred in the repair or maintenance of a building in their area appearing to them to be of architectural or historic interest shall be exercisable without the consent of the Secretary of State.

**59 Compulsory purchase affecting ancient monuments, etc.**

In paragraph 12 of Schedule 1 to the Acquisition Act 1947 (application of special parliamentary procedure to compulsory purchase order affecting ancient monument etc. subject to certificate by Secretary of State that undertakings have been given as to its preservation), the reference to land being, or being the site of, an ancient monument or other object of archaeological interest shall be construed as not including a reference to a listed building or any land or object comprised within the curtilage of such a building unless the building or object is specified in the Schedule to the Ancient Monuments Protection Act 1882 or is for the time being specified in a list published under section 12 of the Ancient Monuments Consolidation and Amendment Act 1913

**60 Crown land**

- (1) A building may be included in a list compiled or approved by the Secretary of State under section 28 of the Act of 1947 notwithstanding that it is Crown land.
- (2) Notwithstanding any interest of the Crown in Crown land, but subject to the provisions of section 83 of the Act of 1947 (exercise of powers under that Act in relation to Crown land) any restrictions or powers imposed or conferred by this Part of this Act shall apply and be exercisable in relation to Crown land to the extent of any interest therein for the time being held otherwise than by or on behalf of the Crown.
- (3) In this section the expression " Crown land" has the same meaning as in the said section 83.

**PART VI**

MISCELLANEOUS CHANGES IN PLANNING LAW

*Planning Inquiry Commissions*

**61 Constitution of Planning Inquiry Commissions**

- (1) The Secretary of State may constitute a Planning Inquiry Commission to inquire into and report on any matter referred to them under section 62 below.
- (2) Any such commission shall consist of a chairman and not less than two nor more than four other members appointed by the Secretary of State.

- (3) The Secretary of State may pay to the members of any such commission such remuneration and allowances as he may with the consent of the Minister for the Civil Service determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to him expedient to provide for the purpose of assisting the commission in the discharge of their functions.
- (4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.
- (5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (commissions, tribunals and other bodies all members of which are disqualified under that Act), in its application to the House of Commons of the Parliament of the United Kingdom, the following entry shall be inserted at the appropriate place in alphabetical order:—

“A Planning Inquiry Commission constituted under Part VI of the Town and Country Planning (Scotland) Act 1969”.

## **62 References to a Planning Inquiry Commission**

- (1) The following matters may, in the circumstances mentioned in subsection (2) below, be referred to a Planning Inquiry Commission, that is to say—
  - (a) an application for planning permission which the Secretary of State has, under section 13 of the Act of 1947, directed to be referred to him instead of being dealt with by a local planning authority;
  - (b) an appeal under section 14 of that Act (appeals to the Secretary of State against planning decisions) as originally enacted or as applied by or under any other provision of that Act;
  - (c) a proposal that a government department should give a direction under section 32 of that Act that planning permission shall be deemed to be granted for development by a local authority or by statutory undertakers which is required by any enactment to be authorised by that department;
  - (d) a proposal that development should be carried out by or on behalf of a government department.
- (2) Any of the matters mentioned in subsection (1) above may be referred to any such commission under this section if it appears expedient to the responsible Minister or Ministers that the question whether the proposed development should be permitted to be carried out should be the subject of a special inquiry on either or both of the following grounds:—
  - (a) there are considerations of national or regional importance which are relevant to the determination of that question and require evaluation, but a proper evaluation thereof cannot be made unless there is a special inquiry for the purpose ;
  - (b) the technical or scientific aspects of the proposed development are of so unfamiliar a character as to jeopardise a proper determination of that question unless there is a special inquiry for the purpose.
- (3) Two or more of the matters mentioned in subsection (1) above may be referred to the same commission under this section if it appears to the responsible Minister or Ministers that they relate to proposals to carry out development for similar purposes on different sites.

- (4) Where a matter referred to a commission under this section relates to a proposal to carry out development for any purpose at a particular site, the responsible Minister or Ministers may also refer to the commission the question whether development for that purpose should instead be carried out at an alternative site.
- (5) The responsible Minister or Ministers shall, on referring a matter to a commission under this section, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to him or them to be relevant to their inquiry.
- (6) A commission inquiring into a matter referred to them under this section shall—
  - (a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out and assess the importance to be attached to those considerations or aspects ;
  - (b) thereafter, if the applicant, in the case of a matter mentioned in subsection (1) (a), (b) or (c) above, or the local planning authority in any case so desire, afford to each of them, and, in the case of an application or appeal mentioned in the said subsection (1)(a) or (b), to any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 35(4) or 36(4) of the Act of 1959, an opportunity of appearing before and being heard by one or more members of the commission;
  - (c) report to the responsible Minister or Ministers on the matter referred to them.
- (7) Any such commission may, with the approval of the Secretary of State and at his expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to them to be relevant to a matter referred to them for inquiry and report.
- (8) The provisions of section 13(2) of the Act of 1947, and of that subsection as applied by section 14(2) of that Act, and of sections 22(6) and 23(4) of this Act, relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an application for planning permission or an appeal referred to a commission under subsection (1) above.
- (9) Schedule 5 to this Act shall have effect for the construction of references in this section and section 63 below to " the responsible Minister or Ministers "

### **63 Procedure on reference to a Planning Inquiry Commission**

- (1) A reference to a Planning Inquiry Commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time, and a reference of any other matter mentioned in section 62 above may be made at any time before, but not after, the determination of the relevant application for planning permission under section 13 of the Act of 1947 or the relevant appeal under section 14 of that Act or, as the case may be, the giving of the relevant direction under section 32 of that Act, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.
- (2) Notice of the making of a reference to any such commission shall be published in the prescribed manner, and a copy of the notice shall be served on the local planning

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authority for the area in which it is proposed that the relevant development shall be carried out, and—

- (a) in the case of an application for planning permission or an appeal under section 13 or 14 of the Act of 1947, on the applicant and any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 35(4) or 36(4) of the Act of 1959 ;
  - (b) in the case of a proposal that a direction should be given under section 32 of the Act of 1947 with respect to any development, on the local authority or statutory undertakers applying for authorisation to carry out that development.
- (3) A Planning Inquiry Commission shall, for the purpose of complying with section 62(6) (b) above, hold a local inquiry; and they may hold such an inquiry, if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the local planning authority desire an opportunity of appearing and being heard.
- (4) Where a Planning Inquiry Commission are to hold a local inquiry under subsection (3) above in connection with a matter referred to them, and it appears to the responsible Minister or Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this section to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, he or, as the case may be, they may direct that the two inquiries be held concurrently or combined as one inquiry.
- (5) An inquiry held by such a commission under this section shall be treated for the purposes of the Tribunals and Inquiries Act 1958 as one held by a Minister in pursuance of a duty imposed by a statutory provision.
- (6) Subsections (4) to (9) of section 50 of the Act of 1945 (power to summon and examine witnesses, and expenses at inquiries) shall apply to an inquiry held under subsection (3) above as they apply to an inquiry held under that section.
- (7) Subject to the provisions of this section and to any directions given to them by the responsible Minister or Ministers, a Planning Inquiry Commission shall have power to regulate their own procedure.

#### **64 Commissions to inquire into planning matters affecting Scotland and England**

- (1) The Ministers may constitute a Joint Planning Inquiry Commission to inquire into and report on any matter referred to them under this section; and the matters which may be so referred are those which may, under section 62 of this Act or section 62 of the Town and Country Planning Act 1968, be referred to a Planning Inquiry Commission but which appear to the Ministers to involve considerations affecting both Scotland and England.
- (2) A Joint Planning Inquiry Commission shall consist of a chairman and not less than two nor more than four other members appointed by the Ministers.
- (3) The Ministers may pay to the members of any such commission such remuneration and allowances as they may with the consent of the Minister for the Civil Service determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to them expedient to provide for the purpose of assisting the commission in the discharge of their functions.

- (4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.
- (5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (commissions, tribunals and other bodies all members of which are disqualified under that Act), in its application to the House of Commons of the Parliament of the United Kingdom, the following entry shall be inserted at the appropriate place in alphabetical order:—
- “A Joint Planning Inquiry Commission constituted under Part VI of the Town and Country Planning (Scotland) Act 1969”.
- (6) In this section " the Ministers" means the Secretary of State and the Minister of Housing and Local Government, acting jointly; but their functions under subsection (3) of this section may, by arrangements made between them, be exercised by either acting on behalf of both.
- (7) Schedule 6 to this Act shall have effect with respect to the Joint Planning Inquiry Commissions and references to them under this section, and with respect to the proceedings of a commission on any such reference.

### *Delegation of planning functions*

#### **65 Delegation of planning functions to officers of local authorities**

- (1) A local planning authority may delegate to any officer of the authority who in their opinion is suitably qualified or experienced for the purpose the function of determining all or any, or a specified class, of the following applications, that is to say—
- (a) an application for planning permission under section 12 of the Act of 1947 ;
  - (b) an application for a determination under section 15 of that Act of the questions whether the carrying out of operations on land or the making of any change in the use of land constitutes or involves development of the land and, if so, whether an application for planning permission in respect thereof is required, having regard to the provisions of the development order;
  - (c) an application for consent under an order under section 26 of that Act to the cutting down, topping, lopping or destruction of trees;
  - (d) an application for consent under regulations under section 29 of that Act to the display of advertisements;
  - (e) an application for an established use certificate under section 18 of this Act;
  - (f) an application for an approval required by a development order or by a condition imposed on the grant of planning permission;
- (2) A delegation made by a local authority under this section to an officer of theirs—
- (a) shall be made to the officer by name;
  - (b) may be made with or without restrictions or conditions ; and
  - (c) may be withdrawn at any time by the delegating authority (either generally or in respect of a particular application), without prejudice to anything previously done by the officer thereunder.
- (3) Where a local authority have under this section delegated to an officer of theirs the function of determining applications, and the officer so requests in the case of any

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application specified by him, the delegating authority shall themselves, instead of him, determine the application.

- (4) Where any functions have under this section been delegated to an officer of a local authority, any determination by him of such an application as is referred to in subsection (1) of this section shall, if it is notified in writing to the applicant, be treated for all purposes as a determination of the delegating authority.
- (5) Where an action has been brought against an officer of a local authority in respect of an act done by him in the discharge or purported discharge of functions delegated to him under this section, and the circumstances are such that he is not legally entitled to require that authority to indemnify him, the authority may nevertheless indemnify him against the whole or part of any damages and expenses which he may have been ordered to pay or may have incurred, if they are satisfied that he honestly believed both that the act complained of was done in the discharge of those functions and that his duty required or entitled him to do it.
- (6) In relation to any functions delegated under this section by a local authority to an officer of theirs, any reference to the local planning authority in any enactment relating to those functions shall (subject to the terms of the delegation and so far as the context does not otherwise require) be construed as including a reference to that officer.

#### *Duration of planning permission*

### **66 Limit of duration of planning permissions past and future**

- (1) Subject to the provisions of this section, every planning permission granted or deemed to have been granted before the commencement of this section shall, if the development to which it relates has not been begun before the beginning of 1969, be deemed to have been granted subject to a condition that the development must be begun not later than the expiration of five years beginning with the said commencement.
- (2) Subject to the provisions of this section, every planning permission granted or deemed to be granted after the commencement of this section shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—
  - (a) five years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or
  - (b) such other period (whether longer or shorter) beginning with the said date as the authority concerned with the terms of the planning permission may direct, being a period which the authority consider appropriate having regard to the provisions of the development plan and to any other material considerations.
- (3) If after the commencement of this section planning permission is granted without the condition required by subsection (2) above, it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.
- (4) Nothing in this section applies—
  - (a) to any outline planning permission, as defined by section 67 below;
  - (b) to any planning permission granted by a development order;

- (c) to any planning permission which was granted or deemed to be granted before the commencement of this section, 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;
- (d) to any planning permission granted for a limited period (within the meaning of section 12(2) of the Act of 1947); or
- (e) to any planning permission granted under section 16 of the Act of 1947 on an application relating to buildings or works completed, or a use of land instituted, before the date of the application.

## 67 Outline planning permissions

- (1) In this section and section 66 above, "outline planning permission" means planning permission granted, in accordance with the provisions of a development order, with the reservation for subsequent approval by the local planning authority or the Secretary of State of matters (referred to in this section as "reserved matters") not particularised in the application.
- (2) Subject to the provisions of this section, where before the commencement of this section outline planning permission has been granted for development consisting in or including the carrying out of building or other operations, and the development has not been begun before the beginning of 1969, 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, application for approval must be made not later than the expiration of three years beginning with the date of the commencement of this section; and
  - (b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates—
    - (i) the expiration of five years from the date of the commencement of this section; 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) Subsection (2) above shall not apply to a planning permission granted before the commencement of this section 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.
- (4) Subject to the provisions of this section, where outline planning permission is granted after the commencement of this section for such development as is referred to in subsection (2) above, 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 not later than the expiration of three years beginning with the date of the grant of outline planning permission; and
  - (b) that the development to which the permission relates must be begun not later than 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



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- (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.
- (5) If after the commencement of this section outline planning permission is granted without the conditions required by subsection (4) above, it shall be deemed to have been granted subject to those conditions.
- (6) The authority concerned with the terms of an outline planning permission may, in applying subsection (4) above, substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as they consider appropriate.
- (7) The said authority may, in applying the said subsection, specify, or direct that there be specified, separate periods under paragraph (a) of the subsection in relation to separate parts of the development to which the planning permission relates; and, if they do so, the condition required by paragraph (b) of the subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.
- (8) In considering whether to exercise their powers under subsections (6) and (7) above, the said authority shall have regard to the provisions of the development plan and to any other material considerations.

## **68 Provisions supplementary to ss. 66 and 67**

- (1) For the purposes of sections 66 and 67 above, development shall be taken to be begun on the earliest date on which any specified operation (as defined in section 64(3) of the Land Commission Act 1967) comprised in the development begins to be carried out.
- (2) The authority referred to in section 66(2)(b) and section 67(6) above is the local planning authority or the Secretary of State, in the case of planning permission granted by them, and—
  - (a) in the case of planning permission granted by an order under section 24 of the Act of 1947 (authorised uses of land) is the local planning authority making the order ;
  - (b) in the case of planning permission under section 32 of the Act of 1947 (grant by direction of a government department) is the department on whose direction planning permission is deemed to be granted; and
  - (c) in the case of planning permission granted on an appeal determined, under section 22 or 24 of this Act, by a person appointed by the Secretary of State to determine the appeal, is that person.
- (3) For the purposes of section 67(2) and (4) above, a reserved matter shall be treated as finally approved when an application for approval is granted or, in a case where the application is made to the local planning authority and there is an appeal to the Secretary of State against the authority's decision on the application and the Secretary of State or a person appointed by him under section 22 or 24 of this Act to determine the appeal grants the approval, on the date of the determination of the appeal by the Secretary of State or that person.
- (4) Where after 'the commencement of sections 66 and 67 above a local planning authority grant planning permission, the fact that any of the conditions of the permission are required by this Act to be imposed, or are deemed by this Act to be imposed, shall not

prevent the conditions being the subject of an appeal under section 14 of the Act of 1947 against the decision of the authority.

- (5) In the case of planning permission having conditions attached to it by or under section 66(1), (2) or (3) or section 67(2), (4) or (5) above (whether outline or other)—
  - (a) development carried out after the date by which the conditions of the permission require it to be carried out 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.
- (6) Compensation under Part II of the Act of 1954 shall not be payable in respect of the application to any planning permission of any of the conditions referred to in sections 66 and 67 of this Act.
- (7) The said conditions shall be disregarded for the purposes—
  - (a) of section 17 of the Act of 1947 (right of landowner to serve purchase notice, where he claims that the land has become incapable of reasonably beneficial use on account of the refusal of planning permission or the imposition of conditions);
  - (b) of section 18 of that Act (compensation for planning decisions restricting development); and
  - (c) of Schedule 4 to the Act of 1945 (compensation of statutory undertakers in respect of certain planning decisions).

## **69 Termination of planning permission by reference to time limit**

- (1) The following provisions of this section shall have effect where, by virtue of section 66 or 67 above, a planning permission (whether granted before or after the commencement of those sections) 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 local planning authority are of opinion that the development will not be completed within a reasonable period they may serve a notice (hereafter in this section referred to as a " completion notice ") stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice, being a period of not less than twelve months after the notice takes effect.
- (3) A completion notice—
  - (a) shall be served on the owner and occupier of the land and on any other person who, in the opinion of the local planning authority, will be affected by the notice; and
  - (b) shall take effect only if and when it is confirmed by the Secretary of State, who may in confirming it substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.
- (4) If within such period as may be specified in a completion notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the notice, shall afford to that

person and to the local planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

- (5) If a completion notice takes effect, the planning permission therein referred to shall, at the expiration of the period specified in the notice, whether the original period specified under subsection (2) above or a longer period substituted by the Secretary of State under subsection (3) above, be invalid except so far as it authorises any development carried out thereunder up to the end of that period.
- (6) The local planning authority may withdraw a completion notice 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 they do so they shall forthwith give notice of the withdrawal to every person who was served with the completion notice.

### *Statutory undertakers*

## **70 New provision as to what is "operational land" of statutory undertakers**

- (1) Where an interest in land is held by statutory undertakers for the purpose of the carrying on of their undertaking and—
  - (a) the interest was acquired by them after the commencement of this section ; or
  - (b) it was held by them immediately before that commencement, but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the Act of 1947,

then the following subsection shall have effect for the purpose of determining whether the land is to be so treated and shall so have effect notwithstanding the definition of "operational land " in section 113(1) of the Act of 1947.

- (2) The land shall not be treated as operational land for the purposes of the Act of 1947 unless one or both of the following conditions are satisfied with respect to it, namely—
  - (a) there is, or at some time has been, in force with respect to the land a specific planning permission for its development and that development, if carried out, would involve, or have involved, the use of the land for the purpose of the carrying on of the statutory undertakers' undertaking; or
  - (b) the undertakers' interest in the land was acquired by them as the result of a transfer under provisions of the Transport Act 1968 from other statutory undertakers and the land was, immediately before the transfer, operational land of those other undertakers.
- (3) A specific planning permission for the purpose of subsection (2)(a) above is a planning permission—
  - (a) granted on an application in that behalf under Part II of the Act of 1947 ; or
  - (b) granted by provisions of a development order granting planning permission generally for development which has received specific parliamentary approval; or
  - (c) granted by a special development order in respect of development specifically described in the order ; or
  - (d) deemed to be granted by virtue of a direction of a government department under section 32 of the Act of 1947;

and the reference in paragraph (b) of this subsection to development which has received specific parliamentary approval shall be construed as referring to

development authorised by a local or private Act of Parliament or by an order approved by both Houses of Parliament or by an order which has been brought into operation in accordance with the provisions of the Statutory Orders (Special Procedure) Act 1945, being an Act or order which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out.

## **71 Planning applications and appeals by statutory undertakers**

- (1) In the circumstances mentioned in subsection (2) below, paragraph 1(1) of Schedule 5 to the Act of 1947 (statutory undertakers' planning applications and appeals, if in respect of operational land, to be dealt with by Ministers) shall apply to an application or appeal by statutory undertakers in respect of land which is not operational land as it applies to an application or appeal in respect of land which is.
- (2) The said circumstances are that—
  - (a) an interest in the land in question is held by the undertakers with a view to its being used for the purpose of carrying on their undertaking ; or
  - (b) it is land in which they propose to acquire an interest with a view to its being so used,
 and (in either case) the planning permission, if granted on the application or appeal, would be for development involving the use of the land for that purpose.
- (3) The following provisions (being provisions which require certain planning decisions and orders affecting statutory undertakers to be subject to special parliamentary procedure) shall cease to have effect:—
  - (a) section 24(7) of the Act of 1945 (order extinguishing a right of way or rights of statutory undertakers in respect of apparatus under certain land), except as respects an order made before the commencement of this section;
  - (b) section 42(4)(b) of the Act of 1947 (compulsory purchase order with respect to land acquired by statutory undertakers for the purpose of their undertaking), except as respects an order made or confirmed before that commencement;
  - (c) paragraph 1(2) of Schedule 5 to the Act of 1947 (decision on planning application in respect of operational land or appeal thereon), except as respects an application for planning permission made before that commencement or an appeal from the decision on an application so made;
  - (d) paragraph 2(1)(a) of that Schedule (decision of a government department refusing, or attaching conditions to, statutory authorisation for development), except as respects a decision made before that commencement;
  - (e) paragraph 3(2) of that Schedule (order revoking or modifying planning permission in respect of operational land), except as respects an order of which notice has been given under that subsection before that commencement; and
  - (f) paragraph 4(2) of that Schedule (order requiring discontinuance of use etc. of operational land), except as respects an order of which notice has been given under that subsection before that commencement.

## **72 Restrictions on entitlement of statutory undertakers to compensation for adverse planning decisions**

- (1) Except as provided by subsection (2) below, statutory undertakers shall not be entitled to compensation in respect of a decision mentioned in paragraph 1(a) or (b) of Schedule 4 to the Act of 1945 (right to compensation in respect of certain decisions and orders) where that decision is made after the commencement of this section.

- (2) Subsection (1) above shall not apply to compensation in respect of a decision made in accordance with paragraph 1 of Schedule 5 to the Act of 1947 refusing planning permission for the development of operational land, or granting such permission subject to conditions, where—
  - (a) planning permission for that development would have been granted by a development order but for a direction given under such an order that planning permission so granted should not apply to the development; and
  - (b) it is not development which has received specific parliamentary approval (within the meaning given to that expression by section 70(3) of this Act).
- (3) Section 20(3) of the Act of 1947 (compensation on refusal of planning permission or its grant subject to conditions) shall not apply in relation to planning permission for the development of operational land of statutory undertakers.

### **73 Modifications of s. 24 of Act of 1945**

- (1) Section 24 of the Act of 1945 (power of Secretary of State, local planning authority or statutory undertakers, on acquisition or appropriation of land for development, by service of notice to secure extinguishment of statutory undertakers' rights over the land or the removal of their apparatus) shall be amended in accordance with this section.
- (2) A notice under that section shall not be served by the acquiring or appropriating authority unless they are satisfied that the extinguishment of the statutory undertakers' right or, as the case may be, the removal of their apparatus, is necessary for the purposes of carrying out any development with a view to which the land was acquired or appropriated.
- (3) The period referred to in subsection (1) of the said section (that is to say the period to be specified in a notice under the section as the period at the end of which the statutory undertakers' right will be extinguished or, as the case may be, before the end of which their apparatus shall be removed) shall be a period of not less than twenty-eight days from the date of service of the notice.

### **74 Notice for same purposes as s. 24 of Act of 1945, but given by statutory undertakers to developing authority**

- (1) Subject to the provisions of this section, where land has been acquired or appropriated as mentioned in section 24(1) of the Act of 1945, and—
  - (a) there is on, under or over the land any apparatus vested in or belonging to statutory undertakers; and
  - (b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development,the undertakers may serve on the acquiring or appropriating authority a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.
- (2) Where, after the land has been acquired or appropriated as aforesaid, development of the land is begun to be carried out, no notice under this section shall be served later than twenty-one days after the beginning of the development.

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- (3) Where a notice is served under this section, the authority on whom it is served may, before the end of the period of twenty-eight days from the date of service, serve on the statutory undertakers a counter-notice stating that they object to all or any of the provisions of the notice and specifying the grounds of their objection.
- (4) If no counter-notice is served under subsection (3) above, the statutory undertakers shall, after the end of the period of twenty-eight days therein mentioned, have the rights claimed in their notice.
- (5) If a counter-notice is served under subsection (3) above, the statutory undertakers who served the notice under this section may either withdraw it or may apply to the Secretary of State and the appropriate Minister for an order under this section conferring on the undertakers the rights claimed in the notice or such modified rights as the Secretary of State and the appropriate Minister think it expedient to confer on them.
- (6) Where, by virtue of this section or of an order of Ministers thereunder, statutory undertakers have the right to execute works for the removal or re-siting of apparatus, they may arrange with the acquiring or appropriating authority for the works to be carried out by that authority, under the superintendence of the undertakers, instead of by the undertakers themselves.
- (7) Where works are carried out for the removal or reciting of statutory undertakers' apparatus, being works which the undertakers have the right to carry out by virtue of this section or an order of Ministers thereunder, the undertakers shall be entitled to compensation from the acquiring or appropriating authority and the amount of the compensation shall be an amount calculated in accordance with paragraph 2 of Schedule 4 to the Act of 1945, but reduced, in a case where the authority carry out the works, by the actual cost to the authority of doing so.
- (8) In the said paragraph 2, as it applies for the purposes of this section, any reference to " the proceeding giving rise to compensation " shall, instead of being construed in accordance with sub-paragraph (4) of that paragraph, be construed as a reference to the circumstances making it necessary for the apparatus in question to be removed or re-sited.

#### *General planning control*

### **75 Expansion of building below ground to constitute development**

Notwithstanding anything in section 10(2)(a) of the Act of 1947 (carrying out of works for the maintenance, improvement or other alteration of a building not to constitute development if it is wholly internal or does not materially affect the building's external appearance), the carrying out of works for the alteration of any building by providing additional space therein below ground shall, if begun after the commencement of this section, be treated for the purposes of the Act of 1947 as involving development.

### **76 Modification of transitory exemptions based on pre-1948 use**

- (1) Section 10(5)(a) of the Act of 1947 (exemption from requirement of planning permission for resumption of normal use before the original appointed day) and section 10(5)(c) of that Act (the same as to resumption of use of land which on that day

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was unoccupied) shall not have effect as respects any use of land begun or resumed after the commencement of this section.

- (2) In the case of land which on the original appointed day was normally used for one purpose and was also used on occasions for another purpose, section 10(5)(b) of the Act of 1947 (exemption from requirement of planning permission for resumption of previous occasional use) shall, as respects any use of the land for the other purpose after the commencement of this section, apply only if the land has, since the original appointed day, been used for the other purpose on at least one similar occasion before the beginning of 1969.
- (3) In applying sections 10(5), 16(5) and 16(6) of the Act of 1947 (factors relevant for determining whether planning permission is required for resumption of use), no account shall be taken of any contravention of planning control other than contravention of the provisions of Part II of the Act of 1947; and accordingly—
  - (a) in proviso (i) to section 10(5), for the words " previous planning control within the meaning of section 72 of this Act" there shall be substituted the words " the provisions of this Part of this Act ";
  - (b) in the proviso to section 16(5), the words from "or begun" to the end shall cease to have effect;
  - (c) in section 16(6), the words from " or was begun" to the end shall cease to have effect; and
  - (d) section 72(9) shall cease to have effect.
- (4) Section 22(4) of the Act of 1947 (planning permission not required, where land has been developed without such permission, for a use of the land which would have been lawful apart from the development) shall not apply to any use of land which, by the operation of this section, has become unlawful without planning permission.
- (5) In this section " the original appointed day " means the appointed day for the purposes of the Act of 1947, that is to say, 1st July 1948.

## **77 Posting of site notice prior to planning application**

- (1) An application for planning permission for development of any class to which section 35 of the Act of 1959 (certain classes of planning application, prescribed by development order, to be supported by evidence of prior publicity) applies shall not be entertained by the local planning authority unless it is accompanied by one or other of the following certificates, signed by or on behalf of the applicant, that is to say—
  - (a) a certificate stating that he has complied with subsection (2) of this section and when he did so; or
  - (b) a certificate stating that he has been unable to comply with it because he has not such rights of access or other rights in respect of the land as would enable him to do so, but that he has taken such reasonable steps as are open to him (specifying them) to acquire those rights and has been unable to acquire them.
- (2) In order to comply with this subsection a person must—
  - (a) post on the land a notice, in such form as may be prescribed by a development order, stating that the application for planning permission is to be made; and
  - (b) leave the notice in position for not less than seven days in a period of not more than one month immediately preceding the making of the application to the local planning authority.

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- (3) The said notice must be posted by affixing it firmly to some object on the land, and must be sited and displayed in such a way as to be easily visible and legible by members of the public without going on the land.
- (4) The applicant shall not be treated as unable to comply with subsection (2) of this section if the notice is, without any fault or intention of his, removed, obscured or defaced before the seven days referred to in subsection (2)(b) above have elapsed, so long as he has taken reasonable steps for its protection and, if need be, replacement; and, if he has cause to rely on this subsection, his certificate under subsection (1) above shall state the relevant circumstances.
- (5) The notice required by subsection (2) of this section shall (in addition to any other matters required to be contained therein) name a place within the locality where a copy of the application for planning permission, and of all plans and other documents submitted therewith, will be open to inspection by the public at all reasonable hours during such period as may be specified in the notice, not being a period of less than twenty-one days beginning with the date on which the notice is first posted.
- (6) If any person issues a certificate which purports to comply with the requirements of this section and which contains a statement which he knows to be false and misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (7) Any certificate issued for the purpose of this section shall be in such form as may be prescribed by a development order.

**78      Extension of s. 12 of Act of 1947 with respect to development affecting trunk and special roads**

In section 12(3) of the Act of 1947 (power to provide by a development order for regulating the manner in which applications for planning permission are to be dealt with by local planning authorities), the reference in paragraph (a) to development shall include, and be deemed always to have included, a reference to development of or affecting land on which the Secretary of State proposes to provide a trunk road or a special road, being a road the route of which is shown as such in the development plan or in the case of which the Secretary of State has given to the local planning authority written notice of his intention to provide the road, together with maps or plans sufficient to identify the proposed route of the road.

**79      Information regarding and local register of planning applications**

- (1) A development order may make provision for requiring applicants for planning permission for development or for any class of development prescribed by or under the order to furnish at such time and to such persons as may be so prescribed such information with respect to the application as may be so prescribed.
- (2) A development order may make provision for the register of planning applications kept by a local planning authority under section 12(5) of the Act of 1947 to be kept in two or more parts, each part containing such information relating to applications for planning permission made to the authority as may be prescribed by the order, and may also make provision—



- (a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted therewith; and
- (b) for the entry relating to any application, and every thing relating thereto, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of, without prejudice to the inclusion of any different entry relating thereto in another part of the register.

## **80 Reference to Secretary of State of application for approval under outline planning permission**

The power of the Secretary of State to give directions under section 13 of the Act of 1947, requiring applications for planning permission to be referred to him instead of being dealt with by the local planning authority, shall be exercisable also in relation to applications for any approval of an authority required under a development order, and references to applications in subsections (1) and (3) and in the proviso to subsection (2) of that section shall be construed accordingly.

## **81 Unopposed revocation or modification of planning permission**

- (1) The following provisions shall have effect where the local planning authority have made an order under section 19 of the Act of 1947 (revocation or modification of planning permission) but have not submitted the order to the Secretary of State for confirmation by him, and—
  - (a) the owner, the lessee and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order; and
  - (b) it appears to the authority that no claim for compensation is likely to arise under section 20 of the Act of 1947 on account of the order.
- (2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—
  - (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose ; and
  - (b) the period (not less than fourteen days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section and without being confirmed by the Secretary of State.
- (3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(a) above, and the notice shall include a statement of the effect of subsection (7) of this section.
- (4) The authority shall send a copy of any advertisement published under subsection (2) above to the Secretary of State not more than three days after the publication.
- (5) If within the period referred to in subsection (2)(a) above no person claiming to be affected by the order has given notice to the Secretary of State as aforesaid, and the Secretary of State has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in subsection (2)(b) of

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this section, take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 19(1) of the Act of 1947.

- (6) This section does not apply to an order revoking or modifying a planning permission granted, or deemed to have been granted, by the Secretary of State under Part II of the Act of 1947 or under Part II or Part V of this Act; nor does it apply to an order modifying any conditions to which a planning permission is subject by virtue of section 66 or 67 of this Act.
- (7) No compensation shall be payable under section 20 of the Act of 1947 in respect of an order under section 19 of that Act which takes effect by virtue of this section and without being confirmed by the Secretary of State.

## **82 Procedure in connection with making and confirmation of tree preservation orders**

- (1) The provisions which may, by virtue of subsection (1)(c) of section 26 of the Act of 1947 (tree preservation orders), be applied by such an order in relation to any consent thereunder shall include section 81 of this Act.
- (2) Regulations made by virtue of section 26(5) of the Act of 1947 may (without prejudice to the generality of that subsection) make provision as follows:—
  - (a) that, before a tree preservation order is submitted to the Secretary of State for confirmation, notice of the making of the order shall be given to the owners, lessees and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;
  - (b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the Secretary of State;
  - (c) that, if no objections or representations are so made, or if any so made are withdrawn, the order, instead of requiring the confirmation of the Secretary of State in accordance with section 26(4) of the Act of 1947, may be confirmed (but without any modification), as an unopposed order, by the authority who made it; and
  - (d) that copies of the order, when confirmed by the Secretary of State or the authority, shall be served on such persons as may be specified in the regulations.

## **83 Notice by Secretary of State to planning authority when exercising default powers**

- (1) The Secretary of State, where he proposes under section 96 of the Act of 1947 (default powers) to make an order—
  - (a) under section 19 of that Act (revocation or modification of planning permission), or under the provisions of that section as applied by any order or regulations made under Part II of that Act; or
  - (b) under section 24 of that Act (discontinuance of specified use of land or alteration or removal of buildings or works),

shall serve a notice of the proposal on the local planning authority; and if within such period as may be specified in the notice (not less than twenty-eight days from the date of service) the authority so require, the Secretary of State, before making the order,

shall afford to the authority an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.

- (2) The obligation of the Secretary of State to serve a notice under this section shall be without prejudice to any requirements of Part II of the Act of 1947, or regulations made thereunder, having effect by virtue of section 96(3) of that Act (requirements as to notice etc., where Secretary of State acts in place of local planning authority).

### *Control of office development*

## **84 Partial abrogation of dual control of office development**

- (1) Without prejudice to section 23 of the Industrial Development Act 1966 (restrictions or conditions which may be attached to industrial development certificates issued by the Board of Trade under section 12(4) of the Act of 1947) the conditions which the Board of Trade may under that section attach to an industrial development certificate shall include conditions restricting the amount of office floor space to be contained in any building which is the subject of the development or precluding it from containing any office floor space; and the conditions may be framed so as to apply (either or both) to the building as originally erected or as subsequently extended or altered.
- (2) Notwithstanding section 5(1) of the Act of 1965 (of which the effect is that an industrial development certificate under section 12(4) of the Act of 1947 as well as an office development permit under section 1(3) of the Act of 1965 is required in support of an application for planning permission for development which is not only industrial but involves the provision of office premises), compliance with the said section 1(3) shall not be required in respect of an application for planning permission for industrial development to which this section applies, where there has been issued by the Board of Trade and furnished to the local planning authority with the application a copy of an industrial development certificate with conditions attached thereto by virtue of subsection (1) above.
- (3) In this section, "industrial development" means the development of land in any manner specified in section 12(4) of the Act of 1947 (requirement of Board of Trade industrial development certificate to support application for planning permission for development involving provision of industrial building or change in the use of premises so that a building becomes industrial); and this section applies to industrial development only if there will result therefrom no office premises except such as are comprised within the curtilage of an industrial building and are used or designed for use for providing services or facilities ancillary to the use of other premises in the same building or curtilage.
- (4) Development in respect of which there has been issued by the Board of Trade an industrial development certificate with conditions attached thereto by virtue of subsection (1) of this section shall be treated as not included in any reference to "related development" in section 2 of the Act of 1965 (which makes an office development permit unnecessary if the amount of office floor space to be created is below the prescribed exemption limit, but for this purpose requires that space to be aggregated with office floor space created, or to be created, in the course of other development affecting the same building or site).

**85 Modifications of s. 7 of 1965 Act**

- (1) Section 7 of the Act of 1965 (attachment to certain planning permissions of conditions restricting office floor space, where the permission can be granted without an office development permit) shall not apply to a planning permission granted after the commencement of this section for the erection of a building on any land, unless it is in an area to which Part I of that Act applied at the time when the application for the planning permission was made.
- (2) Section 7 of the Act of 1965 shall not apply to a planning permission granted after the said commencement for the erection of a building with a floor space less than twice the prescribed exemption limit; nor shall it apply to a planning permission so granted for the erection of a building (of whatever floor space) which is wholly residential.
- (3) Section 7 of the Act of 1965 shall not apply to a planning permission which is subject to conditions by virtue of section 23(5) or (6) of the Industrial Development Act 1966 (attachment to planning permission of conditions subject to which an industrial development certificate was issued by the Board of Trade) and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.

**86 Restriction on creation of office premises in building altered or extended**

- (1) The provisions of this section shall, subject to subsection (4) below, have effect with respect to a planning permission granted after the commencement of this section for the alteration or extension of a building in an area to which Part I of the Act of 1965 applies at the time of the grant and also applied when the application for planning permission was made, but shall have effect only in the case of a building erected under a planning permission granted after the said commencement.
- (2) If the case is the following, that is to say:—
  - (a) either the erection of the building was not development to which Part I of the Act of 1965 applied or it was so but no office development permit was required therefor; and
  - (b) either the proposed alteration or extension is not development to which the said Part I applies or it is so but no office development permit is required therefor; and
  - (c) there will result from the proposed alteration or extension a building with an aggregate floor space of twice, or more than twice, the prescribed exemption limit,the planning permission for the alteration or extension shall be granted subject to the condition specified in subsection (3) of this section (in addition to any other conditions imposed by the authority granting the permission).
- (3) The said condition is that the use of the building as altered or extended, or as subsequently further altered or extended, shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate office floor space which exceeds the prescribed exemption limit.
- (4) In the following two cases this section shall not apply:—
  - (a) where the planning permission is in respect of a building which, after its alteration or extension, will be wholly residential; and

- (b) where the planning permission is subject to conditions by virtue of section 23(5) or (6) of the Industrial Development Act 1966 and those conditions either restrict the office floor space which the building as extended or altered may contain or preclude it from containing any office floor space.

## **87 Corresponding restriction on planning permission for erection of several buildings**

- (1) The provisions of this section shall have effect with respect to a planning permission granted after the commencement of this section for development involving the erection of two or more buildings in an area to which Part I of the Act of 1965 applies at the time of the grant and also applied when the application for planning permission was made, except in a case where all the buildings are exempt from this section.
- (2) Any one of the said buildings shall be exempt from this section if—
  - (a) it is wholly residential; or
  - (b) the planning permission is subject to conditions by virtue of section 23(5) or (6) of the Industrial Development Act 1966 and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.
- (3) If the aggregate floor space of the buildings proposed to be erected (leaving out of account any which are exempt from this section) is twice, or more than twice, the prescribed exemption limit and either the erection of the buildings is not development to which Part I of the Act of 1965 applies or it is so, but no office development permit is required therefor, the planning permission shall be granted subject to the condition specified in subsection (4) below (in addition to any other conditions imposed by the authority granting the permission).
- (4) The said condition is that the use of each one of the buildings (excluding any which are exempt from this section) shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate floor space which exceeds the limit for that building specified in the condition, which limit shall (subject to subsection (5) below) be a floor space bearing such proportion to the building's total floor space as the prescribed exemption limit bears to the aggregate floor space of all the buildings (excluding any which are exempt from this section) for whose erection the planning permission is granted.
- (5) The authority granting the planning permission may in doing so specify in the said condition, as it applies to any building, a limit different from the one provided by subsection (4) above, but not so that the total of the limits for all the buildings to which the condition applies exceeds the prescribed exemption limit.
- (6) If after the grant of the planning permission a further application for planning permission is made in respect of all or any of the buildings to which the condition specified in subsection (4) of this section applies, and the further application involves a departure from the terms of the said condition as applying to any building, the application shall be subject to section 1(3) of the Act of 1965 (requirement of office development permit), notwithstanding any provision of that Act exempting development from the requirements of that section in particular cases.

**88 Provisions supplementary to ss. 84 to 87**

- (1) A planning permission with respect to which section 86 or 87 above has effect shall not be invalid by reason only that the requirements of section 86(2) or 87(3), as the case may be, are not complied with; but in that case the planning permission shall be deemed to have been granted subject to the condition specified in section 86(3) or 87(4), as the case may be, or (if any other conditions are imposed by the authority granting the permission) to have been granted subject to the conditions so specified in addition to the other conditions; and references in those sections to a condition imposed thereunder shall be construed accordingly as including references to a condition deemed to be imposed.
- (2) In sections 84 to 87 of this Act—
- (a) "industrial building" has the meaning given to it by section 21 of the Local Employment Act 1960, as amended by section 25 of the Industrial Development Act 1966;
  - (b) " office development permit ", " office premises " and " office floor space " have the same meanings as they have for the purposes of the Act of 1965 ;
  - (c) " the prescribed exemption limit", in relation to a planning permission, has the meaning given to it by section 7(5) of the Act of 1965 in relation to planning permission granted as mentioned in subsection (1)(b) of that section (restrictions on office development to be attached to planning permission not requiring office development permit); and
  - (d) " wholly residential" in relation to a building, means for use exclusively as a dwelling-house or comprising only units of accommodation for such use.

*Stopping-up and diversion of highways***89 Procedure for making orders for stopping-up and diverting highways**

- (1) Where the Secretary of State would, if planning permission for any development had been granted under Part II of the Act of 1947, have power to make an order under section 46(1) of that Act authorising the stopping-up or diversion of a highway in order to enable that development to be carried out, then, notwithstanding that such permission has not been granted, the Secretary of State may, in the circumstances specified in subsections (2) to (4) below, publish notice of the draft of such an order in accordance with Schedule 6 to that Act (procedure in relation to orders under section 46).
- (2) The Secretary of State may publish such a notice as aforesaid where the relevant development is the subject of an application for planning permission and—
- (a) that application is made by a local authority or statutory undertakers or the National Coal Board ; or
  - (b) that application stands referred to the Secretary of State in pursuance of a direction under section 13 of the Act of 1947; or
  - (c) the applicant has appealed to the Secretary of State under section 14 of that Act against a refusal of planning permission or of approval required under a development order, or against a condition of any such permission or approval.
- (3) The Secretary of State may publish such a notice as aforesaid where—

- (a) the relevant development is to be carried out by a local authority, statutory undertakers or the National Coal Board and requires, by virtue of an enactment, the authorisation of a government department; and
  - (b) the developers have made application to the department for that authorisation and also requested a direction under section 32 of the Act of 1947 or, in the case of the National Coal Board, under section 2 of the Opencast Coal Act 1958, that planning permission be deemed to be granted for that development.
- (4) The Secretary of State may publish such a notice as aforesaid where the local planning authority certify that they have begun to take such steps, in accordance with regulations made by virtue of section 32 of the Act of 1947 (application of planning control to local planning authorities), as are requisite in order to enable them to obtain planning permission for the relevant development.
- (5) Paragraph 5 of Schedule 6 to that Act (power of Secretary of State to make an order under section 46 after considering any relevant objections and report) shall not be construed as authorising the Secretary of State to make an order under section 46(1) of that Act, of which notice has been published by virtue of subsection (1) above, until planning permission is granted for the development which occasions the making of the order.

## **90 New powers to authorise stopping-up and diversion of highways**

- (1) If planning permission is granted under Part II of the Act of 1947 for constructing or improving, or the Secretary of State proposes to construct or improve, a highway (hereafter in this section referred to as "the main highway"), he may by order authorise the stopping-up or diversion of any other highway which crosses or enters the route of the main highway or which is, or will be, otherwise affected by the construction or improvement of the main highway, if it appears to him expedient to do so—
- (a) in the interests of the safety of users of the main highway ; or
  - (b) to facilitate the movement of traffic on the main highway.
- (2) Subsections (3) to (5) of section 22 of the Act of 1945, subsections (2) to (7) of section 46, subsections (2) to (4) of section 111 of the Act of 1947 and Schedule 6 to that Act (ancillary provisions, provisions as to compulsory acquisition of land in connection with highways and provisions as to telegraph lines) and section 89 above shall apply in relation to an order under this section as they apply in relation to an order under section 46(1) of the Act of 1947.
- (3) In section 32(3) of the Mineral Workings Act 1951 (rights of statutory undertakers in respect of their apparatus where order made under section 46 of the Act of 1947), after the reference to the said section 46 there shall be inserted an alternative reference to this section.

## **91 Conversion of highway into footpath or bridleway**

- (1) The provisions of this section shall have effect where a competent authority by resolution adopt a proposal for improving the amenity of part of their area, being a proposal which involves a highway in that area (being a highway over which the public have a right of way with vehicles, but not a trunk road or a road classified as a principal road for the purpose of advances under section 8 of the Development and Road Improvement Funds Act 1909) being changed to a footpath or bridleway.

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- (2) The Secretary of State may, on an application made by a competent authority, by order provide for the extinguishment of any right which persons may have to use vehicles on that highway.
- (3) An order made under subsection (2) of this section may include such provision as the Secretary of State (after consultation with the local planning authority and the highway authority, if different from the competent authority) thinks fit for permitting the use on the highway 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 subsection ; 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.
- (4) No statutory provision prohibiting or restricting the use of footpaths or bridleways shall affect any use of a vehicle on a highway in relation to which an order made under subsection (2) above has effect, where the use is permitted in accordance with provisions of the order included by virtue of subsection (3) above.
- (5) Any person who, at the time of an order under subsection (2) of this section coming into force, has an interest in land having lawful access to a highway to which the order relates shall be entitled to be compensated by the competent authority in respect of any depreciation in the value of his interest which is directly attributable to the order and of any other loss or damage which is so attributable.  

In this subsection " lawful access " means access authorised by planning permission granted under the Act of 1947, or access in respect of which no such permission is necessary.
- (6) A claim for compensation under subsection (5) above shall be made to the competent authority within the time and in the manner prescribed by regulations under the Act of 1947.
- (7) Subsections (3) to (5) of section 22 of the Act of 1945, subsections (2) to (5) of section 46, subsections (2) to (4) of section 111 of the Act of 1947 and Schedule 6 to that Act (ancillary provisions, provisions as to compulsory acquisition of land in connection with highways and provisions as to telegraph lines) shall apply in relation to an order under this section as they apply in relation to an order under section 46(1) of the Act of 1947.
- (8) The Secretary of State may, on an application made by a competent authority, by order revoke an order made by him in relation to a highway under subsection (2) above ; and the effect of the order shall be to reinstate any right to use vehicles on the highway, being a right which was extinguished by virtue of the order under the said subsection.
- (9) Subsection (8) above shall not be taken as prejudicing any provision of the Act of 1947 enabling orders to be varied or revoked.
- (10) The competent authorities for the purposes of this section are county councils and town councils, and before making an application under subsection (2) or (8) above a competent authority shall consult with the local planning authority and the highway authority (in a case where they are themselves not that authority).
- (11) In this section " statutory provision " means a provision contained in, or having effect under, any enactment.



## **92 Provision of amenity for highway reserved for pedestrians**

- (1) Where in relation to a highway an order has been made under section 91(2) above, a competent authority may carry out and maintain any such works on or in the highway, or place on or in it any such objects or structures, as appear to them to be expedient for the purposes of giving effect to the order or of enhancing the amenity of the highway and its immediate surroundings or to be otherwise desirable for a purpose beneficial to the public.
- (2) The powers exercisable by a competent authority under this section shall extend to laying out any part of the highway with lawns, trees, shrubs and flower-beds and to providing facilities for recreation or refreshment
- (3) A competent authority may so exercise their powers under this section as to restrict the access of the public to any part of the highway, but shall not so exercise them as—
  - (a) to prevent persons from entering the highway at any place where they could enter it before the order under section 91 was made; or
  - (b) to prevent the passage of the public along the highway; or
  - (c) to prevent normal access by pedestrians to premises adjoining the highway ; or
  - (d) to prevent any use of vehicles which is permitted by an order made under the said section 91 and applying to the highway; or
  - (e) to prevent statutory undertakers from having access to any work of theirs under, in, on, over, along or across the highway.
- (4) An order under section 91(8) above may make provision requiring the removal of any obstruction of the highway resulting from the exercise by a competent authority of their powers under this section.
- (5) The competent authorities for the purposes of this section are county councils and town councils, but such an authority shall not exercise any powers conferred by this section unless they have obtained the consent of the local planning authority and the highway authority (in a case where they are themselves not that authority).

## **93 Powers for local planning authorities analogous to s. 46 of Act of 1947**

- (1) Subject to section 95 below, a local planning authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out—
  - (a) in accordance with planning permission granted under Part II of the Act of 1947 or the enactments replaced by that Part of the Act; or
  - (b) by a government department.
- (2) An order under this section may, if the local planning authority are satisfied that it should do so, provide—
  - (a) for the creation of an alternative footpath or bridleway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing path or way for such use ;
  - (b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping-up or diversion, creation or improvement, provision is made by the order;
  - (c) for the preservation of any rights of statutory undertakers in respect of apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway ;

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- (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.
- (3) The powers of a local planning authority under this section shall include power to make an order authorising the stopping-up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.
- (4) Section 32(1) and (2) of the Mineral Workings Act 1951 (temporary order for stopping-up or diversion of highway) shall apply to an order made by a local planning authority under this section as it applies to an order made by the Secretary of State under section 46 of the Act of 1947, with the substitution—
  - (a) for references to the Secretary of State of references to a local planning authority ; and
  - (b) for the reference in subsection (2) to section 46(4) of the Act of 1947 of a reference to subsection (2) of this section.

#### **94 Extinguishment of footpaths etc. over land held for planning purposes**

- (1) Subject to section 95 below, where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, the authority may by order extinguish any public right of way over the land, being a footpath or bridleway, if they are satisfied that an alternative right of way has been or will be provided, or that the provision of an alternative right of way is not required.
- (2) Any reference in subsection (1) above to the acquisition of land for planning purposes is a reference to the acquisition thereof under section 35 or 37 of the Act of 1947 or section 29 of this Act; and any reference to the appropriation of land for planning purposes is a reference to the appropriation thereof for purposes for which land can, or could have been, acquired under those sections.

#### **95 Confirmation, validity, etc. of orders under ss. 93 and 94**

- (1) An order under section 93 or 94 of this Act shall not take effect unless confirmed by the Secretary of State, or unless confirmed, as an unopposed order, by the authority who made it.
- (2) The Secretary of State shall not confirm any such order unless satisfied as to every matter of which the authority making the order are required under section 93 or 94 (as the case may be) to be satisfied.
- (3) The time specified—
  - (a) in an order under section 93 above as the time from which a footpath or bridleway is to be stopped up or diverted; or
  - (b) in an order under section 94 above as the time from which a right of way is to be extinguished,
 shall not be earlier than confirmation of the order.
- (4) Schedule 7 to this Act shall have effect with respect to the confirmation of orders under section 93 or 94 of this Act and the publicity for such orders after they are confirmed.

## **96 Amendments of s. 46 of and Schedule 6 to Act of 1947**

- (1) It is hereby declared for the avoidance of doubt that the incidental and consequential provisions which may be included in an order under section 46 of the Act of 1947 or section 90 or 91 above by virtue of section 46(4) of that Act shall include provisions providing 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 highway to which the order relates.
- (2) In paragraphs 1(b) and 4 of Schedule 6 to the Act of 1947 (periods for inspecting and objecting to a draft order under section 46), for the words " three months" there shall be substituted the words " twenty-eight days ".

### *Exchequer and Treasury matters*

## **97 Grants for research, etc.**

The Secretary of State may, with the consent of the Treasury, 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.

## **98 Exchequer contributions in connection with town development**

In section 14(1) of the Housing and Town Development (Scotland) Act 1957 (Exchequer contributions towards specified expenses incurred by a local authority in connection with town development), after paragraph (b) there shall be inserted the following paragraph:—

- “(c) expenses of providing buildings and other works for social, cultural or recreational purposes”.

## **99 Agreements of Crown Estate Commissioners**

An agreement made by the Crown Estate Commissioners under section 84 of the Act of 1947 (whereby a government department may agree with local planning authorities to secure the use of Crown land in conformity with the development plan) shall not require the approval of the Treasury; and accordingly, in paragraph (a) of the proviso to that section, the words " the Commissioners of Crown Lands or by " shall cease to have effect

### *Punishment of offences*

## **100 Increase of certain penalties under Acts of 1947 and 1959**

In the sections of the Act of 1947 and the Act of 1959 specified in Schedule 8 to this Act, the amendments shown in that Schedule shall be made (being amendments to increase the penalties to which persons may be subject under those sections and in certain cases to provide for punishment on indictment as well as summarily).

**101 Offences by corporations**

- (1) Where an offence under the Town and Country Planning (Scotland) Acts 1947 to 1966 or this Act, which has been committed by a body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.
- (2) In subsection (1) above, the expression "director", in relation to any body corporate established by or under an enactment for the purpose of carrying on under national ownership an industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

**PART VII****GENERAL****102 Expenses**

There shall be defrayed out of moneys provided by Parliament—

- (a) any sums required for the payment of grants under section 97 above;
- (b) any other expenses of a Minister under this Act; and
- (c) any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

**103 Interpretation**

- (1) In this Act, unless the context otherwise requires—
- " the Act of 1945 " means the Town and Country Planning (Scotland) Act 1945;
  - " the Acquisition Act 1947 " means the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;
  - " the Act of 1947 " means the Town and Country Planning (Scotland) Act 1947;
  - " the Act of 1954 " means the Town and Country Planning (Scotland) Act 1954;
  - " the Act of 1959 " means the Town and Country Planning (Scotland) Act 1959;
  - " the Act of 1965 " means the Control of Office and Industrial Development Act 1965 ;
  - " bridleway " and " footpath " have the same meanings as in section 47 of the Countryside (Scotland) Act 1967;
  - " the Lands Tribunal " means the Lands Tribunal for Scotland;
  - " new development " has the same meaning as in section 16(5) of the Act of 1954;
  - " prescribed " means prescribed by regulations made by the Secretary of State under this Act.

- (2) This Act and the Act of 1947 shall have effect as if this Act were part of that Act.
- (3) Until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland, for any reference in this Act to the Lands Tribunal there shall be substituted a reference to an official arbiter appointed under Part I of the Land Compensation (Scotland) Act 1963, and sections 3 and 5 of that Act shall apply, subject to any necessary modifications, in relation to the determination of any question under this Act by an arbiter so appointed.
- (4) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

#### **104 Commencement**

- (1) This Act shall come into operation on a day appointed by an order made by statutory instrument by the Secretary of State, and different days may be appointed under this section for different purposes and, in particular, different days may be so appointed for the coming into operation of the same provision in different areas.
- (2) No order under this section relating to Part III of this Act shall be made unless a draft of the order has been approved by both Houses of Parliament.
- (3) Any reference in this Act to the commencement of any provision thereof shall be construed as a reference to the day appointed for the coming into operation of that provision or, in the case of a provision which comes into operation on different days in different areas, shall, in relation to any area, be construed as a reference to the day appointed for the coming into operation of that provision in that area.
- (4) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptation of those provisions or any provision of this Act then in force as appear to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).
- (5) The Secretary of State shall maintain and keep up to date a register showing the effect of orders made under this section in such a way as enables members of the public to inform themselves—
  - (a) as to the provisions of this Act which have come, or are to be brought, into operation, and on which dates and in relation to which areas ; and
  - (b) as to whether, in the case of a particular area, any transitional provision has been made by such an order.
- (6) The register maintained by the Secretary of State under this section shall be kept at his principal offices in Edinburgh; and the register shall be available for inspection by the public at all reasonable hours.

#### **105 Adaptation, amendment and modification of enactments**

Schedule 9 to this Act shall have effect for adapting and interpreting Acts other than this Act and for making amendments and modifications to such Acts, being minor amendments and amendments consequential on the foregoing provisions of this Act.

**106 Transitional provisions and savings**

Schedule 10 to this Act shall have effect for the purpose of the transition to the provisions of this Act from the law in force before the commencement of those provisions and with respect to the application of this Act to things done before the commencement of those provisions.

**107 Repeals**

The enactments specified in Schedule 11 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**108 Short title, citation and extent**

- (1) This Act may be cited as the Town and Country Planning (Scotland) Act 1969.
- (2) The Town and Country Planning (Scotland) Acts 1947 to 1966 and this Act may be cited as the Town and Country Planning (Scotland) Acts 1947 to 1969.
- (3) This Act, except so far as it provides for Joint Planning Inquiry Commissions and except so far as it amends the House of Commons Disqualification Act 1957, shall extend to Scotland only.

## SCHEDULES

### SCHEDULE 1

Section 18.

#### PROVISIONS AS TO ESTABLISHED USE CERTIFICATES

##### *Application for certificate and appeal against refusal thereof*

- 1 An application for an established use certificate shall be made in such manner as may be prescribed by a development order, and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given thereunder, or by the local planning authority or, in the case of an application referred to the Secretary of State, by him.
- 2 Provision may be made by a development order for regulating the manner in which applications for established use certificates are to be dealt with by local planning authorities, and, in particular—
  - (a) for requiring the authority to give to any applicant for such a certificate, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
  - (b) for requiring the authority to give to the Secretary of State, and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for such certificates made to the authority, including information as to the manner in which any such application has been dealt with.
- 3 (1) A development order may provide that an application for an established use certificate, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in such form as may be prescribed by the order and corresponding to one or other of those described in paragraphs (a) to (d) of section 36(1) of the Act of 1959 (requirement of certificate that the applicant is the owner of the land or has given notice to the owners of his intended application, or has tried to do so) and any such order may—
  - (a) include requirements corresponding to those contained in subsections (2) to (4) of that section ; and
  - (b) make provision as to who, in the case of any land, is to be treated as the owner for the purposes of any provision of the order made by virtue of this sub-paragraph.
- (2) If any person issues a certificate which purports to comply with any provision of a development order made by virtue of sub-paragraph (1) above and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

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*Provisions with respect to grant of certificate*

- 4 An established use certificate shall be in such form as may be prescribed by a development order and shall specify—
- (a) the land to which the certificate relates and any use thereof which is certified by the certificate as established;
  - (b) by reference to the paragraphs of section 18(1) of this Act, the grounds on which that use is so certified ; and
  - (c) the date on which the application for the certificate was made, which shall be the date at which the use is certified as established.
- 5 Where the Secretary of State, or a person appointed by him under section 22 or 24 of this Act to determine an appeal, grants an established use certificate, the Secretary of State or that person shall give notice to the local planning authority of that fact.
- 6 In section 12(5) of the Act of 1947 (register of decisions on planning applications) references to applications for planning permission shall include references to applications for established use certificates; and the information which may be prescribed as being required to be contained in a register kept under that subsection shall include information with respect to established use certificates granted by the Secretary of State or by a person appointed by him under section 22 or 24 of this Act to determine an appeal.

SCHEDULE 2

Section 31.

GENERAL VESTING DECLARATIONS FOR LAND COMPULSORILY ACQUIRED

*Execution of general vesting declarations*

- 1 (1) Where a compulsory purchase order authorising an acquiring authority to acquire any land has come into operation, the authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form (in this Schedule referred to as "a general vesting declaration ") vesting the land in themselves as from the end of such period as may be specified in the declaration (not being less than twenty-eight days) from the date on which the service of notices required by paragraph 4 below is completed.
- (2) A general vesting declaration shall contain a particular description of the lands affected or a description by reference of those lands in the manner provided by section 61 of the Conveyancing (Scotland) Act 1874.
- 2 (1) Before making a general vesting declaration with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include in the notice of the making or confirmation of the order which is required to be published or served by paragraph 6 of Schedule 1 to the Acquisition Act 1947 or any other provision of the relevant enactments corresponding to that paragraph, or in a notice given subsequently and before the service of the notice to treat in respect of that land—
- (a) such a statement of the effect of paragraphs 1 to 8 of this Schedule as may be prescribed ; and
  - (b) a notification to the effect that every person who, if a general vesting declaration were made in respect of all the land comprised in the order in respect of which notice to treat has not been given, would be entitled to claim



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compensation in respect of any such land is invited to give information to the authority making the declaration in the prescribed form with respect to his name and address and the land in question.

(2) The requirements of the relevant enactments with respect to the publication and service of a notice of the making or confirmation of a compulsory purchase order shall apply to a notice under this paragraph given subsequently to the first-mentioned notice.

3 A general vesting declaration shall not be executed before the end of the period of two months beginning with the date of the first publication of the notice complying with paragraph 2(1) above, or such longer period, if any, as may be specified in the notice:

Provided that, with the consent in writing of every occupier of any of the land specified in the declaration, the acquiring authority may execute a general vesting declaration before the end of that period of two months, or of the longer period so specified, as the case may be.

4 As soon as may be after executing a general vesting declaration, the acquiring authority shall serve—

(a) on every occupier of any of the land specified in the declaration (other than land in which there subsists a short tenancy or a long tenancy which is about to expire); and

(b) on every other person who has given information to the authority with respect to any of that land in pursuance of the invitation published and served under paragraph 2(1) above,

a notice in the prescribed form specifying the land and stating the effect of the declaration.

5 For the purposes of this Schedule, a certificate by the acquiring authority that the service of notices required by paragraph 4 above was completed on a date specified in the certificate shall be conclusive evidence of the fact so stated.

#### *Effect of general vesting declaration*

6 At the end of the period specified in a general vesting declaration, the provisions of the Lands Clauses Acts and of section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (both as incorporated by Schedule 2 to the Acquisition Act 1947) and of the Land Compensation (Scotland) Act 1963 shall apply as if, on the date on which the declaration was made, a notice to treat had been served on every person on whom, under section 17 of the Lands Clauses Consolidation (Scotland) Act 1845 (on the assumption that they required to take the whole of the land specified in the declaration and had knowledge of all the parties referred to in that section) the acquiring authority could have served such a notice, other than—

(a) any person entitled to an interest in the land in respect of which such a notice had actually been served before the end of that period ; and

(b) any person entitled to a short tenancy or a long tenancy which is about to expire.

7 At the end of the period specified in a general vesting declaration, the land specified in the declaration, together with the right to enter upon and take possession of it, shall vest in the acquiring authority as if the circumstances in which under the said Act of 1845 an authority authorised to purchase land compulsorily have any power to expedite a notarial instrument (whether for vesting land or any interest in

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land in themselves or for extinguishing the whole or part of any feu-duty, ground annual or rent, or other payment or incumbrance) had arisen in respect of all the land and all interests therein, and the acquiring authority had duly exercised that power accordingly at the end of that period.

8 Where any land specified in a general vesting declaration is land in which there subsists a short tenancy or a long tenancy which is about to expire—

(a) the right of entry conferred by paragraph 7 above shall not be exercisable in respect of that land unless, after serving a notice to treat in respect of that tenancy, the acquiring authority have served upon every occupier of any of the land in which the tenancy subsists a notice stating that, at the end of such period as is specified in the notice (not being less than fourteen days) from the date on which the notice is served, they intend to enter upon and take possession of such land as is specified in the notice, and that period has expired ; and

(b) the vesting of the land in the acquiring authority shall be subject to the tenancy until that period expires, or the tenancy comes to an end, whichever first occurs.

9 (1) Subject to the following sub-paragraph, subsection (5) of section 10 of, and the supplementary provisions contained in Schedule 3 to the Land Commission Act 1967 (being provisions as to recording in the Register of Sasines, exclusion of power of entry, objections to severance, compensation and other miscellaneous matters arising on the making of a general vesting declaration under Part II of that Act) shall have effect for the purposes of paragraphs 6 to 8 above as they have effect for the purposes of section 10 of that Act.

(2) For the purpose of applying the said Schedule 3 to paragraphs 6 and 8 above, the following substitution of references shall be made therein—

<i>Original reference in Land Commission Act 1967, Schedule 3</i>	<i>Substituted references for purposes of this Schedule</i>
The Land Commission	An acquiring authority
The Land Commission Act 1967	This Act
The Land Commission Act 1967—	
Section 9(3)	Paragraph 4 of this Schedule
Section 10	Paragraphs 6 to 8 of this Schedule
Section 10(2)	Paragraph 7 of this Schedule.

(3) In the said Schedule 3 as so applied, " land " shall have the same meaning as in this Schedule.

#### *Recovery of compensation overpaid*

10 The provisions of paragraphs 11 to 15 below shall have effect where, after the acquiring authority have made a general vesting declaration in respect of any land, a person claims compensation in respect of the acquisition by the authority of an interest in any land by virtue of the declaration, and the authority pay compensation in respect of that interest.

11 If, in a case falling within paragraph 10 above, it is subsequently shown—

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- (a) that the land, or the claimant's interest in it, was subject to an incumbrance which was not disclosed in the particulars of his claim ; and
  - (b) that by reason of that incumbrance the compensation paid exceeded the compensation to which the claimant was entitled in respect of that interest,the acquiring authority may recover the amount of the excess from the claimant.
- 12 If, in a case falling within paragraph 10 above, it is subsequently shown that the claimant was not entitled to the interest in question, either in the whole or in part of the land to which the claim related, the acquiring authority may recover from him an amount equal to the compensation paid, or to so much of that compensation as, on a proper apportionment thereof, is attributable to that part of the land, as the case may be.
- 13 Any question arising under paragraph 11 or 12 above—
  - (a) as to the amount of the compensation to which the claimant was entitled in respect of an interest in land; or
  - (b) as to the apportionment of any compensation paid,shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such question, the provisions of section 3 of the Land Compensation (Scotland) Act 1963 shall apply, subject to any necessary modifications.
- 14 Subject to paragraph 13 above, any amount recoverable by the acquiring authority under paragraph 11 or 12 above shall be recoverable in any court of competent jurisdiction.
- 15 Any sum recovered under paragraph 11 or 12 above in respect of land by an acquiring authority who are a local authority shall be applied towards the repayment of any debt incurred in acquiring or redeveloping that land or if no debt was so incurred shall be paid into the account out of which the compensation in respect of the acquisition of that land was paid.

*Penalty for false information in claiming compensation*

- 16 (1) If any person, for the purpose of obtaining for himself or for any other person any compensation in respect of the acquisition by the acquiring authority of an interest in land by virtue of a general vesting declaration—
  - (a) knowingly or recklessly makes a statement which is false in a material particular ; or
  - (b) with intent to deceive produces, furnishes, sends or otherwise makes use of any book, account, or other document which is false in a material particular ;  
or
  - (c) with intent to deceive withholds any material information,he shall be guilty of an offence.
- (2) Any person guilty of an offence under this paragraph shall (without prejudice to the recovery of any sum under paragraph 11 or 12 above) be liable—
  - (a) on summary conviction, to a fine not exceeding £400 :
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

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*Supplemental*

- 17 (1) In this Schedule " short tenancy " means a tenancy for a year or from year to year or any lesser interest, and " long tenancy which is about to expire ", in relation to a general vesting declaration, means a tenancy granted for an interest greater than a short tenancy, but having at the date of the declaration a period still to run which is not more than the specified period (that is to say, such period, longer than one year, as may for the purposes of this paragraph be specified in the declaration in relation to the land in which the tenancy subsists).
- (2) In determining for the purposes of this paragraph what period a tenancy still has to run at the date of a general vesting declaration it shall be assumed—
- (a) that the tenant will exercise any option to renew the tenancy, and will not exercise any option to terminate the tenancy, then or thereafter available to him, and
  - (b) that the landlord will exercise any option to terminate the tenancy then or thereafter available to him.
- 18 In this Schedule—
- " relevant enactments ", in relation to an acquiring authority, means the enactments under which that authority may acquire or be authorised to acquire land compulsorily and which prescribe a procedure for effecting the compulsory acquisition of land by them by means of a compulsory purchase order;
- " land" , in relation to compulsory acquisition by an acquiring authority, has the same meaning as in the relevant enactments.

SCHEDULE 3

Section 35.

CONSEQUENTIAL AMENDMENTS OF PLANNING BLIGHT PROVISIONS OF ACT OF 1959  
*Section 38*

In subsection (1)—

- (a) after the words " this Act" there shall be inserted the words " and of sections 34 to 38 of the Act of 1969 ";
- (b) paragraphs (a) and (b) shall be omitted ; and
- (c) in paragraph (c), for the words in parenthesis there shall be substituted the words " (otherwise than by being dealt with in a manner mentioned in section 34(1)(a) or (b) of the Act of 1969) ".

In subsection (6), for the words " a notice served under this section " there shall be substituted the words " a blight notice ".

After subsection (6), there shall be added the following subsection—

“(7) In this Act and in Part IV of the Act of 1969, ' blight notice' means a notice served under this section or under section 35 of the Act of 1969.”

*Section 39*

In subsection (1), for the words " Where a notice has been served under the last preceding section " there shall be substituted the words " Where a blight notice has been served ".

For subsection (3) there shall be substituted the following subsection—

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“(3) Any counter-notice served under this section in respect of a blight notice shall specify the grounds (being one or more of the grounds specified in subsection (2) above or, as relevant, section 35(8) or 36(1) of the Act of 1969) on which the appropriate authority object to the notice.”

#### *Section 40*

In subsection (1), for the words "notice served under section thirty-eight of this Act" there shall be substituted the words " a blight notice ".

#### *Section 41*

In subsection (1), for the words " Where a notice has been served under section thirty-eight of this Act" there shall be substituted the words " Where a blight notice has been served ".

In subsection (2)(b), for the words "the notice under section thirty-eight of this Act" there shall be substituted the words " the blight notice ".

In subsection (3), for the words from the beginning to " that notice " there shall be substituted the words " Where the appropriate authority have served a counter-notice objecting to a blight notice ".

#### *Section 42*

In subsections (2)(a), (2)(b), (4)(a) and (4)(b), for the words " the whole or part" (wherever occurring) there shall be substituted the words " the whole or a substantial part ".

In subsections (2)(b), (3)(b) and (4)(b), for the words " six months before the date of service " there shall be substituted the words " twelve months before the date of service ".

In subsection (5)—

- (a) in the definition of " the relevant date "—
  - (i) in paragraph (a), the word " designated " shall be omitted in both places ; and for the words " any of the paragraphs (a) to (c) of subsection (1) of section thirty-eight of this Act " there shall be substituted the words " paragraph (c) of section 38(1) above or paragraph (a) or (b) of section 34(1) of the Act of 1969 " ; and
  - (ii) in paragraphs (b), (c) and (d), for the words " that subsection " there shall be substituted, in each place, the words " section 38(1) above " ; and
- (b) for the definition of " the specified descriptions " there shall be substituted the following definition—

“ the specified descriptions " means the descriptions contained in paragraphs (c) to (f) of section 38(1) of this Act and paragraphs (a) to (d) of section 34(1) of the Act of 1969”.

#### *Section 54*

In subsection (1), after the definition of the Act of 1954 there shall be inserted the following definition—

“ the Act of 1969 ' means the Town and Country Planning (Scotland) Act 1969.”

#### *Schedule 5*

In paragraph 8, for the words "a notice has been served under section thirty-eight of this Act" there shall be substituted the words " a blight notice has been served ".

Paragraphs 11(3) and 12(3) shall be omitted. In paragraph 13, for the words " a notice under section thirty-eight of this Act " there shall be substituted the words " a blight notice ".

## SCHEDULE 4

Sections 41, 42, 44 and 48.

### CONTROL OF WORKS FOR DEMOLITION, ALTERATION OR EXTENSION OF LISTED BUILDINGS

#### PART I

##### APPLICATIONS FOR LISTED BUILDING CONSENT

- 1 (1) Provision may be made by regulations under this Act with respect to the form and manner in which applications for listed building consent are to be made, the manner in which such applications are to be advertised and the time within which they are to be dealt with by local planning authorities or, as the case may be, by the Secretary of State.
- (2) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested therein.
- 2 (1) Regulations under this Act may provide that an application for listed building consent, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in the prescribed form corresponding to one or other of those described in paragraphs (a) to (d) of section 36(1) of the Act of 1959 (requirement of certificate that the applicant is the owner of the land or has given notice to the owners of his intended application or has tried to do so) and any such regulations may—
  - (a) include requirements corresponding to those contained in subsections (2) to (4) of that section ; and
  - (b) make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision of the regulations made by virtue of this sub-paragraph.
- (2) If any person issues a certificate which purports to comply with the requirements of regulations made by virtue of this paragraph and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- 3 (1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the local planning authority.
- (2) A direction under this paragraph may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.
- (3) An application in respect of which a direction under this paragraph has effect shall be referred to the Secretary of State accordingly.
- (4) Before determining an application referred to him under this paragraph, the Secretary of State shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.
- (5) The decision of the Secretary of State on any application referred to him under this paragraph shall be final.

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- 4 (1) Subject to the following provisions, a local planning authority to whom application is made for listed building consent shall not grant such consent, unless they have notified the Secretary of State of the application (giving particulars of the works for which the consent is required) and either—
  - (a) a period of twenty-eight days has expired beginning with the date of the notification, without the Secretary of State having directed the reference of the application to him; or
  - (b) the Secretary of State has notified the authority that he does not intend to require the reference of the application.
- (2) The Secretary of State may, at any time before the said period expires, give notice to the authority that he requires further time in which to consider whether to require the reference of the application to him, and the foregoing sub-paragraph shall then have effect with the substitution for a period of twenty-eight days or such longer period as may be specified in the Secretary of State's notice.
- 5 (1) The Secretary of State may give directions that, in the case of such descriptions of application for listed building consent as he may specify, other than such consent for the demolition of a building, paragraph 4 above shall not apply ; and accordingly, so long as the directions are in force, local planning authorities may determine applications of such descriptions in any manner they think fit, without notifying the Secretary of State.
- (2) Without prejudice to the foregoing provisions of this Schedule, the Secretary of State may give directions to local planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify to him and to such other persons as may be so specified any applications made to them for listed building consent, and the decisions taken by the authorities thereon.
- 6 (1) Where an application is made to the local planning authority for listed building consent and the consent is refused by the authority or is granted by them subject to conditions, the applicant, if he is aggrieved by the decision, may, by notice served in the prescribed manner within such period as may be prescribed, not less than twenty-eight days from the receipt by him of notification of the decision, appeal to the Secretary of State.
- (2) A person appealing under this paragraph may include in his notice thereunder, as the ground or one of the grounds of his appeal, a claim—
  - (a) that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 28 of the Act of 1947 ; or
  - (b) in the case of a building to which section 40(10) of this Act applies, that the Secretary of State should give a direction under that section with respect to the building; or
  - (c) in the case of a building subject to a building preservation notice under section 48 of this Act, that the building should not be included in a list compiled or approved under the said section 28.
- (3) Subject to the following provisions of this paragraph, the Secretary of State may allow or dismiss an appeal thereunder, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, and—
  - (a) may deal with the application as if it had been made to him in the first instance ; and

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- (b) may, if he thinks fit, exercise his power under section 28 of the Act of 1947 to amend any list compiled or approved thereunder by removing from it the building to which the appeal relates or his power under section 40(10) of this Act to direct that that subsection shall no longer apply to the building.
  - (4) Before determining an appeal under this paragraph, the Secretary of State shall, if either the applicant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
  - (5) The decision of the Secretary of State on any appeal under this paragraph shall be final.
- 7       Where an application is made to the local planning authority for listed building consent, then, unless within the prescribed period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either—
- (a) give notice to the applicant of their decision on the application ; or
  - (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under paragraph 3 of this Schedule,
- the provisions of paragraph 6 of this Schedule shall apply in relation to the application as if listed building consent had been refused by the authority and as if notification of their decision had been received by the applicant at the end of the prescribed period or at the end of the said extended period, as the case may be.

## PART II

### REVOCATION OF LISTED BUILDING CONSENT

- 8       (1) If it appears to the local planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify listed building consent in respect of any works to a building, being consent granted on an application made under Part I of this Schedule, the authority, subject to the following provisions of this paragraph, may by order revoke or modify the consent to such extent as (having regard to these matters) they consider expedient.
- (2) An order under this paragraph shall not take effect unless it is confirmed by the Secretary of State ; and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.
- (3) Where a local planning authority submit an order to the Secretary of State for confirmation under this paragraph, the authority shall serve notice on the owner, lessee and occupier of the building affected and on any other person who in their opinion will be affected by the order ; and if within such period as may be specified in that notice (not being less than twenty-eight days after the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the local planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (4) The power conferred by this paragraph to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been



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- completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.
- 9 (1) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that an order under paragraph 8 above should be made, he may give directions to the authority requiring them to submit to him such an order for his confirmation, or may himself make such an order; and any order so made by the Secretary of State shall have the like effect as if it had been made by the authority and confirmed by the Secretary of State under that paragraph.
- (2) The provisions of paragraph 8 above shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order by virtue of this paragraph, in relation to the making thereof by the Secretary of State, and in relation to the service of copies thereof as so made.
- 10 (1) Where listed building consent is revoked or modified by an order under this Part of this Schedule, then if on a claim made to the local planning authority in the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the building—
- (a) has incurred expenditure in carrying out works which are 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 authority shall pay to that person compensation in respect of that expenditure, loss or damage.
- (2) For the purposes of this paragraph, any expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out those works.
- (3) Subject to sub-paragraph (2) above, no compensation shall be paid under this paragraph in respect of any works carried out before the grant of the listed building consent which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that consent.
- 11 (1) The following provisions shall have effect where the local planning authority have made an order under paragraph 8 of this Schedule but have not submitted the order to the Secretary of State for confirmation by him. and—
- (a) the owner, lessee and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order ; and
  - (b) it appears to the authority that no claim for compensation is likely to arise under paragraph 10 above.
- (2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—
- (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose ; and

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- (b) the period (not less than fourteen days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this paragraph and without being confirmed by the Secretary of State.
- (3) The authority shall also serve notice to the same effect on the persons mentioned in sub-paragraph (1)(a) above, and the notice shall include a statement of the effect of sub-paragraph (7) below.
- (4) The authority shall send a copy of any advertisement published under sub-paragraph (2) above to the Secretary of State, not more than three days after the publication.
- (5) If within the period referred to in sub-paragraph (2)(a) above no person claiming to be affected by the order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in sub-paragraph (2)(b) above, take effect by virtue of this paragraph and without being confirmed by the Secretary of State as required by paragraph 8 of this Schedule.
- (6) This paragraph does not apply to an order revoking or modifying a listed building consent granted by the Secretary of State under Part V of this Act or under this Schedule.
- (7) No compensation shall be payable under paragraph 10 of this Schedule in respect of an order under paragraph 8 thereof which takes effect by virtue of this paragraph and without being confirmed by the Secretary of State.

### PART III

#### PROCEEDINGS ON LISTED BUILDING PURCHASE NOTICE

- 12 (1) The local planning authority on whom a listed building purchase notice is served shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner or lessee by whom the purchase notice was served a notice stating either—
  - (a) that the authority are willing to comply with the purchase notice, or
  - (b) that another local planning authority or statutory undertakers specified in the notice under this sub-paragraph have agreed to comply with it in their place ; or
  - (c) that for reasons specified in the notice under this sub paragraph, the authority are not willing to comply with the purchase notice and have not found any other local planning authority or statutory undertakers who will agree to comply with it in their place and that they have transmitted a copy of the purchase notice to the Secretary of State, on a date specified in the notice under this sub-paragraph, together with a statement of the reasons so specified.
- (2) Where the local planning authority on whom a listed building purchase notice is served by an owner or lessee have served on him a notice in accordance with sub-paragraph (1)(a) or (b) above, the authority, or the other local planning authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the provisions of section 50 of this Act, and to have served a notice to treat in

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respect thereof on the date of service of the notice under sub-paragraph (1) of this paragraph.

- (3) Where the authority on whom a listed building purchase notice is served by an owner or lessee propose to serve on him a notice in accordance with sub-paragraph (1)(c) above, they shall transmit a copy of the purchase notice to the Secretary of State together with a statement of their reasons ; and subsections (5) and (7) of section 17 of the Act of 1947 (procedure on reference of purchase notice to the Secretary of State) shall then apply in relation to the purchase notice as it applies in relation to a purchase notice under that section, with the substitution for references therein to the Secretary of State taking action under that section of references to his taking action under paragraph 13 of this Schedule.
- 13 (1) Subject to the following provisions of this paragraph, if the Secretary of State is satisfied that the conditions specified in paragraphs (a) to (c) of section 42(1) of this Act are fulfilled in relation to a listed building purchase notice, he shall confirm the notice:
- Provided that, if he is satisfied that the said conditions are fulfilled only in respect of part of the land, he shall confirm the notice only in respect of that part and the notice shall have effect accordingly.
- (2) The Secretary of State shall not confirm the purchase notice unless he is satisfied that the land comprises such land contiguous or adjacent to the building as is in his opinion required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.
  - (3) If it appears to the Secretary of State to be expedient to do so in the case of a listed building purchase notice served on account of listed building consent being refused or granted subject to conditions, he may, in lieu of confirming the purchase notice, grant listed building consent for the works in respect of which the application was made or, where such consent for those works was granted subject to conditions, revoke or amend those conditions so far as it appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of those works.
  - (4) If it appears to the Secretary of State to be expedient to do so in the case of a listed building purchase notice served on account of listed building consent being revoked or modified by an order under Part II of this Schedule, he may, in lieu of confirming the notice, cancel the order revoking the consent or, where the order modified the consent by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the works in respect of which the consent was granted.
  - (5) If it appears to the Secretary of State that the land, or any part of it, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other works for which listed building consent ought to be granted, he may, in lieu of confirming the listed building purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that listed building consent for those works shall be granted in the event of an application being made in that behalf.
  - (6) If it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any development for which planning permission ought to be granted,

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he may, in lieu of confirming the listed building purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that planning permission for that development shall be granted in the event of an application being made in that behalf.

- (7) If it appears to the Secretary of State, having regard to the probable ultimate use of the building or the site thereof, that it is expedient to do so, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land by substituting another local planning authority or statutory undertakers for the authority on whom the notice was served.
- (8) In section 17 of the Act of 1947 as applied by paragraph 12(3) above, any reference to the taking of action by the Secretary of State under this paragraph is a reference to the taking by him of any such action as is mentioned in sub-paragraphs (1) or (3) to (7) of this paragraph, or to the taking by him of a decision not to confirm the purchase notice on the grounds that any of the conditions specified in paragraphs (a) to (c) of section 42(1) of this Act are not fulfilled.
- 14 (1) Where the Secretary of State confirms a listed building purchase notice, the authority on whom the notice was served (or, if under paragraph 13(7) above the Secretary of State modified the notice by substituting another authority or statutory undertakers for that authority, that other authority or those undertakers) shall be deemed to be authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 50 of this Act and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct.
- (2) If, before the end of the relevant period, the Secretary of State has neither confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in sub-paragraphs (3) to (6) of paragraph 13 above, and has not notified the owner or lessee by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the end of that period and the authority on whom the notice was served shall be deemed to have been authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 50 of this Act and to have served a notice to treat in respect thereof at the end of that period.
- (3) In this paragraph—
- (a) " the relevant interest " means the owner's or lessee's interest in the land or, if the purchase notice is confirmed by the Secretary of State in respect of only part of the land, the owner's or lessee's interest in that part;
  - (b) " the relevant period " is whichever of the following periods first expires, that is to say—
    - (i) the period of nine months beginning with the date of the service of the purchase notice ; and
    - (ii) the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Secretary of State.
- (4) Where the Secretary of State has notified the owner or lessee by whom a listed building purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice (including any decision to confirm the notice only in respect of part of the land, or to give any direction as to the granting of listed building consent), and that decision of the Secretary of State is quashed under the provisions of section 31 of the Act of 1959, the purchase notice shall be treated as cancelled, but the owner or lessee may serve a further listed building purchase notice in its place.

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- (5) For the purpose of any regulations made under this Act as to the time within which a listed building purchase notice may be served, the service of a purchase notice under sub-paragraph (4) above shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with those regulations if the decision to refuse listed building consent or to grant it subject to conditions (being the decision in consequence of which the listed building purchase notice is served) had been made on the date on which the decision of the Secretary of State was quashed as mentioned in sub-paragraph (4) above.
- 15 Where in consequence of listed building consent being revoked or modified by an order under Part II of this Schedule, compensation is payable in respect of expenditure incurred in carrying out any works to the building in respect of which the consent was granted, then if a listed building purchase notice is served in respect of an interest in the land, any compensation payable in respect of the acquisition of that interest 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 by virtue of paragraph 10 above.

#### PART IV

##### PROVISIONS ABOUT ENFORCEMENT NOTICES UNDER SECTION 44

- 16 (1) A listed building enforcement notice shall be served on the owner, lessee and occupier of the building to which it relates ; and on any other person having an interest in the building, being an interest which in the opinion of the authority is materially affected by the notice.
- (2) Subject to the following provisions of this Schedule, a listed building enforcement notice shall take effect at the end of such period, not less than twenty-eight days after the service of the notice, as may be specified therein.
- (3) The local planning authority may withdraw a listed building enforcement notice (without prejudice to their power to serve another) at any time before it takes effect; and if they do so, they shall forthwith give notice of the withdrawal to every person who was served with the notice.
- 17 (1) A person on whom a listed building enforcement notice is served, or any other person having an interest 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 the Secretary of State against the notice on any of the following grounds:—
- (a) that the building is not of special architectural or historic interest;
  - (b) that the matters alleged to constitute a contravention of section 40 of this Act do not involve such a contravention ;
  - (c) that the works were urgently necessary in the interests of safety or health, or for the preservation of the building;
  - (d) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
  - (e) that the notice was not served as required by paragraph 16 of this Schedule ;
  - (f) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;

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- (g) 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 ;
  - (h) that the steps required by the notice to be taken would not serve the purpose of restoring the character of the building in its former state.
- (2) An appeal under this paragraph shall be made by notice in writing to the Secretary of State, which shall indicate the grounds of appeal and state the facts on which it is based; and on any such appeal the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (3) Where an appeal is brought under this paragraph, the notice shall be of no effect pending the final determination or withdrawal of the appeal.
- (4) Where an appeal is brought under this paragraph—
  - (a) the Secretary of State may correct any informality, defect or error in the notice if he 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 paragraph 16 of this Schedule to be served with the notice was not served, the Secretary of State may disregard that fact if he is satisfied that the person has not been substantially prejudiced by the failure to serve him.
- (5) On the determination of an appeal under this paragraph, the Secretary of State shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the listed building enforcement notice or for varying the terms of the notice in favour of the appellant, and the Secretary of State may—
  - (a) grant listed building consent for the works to which the notice relates or, as the case may be, discharge any condition subject to which such consent was granted and substitute any other condition, whether more or less onerous ;
  - (b) in so far as any works already executed constitute development for which planning permission is required, grant such permission in respect of the works ;
  - (c) if he thinks fit, exercise his power under section 28 of the Act of 1947 to amend any list compiled or approved thereunder by removing from it the building to which the appeal relates or his power under section 40(10) of this Act to direct that that subsection shall no longer apply to the building.
- (6) Any planning permission granted by the Secretary of State under sub-paragraph (5) above shall be treated as granted on an application for the like permission under Part II of the Act of 1947, and any listed building consent granted by him thereunder shall be treated as granted on an application for the like consent under Part I of this Schedule ; and—
  - (a) in relation to the grant thereunder either of planning permission or of listed building consent, the Secretary of State's decision shall be final;
  - (b) for the purposes of section 12(5) of the Act of 1947 (local planning authority's register of planning applications) a decision of the Secretary of State to grant planning permission shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

- 18 The validity of a listed building enforcement notice shall not, except by way of an appeal under this Part of this Schedule, be questioned in any proceedings whatsoever on any of the grounds specified in sub-paragraphs (b) or (e) of paragraph 17(1) of this Schedule.

## PART V

### PROVISIONS APPLICABLE ON LAPSE OF BUILDING PRESERVATION NOTICE

- 19 The provisions of this Part of this Schedule apply where a building preservation notice ceases to be in force by virtue of section 48(3) of this Act, otherwise than by reason of the building to which it relates being included in a list compiled or approved under section 28 of the Act of 1947.
- 20 The fact that the building preservation notice has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 40 or 45 of this Act committed by him with respect to the said building while the notice was in force.
- 21 Any proceedings on or arising out of an application for listed building consent made while the building preservation notice was in force shall lapse and any listed building consent granted with respect to the building while the notice was in force shall also lapse.
- 22 Any listed building enforcement notice served by the local planning authority while the building preservation notice was in force shall cease to have effect and any proceedings thereon under Part IV of this Schedule shall lapse, but section 46(1) and (2) of this Act shall continue to have effect as respects any expenses incurred by the local authority, owner, lessee or occupier as therein mentioned and with respect to any sums paid on account of such expenses.

## SCHEDULE 5

Section 62.

### CONSTRUCTION OF REFERENCES IN SECTIONS 62 AND 63 TO "THE RESPONSIBLE MINISTER OR MINISTERS "

- 1 In relation to matters specified in the first column of the Table below (being matters mentioned in section 62(1) above which may be referred to a Planning Inquiry Commission under that section) "the responsible Minister or Ministers " for the purposes of sections 62 and 63 of this Act are those specified opposite in the second column of the Table.
- 2 Where an entry in the second column of the Table specifies two or more Ministers, that entry shall be construed as referring to those Ministers acting jointly.

#### TABLE

Referred matter	Responsible Minister or Ministers
1. Application for planning permission or an appeal— (a) relating to operational land of statutory undertakers, or to land in	The Secretary of State and the appropriate Minister (if different).

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<p>Referred matter</p> <p>the case of which the circumstances mentioned in section 71(2) of this Act are present,</p> <p>(b) relating to other land.</p> <p>2. Proposal that a government department should give a direction or that development should be carried out by or on behalf of a government department.</p>	<p>Responsible Minister or Ministers</p> <p>The Secretary of State.</p> <p>The Secretary of State and the Minister (if different) in charge of the government department concerned.</p>
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## SCHEDULE 6

Section 64.

## JOINT PLANNING INQUIRY COMMISSIONS

*Interpretation*

- 1 In relation to matters specified in the first column of the Table below (being matters which under section 64 of this Act may be referred to a Joint Planning Inquiry Commission), " the responsible Ministers", for the purposes of this Schedule, are those specified opposite in the second column of the Table, acting jointly.

## TABLE

<i>Referred matter</i>	<i>Responsible Ministers</i>
<p>(1) Application for planning permission or appeal—</p> <p>(a) relating to operational land of statutory undertakers, or to land in the case of which there are present the circumstances mentioned in section 71(2) of this Act, or the corresponding provision of the Act of 1968,</p> <p>(b) relating to other land.</p> <p>(2) Proposal that a government department should give a direction under section 32 of the Act of 1947 or section 41 of the Act of 1962, or that development should be carried out by or on behalf of a government department.</p>	<p>The Secretary of State, the Minister of Housing and Local Government and the appropriate Minister (if different).</p> <p>The Secretary of State and the Minister of Housing and Local Government.</p> <p>The Secretary of State, the Minister of Housing and Local Government and the Minister (if different) in charge of the government department concerned.</p>
<p>2 In this Schedule—</p> <p>(a) " the Act of 1962" and " the Act of 1968 " mean respectively the Town and Country Planning Act 1962 and the Town and Country Planning Act 1968 ;</p>	



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- (b) " commission " means a Joint Planning Inquiry Commission constituted under section 64 of this Act; and
- (c) " referred matter " means a matter referred to a commission under that section.

3 Where this Schedule refers to the appropriate Minister, the local authority or the local planning authority, the reference shall be construed, according to its context, as if it were contained in the Act of 1947 or in the Act of 1962.

#### *The reference*

4 Two or more of the matters mentioned in subsection (1) of section 64 of this Act may be referred to the same commission if it appears to the responsible Ministers that they relate to proposals to carry out development for similar purposes on different sites.

5 Where a referred matter relates to a proposal to carry out development for any purpose at a particular site, the responsible Ministers may also refer to the commission the question whether development for that purpose should be instead carried out at an alternative site, whether in Scotland or in England, or partly in one and partly in the other.

6 The responsible Ministers shall, on referring a matter to a commission, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to them to be relevant to their inquiry.

7 (1) A reference to a commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time.

(2) A reference of any other matter mentioned in subsection (1) of section 64 of this Act may be made at any time before, but not after, the determination of the relevant referred application or the relevant appeal or, as the case may be, the giving of the relevant direction, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.

#### *Notice of reference to persons and authorities concerned*

8 (1) Notice of the making of a reference to a commission shall be published in the prescribed manner, and a copy of the notice shall be served on the local planning authority for the area in which it is proposed that the relevant development shall be carried out.

(2) In the case of an application for planning permission referred under section 13 of the Act of 1947 or section 22 of the Act of 1962, or an appeal under section 14 of the Act of 1947 or section 23 of the Act of 1962, notice shall also be served—

- (a) on the applicant or appellant; and
- (b) on any person who has made representations, relating to the subject matter of the application or appeal, which the local planning authority are required to take into account under section 35(4) or 36(4) of the Act of 1959 or, as the case may be, section 17(2) or (3) of the Act of 1962.

(3) In the case of a proposal that a direction should be given by a government department under section 32 of the Act of 1947 or section 41 of the Act of 1962 with respect to any development, notice shall also be served on the local authority or statutory undertakers applying for authorisation to carry out that development.

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- (4) In this paragraph, " prescribed " means prescribed by regulations made by the Secretary of State and the Minister of Housing and Local Government jointly in the exercise of their respective powers under the Act of 1947 and the Act of 1962.

*Proceedings of commission on reference*

- 9 A commission inquiring into a referred matter shall—
- (a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out, and assess the importance to be attached to those considerations or aspects ;
  - (b) thereafter, comply with paragraph 10 below in respect of affording to persons an opportunity of appearing before, and being heard by, one or more members of the commission ;
  - (c) report to the responsible Ministers on the said matter.
- 10 A commission shall afford the following persons an opportunity of appearing and being heard as aforesaid:—
- (a) in any case, the local planning authority, if the authority so desire ;
  - (b) in the case of a matter mentioned in section 62(1)(a), (b) or (c) of this Act or section 62(1)(a), (b) or (c) of the Act of 1968, the applicant, if he so desires ; and
  - (c) in the case of an application or appeal mentioned in either of the said sections 62(1)(a) or (b), any person who has made representations relating to the subject matter of the application or appeal which the local planning authority are required to take into account under section 35(4) or 36(4) of the Act of 1959 or section 17(2) or (3) of the Act of 1962.
- 11 (1) The provisions of section 13(2) of the Act of 1947 and of that subsection as applied by section 14(2) of that Act, and of sections 22(6) and 23(4) of this Act, relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an application for planning permission, or an appeal, referred to a commission.
- (2) Sections 22(5) and 23(5) of the Act of 1962 (duty of Minister of Housing and Local Government to afford parties a hearing in cases of called-in applications for planning permission and appeals), and sections 21(6) and 22(4) of the Act of 1968 (corresponding provision in relation to appeal determined by a person appointed by the Minister under Part III of that Act) shall not apply to an application for planning permission, or an appeal, referred to a commission.

*Local inquiries*

- 12 A commission shall, for the purpose of complying with paragraph 10 above, hold a local inquiry; and they may hold such an inquiry if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the local planning authority desire the opportunity of appearing and being heard.
- 13 Where a commission are to hold a local inquiry in connection with a referred matter and it appears to the responsible Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this Schedule to be the subject of a local inquiry, that the two

matters are so far cognate that they should be considered together, the responsible Ministers may direct that the two inquiries be held concurrently or combined as one inquiry.

- 14 For the purposes of the Tribunals and Inquiries Act 1958, a local inquiry held by a commission—
- (a) if held in Scotland, shall be treated as one held by the Secretary of State in pursuance of a duty imposed by a statutory provision ; and
  - (b) if held in England, shall be treated as one held by the Minister of Housing and Local Government in pursuance of a duty so imposed.
- 15 (1) Subsections (4) to (9) of section 50 of the Act of 1945 (power to summon and examine witnesses, and expenses at inquiries) shall apply to a local inquiry held by a commission in Scotland as they apply to an inquiry held under that section.
- (2) Subsections (2) to (5) of section 290 of the Local Government Act 1933 (evidence and costs at local inquiries) shall apply in relation to a local inquiry held by a commission in England as they apply in relation to an inquiry caused to be held by a department under subsection (1) of that section, with the substitution for references to a department (other than the first reference in subsection (4)) of references to the Minister of Housing and Local Government.

#### *Supplementary*

- 16 (1) A commission may, with the approval of the Ministers and at their expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to the commission to be relevant to a referred matter.
- (2) In this paragraph " the Ministers " means the Secretary of State and the Minister of Housing and Local Government, acting jointly ; but their functions under this paragraph may, by arrangements made between them, be exercised by either acting on behalf of both.
- 17 Subject to the provisions of this Schedule, and to any directions given to them by the responsible Ministers, a commission shall have power to regulate their own procedure.

### SCHEDULE 7

Section 95.

#### PROCEDURE IN CONNECTION WITH ORDERS RELATING TO FOOTPATHS AND BRIDLEWAYS

### PART I

#### CONFIRMATION OF ORDERS

- 1 (1) Before an order under section 93 or 94 of this Act is submitted to the Secretary of State for confirmation or confirmed as an unopposed order, the authority by whom the order was made shall give notice in the prescribed form—
- (a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order ;

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- (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours ; and
  - (c) specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Subject to sub-paragraph (3) below, the notice to be given under sub-paragraph (1) above shall be given—
- (a) by publication in the Edinburgh Gazette and in at least one local newspaper circulating in the area in which the land to which the order relates is situated ; and
  - (b) by serving a like notice on—
    - (i) every owner, occupier and lessee (except tenants for a month or a period less than a month and statutory tenants within the meaning of the Housing (Repairs and Rents) (Scotland) Act 1954) of any of that land ;
    - (ii) every county or town council whose area includes any of that land ;
    - (iii) any statutory undertakers to whom there belongs, or by whom there is used, for the purposes of their undertaking, any apparatus under, in, on, over, along or across that land ; and
    - (iv) any person named in the order by virtue of section 93(2)(d) of this Act; and
  - (c) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any footpath or bridleway as is to be stopped up, diverted or extinguished by virtue of the order.
- (3) Except in the case of an owner, occupier or lessee being a local authority or statutory undertakers, the Secretary of State may in any particular case direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i) above ; but if he so directs in the case of any land then in addition to publication the notice shall be addressed to " the owners and any occupiers " of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.
- 2 If no representations or objections are duly made, or if any so made are withdrawn, the authority by whom the order was made may, instead of submitting the order to the Secretary of State, themselves confirm the order (but without any modification).
- 3 (1) If any representation duly made is not withdrawn, the Secretary of State shall, before confirming the order, if the objection is made by a local authority, cause a local inquiry to be held, and in any other case either—
- (a) cause a local inquiry to be held ; or
  - (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose,
- and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm the order, with or without modifications:
- Provided that in the case of an order under section 93 of this Act, if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purpose of their undertaking, or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

- (2) Notwithstanding anything in the foregoing provisions of this paragraph, the Secretary of State shall not confirm an order so as to affect land not affected by the order as submitted to him, except after—
- (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which representations or objections with respect to the proposal may be made ;
  - (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose ; and
  - (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections as the case may be;
- and, in the case of an order under section 93 of this Act, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking, or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.
- 4 (1) The Secretary of State shall not confirm an order under section 93 of this Act which extinguishes a right of way over land under, in, on, over, along or across which there is any apparatus belonging to or used by statutory undertakers for the purpose of their undertaking, unless the undertakers have consented to the confirmation of the order; and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.
- (2) The consent of statutory undertakers to any such order shall not be unreasonably withheld ; and any question arising under this paragraph whether the withholding of consent is unreasonable, or whether any requirement is reasonable, shall be determined by whichever Minister is the appropriate Minister in relation to the statutory undertakers concerned.
- 5 Regulations under this Act may, subject to this Part of this Schedule, make such provision as the Secretary of State thinks expedient as to the procedure on the making, submission and confirmation of orders under sections 93 and 94 of this Act.

## PART II

### PUBLICITY FOR ORDERS AFTER CONFIRMATION

- 6 As soon as may be after an order under section 93 or 94 of this Act has been confirmed by the Secretary of State or confirmed as an unopposed order, the authority by whom the order was made shall publish, in the manner required by paragraph 1(2) of this Schedule, a notice in the prescribed form, describing the general effect of the order, stating that it has been confirmed, and naming a place where a copy thereof as confirmed may be inspected free of charge at all reasonable hours, and shall—
- (a) serve a like notice and a copy of the order as confirmed on any persons on whom notices were required to be served under the said paragraph 1(2); and

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- (b) cause a like notice to be displayed in the like manner as the notice required to be displayed under the said paragraph 1(2):

Provided that no such notice or copy need be served on a person unless he has sent to the authority a request in that behalf, specifying an address for service.

## SCHEDULE 8

Section 100.

### INCREASE OF PENALTIES UNDER THE ACT OF 1947 AND THE ACT OF 1959

#### *The Act of 1947*

##### *Section 22 (Supplementary provisions as to enforcement)*

In subsection (3) (penalty for use of land in contravention of enforcement notice), for the words " fifty pounds " there shall be substituted the words " £400, or on conviction on indictment to a fine ", for the words " not exceeding twenty pounds " there shall be substituted the words " not exceeding £50 " and at the end there shall be added the words " or on conviction on indictment to a fine ".

##### *Section 24 (Orders requiring discontinuance of use or alteration or removal of buildings or works)*

In subsection (4) (penalty for non-compliance with order), for the words " fifty pounds " there shall be substituted the words " £400, or on conviction on indictment to a fine ", for the words " not exceeding twenty pounds " there shall be substituted the words " not exceeding £50 " and at the end there shall be added the words " or on conviction on indictment to a fine ".

##### *Section 30 (Supplementary provisions regarding control of advertisements)*

In subsection (3) (penalty for displaying advertisements in contravention of regulations), for the words from " fifty pounds " to the end of the subsection there shall be substituted the words " £100 and, in the case of a continuing offence, £5 for each day during which the offence continues after conviction ".

##### *Section 99 (Powers of entry)*

In subsection (6) (penalty for disclosing trade secrets obtained on entry to a factory etc.), for the words from " one hundred pounds " to the end of the subsection there shall be substituted the words " £400 or on conviction on indictment to imprisonment for a term not exceeding two years or a fine, or both ".

##### *Section 102 (Power to require information as to ownership of land)*

For the words from " and any person who, having " to the end of the section there shall be substituted the following subsections—

- “(2) Any person who, having been required in pursuance of this section to give any information, fails to give that information shall be 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 liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.”.

*The Act of 1959*

*Section 36 (Notification of application for planning permission to owners of the land and others)*

In subsection (6) (penalty for false certificate under section 36(1)), for the words " not exceeding fifty pounds " there shall be substituted the words " not exceeding £100 ".

SCHEDULE 9

Section 105.

ADAPTATION AND INTERPRETATION OF ENACTMENTS, ETC.

**PART I**

GENERAL PROVISIONS FOR ADAPTATION AND INTERPRETATION

- 1 For the purposes of the Act of 1947, this Act, any other enactment relating to town and country planning, the Land Compensation (Scotland) Act 1963 and Part II of the Land Commission Act 1967, the development plan for any area (whether the whole or part of the district of a local planning authority) shall be taken as consisting of—
  - (a) the provisions of the structure plan for the time being in force for that district or the relevant part of that district, together with the Secretary of State's notice of approval of the plan ;
  - (b) any alterations to that plan, together with the Secretary of State's notices of approval thereof;
  - (c) any provisions of a local plan for the time being applicable to the area, together with a copy of the authority's resolution of adoption or, as the case may be, the Secretary of State's notice of approval of the local plan ; and
  - (d) any alterations to that local plan, together with a copy of the authority's resolutions of adoption or, as the case may be, the Secretary of State's notices of approval thereof.
- 2 References in paragraph 1 above to the provisions of any plan, notices of approval, alterations and resolutions of adoption shall, in relation to an area forming part of the district to which they are applicable, be respectively construed as references to so much of those provisions, notices, alterations and resolutions as is applicable to the area.
- 3 References in paragraphs 1 and 2 above to notices of approval shall, in relation to any plan or alteration made by the Secretary of State under section 12 of this Act, be construed as references to notices of the making of the plan or alteration.
- 4 Any reference in the Town and Country Planning (Scotland) Acts 1947 to 1966 to the carrying out of a survey or the preparation, approval, making or amendment of a development plan under Part II of the Act of 1947 or to a plan or amendment approved or made under the said Part II shall be construed as a reference to the carrying out of a survey or the preparation, approval, adoption, making or amendment of a structure plan or local plan under Part I of this Act or, as the case may be, to a plan or amendment approved, adopted or made thereunder.
- 5 References in any Act to the acquisition of land under Part III of the Act of 1947 or to land acquired thereunder shall be respectively construed as, or as including

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(according as the context requires) references to the acquisition of land under any provision of this Act and to land acquired under any such provision, and—

- (a) any such references in sections 24 to 28 of the Act of 1945 (ancillary provisions as to the acquisition of land) shall be respectively construed as also including references to the compulsory acquisition of land under any enactment other than the Act of 1947 and this Act and to land compulsorily acquired under any such enactment; and
- (b) in section 17(1B) of the Act of 1947 (effect of purchase notice accepted by local planning authority or statutory undertakers), and section 17(2) of that Act (confirmation of purchase notice by Secretary of State), references to compulsory acquisition shall, in the case of statutory undertakers, be construed as references to any statutory provision (however expressed) under which the undertakers have power, or may be authorised, to purchase land compulsorily for the purposes of their undertaking.

6 Any reference in the Land Compensation (Scotland) Act 1963 to an area defined in the current development plan as an area of comprehensive development shall be construed as a reference to an action area for which a local plan is in force.

7 The foregoing provisions of this Schedule shall have effect subject to any specific provision contained in Part II of this Schedule and to the provisions of Schedule 10 to this Act.

## PART II

### SPECIFIC ADAPTATIONS, AMENDMENTS AND MODIFICATIONS

#### *The Town and Country Planning (Scotland) Act 1945 (c. 33)*

8 In section 18(4) (consent of Secretary of State to disposal or appropriation of certain land) after the word " section " there shall be inserted the words " or of land acquired or appropriated for planning purposes for a reason mentioned in section 29(1)(a) to (c) of the Town and Country Planning (Scotland) Act 1969 ".

9 In section 18(5) (special provisions as to land comprised in an area of comprehensive development) for the words " comprised in an area defined by a development plan as an area of comprehensive development" there shall be substituted the words " acquired or appropriated for planning purposes for a reason mentioned in section 29(1)(a) to (c) of the Town and Country Planning (Scotland) Act 1969 ".

#### *The Town and Country Planning (Scotland) Act 1947 (c. 53)*

10 Any reference to section 35 of the Act shall be construed (according as the context may require) as including, or as being replaced by, a reference to section 29 of this Act.

11 In section 12 (applications for planning permission)—

- (a) in subsection (1), after the word " provisions " (where first occurring) there shall be inserted the words " of sections 66 and 67 of the Act of 1969 and ";
- (b) in subsection (3)(a), after the word " authority " there shall be inserted the words " either indefinitely or ".



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- 12 In section 17 (obligation to purchase land on refusal of planning permission in certain cases), the following amendments shall be made:—
- (a) after subsection (1A) of that subsection there shall be inserted the following subsection:—

“(1AA) Where the local planning authority upon whom a purchase notice is served under this section do not, within the period specified in subsection (1A) above, serve a notice under that subsection on the owner by whom the purchase notice was served, the purchase notice shall be deemed to be confirmed at the expiration of that period, and the authority shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part III of this Act, and to have served a notice to treat in respect thereof at the expiration of the said period.”;
  - (b) in subsection (1B), for the words "the last foregoing subsection " (in both places where they occur) there shall be substituted the words " subsection (1A) above ";
  - (c) in subsection (3), the words " the end of the period specified in subsection (1A) of this section " and the words " whichever is the earlier " shall cease to have effect;
  - (d) in subsection (7), after the word " purpose " there shall be inserted the words " or the persons, authorities and undertakers concerned have agreed to dispense with such a hearing ".
- 13 In section 22 (supplementary provisions as to enforcement)—
- (a) in subsection (1), for the words "sheriff under the last foregoing section" there shall be substituted the words " Secretary of State ";
  - (b) in subsection (2) for the words " any development" there shall be substituted the words " any breach of planning control (as defined by section 15 of the Act of 1969)
- and for the words " by whom the development was carried out " there shall be substituted the words " by whom the breach of planning control was committed ".
- 14 In section 23(1) (agreements regulating development or use of land), the words " with the approval of the Secretary of State " shall be omitted.
- 15 In section 28(4) (duty of Secretary of State to notify owner etc. of building when it has become, or ceased to be, listed), for the words "the Secretary of State shall serve a notice " there shall be substituted the words " the local planning authority concerned in whose district the building is situated, on being informed of the fact by the Secretary of State, shall serve a notice in the prescribed form ".
- 16 In section 29(1)(d) (enforcement of control of advertising), after the words " this Act" there shall be inserted the words " or Part II of the Act of 1969 ".
- 17 In section 29(4) (definition of areas of special control in connection with advertisements), the words from " either" to first " or " shall be omitted.
- 18 In section 30(2) (compensation for restrictions on advertising), for the words " the date on which the regulations come into force " there shall be substituted the words " 16th August 1948 ".
- 19 In section 32(3) (local authority land), after the words " this Part of this Act", where they first occur, there shall be inserted the words " and Part II of the Act of 1969

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- " , and after the words " this Part of this Act", where they subsequently occur, there shall be inserted the words " or Part II of the Act of 1969 " .
- 20 In section 38(5) (acquisition by agreement of buildings of architectural or historic interest), for the words from " any building " to the end of the subsection there shall be substituted the following paragraphs :—
- “(a) any building appearing to them to be of special architectural or historic interest; and
  - (b) any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.”
- 21 In section 39(1) (appropriation of land for planning purposes), the words " specified in a development plan (being a purpose " shall cease to have effect.
- 22 In section 42(1) (objections to compulsory purchase orders), for the words from the beginning to " purpose" there shall be substituted the words " Where it is proposed that land should be acquired compulsorily under section 29 or 30 of the Act of 1969 " .
- 23 In section 73(2) (authorisation of existing development), for the words " Part II of this Act" there shall be substituted the words " Part II of the Act of 1969 " .
- 24 In section 78(1) (power to modify Act in relation to minerals), after the words " of this Act" there shall be inserted the words " and of the Act of 1969 " .
- 25 In section 83 (Crown land), the following amendments shall be made:—
- (a) in subsection (3)(a), for the words " twenty-one, twenty-four, twenty-six, twenty-seven or thirty-one of this Act" there shall be substituted the words " 24, 26 or 31 of this Act or section 15 or 44 of the Act of 1969 " ;
  - (b) in subsection (4), after the word " Act" there shall be inserted the words " or section 42 of the Act of 1969 " ;
  - (c) for subsection (5) there shall be substituted the following subsections:—
    - “(5) No enforcement notice shall be served under section 15 of the Act of 1969 in respect of development carried out by or on behalf of the Crown after the appointed day on land which was Crown land at the time when the development was carried out.
    - (5A) No enforcement notice under section 44 of the Act of 1969 shall be served in respect of works executed by or on behalf of the Crown in respect of a building which was Crown land at the time when the works were executed.”
- 26 In section 86(1) (application to National Coal Board of provisions of the Act of 1947 relating to statutory undertakers), after the words " of this Act" (where first occurring) there shall be inserted the words " or of the Act of 1969 " .
- 27 In section 93 (contributions by Ministers towards compensation paid by local authorities), after the words " section seventeen of this Act)" there shall be inserted the words " or Part II, III, or V of the Act of 1969 " .
- 28 In section 94(1)(b) (contribution by local authorities and statutory undertakers), at the end there shall be added the words " or Part II or Part V of the Act of 1969 or Schedule 4 to that Act " .

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- 29 In section 95(2) (expenses of local authorities), for the words " section thirty-four of this Act" there shall be substituted the words " the Act of 1969 ".
- 30 Section 96 (default powers of Secretary of State) shall be amended as follows:—
- (a) in subsection (1), for the words from "an enforcement notice " to " section 31 of this Act" there shall be substituted the following words—
    - “(a) an enforcement notice under section 15 of the Act of 1969 or under the provisions of that section as applied by regulations made under section 29 of this Act; or
    - (b) a notice under section 31 of this Act; or
    - (c) a stop notice under section 20 of the Act of 1969 ; or
    - (d) an enforcement notice under section 44 of that Act; or
    - (e) a completion notice under section 69 of that Act; should be served ", and for the words in the proviso from " an enforcement notice " to " this Act" there shall be substituted the words " an enforcement notice under section 15 or 44 of the Act of 1969 which is served by the Secretary of State, the provisions of section 22 of this Act or, as the case may be, sections 45 and 46 of that Act”;
  - (b) for subsection (4)(a) there shall be substituted the following paragraph:—
    - “(a) that the council of a county or a burgh have failed to take steps for the acquisition of any land which, in the opinion of the Secretary of State, ought to be acquired by that council under section 29 of the Act of 1969 for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated, or”.
- 31 Section 99 (powers of entry) shall be amended as follows:—
- (a) at the end of subsection (1)(c) there shall be added the words " or to serve any notice under Part II or Part V of the Act of 1969 ";
  - (b) after that subsection there shall be inserted the following subsections:—
    - “(1A) Any person duly authorised in writing by the Secretary of State 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 or approved under section 28 of this Act.
    - (1B) Any person duly authorised in writing by the Secretary of State or a local planning authority may at any reasonable time enter any land for the purpose of ascertaining whether, with respect to any building on the land, an offence has been, or is being, committed under Part V of the Act of 1969, or whether the building is being maintained in a proper state of repair”;
  - (c) in subsection (2), for the words from " a Minister " to " so designated " there shall be substituted the words " a local authority or Minister authorised to acquire land under section 29 or 30 of the Act of 1969 ";
  - (d) in subsection (3)(a), at the end there shall be added the words " or under the Act of 1969 ".

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- 32 In section 105(1) (determination of disputes as to compensation), after the words "compulsory acquisition of land" there shall be inserted the words " or under Part II or Part V or section 91 of the Act of 1969 ".
- 33 In section 113(1) (interpretation), after the definition of "Act of 1945 " there shall be inserted the following—  
 “ Act of 1969 ' means the Town and Country Planning (Scotland) Act 1969;”.
- 34 In paragraph 1 of Part III of Schedule 1 (joint advisory committees for advising constituent authorities as to preparation of development plans etc.), the reference to development plans shall be construed as a reference to structure plans and local plans.
- 35 In Schedule 4, in paragraph 1, after the words "of this Act" there shall be inserted the words " or under Part V or section 91 of the Act of 1969 ".
- 36 In Schedule 5 (development by statutory undertakers), the following amendments shall be made:—
- (a) in paragraph 1(1), after the words " such an application " there shall be inserted the words " or such an application is deemed to be made under section 16(7) of the Act of 1969 on an appeal under that section by statutory undertakers ";
  - (b) after paragraph 1(1) there shall be inserted the following sub-paragraph:—  
 “(1A) An application for planning permission which is deemed to have been made by virtue of section 19(5) of the Act of 1969 shall be determined by the Secretary of State and the appropriate Minister.”

*The Building (Scotland) Act 1959 (c. 24)*

- 37 Section 17(2) (restriction on demolition requirement or on requirement as to operations to be carried out) shall be amended as follows:—
- (a) for paragraph (b) there shall be substituted the following paragraph—  
 “(b) subject to a building preservation notice under section 48 of the Town and Country Planning (Scotland) Act 1969”;
  - (b) in paragraph (c) for the words " said Act of 1947 " there shall be substituted the words " Town and Country Planning (Scotland) Act 1947 ";
  - (c) after the words " Act of 1931 " there shall be inserted the words " the said Act of 1969 ".

*Town and Country Planning (Scotland) Act 1959 (c. 70)*

- 38 In section 31 (proceedings for challenging validity of certain orders and decisions), the following amendments shall be made :—
- (a) at the end of subsection (3) there shall be added the following paragraphs—  
 “(f) any order under section 22 of the Town and Country Planning (Scotland) Act 1945 (extinguishment of right of way);  
 (g) any order under section 26 of the said Act of 1945 (relief for statutory undertakers);

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- (h) any order under section 46 of the Act of 1947 (stopping up and diversion of highways);
  - (i) any order under section 90 of the Act of 1969 (stopping up and diversion of highways);
  - (j) any order under section 91 of the Act of 1969 (conversion of highway into footpath or bridleway);
  - (k) any order under section 93 or 94 of the Act of 1969 (stopping up and extinguishment of footpaths etc) ;
  - (l) any order under Part II of Schedule 4 to the Act of 1969 (revocation or modification of listed building consent).”;
- (b) at the end of subsection (4) there shall be added the following paragraphs—
- “(f) any decision of the Secretary of State on an appeal to him under section 14 of the Civic Amenities Act 1967; ”
  - (g) any decision of the Secretary of State on an appeal to him under section 16(1)(a), (f) or (g) of the Act of 1969 against any enforcement notice ;
  - (h) any decision of the Secretary of State on an application for an established use certificate referred to him under section 19(1) of the Act of 1969 ;
  - (i) any decision of the Secretary of State on an appeal under section 19(2) of the Act of 1969 ;
  - (j) any decision of the Secretary of State to confirm a purchase notice under section 42 of the Act of 1969 or not to confirm such a notice (including any decision not to confirm such a notice in respect of part of the land to which it relates, and including any decision to grant any permission, or give any direction, in lieu of confirming such a notice either wholly or in part);
  - (k) any decision of the Secretary of State to confirm a completion notice under section 69 of the Act of 1969 ;
  - (l) any decision of the Secretary of State on an application referred to him under paragraph 3 of Schedule 4 to the Act of 1969, being an application for listed building consent for any works;
  - (m) any decision of the Secretary of State on an appeal to him under paragraph 6 or Part IV of that Schedule ;
  - (n) any decision of the Secretary of State under paragraph 17(5)(a) of that Schedule to grant listed building consent for any works or under paragraph 17(5)(b) of that Schedule to grant planning permission in respect of any works.”;
- (c) in subsection (5)(b), after the words " Act of 1954 " there shall be inserted the words " of the Act of 1969 ".
- 39 In section 35(1)(b) (certain planning applications not to be determined before end of a specified period), for the words from " appearing from the evidence " onwards there shall be substituted the words " of the application ".
- 40 In section 36(1) (application for planning permission to be accompanied by certificate that applicant is proprietor or lessee of the land etc.)—
- (a) in paragraph (c), for the words " and that" to the end of the paragraph there shall be substituted the words " that he has taken such steps as

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are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so "; and

- (b) in paragraph (d), for the words " and that" to the end of the paragraph there shall be substituted the words " that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) of this subsection and that he has been unable to do so ".

*The Control of Office and Industrial Development Act 1965 (c. 33)*

- 41 In section 17 (application to Scotland), after the words "Act of 1962 " there shall be inserted the words " or of the Town and Country Planning Act 1968 ".

*The Industrial Development Act 1966 (c. 34)*

- 42 In section 24 (provisions as to conditions of industrial development certificates), in subsection (9)(b), for the words after the word " reference" where first occurring there shall be substituted the words " in subsection (3) to section 16 of the Town and Country Planning Act 1968 there shall be substituted a reference to section 16 of the Town and Country Planning (Scotland) Act 1969 ".

*The Housing (Scotland) Act 1966 (c. 49)*

- 43 In section 18 (provisions as to houses subject to building preservation orders etc.), in subsection (1), for paragraphs (a) and (b) there shall be substituted the following paragraphs—
- “(a) in relation to which a building preservation notice served under section 48 of the Town and Country Planning (Scotland) Act 1969 is in force, or
  - (b) which is a listed building within the meaning of Part V of that Act ”,
- and, in subsection (2), for paragraphs (a) and (b) there shall be substituted the following paragraphs—
- “(a) subject to a building preservation notice served under the said section 48, or
  - (b) a listed building within the meaning of the said Part V.”

*The Local Government (Scotland) Act 1966 (c. 51)*

- 44 In section 25(3)(c) (exemption from rating of unoccupied property), for the words from " of a building " to " of that Act" there shall be substituted the words " of a building preservation notice as defined by section 48 of the Town and Country Planning (Scotland) Act 1969 or are included in a list compiled or approved under section 28 of the Town and Country Planning (Scotland) Act 1947 "

*The Land Commission Act 1967 (c. 1)*

- 45 In section 6(3) (conditions precedent to the compulsory purchase of land by the Land Commission), the reference in paragraph (b) to the current development plan shall be construed as a reference to a local plan for the time being applicable to the district and any alterations thereto (including a plan or alterations made available for inspection in pursuance of section 7(2) of this Act, but not yet in force) and the

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authority's resolutions of adoption or, as the case may be, the Secretary of State's notices of approval or making of the plan or alterations.

*The Civic Amenities Act 1967 (c. 69)*

- 46 In section 1 (preservation of character of areas of special architectural or historic interest), at the end of subsection (5)(b) there shall be added the words " or the Scottish Planning Act of 1969 ".
- 47 In section 3 (acts causing or likely to result in damage to listed buildings), for subsection (4) there shall be substituted the following subsection—
- “(4) In the application of this section to Scotland—
- (a) in subsection (1), for the references to section 41(1) of the Planning Act of 1968 and section 32 of the Planning Act there shall be substituted respectively references to section 41(1) of the Scottish Planning Act of 1969 and section 28(1) of the Scottish Planning Act;
- (b) in subsection (2), for the references to the Planning Act and to Part V of the Planning Act of 1968 there shall be substituted respectively references to the Scottish Planning Act and Part V of the Scottish Planning Act of 1969.”
- 48 In section 6 (works to preserve listed buildings etc.), in subsection (2), for the words from " the proviso " to the end there shall be substituted the words " subsection (2) of section 48 of the Scottish Planning Act of 1969 ".
- 49 In section 8 (management of buildings acquired under section 38 of the Scottish Planning Act), in subsection (3)(b), for the words after the word " references " where first occurring there shall be substituted the words " to section 71(1)(b) of the Planning Act, sections 50(1) and 50(2) of the Planning Act of 1968 there shall be substituted respectively references to section 38(5) of the Scottish Planning Act, sections 50(1) and 50(2) of the Scottish Planning Act of 1969 ".
- 50 In section 14 (default powers and appeals relating to notices in connection with tree preservation orders), for paragraph (b) of subsection (5) there shall be substituted the following paragraph—
- “(b) in subsection (3), for the words from ' section 16(2)' onwards there shall be substituted the words ' section 16(2), (3) and (4)(a) of the Town and Country Planning (Scotland) Act 1969 and so much of section 16(5) of that Act as enables the Secretary of State to give directions shall apply in relation to any such appeal as they apply in relation to an appeal against an enforcement notice ”.
- 51 In section 16 (power of local planning authority to make tree preservation order with immediate effect)—
- (a) in subsection (1), the words "by the Minister" shall be omitted; and
- (b) for subsections (2) and (3) there shall be substituted the following subsections:—
- “(2) Notwithstanding section 26(4) of the Scottish Planning Act, an order which contains such a direction shall take effect provisionally on such date as may be specified therein and shall continue in force by virtue of this section until—
- (a) the expiration of a period of six months beginning with the date on which the order was made ; or

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- (b) the date on which the order is confirmed or, in the case of an order which can be confirmed only by the Minister, on which he notifies the authority who made the order that he does not propose to confirm it;

whichever first occurs.

- (3) Provision shall be made by regulations under the Scottish Planning Act for securing—

- (a) that the notices to be given of the making of a tree preservation order containing a direction under this section shall include a statement of the effect of the direction ; and
- (b) that where the Minister, in the case of an order which can be confirmed only by him, within the period of six months referred to in subsection (2) above, notifies the authority that he does not propose to confirm the order, copies of that notice shall be served on the owners, occupiers and lessees of the land to which the order related.”.

52 In section 30 (interpretation), in subsection (1), after the definition of "the Scottish Planning Act" there shall be inserted the following—

“" the Scottish Planning Act of 1969 " means the Town and Country Planning (Scotland) Act 1969”.

## SCHEDULE 10

Section 106.

### TRANSITIONAL PROVISIONS AND SAYINGS

#### *Development plans*

- 1 Until the repeal of the enactments in Part II of the Act of 1947 mentioned in Schedule 11 to this Act as respects any area (Whether the whole or part of the district of a local planning authority), proposals for any alterations or additions to a development plan in force in the area shall not without the approval of the Secretary of State be submitted to him under section 4 of that Act.
- 2 On the repeal of the said enactments in the said Part II as respects any area, the development plan which was in force in the area immediately before the repeal takes effect (hereafter in this Schedule referred to as " the old development plan ") shall, subject to the following provisions of this Schedule, continue in force as respects that area and be treated for the purposes of the Act of 1947, this Act, any other enactment relating to town and country planning, the Land Compensation (Scotland) Act 1963 and the Land Commission Act 1967 as being comprised in, or as being, the development plan therefor.
- 3 Subject to the following provisions of this Schedule, where by virtue of paragraph 2 above the old development plan for any area is treated as being comprised in a development plan for that area and there is a conflict between any of its provisions and those of the structure plan for that area, the provisions of the structure plan shall be taken to prevail for the purposes of Parts II and III of the Act of 1947, Part II of the Act of 1954, Part IV of the Act of 1959, Parts II and VI of this Act and Schedule 4 to this Act.



- 4 Where a structure plan is in force in any area, but no local plan is in force in that area, a street authorisation map prepared in pursuance of the Town and Country Planning (Development Plans) (Scotland) Regulations 1966 for that area shall—
- (a) if in force immediately before the structure plan comes into force, be treated for the purposes of this Act as having been adopted as a local plan by the local planning authority ;
  - (b) if immediately before the structure plan comes into force it was under consideration by the Secretary of State, be treated for those purposes as having been so adopted on being approved by the Secretary of State.
- 5 Where a structure plan is in force in any area, but no local plan is in force in that area, then, for any of the purposes of the Land Compensation (Scotland) Act 1963—
- (a) the development plan or current development plan shall, as respects that area, be taken as being whichever of the following plans gives rise to those assumptions as to the grant of planning permission which are more favourable to the owner of the land acquired, for that purpose, that is to say, the structure plan, so far as applicable to the area, and any alterations thereto, together with the Secretary of State's notice of approval of the plan and alterations, or the old development plan ;
  - (b) land situated in an area defined in the current development plan as an area of comprehensive development shall be taken to be situated in whichever of the following areas leads to such assumptions as aforesaid, that is to say, any area wholly or partly within the area first-mentioned in this paragraph selected by the structure plan as an action area or the area so defined in the old development plan.
- 6 Subject to paragraph 7 below, the Secretary of State may by order wholly or partly revoke a development plan continued in force under this Schedule whether in its application to the whole of the district of a local planning authority or in its application to part of that district and make such consequential amendments to the plan as appear to him to be necessary or expedient.
- 7 Before making an order with respect to a development plan under paragraph 6 above, the Secretary of State shall consult with the local planning authority for the district to which the plan relates.
- 8 Any reference in paragraphs 1 and 2 above to the repeal of Part II of the Act of 1947 shall, in a case where that repeal is brought by an order under section 104 of this Act into operation on different days, be construed as a reference to a repeal of such of the provisions of the said Part II as may be specified in the order.

*Enforcement of planning control*

- 9 (1) References in this Act to an enforcement notice shall be construed as not including references to an enforcement notice served, before the commencement of Part II of this Act, under section 21 of the Act of 1947.
- (2) In relation to an enforcement notice so served, the provisions of the Act of 1947, and of any other Act passed before this Act, shall continue to apply as if this Act had not been passed.
- (3) Nothing in this paragraph shall prevent the withdrawal, after the said commencement, of an enforcement notice so served or the service thereafter of an enforcement notice under Part II of this Act.

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- 10 The amendment of section 14 of the Civic Amenities Act 1967 which is made by paragraph 50 of Schedule 9 to this Act shall not have effect in relation to a notice served under that section before the commencement of Part II of this Act.

*Acquisition of land*

- 11 Sections 28 to 30 of this Act shall not apply to any land the acquisition of which was, immediately before the commencement of those sections, authorised by a compulsory purchase order made by a local authority or statutory undertakers or by a Minister, or was then proposed to be authorised by such an order which had not been confirmed by a Minister or, as the case may be, had been prepared in draft by a Minister, but with respect to which a notice had then been published in accordance with paragraph 3(a) of Schedule 1 to the Acquisition Act 1947.
- 12 Section 31 of this Act shall not apply to the compulsory acquisition of land with respect to which a compulsory purchase order was in force before the commencement of that section.
- 13 In relation to a notice served under section 38 of the Act of 1959 before the commencement of sections 34 and 35 of this Act, and to any hereditament or agricultural unit which is the subject of the notice, Part IV of and Schedule 5 to the Act of 1959 shall, after that commencement, have effect without any of the amendments made by Part IV of this Act.
- 14 (1) Notwithstanding any amendment by this Act of sections 38 to 42 of, and Schedule 5 to, the Act of 1959, the description of land contained in section 38(1)(b) of that Act (land allocated by a development plan for the purposes of a government department, etc.) shall continue as one of the specified descriptions for the purposes of those sections and that Schedule in their application to any district to which this paragraph applies.
- (2) This paragraph applies to any area for which no local plan is in force under Part I of this Act—
- (a) allocating any land in the area for the purposes of such functions as are mentioned in section 34(1)(a) of this Act; or
  - (b) defining any land in the area as the site of proposed development for the purposes of any such functions.
- (3) To the extent that section 38(1)(b) of the Act of 1959 survives by virtue of this paragraph, and for so long as it does so, the amendment by this Act of the definition of " the relevant date " in section 42(5) of that Act shall be treated as not displacing the reference in that definition to section 38(1)(b).
- 15 The validity of a compulsory purchase order made under section 34, 35 or 38 of the Act of 1947 shall not be affected by the repeal of that section; and a compulsory purchase order made (but not confirmed), or made in draft, before the repeal of that section took effect may be confirmed or made thereunder as if this Act had not been passed.

*Buildings of architectural or historic interest*

- 16 (1) Where, before the commencement of Part V of this Act, consent under a building preservation order has been given, either by the local planning authority or by the Secretary of State on appeal, for the execution of any works, the consent shall operate

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in respect of those works as listed building consent, subject to the same conditions (if any) as were attached to the consent under the building preservation order.

- (2) In the case of demolition works for which consent has been given under a building preservation order compliance with section 40(4)(b) of this Act shall not be required.
- 17 Where, before the commencement of Part V of this Act an application has been made for consent under a building preservation order for any works, any proceedings pending at the commencement of Part V of this Act and arising out of the application (including any appeal) may be continued and disposed of under and in accordance with the provisions of Part V of this Act corresponding to provisions of the building preservation order as to the making of applications, the decision of the local planning authority thereon and appeals to the Secretary of State against the said decision.
- 18 The repeal by this Act of section 27 of the Act of 1947 shall not prevent a local planning authority from taking such proceedings as could have been taken to enforce any building preservation order made under that section and for securing the restoration of a building to its former state as could have been taken but for the repeal; and in relation to any such proceedings the provisions of the order and of any provisions of the Act of 1947 incorporated therewith, shall continue to have the same effect as if this Act had not been passed.

*The National Coal Board*

- 19 The provisions of the Act of 1947 applied by regulations under section 86(1) of that Act in relation to the National Coal Board and land of that Board shall, until the coming into operation of the first regulations made under that subsection after the commencement of sections 70 to 72 of this Act, continue to have effect as so applied as if those sections had not been enacted.

SCHEDULE 11

Section 107.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act 1945.	Section 24(7), (subject to the exception in section 71(3) of this Act). Schedule 6.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act 1947.	Sections 3 to 9. In the proviso to section 10(5), subparagraph (i). In section 14(1), the proviso. In section 16(5), in the proviso, the words from " or begun " to the end.

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

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		<p>In section 16(6), the words from " or was begun " to the end.</p> <p>In section 17(3), the words " the end of the period specified in subsection (1A) of this section " and the words " whichever is the earlier ".</p> <p>Section 21.</p> <p>In section 23(1), the words " with the approval of the Secretary of State ".</p> <p>In section 26(5), the words from " and such regulations " to " to which it relates ".</p> <p>Section 27.</p> <p>Section 28(5) to (8).</p> <p>In section 29(4), the words from " either " to " plans or ".</p> <p>In section 30(2), the proviso.</p> <p>Sections 33 to 36.</p> <p>In section 37(1), the words in parenthesis.</p> <p>Section 38, except subsection (5).</p> <p>In section 39(1), the words from " specified " to " a purpose ".</p> <p>In section 42, subsection (3), in subsection (4), the words in parenthesis, in the proviso to that subsection the words from " or the land" to " subsection " and paragraph (b), (subject to the exception in section 71(3) of this Act), and subsection (6).</p> <p>Section 72(9).</p> <p>In section 83, in subsection (2)(a), the words from " and may</p>

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		<p>" to " acquisition ", and subsection (3)(b).</p> <p>In section 84, in paragraph (a) of the proviso, the words " the Commissioners of Crown Lands or by ".</p> <p>Section 96(2)(e).</p> <p>In section 107(4), the words " the foregoing provisions of".</p> <p>In section 113(1), the definitions of " building preservation order" and " development plan ".</p> <p>In Schedule 5, paragraphs 1(2), 2(1)(a), 3(2) and 4(2), (subject to the exception in section 71(3) of this Act).</p> <p>In Schedule 6, paragraph 7.</p> <p>In Schedule 10, paragraph 17.</p>
1 & 2 Eliz. 2. c. 36.	The Post Office Act 1953.	<p>In section 47(5), the words " or the Town and Country Planning (Scotland) Act 1947 ".</p> <p>In Schedule 1, paragraphs 4 to 7.</p>
5 & 6 Eliz. 2. c. 48.	The Electricity Act 1957.	Section 36.
6 & 7 Eliz. 2. c. 30.	The Land Powers (Defence) Act 1958.	Section 8(4).
7 & 8 Eliz. 2. c. 70.	The Town and Country Planning (Scotland) Act 1959.	<p>In section 31, subsection (3) (d), in subsection (4)(d), the words " or section twenty-seven ", in subsection (5), in the proviso, the words " or section twenty-seven ", in subsection (9), the proviso and, in subsection (10), the words from " do not include " to " (with that exception)".</p> <p>Section 38(1)(a) and (b).</p> <p>In section 42, in subsection (5), in the definition of " the relevant date", the word " designated"</p>

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Chapter	Short Title	Extent of Repeal
9 & 10 Eliz. 2. c. 15.	The Post Office Act 1961.	wherever it occurs, and subsection (6). In Schedule 5, paragraphs 6, 7, 11(3) and 12(3). In the Schedule, so much as amends paragraphs 5, 6 and 7 of Schedule 1 to the Post Office Act 1953.
1963 c. 51.	The Land Compensation (Scotland) Act 1963.	In section 16, the word "designation". In section 45(1), the words "by the Secretary of State".
1966 c. 49.	The Housing (Scotland) Act 1966.	Section 176.
1967 c. 1.	The Land Commission Act 1967.	Section 6(3)(c).
1967 c. 69.	The Civic Amenities Act 1967.	In section 1(6), paragraphs (b) and (c). Section 2. In section 6(2), the words "in respect of which a building preservation order is in force or". Sections 7, 9 and 10. In section 16(1), the words "by the Minister".
1968 c. 16.	The New Towns (Scotland) Act 1968.	Sections 15 to 17, Schedule 7.
1968 c. 72.	The Town and Country Planning Act 1968.	In Schedule 9, paragraphs 66(b) and 71(c).