



Land Compensation Act 1973

1973 CHAPTER 26

An Act to confer a new right to compensation for depreciation of the value of interests in land caused by the use of highways, aerodromes and other public works; to confer powers for mitigating the injurious effect of such works on their surroundings; to make new provision for the benefit of persons displaced from land by public authorities; to amend the law relating to compulsory purchase and planning blight; to amend section 35 of the Roads (Scotland) Act 1970; and for purposes connected with those matters. [23rd May 1973]

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

COMPENSATION FOR DEPRECIATION CAUSED BY USE OF PUBLIC WORKS

1 Right to compensation

- (1) Where the value of an interest in land is depreciated by physical factors caused by the use of public works, then, if—
 - (a) the interest qualifies for compensation under this Part of this Act; and
 - (b) the person entitled to the interest makes a claim within the time limited by and otherwise in accordance with this Part of this Act,compensation for that depreciation shall, subject to the provisions of this Part of this Act, be payable by the responsible authority to the person making the claim (hereafter referred to as "the claimant").
- (2) The physical factors mentioned in subsection (1) above are noise, vibration, smell, fumes, smoke and artificial lighting and the discharge on to the land in respect of which the claim is made of any solid or liquid substance.

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- (3) The public works mentioned in subsection (1) above are—
 - (a) any highway;
 - (b) any aerodrome ; and
 - (c) any works or land (not being a highway or aerodrome) provided or used in the exercise of statutory powers.
- (4) The responsible authority mentioned in subsection (1) above is, in relation to a highway, the appropriate highway authority and, in relation to other public works, the person managing those works.
- (5) Physical factors caused by an aircraft arriving at or departing from an aerodrome shall be treated as caused by the use of the aerodrome whether or not the aircraft is within the boundaries of the aerodrome; but, save as aforesaid, the source of the physical factors must be situated on or in the public works the use of which is alleged to be their cause.
- (6) Compensation shall not be payable under this Part of this Act in respect of the physical factors caused by the use of any public works other than a highway unless immunity from actions for nuisance in respect of that use is conferred (whether expressly or by implication) by an enactment relating to those works or, in the case of an aerodrome and physical factors caused by aircraft, the aerodrome is one to which section 41(2) of the Civil Aviation Act 1949 (immunity from actions for nuisance) for the time being applies.
- (7) Compensation shall not be payable under this Part of this Act in respect of physical factors caused by accidents involving vehicles on a highway or accidents involving aircraft.
- (8) Compensation shall not be payable under this Part of this Act on any claim unless the relevant date in relation to the claim falls on or after 17th October 1969.
- (9) Subject to section 9 below, " the relevant date " in this Part of this Act means—
 - (a) in relation to a claim in respect of a highway, the date on which it was first open to public traffic;
 - (b) in relation to a claim in respect of other public works, the date on which they were first used after completion.

2 Interests qualifying for compensation

- (1) An interest qualifies for compensation under this Part of this Act if it was acquired by the claimant before the relevant date in relation to the claim and the requirements of subsection (2) or, as the case may be, subsection (3) below are satisfied on the date on which notice of the claim for compensation in respect of that interest is served.
- (2) If and so far as the interest is in land which is a dwelling, the said requirements are—
 - (a) that the interest is an owner's interest; and
 - (b) where the interest carries the right to occupy the land, that the land is occupied by the claimant in right of that interest as his residence.
- (3) If and so far as the interest is not in such land as aforesaid, the said requirements are—
 - (a) that the interest is that of an owner-occupier ; and
 - (b) that the land is or forms part of either—
 - (i) a hereditament the annual value of which does not exceed the prescribed amount; or

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- (ii) an agricultural unit.
- (4) In this section "owner's interest" in relation to any land, means the legal fee simple therein or a tenancy thereof granted or extended for a term of years certain of which, on the date of service of the notice of claim in respect thereof, not less than three years remain unexpired.
- (5) In this section "owner-occupier", in relation to land in a hereditament, means a person who occupies the whole or a substantial part of the land in right of an owner's interest therein and, in relation to land in an agricultural unit, means a person who occupies the whole of that unit and is entitled, while so occupying it, to an owner's interest in the whole or any part of that land.
- (6) In this section "the prescribed amount" means the amount for the time being prescribed for the purposes of section 192(4)(a) of the Town and Country Planning Act 1971 (interests qualifying for protection under planning blight provisions) and "annual value" and "hereditament" have the meanings given in section 207 of that Act taking references to the date of service of a notice under section 193 of that Act as references to the date on which notice of the claim is served.
- (7) This section has effect subject to sections 10(4), 11 and 12 below.
- (8) In the application of this section to Scotland—
- (a) for subsection (4) there shall be substituted—
- “(4) In this section "owner's interest", in relation to any land, includes the interest of—
- (a) the lessee under a lease thereof, being a lease the unexpired period of which on the date of service of the notice of claim in respect thereof is not less than three years; and
- (b) a crofter, a landholder, a statutory small tenant and a cottar in the land.”
- (b) in subsection (6) for the references to sections 192(4)(a), 193 and 207 of the Town and Country Planning Act 1971 there shall be substituted respectively references to sections 181(4)(a), 182 and 196 of the Town and Country Planning (Scotland) Act 1972.

3 Claims

- (1) A claim under this Part of this Act shall be made by serving on the responsible authority a notice containing particulars of—
- (a) the land in respect of which the claim is made;
- (b) the claimant's interest and the date on which, and the manner in which, it was acquired;
- (c) the claimant's occupation of the land (except where the interest qualifies for compensation without occupation);
- (d) any other interests in the land so far as known to the claimant;
- (e) the public works to which the claim relates;
- (f) the amount of compensation claimed;
- (g) any land contiguous or adjacent to the land in respect of which the claim is made, being land to which the claimant was entitled in the same capacity (within the meaning of section 6 below) on the relevant date.

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- (2) Subject to the provisions of this section and of sections 12 and 14 below, no claim shall be made otherwise than in the claim period, that is to say, the period of two years beginning on the expiration of twelve months from the relevant date.
- (3) Subsection (2) above shall not preclude the making of a claim in respect of an interest in land before the beginning of the claim period if—
 - (a) the claimant has during the said twelve months made a contract for disposing of that interest or (in so far as the interest is in land which is not a dwelling) for the grant of a tenancy of that land ; and
 - (b) the claim is made before the interest is disposed of or the tenancy is granted ; but compensation shall not be payable before the beginning of the claim period on any claim made by virtue of this subsection.
- (4) Where notice of a claim has been served on a responsible authority, any person authorised by that authority may, on giving reasonable notice, enter the land to which the claim relates for the purpose of surveying it and ascertaining its value in connection with the claim; and any person who wilfully obstructs a person in the exercise of the powers conferred by this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20.
- (5) Where compensation is payable by a responsible authority on a claim there shall be payable by the authority, in addition to the compensation, any reasonable valuation or legal expenses incurred by the claimant for the purposes of the preparation and prosecution of the claim ; but this subsection is without prejudice to the powers of the Lands Tribunal or the Lands Tribunal for Scotland in respect of the costs or expenses of proceedings before the Tribunal by virtue of section 16 below.

4 Assessment of compensation: general provisions

- (1) The compensations payable on any claim shall be assessed by reference to prices current on the first day of the claim period.
- (2) In assessing depreciation due to the physical factors caused by the use of any public works, account shall be taken of the use of those works as it exists on the first day of the claim period and of any intensification that may then be reasonably expected of the use of those works in the state in which they are on that date.
- (3) In assessing the extent of the depreciation there shall be taken into account the benefit of any relevant works—
 - (a) which have been carried out, or in respect of which a grant has been paid, under section 20 below, section 15 of the Airports Authority Act 1965 or any corresponding local enactment;
 - (b) which have been carried out under section 23 or 27 below;
 and it shall be assumed that any relevant works which could be or could have been carried out, or in respect of which a grant could be or could have been paid, under any of the provisions mentioned in paragraph (a) above have been carried out but, in a case where the authority having functions under that provision have a discretion whether or not to carry out the works or pay the grant, only if they have undertaken to do so.
- (4) The value of the interest in respect of which the claim is made shall be assessed—
 - (a) subject to subsection (5) below, by reference to the nature of the interest and the condition of the land as it subsisted on the date of service of notice of the claim;

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- (b) subject to section 5 below, in accordance with rules (2) to (4) of the rules set out in section 5 of the Land Compensation Act 1961;
 - (c) if the interest is subject to a mortgage or to a contract of sale or to a contract made after the relevant date for the grant of a tenancy, as if it were not subject to the mortgage or contract.
- (5) In assessing the value of the interest in respect of which the claim is made there shall be left out of account any part of that value which is attributable to—
- (a) any building, or improvement or extension of a building, on the land if the building or, as the case may be, the building as improved or extended, was first occupied after the relevant date ; and
 - (b) any change in the use of the land made after that date.
- (6) In the application of subsection (4) above to Scotland for the references to section 5 of the Land Compensation Act 1961, a mortgage and a contract of sale there shall be substituted respectively references to section 12 of the Land Compensation (Scotland) Act 1963, a heritable security and missives of sale.

5 Assessment of compensation: assumptions as to planning permission

- (1) The following assumptions shall be made in assessing the value of the interest in respect of which the claim is made.
- (2) Subject to subsection (3) below, it shall be assumed that planning permission would be granted in respect of the land in which the interest subsists (" the relevant land ") or any part thereof for development of any class specified in Schedule 8 to the Town and Country Planning Act 1971.
- (3) Notwithstanding subsection (2) above—
- (a) it shall not by virtue of that subsection be assumed that planning permission would be granted, in respect of the relevant land or any part thereof, for development of any class specified in Part II of the said Schedule 8 if it is development for which planning permission has been refused and compensation under section 169 of the said Act of 1971 has become payable in respect of that refusal;
 - (b) where planning permission has been granted, in respect of the relevant land or any part thereof, for development of any class specified in the said Part II but was so granted subject to conditions, and compensation under the said section 169 has become payable in respect of the imposition of the conditions, it shall not by virtue of the said subsection (2) be assumed that planning permission for that development, in respect of the relevant land or that part thereof, as the case may be, would be granted otherwise than subject to those conditions;
 - (c) where an order has been made under section 51 of the said Act of 1971, in respect of the relevant land or any part thereof, requiring the removal of any building or the discontinuance of any use, and compensation has become payable in respect of that order under section 170 of that Act, it shall not by virtue of the said subsection (2) be assumed that planning permission would be granted, in respect of the relevant land or any part thereof, as the case may be, for the rebuilding of that building or the resumption of that use.
- (4) It shall be assumed that planning permission would not be granted in respect of the relevant land or any part thereof for any development other than such development

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as is mentioned in subsection (2) above; and, if planning permission has been granted in respect of the relevant land or any part thereof for such other development, it shall be assumed that the planning permission has not been granted in so far as it relates to development that has not been carried out.

- (5) In this section any expression which is also used in the said Act of 1971 has the same meaning as in that Act and references to any provision of that Act include references to any corresponding provision previously in force.
- (6) In the application of this section to Scotland for references in subsections (2) and (3) above to Schedule 8 to the said Act of 1971 and to sections 51, 169 and 170 thereof, there shall be substituted respectively references to Schedule 6 to the Town and Country Planning (Scotland) Act 1972 and to sections 49, 158 and 159 of that Act, and in subsection (5) above for the reference to the said Act of 1971 there shall be substituted a reference to the said Act of 1972.

6 Reduction of compensation where land is benefited

- (1) The compensation payable on a claim shall be reduced by an amount equal to any increase in the value of—
 - (a) the claimant's interest in the land in respect of which the claim is made ; and
 - (b) any interest in other land contiguous or adjacent to the land mentioned in paragraph (a) above to which the claimant was entitled in the same capacity on the relevant date,
 which is attributable to the existence of or the use or prospective use of the public works to which the claim relates.
- (2) Sections 4 and 5 above shall not apply to the assessment, for the purposes of subsection (1) above, of the value of the interest mentioned in paragraph (a) of that subsection.
- (3) Where, for the purpose of assessing compensation on a claim in respect of any interest in land, an increase in the value of an interest in other land has been taken into account under subsection (1) above, then, in connection with any subsequent acquisition to which this subsection applies, that increase shall not be left out of account by virtue of section 6 of the Land Compensation Act 1961 or taken into account by virtue of section 7 of that Act or any corresponding enactment, in so far as it was taken into account in connection with that claim.
- (4) Subsection (3) above applies to any subsequent acquisition, not being an acquisition of the land in respect of which the claim is made, where either—
 - (a) the interest acquired by the subsequent acquisition is the same as the interest previously taken into account (whether the acquisition extends to the whole of the land in which that interest previously subsisted or only to part of that land); or
 - (b) the person entitled to the interest acquired is, or directly or indirectly derives title to that interest from, the person who at the time of the claim mentioned in that subsection was entitled to the interest previously taken into account;
 and in this subsection "the interest previously taken into account" means the interest the increased value of which was taken into account as mentioned in the said subsection (3).

- (5) For the purposes of this section a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—
- (a) to both of them beneficially; or
 - (b) to both of them as trustee of one particular trust; or
 - (c) to both of them as personal representative of one particular person;
- and in this section references to a person deriving title from another person include references to any successor in title of that other person.
- (6) In subsection (3) above " corresponding enactment" has the same meaning as in section 8 of the said Act of 1961.
- (7) In the application of this section to Scotland, for the references to sections 6, 7 and 8 of the Land Compensation Act 1961 there shall be substituted respectively references to sections 13, 14 and 15 of the Land Compensation (Scotland) Act 1963.

7 Exclusion of minimal compensation

Compensation shall not be payable on any claim unless the amount of the compensation exceeds £50.

8 Other restrictions on compensation

- (1) Where a claim has been made in respect of depreciation of the value of an interest in land caused by the use of any public works and compensation has been paid or is payable on that claim, compensation shall not be payable on any subsequent claim in relation to the same works and the same land or any part thereof (whether in respect of the same or a different interest) except that, in the case of land which is a dwelling, this subsection shall not preclude the payment of compensation both on a claim in respect of the fee simple and on a claim in respect of a tenancy.
- (2) Where a person is entitled to compensation in respect of the acquisition of an interest in land by an authority possessing compulsory purchase powers, or would be so entitled if the acquisition were compulsory, and—
- (a) the land is acquired for the purposes of any public works; and
 - (b) that person retains land which, in relation to the land acquired, constitutes other land or lands within the meaning of section 63 of the Lands Clauses Consolidation Act 1845 or section 7 of the Compulsory Purchase Act 1965 (compensation for acquisition to include compensation for injurious affection of other land retained),
- then, whether or not any sum is paid or payable in respect of injurious affection of the land retained, compensation shall not be payable under this Part of this Act on any claim in relation to those works made after the date of service of the notice to treat (or, if the acquisition is by agreement, the date of the agreement) in respect of any interest in the land retained.
- (3) Subsection (2) above applies whether the acquisition is before, on or after the date on which this Part of this Act comes into force (hereafter referred to as " the commencement date ") and, where it is on or after that date, the public works for the purposes of which the land is acquired shall be taken to be those specified in the relevant particulars registered under subsection (4) below.

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- (4) Where on or after the commencement date an authority possessing compulsory purchase powers acquires land for the purposes of any public works and the person from whom the land is acquired retains land which, in relation to the land acquired, constitutes other land or lands within the meaning of the sections mentioned in subsection (2) above, the authority shall deposit particulars of the land retained and the nature and extent of those works with the council of the district or London borough in which the land retained is situated; and any particulars so deposited shall be registered by the proper officer of the council in the register of local land charges in such manner as may be prescribed by rules made for the purposes of this subsection under section 19 of the Land Charges Act 1925.
- (5) In a case in which compensation for injurious affection fell or falls to be assessed otherwise than in accordance with section 44 below, subsection (2) above shall not preclude the payment of compensation under this Part of this Act in respect of depreciation by public works so far as situated elsewhere than on the land acquired.
- (6) Where after a claim has been made in respect of any interest in land the whole or part of the land in which that interest subsists is compulsorily acquired, then, if—
- (a) the value of that land has been diminished by the public works to which the claim relates; but
 - (b) the compensation in respect of the compulsory acquisition falls to be assessed without regard to the diminution,
- the compensation in respect of the acquisition shall be reduced by an amount equal to the compensation paid or payable on the claim or, if the acquisition extends only to part of the land, to so much of the last-mentioned compensation as is attributable to that part.
- (7) Without prejudice to the foregoing provisions of this section, compensation shall not be payable in respect of the same depreciation both under this Part of this Act and under any other enactment.
- (8) In the application of this section to Scotland—
- (a) in subsection (1) for the words " fee simple " there shall be substituted the words " ownership of the dominium utile ";
 - (b) in subsection (2)(b) for the reference to the sections there mentioned there shall be substituted a reference to section 61 of the Lands Clauses Consolidation (Scotland) Act 1845;
 - (c) in subsection (4) for the words from "the authority shall deposit" to the end there shall be substituted the words " the authority shall cause particulars of the land retained and the nature and extent of those works to be recorded in the Register of Sasines and shall send a copy of those particulars to the local planning authority ".

9 Alterations to public works and changes of use

- (1) This section has effect where, whether before, on or after the commencement date—
- (a) the carriageway of a highway has been altered after the highway has been open to public traffic ;
 - (b) any public works other than a highway have been reconstructed, extended or otherwise altered after they have been first used ; or
 - (c) there has been a change of use in respect of any public works other than a highway or aerodrome.

- (2) If and so far as a claim in respect of the highway or other public works relates to depreciation that would not have been caused but for the alterations or change of use, this Part of this Act shall, subject to subsection (3) below, have effect in relation to the claim as if the relevant date (instead of being the date specified in section 1(9) above) were—
- (a) the date on which the highway was first open to public traffic after completion of the alterations to the carriageway;
 - (b) the date on which the other public works were first used after completion of the alterations; or
 - (c) the date of the change of use,
- as the case may be.
- (3) Subsection (2) above shall not by virtue of any alterations to an aerodrome apply to a claim in respect of physical factors caused by aircraft unless the alterations are runway or apron alterations.
- (4) Where a claim relates to such depreciation as is mentioned in subsection (2) above the notice of claim shall specify, in addition to the matters mentioned in section 3 above, the alterations or change of use alleged to give rise to the depreciation; and if and so far as the claim relates to such depreciation—
- (a) section 6 above shall have effect as if the increase in value to be taken into account were any increase that would not have been caused but for the alterations or change of use in question ;
 - (b) subsection (1) of section 8 above shall not preclude the payment of compensation unless the previous claim was in respect of depreciation that would not have been caused but for the same alterations or change of use, and subsection (2) of that section shall not preclude the payment of compensation unless the works for which the land was acquired were works resulting from the alterations, or works used for the purpose, to which the claim relates.
- (5) For the purposes of this section the carriageway of a highway is altered if, and only if—
- (a) the location, width or level of the carriageway is altered (otherwise than by re-surfacing); or
 - (b) an additional carriageway is provided for the highway beside, above or below an existing one ;
- and the reference in subsection (2) above to depreciation that would not have been caused but for alterations to the carriageway of a highway is a reference to such depreciation by physical factors which are caused by the use of, and the source of which is situated on, the length of carriageway which has been altered as mentioned in paragraph (a) above or, as the case may be, the additional carriageway and the corresponding length of the existing one mentioned in paragraph (b) above.
- (6) In this section " runway or apron alterations " means—
- (a) the construction of a new runway, the major re-alignment of an existing runway or the extension or strengthening of an existing runway; or
 - (b) a substantial addition to, or alteration of, a taxiway or apron, being an addition or alteration whose purpose or main purpose is the provision of facilities for a greater number of aircraft.
- (7) For the avoidance of doubt it is hereby declared that references in this section to a change of use do not include references to the intensification of an existing use.

10 Mortgages, trusts for sale and settlements

- (1) Where an interest is subject to a mortgage—
 - (a) a claim may be made by any mortgagee of the interest as if he were the person entitled to that interest but without prejudice to the making of a claim by that person;
 - (b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage);
 - (c) any compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall in either case be applied by him as if it were proceeds of sale.
- (2) Where the interest is held on trust for sale the compensation shall be dealt with as if it were proceeds of sale arising under the trust.
- (3) Where the interest is settled land for the purposes of the Settled Land Act 1925 the compensation shall be treated as capital money arising under that Act.
- (4) Where an interest in land is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Act 1925) and a person beneficially entitled (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the land, section 2 above shall have effect as if occupation by that person were occupation by the trustees in right of the interest vested in them.
- (5) In the application of this section to Scotland—
 - (a) in subsection (1) for the references to a mortgage and a mortgagee there shall be substituted respectively references to a heritable security and a heritable creditor;
 - (b) for subsections (2) and (3) there shall be substituted the following subsection—

“(2) Where the interest is that of any of the persons specified in section 67 of the Lands Clauses Consolidation (Scotland) Act 1845, that Act shall have effect with regard to the application of the compensation as it has effect with regard to the application of the compensation payable in respect of the purchase of land”;
 - (c) in subsection (4) the words " (other than a sole tenant for life within the meaning of the Settled Land Act 1925) " shall be omitted.

11 Interests acquired by inheritance

- (1) So much of section 2(1) above as requires an interest qualifying for compensation under this Part of this Act to have been acquired by the claimant before the relevant date shall not apply to any interest acquired by him by inheritance from a person who acquired that interest, or a greater interest out of which it is derived, before the relevant date.
- (2) For the purposes of this section an interest is acquired by a person by inheritance if it devolves on him by virtue only of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of another person or the successive deaths of two or more other persons.

- (3) For the purposes of subsection (2) above a person who acquires an interest by appropriation of it in or towards satisfaction of any legacy, share in residue or other share in the estate of a deceased person shall be treated as a person on whom the interest devolves by direct bequest.
- (4) Where an interest is settled land for the purposes of the Settled Land Act 1925 and on the death of a tenant for life within the meaning of that Act a person becomes entitled to the interest in accordance with the settlement, or by any appropriation by the personal representatives in respect of the settled land, subsection (2) above shall apply as if the interest had belonged to the tenant for life absolutely and the trusts of the settlement taking effect after his death had been trusts of his will.
- (5) Subsection (4) above shall apply, with any necessary modifications, where a person becomes entitled to an interest on the termination of a settlement as it would apply if he had become entitled in accordance with the terms of the settlement.
- (6) In the application of this section to Scotland—
 - (a) in subsection (2), for the words from " testamentary " to " tenants " there shall be substituted the words—
 - “(a) a testamentary disposition or any other deed with testamentary effect taking effect on, or
 - (b) the law of intestate succession”;
 - (b) in subsection (3), for the words " by appropriation of it in or towards " there shall be substituted the words " in satisfaction or in partial ";
 - (c) subsections (4) and (5) shall be omitted.

12 Tenants entitled to enfranchisement or extension under Leasehold Reform Act 1967

- (1) This section has effect where a person is entitled under Part I of the Leasehold Reform Act 1967 to acquire the freehold or an extended lease of a house by virtue of any tenancy (" the qualifying tenancy ") and—
 - (a) has on or before the relevant date given notice under that Act to the landlord of his desire to have the freehold or an extended lease ; and
 - (b) has not acquired the freehold or an extended lease before that date.
- (2) The qualifying tenancy shall be treated as an owner's interest as defined in section 2(4) above whether or not the unexpired term on the date of service of the notice of claim is of the length there specified.
- (3) If no claim is made in respect of the qualifying tenancy before the claimant has ceased to be entitled to it by reason of his acquisition of the freehold or an extended lease he may make a claim in respect of the qualifying tenancy as if he were still entitled to it.
- (4) No claim shall be made by virtue of subsection (3) above after the claimant has ceased to be entitled to the freehold or extended lease but such a claim may be made before the beginning of the claim period if it is made before the claimant has disposed of the freehold or extended lease and after he has made a contract for disposing of it.
- (5) Compensation shall not be payable before the beginning of the claim period on any claim made by virtue of subsection (4) above.

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- (6) Any notice of a claim made by virtue of this section shall contain, in addition to the matters mentioned in section 3 above, a statement that it is made in respect of a qualifying tenancy as denned in this section and, if made by virtue of subsection (3) or (4) above, sufficient particulars to show that it falls within that subsection.
- (7) In relation to a claim made by virtue of subsection (3) above section 4(4)(a) above shall have effect as if the reference to the date of service of notice of the claim were a reference to the relevant date.

13 Ecclesiastical property

- (1) Any compensation payable under this Part of this Act in respect of land which is ecclesiastical property shall be paid to the Church Commissioners to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising, or disposing of the proceeds of, such a sale.
- (2) In this section " ecclesiastical property" means land belonging to an ecclesiastical benefice of the Church of England, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese of the Church of England or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

14 Special provisions for claims arising before commencement date

- (1) Where the whole of the claim period for a claim has expired before the commencement date, or less than two years of that period remains unexpired on that date, that period shall be treated as continuing until the end of two years from the commencement date.
- (2) Where on or after 17th October 1972 and before the commencement date a person—
 - (a) has disposed of an interest in land which would have qualified for compensation under this Part of this Act if it had then been in force and a notice of claim had been served in respect of the interest immediately before the disposal; or
 - (b) being entitled to such an interest as is mentioned in paragraph (a) above in land which is not a dwelling, has granted a tenancy thereof so that the interest remaining to him is not such an interest as aforesaid,

this Part of this Act shall have effect in relation to any claim made before the end of one year from the commencement date (being a claim in relation to which the relevant date falls before the disposal or the grant of the tenancy) as if that person were still entitled to the interest disposed of or the interest to which he was entitled prior to the grant of the tenancy.

- (3) Any notice of a claim made by virtue of subsection (2) above shall specify, in addition to the matters mentioned in section 3 above, the date on which the interest was disposed of or, as the case may be, the date on which the tenancy was granted.
- (4) A claim may be made by virtue of subsection (2) above notwithstanding that the claim period has not begun but compensation shall not be payable on the claim before the beginning of that period.
- (5) In relation to a claim made by virtue of subsection (2) above section 4(4)(a) above shall have effect as if the reference to the date of service of notice of the claim were

a reference to the date immediately preceding that on which the claimant disposed of the interest or granted the tenancy.

15 Information for ascertaining relevant date

- (1) The responsible authority in relation to a highway or other public works shall keep a record and, on demand, furnish a statement in writing of—
 - (a) the date on which the highway was first open to public traffic, or was first open to public traffic after completion of any particular alterations to the carriageway of the highway;
 - (b) the date on which the public works were first used after completion, or were first used after completion of any particular alterations to those works;
 - (c) in the case of public works other than a highway or aerodrome, the date on which there was a change of use in respect of the public works.
- (2) A certificate by the Secretary of State stating that runway or apron alterations have or have not been carried out at an aerodrome and the date on which an aerodrome at which any such alterations have been carried out was first used after completion of the alterations shall be conclusive evidence of the facts stated.
- (3) In this section references to alterations to the carriageway of a highway, to runway or apron alterations and to a change of use shall be construed in the same way as in section 9 above; and subsection (1) above shall not apply unless the date in question falls on or after the commencement date.

16 Disputes

- (1) Any question of disputed compensation under this Part of this Act shall be referred to and determined by the Lands Tribunal or, in Scotland, the Lands Tribunal for Scotland.
- (2) No such question arising out of a claim made before the beginning of the claim period shall be referred to either of those Tribunals before the beginning of that period.

17 Action for nuisance following unsuccessful claim where responsible authority have disclaimed statutory immunity

Where, in resisting a claim under this Part of this Act, a responsible authority contend that no enactment relating to the works in question confers immunity from actions for nuisance in respect of the use to which the claim relates, then if—

- (a) compensation is not paid on the claim; and
- (b) an action for nuisance in respect of the matters which were the subject of the claim is subsequently brought by the claimant against the authority,

no enactment relating to those works, being an enactment in force when the contention was made, shall afford a defence to that action in so far as it relates to those matters.

18 Interest on compensation

- (1) Compensation under this Part of this Act shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961, from—
 - (a) the date of service of the notice of claim ; or
 - (b) if that date is before the beginning of the claim period, from the beginning of the claim period,

until payment.

- (2) In the application of this section to Scotland for the reference to section 32 of the said Act of 1961 there shall be substituted a reference to section 40 of the Land Compensation (Scotland) Act 1963.

19 Interpretation of Part I

- (1) In this Part of this Act—

" the appropriate highway authority " means—

- (a) except where paragraph (b) below applies, the highway authority who constructed the highway to which the claim relates ;
- (b) if and so far as the claim relates to depreciation that would not have been caused but for alterations to the carriageway of a highway, the highway authority who carried out the alterations ;

" claim " means a claim under this Part of this Act and "the claimant" means the person making such a claim;

" the claim period " has the meaning given in section 3(2) above but subject to section 14(1) above and subsection (3) below;

" commencement date " means the date on which this Part of this Act comes into force;

" highway " includes part of a highway and, in relation to England and Wales, means a highway or part of a highway maintainable at the public expense as defined in section 295(1) of the Highways Act 1959 and, in relation to Scotland, means a highway or part of a highway within the meaning of the Roads (Scotland) Act 1970;

" highway authority ", in relation to Scotland, has the meaning assigned to it in the said Act of 1970 ;

" land ", in relation to Scotland, includes salmon fishings ;

" public works " and " responsible authority " have the meaning given in section 1 above ;

"the relevant date " has the meaning given in sections 1(9) and 9(2) above,

- (2) For the purposes of sections 2(1), 11(1) and 14(2) above an interest acquired or disposed of, or a tenancy granted, pursuant to a contract shall be treated as acquired, disposed of or granted when the contract was made.

- (3) In the application of this Part of this Act to a highway which has not always since 17th October 1969 been a highway maintainable at the public expense as defined above—

- (a) references to its being open to public traffic shall be construed as references to its being so open whether or not as a highway so maintainable ;
- (b) for references to the highway authority who constructed it there shall be substituted references to the highway authority for the highway;

and no claim shall be made if the relevant date falls at a time when the highway was not so maintainable and the highway does not become so maintainable within three years of that date but, if it does, the claim period shall be treated as continuing until the end of one year from the date on which it becomes so maintainable if, apart from this provision, that period would end earlier.

- (4) In the application of subsection (3) above to Scotland—

- (a) for the words from " highway which " to " defined above " and " highway so maintainable " there shall be substituted respectively the words " road which has not always since 17th October 1969 been a highway " and " highway ";
- (b) for the words " the highway was not so maintainable and the highway does not become so maintainable " there shall be substituted the words " the road was not a highway and the road does not become a highway ";
- (c) for the words " it becomes so maintainable " there shall be substituted the words " it becomes a highway ".

PART II

MITIGATION OF INJURIOUS EFFECT OF PUBLIC WORKS

Insulation against noise

20 Sound-proofing of buildings affected by public works

- (1) The Secretary of State may make regulations imposing a duty or conferring a power on responsible authorities to insulate buildings against noise caused or expected to be caused by the construction or use of public works or to make grants in respect of the cost of such insulation.
- (2) Regulations under this section may—
 - (a) make provision as to the level of noise giving rise to a duty or power under the regulations and the area in which a building must be situated if a duty or power is to arise in respect of it;
 - (b) specify the classes of public works and of buildings in respect of which a duty or power is to arise, and the classes of persons entitled to make claims, under the regulations;
 - (c) specify the nature and extent of the work which is to be undertaken under the regulations and the expenditure in respect of which and the rate at which grants are to be made under the regulations ;
 - (d) make the carrying out of work or the making of grants under the regulations dependent upon compliance with conditions;
 - (e) make provision as to the funds out of which expenses incurred by responsible authorities under the regulations are to be defrayed ;
 - (f) make provision for the settlement of disputes arising under the regulations.
- (3) Without prejudice to the generality of paragraph (a) of subsection (2) above, regulations made by virtue of that paragraph may provide for the relevant level of noise or the relevant area in a particular case to be determined by reference to a document published by or on behalf of the Secretary of State or by any other authority or body or in such other manner as may be provided in the regulations.
- (4) If regulations under this section impose a duty or confer a power to carry out, or make a grant in respect of the cost of, work in respect of a building which is subject to a tenancy on a claim in that behalf made by the landlord or the tenant, provision may also be made by the regulations for enabling the work to be carried out notwithstanding the withholding of consent by the other party to the tenancy.

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

- (5) Regulations under this section may authorise or require local authorities to act as agents for responsible authorities in dealing with claims and in discharging or exercising the duties or powers of responsible authorities under the regulations, and may provide for the making by responsible authorities of payments to local authorities in respect of anything done by them as such agents.
- (6) Regulations under this section may authorise the council of a London borough to contribute towards expenses incurred under the regulations by a responsible authority in respect of the insulation of buildings against noise caused or expected to be caused by the use of any highway in that borough in relation to which an order has been made under section 6 of the Road Traffic Regulation Act 1967 (traffic regulation orders in Greater London).
- (7) Regulations under this section may contain such supplementary provisions as appear to the Secretary of State to be necessary or expedient and may make different provision with respect to different areas or different circumstances.
- (8) The power to make regulations under this section shall be exercisable by statutory instrument.
- (9) A draft of any regulations under this section shall be laid before Parliament and the first regulations shall not be made unless the draft has been approved by a resolution of each House of Parliament.
- (10) The purposes for which advances may be made by the Secretary of State under section 235(1) of the Highways Act 1959 or section 8 of the Development and Road Improvement Funds Act 1909 shall include the discharge or exercise by a highway authority of any duty or power imposed or conferred on the authority under this section.
- (11) In sections 25(4), 31(a) and 57(1)(a) of the Rent Act 1968 and sections 24(4) and 29(a) of the Rent (Scotland) Act 1971 (increase of rent for improvements) after the words " section 15 of the Airports Authority Act 1965 (grants towards cost of soundproofing) " there shall be inserted the words " or regulations under section 20 of the Land Compensation Act 1973 ".
- (12) In this section " public works " and " responsible authority " have the same meaning as in section 1 above except that " public works " does not include an aerodrome and except that " responsible authority", in relation to a highway, includes any authority having power to make an order in respect of that highway under section 1 or 6 of the Road Traffic Regulation Act 1967 (traffic regulation orders).

21 Sound-proofing of buildings affected by aerodromes

In section 15 of the Airports Authority Act 1965 (grants towards sound-proofing of dwellings affected by noise from aerodromes) references to dwellings shall include references to buildings other than dwellings but a scheme under that section need apply only to such classes of buildings as the Secretary of State thinks fit.

Powers of highway authorities

22 Acquisition of land in connection with highways

- (1) Subject to subsection (3) below, a highway authority may acquire land compulsorily or by agreement for the purpose of mitigating any adverse effect which the existence or use of a highway constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the highway.
- (2) Subject to subsection (3) below, a highway authority may acquire by agreement—
 - (a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or improvement of a highway;
 - (b) land the enjoyment of which is seriously affected by the use of a highway which the authority have constructed or improved,if the interest of the vendor is one which falls within section 192(3) to (5) of the Town and Country Planning Act 1971 (interests qualifying for protection under blight provisions) taking references to the date of service of a notice under section 193 of that Act as references to the date on which the purchase agreement is made.
- (3) The powers conferred by subsection (2)(b) above shall not be exercisable unless the date on which the highway or, as the case may be, the improved highway is first open to public traffic falls on or after 17th October 1971 and the powers conferred by subsections (1) and (2)(a) above shall not be exercisable unless that date falls on or after 17th October 1972 ; and—
 - (a) if that date falls not later than one year after the passing of this Act—
 - (i) the powers conferred by subsection (1) above to acquire land compulsorily and the powers conferred by subsection (2)(a) above shall not be exercisable unless the acquisition is begun before the end of one year after the passing of this Act;
 - (ii) the powers conferred by subsection (1) above to acquire land by agreement and the powers conferred by subsection (2)(b) above shall not be exercisable unless the acquisition is begun before the end of one year after the passing of this Act or one year after that date, whichever ends later ;
 - (b) if that date falls more than one year after the passing of this Act—
 - (i) the powers mentioned in paragraph (a)(i) above shall not be exercisable unless the acquisition is begun before that date ;
 - (ii) the powers mentioned in paragraph (a)(ii) above shall not be exercisable unless the acquisition is begun before the end of one year after that date.
- (4) Where under the powers of this section a highway authority have acquired, or propose to acquire, land forming part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land compulsorily or by agreement.
- (5) A power to acquire land compulsorily conferred by this section on a local highway authority shall be exercisable in any particular case on their being authorised by the Secretary of State to exercise it; and the Acquisition of Land (Authorisation Procedure) Act 1946 shall have effect—

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- (a) in relation to the compulsory acquisition of land under this section by a local highway authority, as if this section had been in force immediately before the commencement of that Act;
 - (b) in relation to the compulsory acquisition of land under this section by the Secretary of State, as if this section had been in force immediately before the commencement of that Act and as if this section were included among the enactments specified in section 1(1)(b) of that Act.
- (6) For the purposes of subsection (3) above the acquisition of any land is begun—
- (a) if it is compulsory, on the date on which the notice required by paragraph 3(1) (a) of Schedule 1 to the said Act of 1946 is first published;
 - (b) if it is by agreement, on the date on which the agreement is made;
- and where the compulsory acquisition of any land under subsection (1) is begun within the time limited by subsection (3) above but is not proceeded with, any subsequent compulsory acquisition of that land under subsection (1) above shall be treated for the purposes of this section as begun within that time.
- (7) For the purpose of assessing the compensation payable on the compulsory acquisition of land under this section—
- (a) the land shall be treated as if it were being acquired for the construction of the highway or, as the case may be, the improvement in question ;
 - (b) section 222(6) of the Highways Act 1959 (matters to be taken into account by Lands Tribunal) shall, so far as applicable, apply as it does in relation to compulsory acquisition under the provisions there mentioned;
- and in section 222(11) of that Act (application of Compulsory Purchase Act 1965 to acquisition of land by agreement under Part X of the said Act of 1959) the reference to the said Part X shall include a reference to this section.
- (8) Section 214(5) and (6) of the said Act of 1959 (acquisition of land for preserving view from or other amenities of a highway) shall cease to have effect; and in section 10(1) of that Act (delegation of functions relating to trunk roads) for the words " under subsection (5) or subsection (6) of section two hundred and fourteen of this Act or under section two hundred and fifteen thereof" there shall be substituted the words " under section 215 of this Act or under section 22 of the Land Compensation Act 1973 ".
- (9) References in the Highways Act 1971 to highway land acquisition powers shall include references to the powers exercisable under this section.
- (10) In this section references to the construction or improvement of a highway include references to the construction or improvement of a highway by virtue of an order under section 9 or 13 of the Highways Act 1959 or section 1 of the Highways Act 1971.
- (11) In the application of this section to Scotland—
- (a) for the references to sections 192(3) to (5) and 193 of the Town and Country Planning Act 1971 there shall be substituted respectively references to sections 181(3) to (5) and 182 of the Town and Country Planning (Scotland) Act 1972;
 - (b) in subsection (4) for the words " open space or fuel or field garden allotment" there shall be substituted the words " or open space ";
 - (c) for references to the Acquisition of Land (Authorisation Procedure) Act 1946 there shall be substituted references to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 ;

- (d) for the reference to section 222(6) of the Highways Act 1959 there shall be substituted a reference to section 35(3) of the Roads (Scotland) Act 1970;
- (e) for subsection (8) there shall be substituted—
 - “(8) In section 5(2) of the Trunk Roads Act 1946 (delegation of functions relating to trunk roads) after the words "section 29(4) of the Roads (Scotland) Act 1970" there shall be inserted the words " or under section 22 of the Land Compensation Act 1973. ""”;
- (f) in subsection (10) for the words from " 9 " to the end there shall be substituted " 3 or 14 of the Special Roads Act 1949 or section 15 of the Roads (Scotland) Act 1970 ".

23 Execution of works in connection with highways

- (1) A highway authority may carry out—
 - (a) on land acquired by them under section 22 above ;
 - (b) on any other land belonging to them;
 - (c) an any highway for which they are the highway authority;
 - (d) on any highway which they have been authorised to improve or construct by virtue of an order under section 9 or 13 of the Highways Act 1959, section 1 of the Highways Act 1971, section 3 or 14 of the Special Roads Act 1949 or section 15 of the Roads (Scotland) Act 1970,works for mitigating any adverse effect which the construction, improvement, existence or use of a highway has or will have on the surroundings of the highway.
- (2) Without prejudice to the generality of subsection (1) above, the works that may be carried out under that subsection include the planting of trees, shrubs or plants of any other description and the laying out of any area as grassland.
- (3) A. highway authority may develop or redevelop any land acquired, by them under section 22 above, or any other land belonging to them, for the purpose of improving the surroundings of a highway in any manner which they think desirable by reason of its construction, improvement, existence or use.

24 Agreements as to use of land near highways

- (1) For the purpose of mitigating any adverse effect which the construction, improvement, existence or use of a highway has or will have on the surroundings of the highway, the highway authority may enter into an agreement with any person interested in land adjoining or in the vicinity of the highway for restricting or regulating the use of the land either permanently or during such period as may be specified in the agreement; and any such agreement may, in particular, make provision for the planting and maintenance of trees, shrubs or plants of any other description on the land and for restricting the lopping or removal of trees, shrubs or other plants on the land.
- (2) An agreement under this section may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the highway authority to be necessary or expedient for the purposes of the agreement.
- (3) Subject to subsection (4) below, the provisions of any agreement made under this section with any person interested in land shall be binding on persons deriving title from that person in respect of the land.

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

- (4) No provision shall be enforceable by virtue of subsection (3) above against a purchaser for money or money's worth of a legal estate in the land unless before completion of the purchase the agreement has been registered in the register of local land charges by the proper officer of the council of the district or London borough in which the land is situated in such manner as may be prescribed by rules made for the purposes of this subsection under section 19 of the Land Charges Act 1925 ; and in this subsection " purchaser " and " purchase " have the same meaning as in that Act.
- (5) This section is without prejudice to section 52 of the Town and Country Planning Act 1971 (agreements regulating development or use of land).
- (6) In the application of this section to Scotland—
- (a) for subsection (4) there shall be substituted—

“(4) No provision shall be enforceable by virtue of subsection (3) above against a third party who shall have in good faith and for value acquired right (whether completed by infetment or not) to land prior to the agreement being recorded in the Register of Sasines, or against any person deriving title from such third party”;
 - (b) for the reference to section 52 of the said Act of 1971 there shall be substituted a reference to section 50 of the Town and Country Planning (Scotland) Act 1972.

25 Advances for exercise of powers by highway authorities

The purposes for which advances may be made by the Secretary of State under section 235(1) of the Highways Act 1959 or section 8 of the Development and Road Improvement Funds Act 1909 shall include the exercise by a highway authority of any powers conferred by sections 22 to 24 above.

Powers of authorities responsible for other public works

26 Acquisition of land in connection with public works

- (1) Subject to the provisions of this section, a responsible authority may acquire land by agreement for the purpose of mitigating any adverse effect which the existence or use of any public works has or will have on the surroundings of the works.
- (2) Subject to the provisions of this section, a responsible authority may acquire by agreement—
- (a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or alteration of any public works;
 - (b) land the enjoyment of which is seriously affected by the use of any public works,
- if the interest of the vendor is of the kind mentioned in section 22(2) above.
- (3) The powers conferred by subsection (2)(b) above shall not be exercisable unless the date on which the public works or, as the case may be, the altered public works, are first used falls on or after 17th October 1971 and the powers conferred by subsections (1) and (2)(a) above shall not be exercisable unless that date falls on or after 17th October 1972 ; and—
- (a) if that date falls not later than one year after the passing of this Act—

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- (i) the powers conferred by subsections (1) and (2)(b) above shall not be exercisable unless the acquisition is begun before the end of one year after the passing of this Act or one year after that date, whichever ends later;
 - (ii) the powers conferred by subsection (2)(a) above shall not be exercisable unless the acquisition is begun before the end of one year after the passing of this Act;
 - (b) if that date falls more than one year after the passing of this Act—
 - (i) the powers mentioned in paragraph (a)(i) above shall not be exercisable unless the acquisition is begun before the end of one year after that date ;
 - (ii) the powers mentioned in paragraph (a)(ii) above shall not be exercisable unless the acquisition is begun before that date.
- (4) For the purposes of subsection (3) above the acquisition of any land shall be treated as begun when the agreement for its acquisition is made.
- (5) This section applies only where the responsible authority have statutory powers to acquire land (whether compulsorily or by agreement) for the purposes of their functions but would not, apart from this section, have power to acquire land as mentioned in subsections (1) and (2) above.
- (6) In this section " public works " and " responsible authority " have the same meaning as in section 1 above except that "public works" does not include a highway or in Scotland a road or any works forming part of a statutory undertaking as defined in section 290(1) of the Town and Country Planning Act 1971 or, as respects Scotland, section 275(1) of the Town and Country Planning (Scotland) Act 1972.

27 Execution of works etc. in connection with public works

- (1) A responsible authority may carry out—
 - (a) if they have power to acquire land under section 26 above, on any land acquired by them under that section;
 - (b) on any other land belonging to them,works for mitigating any adverse effect which the construction, alteration, existence or use of any public works has or will have on the surroundings of the works.
- (2) Without prejudice to the generality of subsection (1) above, the works that may be carried out under that subsection include the planting of trees, shrubs or plants of any other description and the laying out of any area as grassland.
- (3) A responsible authority may—
 - (a) develop or redevelop any land acquired by them under section 26 above, or any other land belonging to them, for the purpose of improving the surroundings of public works in any manner which they think desirable by reason of the construction, alteration, existence or use of the works ;
 - (b) dispose of any land acquired by them under section 26 above.
- (4) This section applies only where the responsible authority are a body incorporated by or under any enactment and has effect only for extending the corporate powers of any such authority.

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

- (5) In this section " public works " and " responsible authority " have the same meaning as in section 1 above except that " public works " does not include a highway or in Scotland a road.

Expenses of persons moving temporarily during construction works etc.

28 Power to pay expenses of persons moving temporarily during construction works etc.

- (1) This section has effect where works are earned out—
- (a) by a highway authority for the construction or improvement of a highway ; or
 - (b) by a responsible authority for the construction or alteration of any public works other than a highway,
- and the carrying out of those works affects the enjoyment of a dwelling adjacent to the site on which they are being carried out to such an extent that continued occupation of the dwelling is not reasonably practicable.
- (2) Subject to subsection (3) below, the highway authority or responsible authority, as the case may be, may pay any reasonable expenses incurred by the occupier of the dwelling in providing suitable alternative residential accommodation for himself and members of his household for the whole or any part of the period during which the works are being carried out.
- (3) No payment shall be made to any person under this section in respect of any expenses except in pursuance of an agreement made between that person and the authority concerned before the expenses are incurred; and no payment shall be so made except in respect of the amount by which the expenses exceed those which that person would have incurred if the dwelling had continued to be occupied.
- (4) In this section " public works " and " responsible authority " have the same meaning as in section 1 above.
- (5) In the application of this section to Scotland "highway authority " has the same meaning as in the Roads (Scotland) Act 1970, and in subsection (1) for any reference to a highway there shall be substituted a reference to a road.

PART III

PROVISIONS FOR BENEFIT OF PERSONS DISPLACED FROM LAND

Home loss payments

29 Right to home loss payment where person displaced from dwelling

- (1) Where a person is displaced from a dwelling on any land in consequence of—
- (a) the compulsory acquisition of an interest in the dwelling;
 - (b) the making, passing or acceptance of a housing order, resolution or undertaking in respect of the dwelling;
 - (c) where the land has been previously acquired by an authority possessing compulsory purchase powers or appropriated by a local authority and is for

- the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of redevelopment on the land,
- he shall, subject to the provisions of this section and section 32 below, be entitled to receive a payment (hereafter referred to as a "home loss payment") from the acquiring authority, the authority who made the order, passed the resolution or accepted the undertaking or the authority carrying out the redevelopment, as the case may be.
- (2) A person shall not be entitled to a home loss payment unless throughout a period of not less than five years ending with the date of displacement—
- (a) he has been in occupation of the dwelling, or a substantial part of it, as his only or main residence; and
 - (b) he has been in occupation as aforesaid by virtue of an interest or right to which this section applies.
- (3) For the purposes of this section a person shall not be treated as displaced from a dwelling in consequence of the compulsory acquisition of an interest therein if he gives up his occupation thereof before the date on which the acquiring authority were authorised to acquire that interest, but, subject to that, it shall not be necessary for the acquiring authority to have required him to give up his occupation of the dwelling.
- (4) This section applies to the following interests and rights—
- (a) any interest in the dwelling ;
 - (b) a right to occupy the dwelling as a statutory tenant within the meaning of the Rent Act 1968 or under a contract to which Part VI of that Act (furnished lettings) applies or would apply if the contract or dwelling were not excluded by section 70(3) to) or 71 of that Act;
 - (c) a right to occupy the dwelling as a statutory tenant within the meaning of the Rent (Scotland) Act 1971 or under a contract to which Part VII of that Act (furnished lettings) applies or would apply if the contract or dwelling were not excluded by section 85(3)(a) or 86 of that Act;
 - (d) a right to occupy the dwelling under a contract of employment.
- (5) No home loss payment shall be made to any person displaced from a dwelling in consequence of the compulsory acquisition of an interest therein if the acquisition is in pursuance of the service by him of a blight notice within the meaning of section 192 of the Town and Country Planning Act 1971 or section 181 of the Town and Country Planning (Scotland) Act 1972 or of a notice under section 11 of the New Towns Act 1965 or section 11 of the New Towns (Scotland) Act 1968.
- (6) Where an authority possessing compulsory purchase powers acquire the interest of any person in a dwelling by agreement, then, in relation to any other person who is displaced from the dwelling in consequence of the acquisition, subsections (1) to (4) above shall have effect as if the acquisition were compulsory and the authority (if not authorised to acquire the interest compulsorily) had been so authorised on the date of the agreement.
- (7) In this section " a housing order, resolution or undertaking " means—
- (a) a demolition, closing or clearance order under Part II or III of the Housing Act 1957, section 60 of the Housing Act 1969 or Part II of the Housing (Scotland) Act 1966;
 - (b) a resolution under section 56 of the said Act of 1966 ; or

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- (c) an undertaking accepted under section 16(4) of the said Act of 1957, section 60(2) of the said Act of 1969 or section 15(4)(i) of the said Act of 1966 ;

and " redevelopment" includes a change of use.

- (8) Where an interest in a dwelling is vested in trustees (other than a sole tenant for life within the meaning of the Settled Land Act 1925) and a person beneficially entitled (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the dwelling, he shall be treated for the purposes of this section as occupying it by virtue of an interest in the dwelling.

In the application of this subsection to Scotland the words " (other than a sole tenant for life within the meaning of the Settled Land Act 1925)" shall be omitted.

- (9) This section applies if the date of displacement is on or after 17th October 1972.

30 Amount of home loss payment in England and Wales

- (1) Subject to subsection (2) below, the amount of a home loss payment in England and Wales shall be—

- (a) where the date of displacement is before 1st April 1973, an amount equal to the rateable value of the dwelling multiplied by seven;
- (b) where the date of displacement is on or after 1st April 1973, an amount equal to the rateable value of the dwelling multiplied by three ;

subject, in either case, to a maximum of £1,500 and a minimum of £150.

- (2) The Secretary of State may from time to time by order prescribe different multipliers and a different maximum or minimum for the purposes of subsection (1) above; and the power to make orders under this subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) For the purposes of this section the rateable value of a dwelling shall be determined as follows—

- (a) if the dwelling is a hereditament for which a rateable value is shown in the valuation list in force on the date of displacement, it shall be that rateable value;
- (b) if the dwelling forms part only of such a hereditament or consists of or forms part of more than one such hereditament, an apportionment or aggregation of the rateable value or values so shown shall be made by the valuation officer and the rateable value of the dwelling shall be taken to be the amount certified by him as being the amount which, on such an apportionment or aggregation, is properly attributable to the dwelling;
- (c) if neither paragraph (a) nor paragraph (b) of this subsection applies to the dwelling, its rateable value shall be determined by the valuation officer in accordance with the General Rate Acts 1967 and 1970.

- (4) In this section " valuation officer " has the same meaning as in the General Rate Act 1967.

31 Amount of home loss payment in Scotland

- (1) Subject to subsection (2) below, the amount of a home loss payment in Scotland shall be an amount equal to the rateable value of the dwelling multiplied by six, subject to a maximum of £1,500 and a minimum of £150.
- (2) The Secretary of State may from time to time by order prescribe a different multiplier and a different maximum or minimum for the purposes of subsection (1) above; and the power to make orders under this subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) For the purposes of this section the rateable value of a dwelling shall be determined as follows—
 - (a) if the dwelling consists of lands and heritages for which a rateable value is shown in the valuation roll in force on the date of displacement, it shall be that rateable value;
 - (b) if the dwelling forms part only of such lands and heritages or consists or forms part of more than one unit of such lands and heritages, an apportionment or aggregation of the rateable value or values so shown shall be made by the assessor and the rateable value of the dwelling shall be taken to be the amount certified by him as being the amount which, on such an apportionment or aggregation, is properly attributable to the dwelling;
 - (c) if neither paragraph (a) nor paragraph (b) of this subsection applies to the dwelling, its rateable value shall be determined by the assessor in accordance with the Valuation Acts.
- (4) This section shall be construed as one with the Valuation and Rating (Scotland) Act 1956.

32 Supplementary provisions about home loss payments

- (1) Subject to subsection (8) below, no home loss payment shall be made except on a claim in that behalf made by the person entitled thereto (" the claimant") before the expiration of the period of six months beginning with the date of displacement; and any such claim shall be in writing and shall be accompanied or supplemented by such particulars as the authority responsible for making the payment may reasonably require to enable them to determine whether the claimant is entitled to a payment and, if so, its amount.
- (2) A home loss payment shall be made not later than three months after the date on which a claim for the payment is made in accordance with subsection (1) above or, if those three months end before the date of displacement, on the date of displacement.
- (3) Where the claimant has been in occupation of a dwelling or a substantial part of it as mentioned in paragraphs (a) and (b) of section 29(2) above for any period (" the claimant's own qualifying period ") and has also for an immediately preceding period resided in the dwelling, or a substantial part of it, as his only or main residence but without being in occupation as required by those paragraphs then, if another person was, or other persons successively were, in occupation thereof as mentioned in those paragraphs throughout that preceding period, the claimant's own qualifying period shall be treated for the purposes of section 29(2) above as including that preceding period.

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- (4) Where a person (" the deceased ") dies before the expiration of the period for making a claim to a home loss payment and would have been entitled to such a payment if he had made a claim within that period, a claim to that payment may be made, before the expiration of that period, by any person, not being a minor, who—
- (a) throughout a period of not less than five years ending with the date of displacement of the deceased, has resided in the dwelling, or a substantial part of it, as his only or main residence ; and
 - (b) is entitled to benefit by virtue of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of the deceased.
- (5) Where the claimant has successively been in occupation of or resided in different dwellings in the same building, being dwellings consisting of a room or rooms not constructed or structurally adapted for use as a separate dwelling, section 29(2) above and subsections (3) and (4) above shall have effect as if those dwellings were the same dwelling.
- (6) Where there are two or more persons entitled to make a claim to a home loss payment in respect of the same dwelling (whether by virtue of joint occupation or of subsection (4) above) the payment to be made on each claim shall be equal to the whole amount of the home loss payment divided by the number of such persons.
- (7) Where an interest in a dwelling is acquired by agreement by an authority possessing compulsory purchase powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any home loss payment which they would be required to make to him if the acquisition were compulsory and the authority had been authorised to acquire that interest before he gave up occupation of the dwelling.
- (8) Where the date of displacement is before the passing of this Act the period within which a claim to a home loss payment can be made shall be the period of six months beginning with the date of the passing of this Act.
- (9) In the application of subsection (4) above to Scotland—
- (a) for the word " minor " there shall be substituted the words " person under the age of eighteen ";
 - (b) in paragraph (b)—
 - (i) for the words from " testamentary" to " tenants " there shall be substituted the words " a testamentary disposition or any other deed with testamentary effect taking effect on, or the law of intestate succession " , and
 - (ii) at the end there shall be added the following words— " or a right to jus relictī, jus relictæ or legitim out of the deceased's estate. " .

33 Home loss payments for certain caravan dwellers

- (1) Sections 29 to 32 above shall, so far as applicable, have effect in relation to a person residing in a caravan on a caravan site who is displaced from that site as they have effect in relation to a person displaced from a dwelling on any land but shall so have effect subject to the following modifications.

- (2) No home loss payment shall be made to any person by virtue of this section except where no suitable alternative site for stationing a caravan is available to him on reasonable terms.
- (3) Subsection (1) of section 29 above shall have effect as if for the words preceding paragraph (a) there were substituted the words " Where a person residing in a caravan on a caravan site is displaced from that site in consequence of " and subsection (2) of that section shall have effect as if for paragraphs (a) and (b) there were substituted—
- “(a) he has been in occupation of the caravan site by using a caravan stationed on it as his only or main residence ; and
 - (b) he has been in occupation of the site as aforesaid by virtue of an interest or right to which this section applies.”
- (4) Sections 30(3) and 31(3) above shall have effect as if—
- (a) paragraph (b) were omitted ; and
 - (b) in paragraphs (a) and (c) for the word " dwelling " there were substituted the words " caravan site together with a caravan ".
- (5) Section 32 above shall have effect—
- (a) as if in subsection (3) for the words " in occupation of a dwelling or a substantial part of it", " resided in the dwelling, or a substantial part of it" and " in occupation thereof " there were substituted respectively the words " in occupation of a caravan site " resided in a caravan on that site" and " in occupation of that site " ;
 - (b) as if in subsection (4) for the words " resided in the dwelling, or a substantial part of it" there were substituted the words " resided in a caravan on the caravan site " ; and
 - (c) as if for subsection (5) there were substituted—
- “(5) Where any land comprises two or more caravan sites and the claimant has successively been in occupation of or resided in a caravan on different caravan sites on that land, section 29(2) above and subsections (3) and (4) above shall have effect as if those sites were the same site.”
- (6) Sections 29 to 32 above shall have effect as if in any provision not modified as aforesaid for any reference to a dwelling or land there were substituted a reference to a caravan site.
- (7) In this section " caravan site " means land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed.

Farm loss payments

34 Right to farm loss payment where person displaced from agricultural unit

- (1) Where land constituting or included in an agricultural unit is land in respect of which the person in occupation of the unit has an owner's interest, then if—
- (a) in consequence of the compulsory acquisition of his interest in the whole of that land (" the land acquired ") he is displaced from the whole of that land ; and

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- (b) not more than three years after the date of displacement he begins to farm another agricultural unit (" the new unit") elsewhere in Great Britain, he shall, subject to the provisions of this section and section 36 below, be entitled to receive a payment (hereafter referred to as a " farm loss payment") from the acquiring authority.
- (2) In subsection (1) above "owner's interest" means a freehold interest or a tenancy granted or extended for a term of years certain of which not less than three years remain unexpired on the date of displacement.
- (3) For the purposes of this section a person is displaced from land in consequence of the compulsory acquisition of his interest therein if, and only if, he gives up possession thereof—
- (a) on being required to do so by the acquiring authority;
 - (b) on completion of the acquisition; or
 - (c) where the acquiring authority permit him to remain in possession of the land under a tenancy or licence of a kind not making him a tenant as defined in the Agricultural Holdings Act 1948, on the expiration of that tenancy or licence ;
- and references in this section and section 35 below to the date of displacement are references to the date on which the person concerned gives up possession as aforesaid.
- (4) No farm loss payment shall be made to any person unless on the date on which he begins to farm the new unit he is in occupation of the whole of that unit in right of a freehold interest therein or a tenancy thereof, not having been entitled to any such interest or tenancy before the date on which the acquiring authority were authorised to acquire his interest in the land acquired.
- (5) No farm loss payment shall be made by virtue of the displacement of a person from any land if he is entitled to a payment under section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 in consequence of the acquisition of an interest in, or the taking of possession of, that land.
- (6) No farm loss payment shall be made to any person displaced from land in consequence of the compulsory acquisition of his interest therein if the acquisition of his interest in the whole or any part of that land is in pursuance of the service by him of a blight notice within the meaning of section 192 of the Town and Country Planning Act 1971 or a notice under section 11 of the New Towns Act 1965.
- (7) In the application of this section to Scotland—
- (a) for subsection (2) there shall be substituted—

“(2) In subsection (1) above " owner's interest" means the interest of an owner or a lessee under a lease, being a lease the unexpired period of which on the date of displacement is not less than three years or the interest of a crofter or a landholder ; " (b) for any reference to a tenancy or licence there shall be substituted respectively a reference to a lease or a right or permission relating to land but not amounting to an estate or interest therein ;”
 - (c) in subsection (3)(c) for the words " Agricultural Holdings Act 1948 " there shall be substituted the words " Agricultural Holdings (Scotland) Act 1949 ";
 - (d) in subsection (4) for the words " a freehold interest" there shall be substituted the words " an interest as owner thereof ";

- (e) in subsection (6) for the words " section 192 of the Town and Country Planning Act 1971" and " the New Towns Act 1965 " there shall be substituted respectively the words " section 181 of the Town and Country Planning (Scotland) Act 1972 " and " the New Towns (Scotland) Act 1968 ".
- (8) This section applies if the date of displacement is on or after 17th October 1972.

35 Amount of farm loss payment

- (1) Subject to the provisions of this section, the amount of any farm loss payment shall be equal to the average annual profit derived from the use for agricultural purposes of the agricultural land comprised in the land acquired; and that profit shall be computed by reference to the profits for the three years ending with the date of displacement or, if the person concerned has then been in occupation for a shorter period, that period.
- (2) Where accounts have been made up in respect of the profits of the person concerned for a period or consecutive periods of twelve months and that period or the last of them ends not more than one year before the date of displacement, subsection (1) above shall have effect as if the date on which that period or the last of those periods ends were the date of the displacement.
- (3) Where the date of displacement is determined in accordance with section 34(3)(c) above and the person concerned has on that date been in occupation for more than three years, he may elect that the average annual profit shall, instead of being computed by reference to the profits for the years mentioned in subsection (1) above, be computed by reference to the profits for—
- (a) any three consecutive periods of twelve months for which accounts in respect of his profits have been made up, being periods for which he has been in occupation and the last of which ends on or after the date of completion of the acquisition ; or
 - (b) if there are no such periods as aforesaid, any three consecutive years for which he has been in occupation and the last of which ends on or after the date mentioned in paragraph (a) above.
- (4) In calculating the profits mentioned in subsection (1) above there shall be deducted a sum equal to the rent that might reasonably be expected to be payable in respect of the agricultural land comprised in the land acquired if it were let for agricultural purposes to a tenant responsible for rates, repairs and other outgoings; and that deduction shall be made whether or not the land is in fact let and, if it is, shall be made to the exclusion of any deduction for the rent actually payable.
- (5) In calculating the profits mentioned in subsection (1) above there shall be left out of account profits from any activity if a sum in respect of loss of profits from that activity would fall to be included in the compensation, so far as attributable to disturbance, for the acquisition of the interest in the land acquired.
- (6) Where the value of the agricultural land comprised in the land acquired exceeds the value of the agricultural land comprised in the new unit the amount of the farm loss payment shall be proportionately reduced.
- (7) For the purposes of subsection (6) above the value of any land shall be assessed—
- (a) on the basis of its value as land used solely for agriculture and as for a freehold interest therein (or, in Scotland, an interest as owner thereof) with vacant possession;

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- (b) by reference to the condition of the land and its surroundings and to prices current—
 - (i) in the case of the land comprised in the land acquired, on the date of displacement;
 - (ii) in the case of land comprised in the new unit, on the date on which the person concerned begins to farm the new unit;
 - (c) in accordance with rules (2) to (4) of the rules set out in section 5 of the Land Compensation Act 1961 or section 12 of the Land Compensation (Scotland) Act 1963;
 - (d) without regard to the principal dwelling, if any, comprised in the same agricultural unit as that land.
- (8) The amount of a farm loss payment shall not be greater than the amount, if any, by which—
- (a) that payment, calculated apart from this subsection, together with compensation for the acquisition of the interest in the land acquired assessed on the assumptions mentioned in section 5(2), (3) and (4) above (including any sum included as compensation for disturbance), exceeds
 - (b) the compensation actually payable for the acquisition of that interest.
- (9) Any dispute as to the amount of a farm loss payment shall be referred to and determined by the Lands Tribunal or, in Scotland, the Lands Tribunal for Scotland.

36 Supplementary provisions about farm loss payments

- (1) Subject to subsection (7) below, no farm loss payment shall be made except on a claim in that behalf made by the person entitled thereto before the expiration of the period of one year beginning with the date on which the requirement in section 34(1)(b) above is complied with, and any such claim shall be in writing and shall be accompanied or supplemented by such particulars as the acquiring authority may reasonably require to enable them to determine whether that person is entitled to a payment and, if so, its amount.
- (2) Where the agricultural unit containing the land acquired is occupied for the purposes of a partnership firm sections 34 and 35 above shall have effect in relation to the firm and not the partners individually (any interest of a partner in the land acquired being treated as an interest of the firm) except that the requirements in section 34 as to the new unit shall be treated as complied with in relation to the firm as soon as they are complied with by any one of the persons who were members of the firm.
- (3) Where a person dies before the expiration of the period for making a claim to a farm loss payment and would have been entitled to such a payment if he had made a claim within that period, a claim to that payment may be made, before the expiration of that period, by his personal representative.
- (4) Where an interest in land is acquired by agreement by an authority possessing compulsory purchase powers, the authority may, in connection with the acquisition, make to the person from whom the interest is acquired a payment corresponding to any farm loss payment which they would be required to make to him if the acquisition were compulsory and the authority (if not authorised to acquire the interest compulsorily) had been so authorised on the date of the agreement.

- (5) Where a farm loss payment is made to any person the authority making the payment shall also pay any reasonable valuation or legal expenses incurred by that person for the purposes of the preparation and prosecution of his claim to the payment; but this subsection is without prejudice to the powers of the Lands Tribunal or the Lands Tribunal for Scotland in respect of the costs or expenses of proceedings before the Tribunal by virtue of section 35(9) above.
- (6) A farm loss payment shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 or, in Scotland, section 40 of the Land Compensation (Scotland) Act 1963, from the date mentioned in subsection (1) above until payment.
- (7) Where the date mentioned in subsection (1) above is before the passing of this Act the period within which a claim to a farm loss payment can be made shall be the period of one year beginning with the date of the passing of this Act.

Disturbance payments

37 Disturbance payments for persons without compensatable interests

- (1) Where a person is displaced from any land in consequence of—
 - (a) the acquisition of the land by an authority possessing compulsory purchase powers;
 - (b) the making, passing or acceptance of a housing order, resolution or undertaking in respect of a house or building on the land ;
 - (c) where the land has been previously acquired by an authority possessing compulsory purchase powers or appropriated by a local authority and is for the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of redevelopment on the land,he shall, subject to the provisions of this section, be entitled to receive a payment (hereafter referred to as a "disturbance payment") from the acquiring authority, the authority who made the order, passed the resolution or accepted the undertaking or the authority carrying out the redevelopment, as the case may be.
- (2) A person shall not be entitled to a disturbance payment—
 - (a) in any case, unless he is in lawful possession of the land from which he is displaced ;
 - (b) in a case within subsection (1)(a) above, unless either—
 - (i) he has no interest in the land for the acquisition or extinguishment of which he is (or if the acquisition or extinguishment were compulsory would be) entitled to compensation under any other enactment ; or
 - (ii) he has such an interest as aforesaid but the compensation is subject to a site value provision and he is not (or if the acquisition were compulsory would not be) entitled in respect of that acquisition to an owner-occupier's supplement;
 - (c) in a case within subsection (1)(b) above, if he is entitled to an owner-occupier's supplement by reference to the order, resolution or undertaking.

In this subsection " site value provision " means section 29(2) or 59(2) of the Housing Act 1957, section 20 of the Housing (Scotland) Act 1966 or section 10 of the Housing (Scotland) Act 1969 and " owner-occupier's supplement" means a payment under Part

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II of Schedule 2 to the said Act of 1957, Schedule 5 to the Housing Act 1969 or sections 18 to 20 of the Housing (Scotland) Act 1969.

- (3) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of any such acquisition or redevelopment as is mentioned in paragraph (a) or (c) of that subsection unless he was in lawful possession of the land—
- (a) in the case of land acquired under a compulsory purchase order, at the time when notice was first published of the making of the compulsory purchase order prior to its submission for confirmation or, where the order did not require confirmation, of the preparation of the order in draft;
 - (b) in the case of land acquired under an Act specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for that Act specifying the land were first published ;
 - (c) in the case of land acquired by agreement, at the time when the agreement was made ;

and a person shall not be treated as displaced in consequence of any such order, resolution or undertaking as is mentioned in paragraph (b) of that subsection unless he was in lawful possession as aforesaid at the time when the order was made, the resolution was passed or the undertaking was accepted.

- (4) Where a person is displaced from land in circumstances such that, apart from this subsection, he would be entitled to a disturbance payment from any authority and also to compensation from that authority under section 37 of the Landlord and Tenant Act 1954 (compensation from landlord where order for new tenancy of business premises precluded on certain grounds) he shall be entitled, at his option, to one or the other but not to both.
- (5) Where a person is displaced from any land as mentioned in subsection (1) above but is not entitled, as against the authority there mentioned, to a disturbance payment or to compensation for disturbance under any other enactment, the authority may, if they think fit, make a payment to him determined in accordance with section 38(1) to (3) below.
- (6) A disturbance payment shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961 or, in Scotland, section 40 of the Land Compensation (Scotland) Act 1963, from the date of displacement until payment.
- (7) This section does not apply to any land which is used for the purposes of agriculture.
- (8) In section 71(4) of the Housing (Financial Provisions) (Scotland) Act 1972 (financial assistance towards tenants' removal expenses) for the words from " 160 " to the end there shall be substituted the words " 37 of the Land Compensation Act 1973 (disturbance payments for persons without compensatable interests) ".
- (9) In this section " a housing order, resolution or undertaking " and " redevelopment " have the same meaning as in section 29 above.
- (10) This section applies if the date of displacement is on or after 17th October 1972.

38 Amount of disturbance payment

- (1) The amount of a disturbance payment shall be equal to—

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- (a) the reasonable expenses of the person entitled to the payment in removing from the land from which he is displaced; and
 - (b) if he was carrying on a trade or business on that land, the loss he will sustain by reason of the disturbance of that trade or business consequent upon his having to quit the land.
- (2) In estimating the loss of any person for the purposes of subsection (1)(b) above, regard shall be had to the period for which the land occupied by him may reasonably have been expected to be available for the purposes of his trade or business and to the availability of other land suitable for that purpose.

This subsection has effect subject to section 46(7) below.

- (3) Where the displacement is from a dwelling in respect of which structural modifications have been made for meeting the special needs of a disabled person (whether or not the person entitled to the disturbance payment) then, if—
- (a) a local authority having functions under section 29 of the National Assistance Act 1948, or having duties under section 12 of the Social Work (Scotland) Act 1968, provided assistance, or
 - (b) such an authority would, if an application had been made, have provided assistance,
- for making those modifications, the amount of the disturbance payment shall include an amount equal to any reasonable expenses incurred by the person entitled to the payment in making, in respect of a dwelling to which the disabled person removes, comparable modifications which are reasonably required for meeting the disabled person's special needs.
- (4) Any dispute as to the amount of a disturbance payment shall be referred to and determined by the Lands Tribunal or, in Scotland, the Lands Tribunal for Scotland.

Rehousing

39 Duty to rehouse residential occupiers

- (1) Where a person is displaced from residential accommodation on any land in consequence of—
- (a) the acquisition of the land by an authority possessing compulsory purchase powers;
 - (b) the making, passing or acceptance of a housing order, resolution or undertaking in respect of a house or building on the land ;
 - (c) where the land has been previously acquired by an authority possessing compulsory purchase powers or appropriated by a local authority and is for the time being held by the authority for the purposes for which it was acquired or appropriated, the carrying out of redevelopment on the land,
- and suitable alternative residential accommodation on reasonable terms is not otherwise available to that person, then, subject to the provisions of this section, it shall be the duty of the relevant authority to secure that he will be provided with such other accommodation.
- (2) Subsection (1) above shall not by virtue of paragraph (a) thereof apply to a person if the acquisition is in pursuance of the service by him of a blight notice within the

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meaning of section 192 of the Town and Country Planning Act 1971 or section 181 of the Town and Country Planning (Scotland) Act 1972.

(3) Subsection (1) above shall not apply to any person who is a trespasser on the land or who has been permitted to reside in any house or building on the land pending its demolition.

(4) Subsection (1) above shall not apply to any person to whom money has been advanced—

- (a) under section 41 below ;
- (b) under the Small Dwellings Acquisition Acts 1899 to 1923 or section 43 of the Housing (Financial Provisions) Act 1958 ;
- (c) under the Small Dwellings Acquisition (Scotland) Acts 1899 to 1923 or section 49 of the Housing (Financial Provisions) (Scotland) Act 1968 ; or
- (d) by a development corporation or the Commission for the New Towns otherwise than under section 41 below,

for the purpose of enabling him to obtain accommodation in substitution for that from which he is displaced as mentioned in that subsection.

(5) Subsection (1)(a) above shall not apply to any acquisition of land in relation to which the Secretary of State has before the passing of this Act decided under paragraph 1 of Schedule 9 to the Housing Act 1957 or paragraph 1 of Schedule 8 to the Housing (Scotland) Act 1966 that a housing scheme is not necessary.

(6) For the purposes of subsection (1) above a person shall not be treated as displaced in consequence of any such acquisition or redevelopment as is mentioned in paragraph (a) or (c) of that subsection unless he was residing in the accommodation in question—

- (a) in the case of land acquired under a compulsory purchase order, at the time when notice was first published of the making of the order prior to its submission for confirmation or, where the order did not require confirmation, of the preparation of the order in draft;
- (b) in the case of land acquired under an Act specifying the land as subject to compulsory acquisition, at the time when the provisions of the Bill for the Act specifying the land were first published ;
- (c) in the case of land acquired by agreement, at the time when the agreement was made ;

and a person shall not be treated as displaced in consequence of any such order, resolution or undertaking as is mentioned in paragraph (b) of that subsection unless he was residing in the accommodation in question at the time when the order was made, the resolution was passed or the undertaking was accepted.

(7) Subject to subsection (8) below, " the relevant authority " for the purposes of this section is—

- (a) where the land is in a London borough, the council of that borough or the Greater London Council if they have agreed with that council to discharge the functions of the latter under this section;
- (b) where the land is in any other area or district, the local authority having functions in relation to that area under Part V of the Housing Act 1957 or that district under Part VII of the Housing (Scotland) Act 1966.

(8) Where the land is in an area designated as the site of a new town—

- (a) paragraph (c) of subsection (1) above shall apply if the land on which the redevelopment is carried out has been previously acquired by the development corporation and is for the time being held either by that corporation or by the Commission for the New Towns ;
 - (b) if the authority by whom the land is acquired or redeveloped is the development corporation, that corporation shall, in a case falling within paragraph (a) or (c) of that subsection, be the relevant authority for the purposes of this section ;
 - (c) if the authority by whom the land is redeveloped is the Commission for the New Towns, the Commission shall, in a case falling within paragraph (c) of that subsection, be the relevant authority for the purposes of this section.
- (9) In this section " a housing order, resolution or undertaking " and " redevelopment" have the same meaning as in section 29 above.

40 Duty to rehouse certain caravan dwellers

- (1) Section 39 above shall, so far as applicable, have effect in relation to a person residing in a caravan on a caravan site who is displaced from that site as it has effect in relation to a person displaced from residential accommodation on any land but shall so have effect subject to the following modifications.
- (2) Subsection (1) of the said section 39 shall have effect—
- (a) as if for the words preceding paragraph (a) there were substituted the words " Where a person residing in a caravan on a caravan site is displaced from that site in consequence of "; and
 - (b) as if for the words following paragraph (c) there were substituted the words " and neither suitable residential accommodation nor a suitable alternative site for stationing a caravan is available to that person on reasonable terms, then, subject to the provisions of this section, it shall be the duty of the relevant authority to secure that he will be provided with suitable residential accommodation ".
- (3) Subsection (6) of the said section 39 shall have effect as if in the words preceding paragraph (a) for the words " unless he was residing in the accommodation in question " there were substituted the words " unless he was residing in a caravan on the caravan site in question ".
- (4) The said section 39 shall have effect as if in any provision not modified as aforesaid for any reference to land there were substituted a reference to a caravan site.
- (5) In this section " caravan site " has the same meaning as in section 33 above.

41 Power of relevant authority to make advances repayable on maturity to displaced residential owner-occupiers

- (1) Where a person displaced from a dwelling in consequence of any of the matters mentioned in subsection (1)(a), (b) or (c) of section 39 above—
- (a) is an owner-occupier of the dwelling ; and
 - (b) wishes to acquire or construct another dwelling in substitution for that from which he is displaced,
- the relevant authority for the purposes of that section may advance money to him for the purpose of enabling him to acquire or construct the other dwelling.

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- (2) The power conferred by this section shall be exercisable subject to such conditions as may be approved by the Secretary of State and the following provisions shall apply with respect to any advance made in the exercise of that power.
- (3) The advance shall be made—
 - (a) on terms providing for the payment of the principal—
 - (i) at the end of a fixed period, with or without a provision allowing the authority to extend that period; or
 - (ii) upon notice given by the authority, subject, in either case, to a provision for earlier repayment on the happening of a specified event;
 - (b) on such other terms as the authority may think fit having regard to all the circumstances.
- (4) An advance for the construction of a dwelling may be made by instalments from time to time as the works of construction progress.
- (5) The principal of the advance, together with interest thereon, shall be secured by a mortgage of the borrower's interest in the dwelling, and the amount of the principal shall not exceed the value which, in accordance with a valuation duly made on behalf of the relevant authority, it is estimated that the borrower's interest will bear or, as the case may be, will bear when the dwelling has been constructed.
- (6) Before advancing money under this section the relevant authority shall satisfy themselves that the dwelling to be acquired is or will be made, or that the dwelling to be constructed will on completion be, in all respects fit for human habitation.
- (7) While the payment of the principal of an advance made by a local authority under this section is not required in accordance with the terms of the advance, the local authority may suspend, with respect to so much of any sum borrowed by them as is referable to the advance or with respect to any sum paid in respect of the advance out of their Consolidated Loans Fund, any periodical provision for repayment that may be required by any enactment or by any scheme (whether made under section 55 of the Local Government Act 1958 or under any local enactment) by which the Fund was established.
- (8) The power conferred by this section on a relevant authority is without prejudice to any power to advance money exercisable by the authority under any other enactment.
- (9) In this section "owner-occupier", in relation to any dwelling, means a person who occupies it on the date of displacement and either—
 - (a) occupies it on that date in right of a freehold interest therein or a tenancy thereof granted or extended for a term of years certain of which not less than three years remain unexpired; or
 - (b) if the displacement is in consequence of the matters mentioned in paragraph (c) of section 39(1) above, occupied it in right of such an interest or tenancy on the date on which the land was acquired or appropriated as mentioned in that paragraph.
- (10) In this section references to the construction of a dwelling include references to the acquisition of a building and its conversion into a dwelling and to the conversion into a dwelling of a building previously acquired.
- (11) In the application of this section to Scotland—

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- (a) in subsection (5) for the reference to a mortgage there shall be substituted a reference to a heritable security ;
- (b) in subsection (6) for the words from "is or will" to the end there shall be substituted the words " meets or will meet the tolerable standard as determined for the purposes of the Housing (Scotland) Act 1969 by section 2 of that Act ";
- (c) in subsection (7) for the words from " or with respect " to the end there shall be substituted the words " any periodical provision for repayment that may be required by any enactment ";
- (d) in subsection (9)—
 - (i) in paragraph (a) for the words from " a freehold interest" to " certain " there shall be substituted the words " an owner's interest or a lease " , and at the end there shall be added the following words " or by virtue of a tenancy or other interest to which the Crofters (Scotland) Acts 1955 and 1961 or the Small Landholders (Scotland) Acts 1886 to 1931 apply;
 - (ii) in paragraph (b) for the word " tenancy" there shall be substituted the words " lease or by virtue of such a tenancy or interest ".

42 Duty of displacing authority to indemnify rehousing or lending authority for net losses

- (1) Where a relevant authority within the meaning of section 39 above provide or secure the provision of accommodation for any person in pursuance of subsection (1)(a) or (c) of that section, then, if—
 - (a) the authority providing the accommodation (" the re housing authority ") are not the same as the authority by whom the land in question is acquired or redeveloped (" the displacing authority "); and
 - (b) the displacing authority are not an authority having functions under Part V of the Housing Act 1957 or Part VII of the Housing (Scotland) Act 1966,the displacing authority shall make to the rehousing authority periodical payments, or if the rehousing authority so require a lump sum payment, by way of indemnity against any net loss in respect of the rehousing authority's provision of that accommodation which may be incurred by that authority in any year during the period of ten years commencing with the year in which the accommodation is first provided.
- (2) For the purposes of subsection (1) above a local authority incur a net loss in respect of their provision of accommodation for a person whom they are rehousing—
 - (a) if they rehouse him in a dwelling provided by them under Part V of the said Act of 1957, or a house provided by them under Part VII of the said Act of 1966, for the purpose of rehousing him ; or
 - (b) if—
 - (i) they rehouse him in a Housing Revenue Account dwelling not so provided or (in Scotland) a house to which the housing revenue account relates not so provided, and
 - (ii) provide under the said Part V or the said Part VII in the year immediately preceding that in which he first occupies it, or in the period of three years commencing with the year in which he first occupies it, a dwelling or house of a similar type or size.
- (3) Where money has been advanced to a person as mentioned in section 39(4) above, then if—

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

- (a) the authority making the advance (" the lending authority ") are not the same as the displacing authority; and
 - (b) the lending authority incur a net loss in respect of the making of the advance, the displacing authority shall make to the lending authority a lump sum payment by way of indemnity against that loss.
- (4) For the purposes of subsection (3) above, a lending authority incur a net loss in respect of the making of an advance to any person if—
- (a) he does not fully discharge his liability to the authority in respect of principal, interest and costs or expenses in accordance with the terms on which the advance is made; and
 - (b) the deficiency exceeds the net proceeds arising to the authority on a sale of the interest on which the principal and interest is secured.
- (5) The Secretary of State may—
- (a) for the purposes of subsection (1) above from time to time determine a method to be used generally in calculating net losses incurred by rehousing authorities ;
 - (b) for the purposes of that subsection or subsection (3) above, determine the net loss incurred by a rehousing authority or lending authority in any particular case;
 - (c) give directions as to the manner in which any payment under this section is to be made.
- (6) Subsection (2) above shall be construed as one with the Housing Finance Act 1972 or, in relation to Scotland, the Housing (Financial Provisions) (Scotland) Act 1972.

43 Power of relevant authority to defray expenses in connection with acquisition of new dwellings

- (1) Where a person displaced from a dwelling in consequence of any such acquisition as is mentioned in section 39(1) (a) above—
- (a) has no interest in the dwelling or no greater interest therein than as tenant for a year or from year to year; and
 - (b) wishes to acquire another dwelling in substitution for that from which he is displaced,
- the acquiring authority may pay any reasonable expenses incurred by him in connection with the acquisition, other than the purchase price.
- (2) No payment shall be made under this section in respect of expenses incurred by any person in connection with the acquisition of a dwelling unless the dwelling is acquired not later than one year after the displacement and is reasonably comparable with that from which he is displaced.
- (3) For the purposes of subsection (2) above a dwelling acquired pursuant to a contract shall be treated as acquired when the contract is made.
- (4) Subsections (3) and (6) of section 39 above shall have effect in relation to subsection (1) above and to subsection (1)(a) of that section as applied thereby.

PART IV

COMPULSORY PURCHASE

Assessment of compensation

44 Compensation for injurious affection

- (1) Where land is acquired or taken from any person for the purpose of works which are to be situated partly on that land and partly elsewhere, compensation for injurious affection of land retained by that person shall be assessed by reference to the whole of the works and not only the part situated on the land acquired or taken from him.
- (2) In this section " compensation for injurious affection" means compensation for injurious affection under section 63 or 121 of the Lands Clauses Consolidation Act 1845 or section 7 or 20 of the Compulsory Purchase Act 1965, and subsection (1) above shall apply with the necessary modifications to such compensation under the said section 7 as substituted by paragraph 7 of Schedule 6 to the Highways Act 1971, paragraph 13 of Schedule 2 to the Gas Act 1972 (compulsory acquisition of rights over land) or any corresponding enactment, including (except where otherwise provided) an enactment passed after this Act.
- (3) In this section " compensation for injurious affection ", in relation to Scotland, means compensation for injurious affection under section 61 or 114 of the Lands Clauses Consolidation (Scotland) Act 1845, and subsection (1) above shall apply with the necessary modifications to such compensation under the said section 61 as substituted by paragraph 26 of Schedule 2 to the Gas Act 1972 (compulsory acquisition of rights over land) or any corresponding enactment extending to Scotland, including (except where otherwise provided) an enactment passed after this Act.

45 Compensation for acquisition of dwelling specially adapted for disabled person

- (1) This section applies to the assessment of compensation in respect of the compulsory acquisition of an interest in a dwelling which—
 - (a) has been constructed or substantially modified to meet the special needs of a disabled person ; and
 - (b) is occupied by such a person as his residence immediately before the date when the acquiring authority take possession of the dwelling or was last so occupied before that date.
- (2) The compensation shall, if the person whose interest is acquired so elects, be assessed as if the dwelling were land which is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose.

46 Compensation for disturbance where business carried on by person over sixty

- (1) Where a person is carrying on a trade or business on any land and, in consequence of the compulsory acquisition of the whole of that land, is required to give up possession thereof to the acquiring authority, then if—
 - (a) on the date on which he gives up possession as aforesaid he has attained the age of sixty; and

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- (b) on that date the land is or forms part of a hereditament the annual value of which does not exceed the prescribed amount; and
- (c) that person has not disposed of the goodwill of the whole of the trade or business and gives to the acquiring authority the undertakings mentioned in subsection (3) below,

the compensation payable to that person in respect of the compulsory acquisition of his interest in the land or, as the case may be, under section 121 of the Lands Clauses Consolidation Act 1845 or section 20 of the Compulsory Purchase Act 1965 (tenants from year to year etc.) shall, so far as attributable to disturbance, be assessed on the assumption that it is not reasonably practicable for that person to carry on the trade or business or, as the case may be, the part thereof the goodwill of which he has retained, elsewhere than on that land.

- (2) In subsection (1) above " the prescribed amount" means the amount which on the date mentioned in that subsection is the amount prescribed for the purposes of section 192(4)(a) of the Town and Country Planning Act 1971 (interests qualifying for protection under planning blight provisions) and " annual value " and " hereditament " have the meanings given in section 207 of that Act taking references to the date of service of a notice under section 193 of that Act as references to the date mentioned in subsection (1) above.
- (3) The undertakings to be given by the person claiming compensation are—
 - (a) an undertaking that he will not dispose of the goodwill of the trade or business, or, as the case may be, of the part thereof the goodwill of which he has retained ; and
 - (b) an undertaking that he will not, within such area and for such time as the acquiring authority may require, directly or indirectly engage in or have any interest in any other trade or business of the same or substantially the same kind as that carried on by him on the land acquired.
- (4) If an undertaking given by a person for the purposes of this section is broken the acquiring authority may recover from him an amount equal to the difference between the compensation paid and the compensation that would have been payable if it had been assessed without regard to the provisions of this section.
- (5) This section shall apply to a trade or business carried on by two or more persons in partnership as if references to the person by whom it is carried on were references to all the partners and as if the undertakings mentioned in subsection (3) above were required to be given by all the partners.
- (6) This section shall apply to a trade or business carried on by a company—
 - (a) as if subsection (1)(a) above required—
 - (i) each shareholder, other than a minority shareholder, to be an individual who has attained the age of sixty on the date there mentioned ; and
 - (ii) each minority shareholder to be an individual who either has attained that age on that date or is the spouse of a shareholder who has attained that age on that date ; and
 - (b) as if the undertakings mentioned in subsection (3)(b) above were required to be given both by the company and by each shareholder.

In this subsection "shareholder" means a person who is beneficially entitled to a share or shares in the company carrying voting rights and "minority shareholder" means a person who is so entitled to less than 50 per cent, of those shares.

- (7) This section shall apply in relation to any disturbance payment assessed in accordance with section 38(1)(b) above as it applies in relation to the compensation mentioned in subsection (1) above, and shall so apply subject to the necessary modifications and as if references to the giving up of possession of land to the acquiring authority in consequence of its compulsory acquisition were references to displacement as mentioned in section 37 above.
- (8) In the application of this section to Scotland for the reference to the sections mentioned in subsection (1) above there shall be substituted a reference to section 114 of the Lands Clauses Consolidation (Scotland) Act 1845 and for the references to sections 192(4)(a), 193 and 207 of the Town and Country Planning Act 1971 there shall be substituted respectively references to sections 181 (4)(a), 182 and 196 of the Town and Country Planning (Scotland) Act 1972.

47 Compensation in respect of land subject to business tenancy

- (1) Where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority—
- (a) acquire the interest of the landlord in any land subject to a tenancy to which Part II of the Landlord and Tenant Act 1954 (security of tenure for business tenants) applies; or
 - (b) acquire the interest of the tenant in, or take possession of, any such land,
- the right of the tenant to apply under the said Part II for the grant of a new tenancy shall be taken into account in assessing the compensation payable by the acquiring authority (whether to the landlord or the tenant) in connection with the acquisition of the interest or the taking of possession of the land ; and in assessing that compensation it shall be assumed that neither the acquiring authority nor any other authority possessing compulsory purchase powers have acquired or propose to acquire any interest in the land.
- (2) Subsection (1) of section 39 of the said Act of 1954 (right of tenant to apply under the said Part II for a new tenancy to be disregarded in assessing compensation for compulsory taking of possession of land subject to short tenancy) shall cease to have effect.
- (3) In subsection (2) of the said section 39 for the words " the compensation assessed in accordance with the last foregoing subsection " there shall be substituted the words " the compensation payable under section 121 of the Lands Clauses Consolidation Act 1845 or section 20 of the Compulsory Purchase Act 1965 in the case of a tenancy to which this Part of this Act applies ".

48 Compensation in respect of agricultural holdings

- (1) This section has effect where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority—
- (a) acquire the interest of the landlord in an agricultural holding or any part of it; or

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- (b) acquire the interest of the tenant in, or take possession of, an agricultural holding or any part of it.
- (2) In assessing the compensation payable by the acquiring authority to the landlord in connection with any such acquisition of an interest as is mentioned in subsection (1) (a) above—
 - (a) there shall be disregarded any right of the landlord to serve a notice to quit, and any notice to quit already served by the landlord, which would not be or would not have been effective if—
 - (i) in section 24(2)(b) of the Agricultural Holdings Act 1948 (land required for non-agricultural use for which planning permission has been granted etc.) the reference to the land being required did not include a reference to its being required by an acquiring authority; and
 - (ii) in section 25(1)(e) of that Act (proposed termination of tenancy for purpose of land's being used for non-agricultural use not falling within section 24(2)(b)) the reference to the land's being used did not include a reference to its being used by an acquiring authority; and
 - (b) if the tenant has quitted the holding or any part of it by reason of a notice to quit which is to be so disregarded, it shall be assumed that he has not done so.
- (3) In assessing the compensation payable by the acquiring authority to the tenant in connection with any such acquisition of an interest or taking of possession of land as is mentioned in subsection (1)(b) above (hereafter referred to as "the tenant's compensation"), there shall be disregarded any right of the landlord to serve a notice to quit, and any notice to quit already served by the landlord, which would not be or would not have been effective if the said sections 24(2)(b) and 25(1)(e) were construed in accordance with subsection (2)(a)(i) and (ii) above.
- (4) Section 42 of the Agriculture (Miscellaneous Provisions) Act 1968 (tenant's compensation to be assessed without regard to his prospects of remaining in possession after contractual date) and section 15(1) of that Act (effect on tenant's compensation of provision enabling landlord to resume possession for non-agricultural use) shall cease to have effect.
- (5) The tenant's compensation shall be reduced by an amount equal to any payment which the acquiring authority are liable to make to him, in respect of the acquisition or taking of possession in question, under section 12 of the said Act of 1968 (additional payments by acquiring authority in circumstances described in subsection (1)(b) above).
- (6) If the tenant's compensation as determined in accordance with subsections (3) to (5) above is less than it would have been if those subsections had not been enacted, it shall be increased by the amount of the deficiency.
- (7) In the application of this section to Scotland—
 - (a) in subsections (2) and (3), for the references to sections 24(2)(b) and 25(1)(e) of the Agricultural Holdings Act 1948 there shall be substituted respectively references to sections 25(2)(c) and 26(1)(e) of the Agricultural Holdings (Scotland) Act 1949;
 - (b) after subsection (2)(a) there shall be inserted the following—
 - “(aa) there shall be disregarded any entitlement of the landlord to resume land comprised in the holding by virtue of a stipulation in the lease, and any notice already given in

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pursuance of such a stipulation which would not be or would not have been effective if the stipulation were construed as not including authority to resume the land for the purpose of its being required by the acquiring authority ; and”

- (c) at the end of subsection (2)(b) there shall be inserted the following—

“and

- (c) if land comprised in the holding has been resumed by reason of such an entitlement or notice which is to be so disregarded that land shall be assumed not to have been so resumed.”;

- (d) in subsection (3), after the word " disregarded " there shall be inserted the word " (a) " , and at the end there shall be added the words—

“and

- (b) any entitlement of the landlord to resume land comprised in the holding by virtue of a stipulation in the lease, and any notice already given in pursuance of such a stipulation which would not be or would not have been effective if the stipulation were construed in accordance with subsection (2) (aa) above.”;

- (e) after subsection (6) there shall be inserted the following subsection—

“(6A) This section shall not apply to an agricultural holding which is a croft or the holding of a landholder or a statutory small tenant.”

49 Compensation in respect of crofts, etc.

- (1) This section has effect where in pursuance of any enactment providing for the acquisition or taking of possession of land compulsorily an acquiring authority—

- (a) acquire the interest of the landlord in an agricultural holding which is a croft;
or
(b) take possession of a croft.

- (2) In assessing the compensation payable by the acquiring authority to the landlord of a croft in connection with any such acquisition of an interest as is mentioned in subsection (1)(a) above—

- (a) there shall be disregarded any right of the landlord to apply to the Scottish Land Court under section 12 of the Crofters (Scotland) Act 1955 for authority to resume the croft and any such authority already granted which would not be or would not have been effective if in that section the reference to resuming the croft did not include a reference to its being resumed for the purpose of its being required by the acquiring authority ; and

- (b) if the crofter has surrendered his croft under the said section 12 by reason of an authority which is to be so disregarded it shall be assumed that he has not done so.

- (3) In assessing the compensation payable by the acquiring authority to the crofter in connection with any such taking of possession of a croft as is mentioned in subsection (1)(b) above, there shall be disregarded any right of the landlord to apply to the Scottish Land Court under the said section 12 for authority to resume the croft or any such authority already granted which would not be or would not have been

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effective if the said section 12 were construed in accordance with subsection (2)(a) above.

- (4) If the compensation payable to the crofter as determined in accordance with subsection (3) above is less than it would have been if that subsection had not been enacted, it shall be increased by the amount of the deficiency.
- (5) This section shall apply to part of a croft as it applies to an entire croft.
- (6) This section shall apply to the holding or part of the holding of a landholder as it applies to a croft or part of a croft except that for any reference to a croft, crofter or section 12 of the Crofters (Scotland) Act 1955 there shall be substituted respectively a reference to a holding, landholder or section 2 of the Crofters Holdings (Scotland) Act 1886.
- (7) This section shall apply to the holding or part of the holding of a statutory small tenant as it applies to a croft or part of a croft except that—
 - (a) for any reference to a croft, crofter or section 12 of the Crofters (Scotland) Act 1955 there shall be substituted respectively a reference to a holding, statutory small tenant or section 32(15) of the Small Landholders (Scotland) Act 1911;
 - (b) in subsection (2)(b), for the words " crofter has surrendered his croft under the said section 12 " there shall be substituted the words " landlord has resumed the holding under the said section 32(15) ";
 - (c) after subsection (3) there shall be inserted the following subsection—

“(3A) The compensation payable to the statutory small tenant shall be reduced by an amount equal to any payment which the acquiring authority are liable to make to him, in respect of the taking of possession in question, under section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 (additional payments by acquiring authority in circumstances described in subsection (1)(b) above).”;
 - (d) in subsection (4), for the words " subsection (3)" there shall be substituted the words " subsections (3) and (3A) ".

50 Compensation where occupier is rehoused

- (1) The amount of compensation payable in respect of the compulsory acquisition of an interest in land shall not be subject to any reduction on account of the fact that the acquiring authority have provided, or undertake to provide or arrange for the provision of, or another authority will provide, residential accommodation under any enactment for the person entitled to the compensation.
- (2) In assessing the compensation payable in respect of the compulsory acquisition of an interest in land which on the date of service of the notice to treat is subject to a tenancy, there shall be left out of account any part of the value of that interest which is attributable to, or to the prospect of, the tenant giving up possession after that date in consequence of being provided with other accommodation by virtue of section 39(1) (a) above; and for the purpose of determining the date by reference to which that compensation is to be assessed the acquiring authority shall be deemed, where the tenant gives up possession as aforesaid, to have taken possession on the date on which it is given up by the tenant.
- (3) Subsection (1) above shall apply in relation to any payment to which a person is entitled under Part III of this Act as it applies in relation to the compensation mentioned

in that subsection taking references to the acquiring authority as references to the authority responsible for making that payment.

- (4) Subsection (2) above shall apply in relation to a case where a notice to treat is deemed to have been served by virtue of Schedule 3 to the Town and Country Planning Act 1968 or Schedule 24 to the Town and Country Planning (Scotland) Act 1972 (general vesting declarations) as it applies in relation to a case where a notice to treat is actually served.

51 Compensation where land is in area designated as site of new town for purpose of public development

- (1) Where the Secretary of State proposes to make an order under section 1 of the New Towns Act 1965 designating any area as—
- (a) the site of a new town ; or
 - (b) an extension of the site of a new town,
- and the purpose or main purpose, or one of the main purposes, for which the order is proposed to be made is the provision of housing or other facilities required in connection with or in consequence of the carrying out of any public development, he may, before making the order, give a direction specifying that development for the purposes of this section in relation to that area.
- (2) Where the area mentioned in paragraph 3 or 3A in the first column of Schedule 1 to the Land Compensation Act 1961 (cases where land acquired forms part of site of new town or extension of site of new town) is an area to which a direction under this section relates, then, in the circumstances described in that paragraph—
- (a) the increase or diminution in value to be left out of account by virtue of section 6 of that Act (compensation to be assessed without regard to development attributable to designation of new town) or any rule of law relating to the assessment of compensation in respect of compulsory acquisition ; and
 - (b) the increase in value to be taken into account by virtue of section 7 of that Act (reduction of compensation where other land benefited by such development),
- shall respectively include any increase or diminution in value, and any increase in value, which is attributable to the carrying out or the prospect of the public development specified in the direction.
- (3) No direction shall be given under this section in relation to any area until the Secretary of State has prepared a draft of the order under section 1 of the said Act of 1965 in respect of that area and has published the notice required by paragraph 2 of Schedule 1 to that Act.
- (4) Any direction under this section shall be given by order; and any order containing such a direction may be varied or revoked by a subsequent order.
- (5) The power to make orders under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section " public development" means development (whether or not in the area designated under section 1 of the said Act of 1965) in the exercise of statutory powers by—
- (a) a government department;

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- (b) any statutory undertakers within the meaning of the Town and Country Planning Act 1971 or any body deemed by virtue of any enactment to be statutory undertakers for the purposes of, or of any provision of, that Act; or
- (c) without prejudice to paragraph (b) above, any body having power to borrow money with the consent of a Minister,

and includes such development which has already been carried out when the direction in respect of it is given as well as such development which is then proposed.

- (7) In the application of this section to Scotland—
- (a) for any reference to section 1 of the New Towns Act 1965 and for the reference in subsection (3) to paragraph 2 of Schedule 1 to that Act there shall be substituted respectively a reference to section 1 of the New Towns (Scotland) Act 1968 and to paragraph 2 of Schedule 1 to that Act;
 - (b) in subsection (2), for the references to sections 6 and 7 of the Land Compensation Act 1961 and to paragraphs 3 and 3A in the first column of Schedule 1 to that Act there shall be substituted respectively references to sections 13 and 14 of the Land Compensation (Scotland) Act 1963 and to paragraphs 3 and 3A in the first column of Schedule 1 to that Act;
 - (c) in subsection (6)(b), for the reference to the Town and Country Planning Act 1971 there shall be substituted a reference to the Town and Country Planning (Scotland) Act 1972.

Advance payment of compensation

52 Right to advance payment of compensation

- (1) Where an acquiring authority have taken possession of any land the authority shall, if a request in that behalf is made in accordance with subsection (2) below, make an advance payment on account of any compensation payable by them for the compulsory acquisition of any interest in that land.
- (2) Any request under this section shall be made by the person entitled to the compensation (hereafter referred to as "the claimant"), shall be in writing, shall give particulars of the claimant's interest in the land (so far as not already given pursuant to a notice to treat) and shall be accompanied or supplemented by such other particulars as the acquiring authority may reasonably require to enable them to estimate the amount of the compensation in respect of which the advance payment is to be made.
- (3) Subject to subsection (6) below, the amount of any advance payment under this section shall be equal to 90 per cent, of the following amount, that is to say—
 - (a) if the acquiring authority and the claimant have agreed on the amount of the compensation, the agreed amount;
 - (b) in any other case, an amount equal to the compensation as estimated by the acquiring authority.
- (4) Any advance payment under this section shall be made not later than three months after the date on which a request for the payment is made in accordance with subsection (2) above or, if those three months end before the date on which the acquiring authority take possession of the land to which the compensation relates, on the date on which they take possession as aforesaid.

- (5) Where an advance payment is made on the basis of an estimate under subsection (3)(b) above and the amount of that payment exceeds the compensation as finally determined or agreed, the excess shall be repaid; and if after an advance payment has been made to any person it is discovered that he was not entitled to it the amount of the payment shall be recoverable by the acquiring authority.
- (6) No advance payment shall be made on account of compensation payable in respect of any land which is subject to a mortgage the principal of which exceeds 90 per cent, of the amount mentioned in subsection (3) above; and where the land is subject to a mortgage the principal of which does not exceed 90 per cent, of that amount, the advance payment shall be reduced by such sum as the acquiring authority consider will be required by them for securing the release of the interest of the mortgagee.
- (7) Any advance payment on account of compensation in respect of an interest which is settled land for the purposes of the Settled Land Act 1925 shall be made to the persons entitled to give a discharge for capital money and shall be treated as capital money arising under that Act.
- (8) Where an acquiring authority make an advance payment under this section on account of compensation in respect of any interest in land they shall deposit with the council of the district or London borough in which the land is situated particulars of the payment, the compensation and the interest in land to which it relates; and any particulars so deposited shall be registered by the proper officer of the council in the register of local land charges in such manner as may be prescribed by rules made for the purposes of this subsection under section 19 of the Land Charges Act 1925.
- (9) Where after particulars of the advance payment made to any claimant have been registered as aforesaid the claimant disposes of the interest in the land to, or creates an interest in the land in favour of, a person other than the acquiring authority, the amount of the advance payment shall be set off against any sum payable by the authority to that other person in respect of the compulsory acquisition of the interest disposed of or the compulsory acquisition or release of the interest created.
- (10) Where an advance payment has been made under this section on account of any compensation—
 - (a) section 76 of the Lands Clauses Consolidation Act 1845 and section 9 of the Compulsory Purchase Act 1965 (refusal of owner to convey on tender of compensation) shall have effect as if references to the compensation were references to the balance thereof remaining unpaid; and
 - (b) neither section 11(1) of the said Act of 1965 nor any bond under Schedule 3 to that Act or under section 85 of the said Act of 1845 (interest on compensation where possession is taken before payment) shall require the acquiring authority to pay interest, in respect of any time after the date of the advance payment, on so much of the compensation as corresponds to that payment.
- (11) Where the acquiring authority, instead of taking possession of any land, serve a notice in respect of that land under section 98 of the Housing Act 1957 or under paragraph 3 of Schedule 1 or paragraph 10 of Schedule 3 to that Act (notice authorising existing occupier to continue in occupation where house acquired for housing purposes) this section shall have effect as if they had taken possession of the land on the date on which the notice is served.

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- (12) This section shall apply to compensation for the compulsory acquisition of a right over land as it applies to compensation for the compulsory acquisition of an interest in land, and shall so apply with the necessary modifications and as if references to taking possession of the land were references to first entering it for the purpose of exercising the right.
- (13) In the application of this section to Scotland—
- (a) in subsection (6) for any reference to a mortgage or mortgagee there shall be substituted respectively a reference to a heritable security or a heritable creditor ;
 - (b) subsections (7) and (11) shall be omitted ;
 - (c) for subsection (8) there shall be substituted the following subsection—

“(8) Where an acquiring authority make an advance payment under this section on account of compensation in respect of any interest in land, the authority shall cause notice of that fact, specifying particulars of the payment, the compensation and the interest in land to which it relates, to be recorded in the Register of Sasines and shall send a copy of the notice to the local planning authority.”;
 - (d) in paragraph (c) of subsection (10) for the words from the beginning to " 1965 " there shall be substituted the words " section 75 of the Lands Clauses Consolidation (Scotland) Act 1845 " and in paragraph (b) of that subsection for the words from the beginning to " section 85 " there shall be substituted the words " no bond under section 84 ";
 - (e) in subsection (12) after the words " a right" there shall be inserted the words " in or ".

Severance of land

53 Notice to treat in respect of part of agricultural land

- (1) Where an acquiring authority serve notice to treat in respect of any agricultural land on a person (whether in occupation or not) having a greater interest in the land than as tenant for a year or from year to year, and that person has such an interest in other agricultural land comprised in the same agricultural unit as that to which the notice relates, the person on whom the notice is served (hereafter referred to as " the claimant ") may, within the period of two months beginning with the date of service of the notice to treat, serve on the acquiring authority a counter-notice—
- (a) chiming that the other land is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
 - (b) requiring the acquiring authority to purchase his interest in the whole of the other land.
- (2) Where a counter-notice is served under subsection (1) above the claimant shall also, within the period mentioned in that subsection, serve a copy thereof on any other person who has an interest in the land to which the requirement in the counter-notice relates, but failure to comply with this subsection shall not invalidate the counter-notice.
- (3) Subject to subsection (4) below, " other relevant land " in subsection (1) above means—

- (a) land comprised in the same agricultural unit as the land to which the notice to treat relates, being land in which the claimant does not have such an interest as is mentioned in that subsection; and
 - (b) land comprised in any other agricultural unit occupied by him on the date of service of the notice to treat, being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.
- (4) Where an acquiring authority have served a notice to treat in respect of any of the other agricultural land mentioned in subsection (1) above or in respect of other relevant land as defined in subsection (3) above, then, unless and until that notice to treat is withdrawn, this section and section 54 below shall have effect as if that land did not form part of that other agricultural land or did not constitute other relevant land, as the case may be.
- (5) This section shall have effect in relation to a case where a notice to treat is deemed to have been served by virtue of any of the provisions of sections 180 to 189 of the Town and Country Planning Act 1971 or sections 169 to 177 of the Town and Country Planning (Scotland) Act 1972 (purchase notices) or Schedule 3 to the Town and Country Planning Act 1968 or Schedule 24 to the said Act of 1972 (general vesting declarations) as it has effect in relation to a case where a notice to treat is actually served, and section 54 below shall have effect accordingly.
- (6) This section is without prejudice to the rights conferred by sections 93 and 94 of the Lands Clauses Consolidation Act 1845, sections 91 and 92 of the Lands Clauses Consolidation (Scotland) Act 1845 or section 8(2) and (3) of the Compulsory Purchase Act 1965 (provisions as to divided land).

54 Effect of counter-notice under section 53

- (1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 53 above agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal; and on any such reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid in accordance with its determination of that question.
- (2) Where a counter-notice is accepted as, or declared to be, valid under subsection (1) above the acquiring authority shall be deemed—
- (a) to be authorised to acquire compulsorily, under the enactment by virtue of which they are empowered to acquire the land in respect of which the notice to treat was served, the claimant's interest in the land to which the requirement in the counter-notice relates; and
 - (b) to have served a notice to treat in respect of that land on the date on which the first-mentioned notice to treat was served.
- (3) A claimant may withdraw a counter-notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the counter-notice has been determined by the Lands Tribunal or at any time before the end of six weeks beginning with the date on which the compensation is so determined; and where a counter-notice is withdrawn by virtue of this subsection any notice to treat deemed to have been served in consequence thereof shall be deemed to have been withdrawn.
- (4) Without prejudice to subsection (3) above, the power conferred by section 31 of the Land Compensation Act 1961 to withdraw a notice to treat shall not be exercisable

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in the case of a notice to treat which is deemed to have been served by virtue of this section.

- (5) The compensation payable in respect of the acquisition of an interest in land in pursuance of a notice to treat deemed to have been served by virtue of this section shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) above.
- (6) Where by virtue of this section the acquiring authority become, or will become, entitled to a lease of any land but not to the interest of the lessor—
- (a) the authority shall offer to surrender the lease to the lessor on such terms as the authority consider reasonable ;
 - (b) the question of what terms are reasonable may be referred to the Lands Tribunal by the authority or the lessor and, if at the expiration of three months after the date of the offer mentioned in paragraph (a) above, the authority and the lessor have not agreed on that question and that question has not been referred to the Tribunal by the lessor, it shall be so referred by the authority;
 - (c) if that question is referred to the Tribunal, the lessor shall be deemed to have accepted the surrender of the lease at the expiration of one month after the date of the determination of the Tribunal or on such other date as the Tribunal may direct and to have agreed with the authority on the terms of surrender which the Tribunal has held to be reasonable.

For the purposes of this subsection any terms as to surrender contained in the lease shall be disregarded.

- (7) Where the lessor refuses to accept any sum payable to him by virtue of subsection (6) above, or refuses or fails to make out his title to the satisfaction of the acquiring authority, they may pay into court any sum payable to the lessor by virtue of that subsection; and subsections (2) and (5) of section 9 of the Compulsory Purchase Act 1965 (deposit of compensation in cases of refusal to convey etc.) shall apply to that sum with the necessary modifications.
- (8) Where an acquiring authority who become entitled to the lease of any land as mentioned in subsection (6) above are a body incorporated by or under any enactment the corporate powers of the authority shall, if they would not otherwise do so, include power to farm that land.
- (9) In the application of this section to Scotland—
- (a) for any reference to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland;
 - (b) in subsection (4), for the words " section 31 of the Land Compensation Act 1961" there shall be substituted the words " section 39 of the Land Compensation (Scotland) Act 1963 ";
 - (c) in subsection (6), in paragraph (a), for the word " surrender " there shall be substituted the word " renounce ",
and in paragraph (c) for the word " surrender " there shall be substituted the word " renunciation ";
 - (d) in subsection (7), for the word "court" and for the words from " subsections (2) " to the end there shall be substituted respectively the words " the Bank within the meaning of section 3 of the Lands Clauses Consolidation (Scotland) Act 1845 " and the words " the following provisions of the said Act of 1845 shall apply to that sum with the necessary modifications—
- (i) section 75 so far as it relates to the opening of an account,

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- (ii) section 76 so far as it relates to the giving of a receipt,
- (iii) section 77,
- (iv) section 79 "

55 Notice of entry in respect of part of agricultural holding

- (1) Where an acquiring authority serve notice of entry under section 11(1) of the Compulsory Purchase Act 1965 on the person in occupation of an agricultural holding, being a person having no greater interest therein than as tenant for a year or from year to year, and the notice relates to part only of that holding, the person on whom the notice is served (hereafter referred to as " the claimant ") may, within the period of two months beginning with the date of service of the notice of entry, serve on the acquiring authority a counter-notice—
 - (a) claiming that the remainder of the holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
 - (b) electing to treat the notice of entry as a notice relating to the entire holding.
- (2) Where a counter-notice is served under subsection (1) above the claimant shall also, within the period mentioned in that subsection, serve a copy thereof on the landlord of the holding, but failure to comply with this subsection shall not invalidate the counter-notice.
- (3) Subject to subsection (4) below, " other relevant land " in subsection (1) above means—
 - (a) land comprised in the same agricultural unit as the agricultural holding; and
 - (b) land comprised in any other agricultural unit occupied by the claimant on the date of service of the notice of entry, being land in respect of which he is then entitled to a greater interest than as tenant for a year or from year to year.
- (4) Where an acquiring authority have served a notice to treat in respect of land in the agricultural holding other than that to which the notice of entry relates or in respect of other relevant land as defined in subsection (3) above, then, unless and until that notice to treat is withdrawn, this section and section 56 below shall have effect as if that land did not form part of the holding or did not constitute other relevant land, as the case may be.
- (5) In the application of this section to Scotland, in subsection (1) for the words " section 11(1) of the Compulsory Purchase Act 1965 " there shall be substituted the words " paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 or paragraph 8 of Schedule 24 to the Town and Country Planning (Scotland) Act 1972 ".

56 Effect of counter-notice under section 55

- (1) If the acquiring authority do not within the period of two months beginning with the date of service of a counter-notice under section 55 above agree in writing to accept the counter-notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal; and on any such reference the Tribunal shall determine whether the claim in the counter-notice is justified and declare the counter-notice valid or invalid in accordance with its determination of that question.
- (2) Where a counter-notice is accepted as, or declared to be, valid under subsection (1) above then, if before the end of twelve months after it has been so accepted or declared

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the claimant has given up possession of every part of the agricultural holding to the acquiring authority—

- (a) the notice of entry shall be deemed to have extended to the part of the holding to which it did not relate; and
 - (b) the acquiring authority shall be deemed to have taken possession of that part in pursuance of that notice on the day before the expiration of the year of the tenancy which is current when the counter-notice is so accepted or declared.
- (3) Where the claimant gives up possession of an agricultural holding to the acquiring authority as aforesaid but the authority have not been authorised to acquire the landlord's interest in, or in any of, the part of the holding to which the notice of entry did not relate ("the land not subject to compulsory purchase")—
- (a) neither the claimant nor the authority shall be under any liability to the landlord by reason of the claimant giving up possession of the land not subject to compulsory purchase or the authority taking or being in possession of it;
 - (b) immediately after the date on which the authority take possession of the land not subject to compulsory purchase they shall give up to the landlord, and he shall take, possession of that land ;
 - (c) the tenancy shall be treated as terminated on the date on which the claimant gives up possession of the holding to the acquiring authority or (if he gives up possession of different parts at different times) gives up possession as aforesaid of the last part, but without prejudice to any rights or liabilities of the landlord or the claimant which have accrued before that date;
 - (d) any rights of the claimant against, or liabilities of the claimant to, the landlord which arise on or out of the termination of the tenancy by virtue of paragraph (c) above (whether under the contract of tenancy, under the Agricultural Holdings Act 1948 or otherwise) shall be rights and liabilities of the authority, and any question as to the payment to be made in respect of any such right or liability shall be referred to and determined by the Lands Tribunal;
 - (e) any increase in the value of the land not subject to compulsory purchase which is attributable to the landlord's taking possession of it under paragraph (b) above shall be deducted from the compensation payable in respect of the acquisition of his interest in the remainder of the holding.
- (4) Where a tenancy is terminated by virtue of subsection (3)(c) above, section 58 of the Agricultural Holdings Act 1948 (landlord's right to compensation for deterioration of holding) shall have effect as if the proviso required the landlord's notice of intention to claim compensation to be served on the acquiring authority and to be so served within three months after the termination of the tenancy.
- (5) In the application of this section to Scotland—
- (a) for any reference to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland;
 - (b) in subsection (3)(d) for the words from "contract" to " 1948 " there shall be substituted the words " lease, the Agricultural Holdings (Scotland) Act 1949, the Crofters (Scotland) Acts 1955 and 1961, the Small Landholders (Scotland) Acts 1886 to 1931 ";
 - (c) in subsection (4), for the reference to section 58 of the Agricultural Holdings Act 1948 there shall be substituted a reference to section 59(1) of the Agricultural Holdings (Scotland) Act 1949 and for the word " proviso " there shall be substituted the words " said section 59(1) ".

57 Other procedures for taking possession of part of agricultural holding

- (1) Before taking possession of part only of an agricultural holding under section 85 of the Lands Clauses Consolidation Act 1845, under Schedule 3 to the Compulsory Purchase Act 1965 or under Schedule 3 to the Town and Country Planning Act 1968 (alternative procedures for taking possession of land) the acquiring authority shall serve notice of their intention to do so on the person in occupation of the holding, and sections 55 and 56 above shall have effect, subject to any necessary modifications, as if possession were being obtained pursuant to a notice of entry under section 11(1) of the said Act of 1965.
- (2) Sections 55 and 56 above shall have effect, subject to any necessary modifications, in relation to a notice of entry under paragraph 4 of Schedule 6 to the New Towns Act 1965 (provisions applicable to compulsory acquisitions under that Act) as they have effect in relation to a notice of entry under section 11 (1) of the said Act of 1965.
- (3) Sections 55 and 56(1) and (2) above shall have effect, subject to any necessary modifications, in relation to a notice under section 101 of the Housing Act 1957 (dispossession of tenant where local authority have agreed to purchase or have appropriated land for purposes of Part V of that Act) as they have effect in relation to a notice of entry under section 11(1) of the said Act of 1965.
- (4) Before taking possession of part only of an agricultural holding under section 84 or 114 of the Lands Clauses Consolidation (Scotland) Act 1845 (alternative procedures for taking possession of land) the acquiring authority shall serve notice of their intention to do so on the person in occupation of the holding, and sections 55 and 56 above shall have effect, subject to any necessary modifications, as if possession were being obtained pursuant to a notice of entry under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.
- (5) Sections 55 and 56 above shall have effect, subject to any necessary modifications, in relation to a notice of entry under paragraph 4 of Schedule 6 to the New Towns (Scotland) Act 1968 (provisions applicable to compulsory acquisitions under that Act) as they have effect in relation to a notice of entry under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.
- (6) Sections 55 and 56(1), (2) and (5)(a) above shall have effect, subject to any necessary modifications, in relation to a notice under section 114 of the Housing (Scotland) Act 1966 (dispossession of tenant where local authority have agreed to purchase or have appropriated land for purposes of Part VII of that Act) as they have effect in relation to a notice of entry under paragraph 3 of Schedule 2 to the said Act of 1947.

58 Determination of material detriment where part of house etc. proposed for compulsory acquisition

- (1) In determining under section 8(1) or 34(2) of the Compulsory Purchase Act 1965, paragraph 10 of Schedule 3A to the Town and Country Planning Act 1968 or section 202(2) of the Town and Country Planning Act 1971 whether—
 - (a) part of a house, building or manufactory can be taken without material detriment or damage to the house, building or manufactory; or
 - (b) part of a park or garden belonging to a house can be taken without seriously affecting the amenity or convenience of the house,the Lands Tribunal shall take into account not only the effect of the severance but also the use to be made of the part proposed to be acquired and, in a case where the part

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is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.

- (2) Subsection (1) above shall apply with the necessary modifications to any determination—
- (a) under the said section 8(1) as substituted by paragraph 8 of Schedule 6 to the Highways Act 1971 or paragraph 14 of Schedule 2 to the Gas Act 1972 (compulsory acquisition of rights over land); or
 - (b) under any provision corresponding to or substituted for the said section 8(1) which is contained in, or in an instrument made under, any other enactment including (except where otherwise provided) an enactment passed after this Act.
- (3) In the application of this section to Scotland—
- (a) for the reference in subsection (1) to the provisions there mentioned there shall be substituted a reference to paragraph 4 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 and section 191(2) of, and paragraph 26 of Schedule 24 to, the Town and Country Planning (Scotland) Act 1972;
 - (b) for the reference to the said section 8(1) as substituted by the provisions mentioned in subsection (2) (a) above there shall be substituted a reference to the said paragraph 4 as substituted by paragraph 24 of Schedule 2 to the Gas Act 1972 ;
 - (c) for the reference to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland.

Miscellaneous

59 Notice to quit agricultural holding: right to opt for notice of entry compensation

- (1) This section has effect where the person in occupation Of an agricultural holding, being a person having no greater interest therein than as tenant for a year or from year to year, is served with a notice to quit the holding, and—
- (a) the notice is served after an acquiring authority have served notice to treat on the landlord of the holding or, being an authority possessing compulsory purchase powers, have agreed to acquire his interest in the holding; and
 - (b) either—
 - (i) subsection (1) of section 24 of the Agricultural Holdings Act 1948 does not apply to the notice by virtue of subsection (2)(b) of that section (land required for non-agricultural use for which planning permission has been granted etc.); or
 - (ii) the Agricultural Land Tribunal have consented to the operation of the notice and stated in the reasons for their decision that they are satisfied as to the matter mentioned in section 25(1)(e) of that Act (land required for non-agricultural use not falling within section 24(2) (b)).
- (2) If the person served with the notice to quit elects that this subsection shall apply to the notice and gives up possession of the holding to the acquiring authority on or before the date on which his tenancy terminates in accordance with the notice—

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- (a) section 20 of the Compulsory Purchase Act 1965 (compensation for tenants from year to year etc.) and section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 shall have effect as if the notice to quit had not been served and the acquiring authority had taken possession of the holding in pursuance of a notice of entry under section 11(1) of the said Act of 1965 on the day before that on which the tenancy terminates in accordance with the notice to quit; and
 - (b) the provisions of the Agricultural Holdings Act 1948 relating to compensation to a tenant on the termination of his tenancy and sections 9 and 15(2) of the Agriculture (Miscellaneous Provisions) Act 1968 (additional payment and compensation in cases of notice to quit) shall not have effect in relation to the termination of the tenancy by reason of the notice to quit.
- (3) No election under subsection (2) above shall be made or, if already made, continue to have effect in relation to any land (whether the whole or part of the land to which the notice to quit relates) if, before the expiration of that notice, an acquiring authority take possession of that land in pursuance of an enactment providing for the taking of possession of land compulsorily.
- (4) Any election under subsection (2) above shall be made by notice in writing served on the acquiring authority not later than the date on which possession of the holding is given up.
- (5) This section shall have effect in relation to a notice to quit part of an agricultural holding as it has effect in relation to a notice to quit an entire holding and references to a holding and the termination of the tenancy shall be construed accordingly.
- (6) A person served with a notice to quit part of an agricultural holding shall not be entitled, in relation to that notice, both to make an election under this section and to give a counter-notice under section 32 of the Agricultural Holdings Act 1948 (tenant's right to cause notice to quit part of holding to operate as notice to quit entire holding).
- (7) The reference in subsection (1)(a) above to a notice to treat served by an acquiring authority includes a reference to a notice to treat deemed to have been so served under any of the provisions mentioned in section 53(5) above.
- (8) In the application of this section to Scotland—
- (a) for subsection (1)(b) there shall be substituted the following paragraph—
 - “(b) either—
 - (i) subsection (1) of section 25 of the Agricultural Holdings (Scotland) Act 1949 does not apply to the notice by virtue of subsection (2)(c) of that section (land required for non-agricultural use for which planning permission has been granted, etc); or
 - (ii) the Scottish Land Court have consented to the operation of the notice and stated in the reasons for their decision that they are satisfied as to the matter mentioned in section 26(1)(e) of that Act (land required for non-agricultural use not falling within section 25(2)(c)) ;”;
 - (b) in subsection (2)(a), for the references to section 20 of the Compulsory Purchase Act 1965 and 11(1) of that Act there shall be substituted respectively references to section 114 of the Lands Clauses Consolidation (Scotland) Act

1845 and paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

- (c) in subsection (2)(b), for the references to the Agricultural Holdings Act 1948 and section 15(2) of the Agriculture (Miscellaneous Provisions) Act 1968 there shall be substituted respectively references to the Agricultural Holdings (Scotland) Act 1949 and section 15(3) of the said Act of 1968 ;
- (d) in subsection (6), for the reference to section 32 of the Agricultural Holdings Act 1948 there shall be substituted a reference to section 33 of the Agricultural Holdings (Scotland) Act 1949 ;
- (e) after subsection (7) there shall be inserted the following subsections—

“(7A) This section and section 61 below shall have effect in relation to a notice given in pursuance of a stipulation in a lease entitling the landlord to resume land for building, planting, feuing or other purposes (not being agricultural purposes) as it has effect in relation to a notice to quit as if, in this section, subsections (1)(b) and (6) were omitted ; and references in this section to the termination of the tenancy shall be construed accordingly.

(7B) This section shall not apply where the person in occupation of an agricultural holding is a crofter, landholder or statutory small tenant.”.

60 Requirement to surrender croft, etc.: right to opt for notice of entry compensation

- (1) This section has effect where—
 - (a) the person in occupation of an agricultural holding is a crofter and is required by an order of the Scottish Land Court under section 12 of the Crofters (Scotland) Act 1955 to surrender his croft; and
 - (b) the crofter is so required—
 - (i) after an acquiring authority have served notice to treat on the landlord of the croft or, being an authority possessing compulsory purchase powers, have agreed to acquire his interest in the croft, and
 - (ii) where the Court have been satisfied under the said section 12 that the landlord desires to resume the croft for a reasonable purpose which is a purpose other than an agricultural purpose.
- (2) If the crofter required by such an order to surrender his croft elects that this subsection shall apply to the order and gives up possession of the croft to the acquiring authority on or before the date on which the croft is required to be surrendered in accordance with the order—
 - (a) section 114 of the Lands Clauses Consolidation (Scotland) Act 1845 (compensation for tenants from year to year, etc.) shall have effect as if the crofter had not been so required to surrender his croft and the acquiring authority had taken possession of the croft in pursuance of a notice of entry under paragraph 3 of Schedule 2 to to Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on the day before that on which the croft is required to be surrendered in accordance with the order; and
 - (b) any provision of an order under section 12 of the Crofters (Scotland) Act 1955 relating to the compensation to a crofter shall not have effect in relation to the surrender of the croft by reason of the order.

- (3) No election under subsection (2) above shall be made or, if already made, continue to have effect in relation to any land to which such an order relates if, before the date on which the croft is required to be surrendered in accordance with the order, an acquiring authority take possession of that land in pursuance of an enactment providing for the taking of possession of land compulsorily.
- (4) Any election under subsection (2) above shall be made by notice in writing served on the acquiring authority not later than the date on which possession of the croft is given up.
- (5) This section shall have effect in relation to an order to surrender part of a croft as it has effect in relation to an order to surrender an entire croft and references to a croft shall be construed accordingly.
- (6) The reference in subsection (1)(b)(i) above to a notice to treat served by an acquiring authority includes a reference to a notice to treat deemed to have been so served under any of the provisions mentioned in section 53(5) above.
- (7) This section shall apply to a landholder as it applies to a crofter except that for any reference to a croft, crofter or section 12 of the Crofters (Scotland) Act 1955 there shall be substituted respectively a reference to a holding, landholder or section 2 of the Crofters Holdings (Scotland) Act 1886.
- (8) This section shall apply to a statutory small tenant subject to the modifications set out in Part I of Schedule 1 to this Act; and in accordance with this subsection this section shall have effect in relation to a statutory small tenant as set out in Part II of that Schedule.

61 Notice to quit part of agricultural holding: right to claim notice of entry compensation for remainder of holding

- (1) Where a notice to quit in respect of which a person is entitled to make an election under section 59 above relates to part only of an agricultural holding and that person makes such an election within the period of two months beginning with the date of service of that notice, or, if later, the decision of the Agricultural Land Tribunal, he may also within that period serve a notice on the acquiring authority claiming that the remainder of the holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit.
- (2) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under subsection (1) above agree in writing to accept the notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal, and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid in accordance with its determination of that question.
- (3) Where a notice under subsection (1) above is accepted as, or declared to be, valid under subsection (2) above then, if before the end of twelve months after it has been so accepted or declared the claimant has given up to the acquiring authority possession of the part of the holding to which the notice relates, section 20 of the Compulsory Purchase Act 1965 and section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 shall have effect as if the acquiring authority had taken possession of that part in pursuance of a notice of entry under section 11(1) of the said Act of 1965 on the

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day before the expiration of the year of the tenancy which is current when the notice is so accepted or declared.

- (4) Subsections (2) to (4) of section 55 and subsection (3) of section 56 above shall apply in relation to subsections (1) to (3) above and to a notice under subsection (1) above as they apply in relation to those sections and a counter-notice under subsection (1) of section 55, and shall so apply with the necessary modifications and as if any reference to the notice of entry were a reference to the notice to quit.
- (5) Where an election under section 59 above ceases to have effect in relation to any land by virtue of subsection (3) of that section any notice served by virtue of this section shall also cease to have effect in relation thereto.
- (6) In the application of this section to Scotland—
 - (a) in subsection (1) for the reference to the Agricultural Land Tribunal there shall be substituted a reference to the Scottish Land Court;
 - (b) in subsection (2) for any reference to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland;
 - (c) in subsection (3) for the references to sections 11(1) and 20 of the Compulsory Purchase Act 1965 there shall be substituted respectively references to paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 and section 114 of the Lands Clauses Consolidation (Scotland) Act 1845.

62 Requirement to surrender part of croft, etc.: right to claim notice of entry compensation for remainder

- (1) Where an order of the Scottish Land Court in respect of which a person is entitled to make an election under section 60 above relates to part only of a croft or holding and that person makes such an election within the period of two months beginning with the date of the making of the order, he may also within that period serve a notice on the acquiring authority claiming that the remainder of the croft or holding is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit.
- (2) If the acquiring authority do not within the period of two months beginning with the date of service of a notice under subsection (1) above agree in writing to accept the notice as valid, the claimant or the authority may, within two months after the end of that period, refer it to the Lands Tribunal for Scotland, and on any such reference the Tribunal shall determine whether the claim in the notice is justified and declare the notice valid or invalid in accordance with its determination of that question.
- (3) Where a notice under subsection (1) above is accepted as, or declared to be valid under subsection (2) above then, if before the end of twelve months after it has been so accepted or declared the claimant has given up to the acquiring authority possession of the part of the croft or holding to which the notice relates, section 114 of the Lands Clauses Consolidation (Scotland) Act 1845 shall have effect as if the acquiring authority had taken possession of that part in pursuance of a notice of entry under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on the day before the expiration of the year of the tenancy which is current when the notice is so accepted or declared.
- (4) Subsections (2) to (4) of section 55 and subsection (3) of section 56 above shall apply in relation to subsections (1) to (3) above and to a notice under subsection (1) above

as they apply in relation to those sections and a counter-notice under subsection (1) of section 55, and shall so apply with the necessary modifications and as if in section 55(3)(b) for the words " service of the notice of entry " and in section 56(3) for the words " the notice of entry " there were substituted the words " the order of the Scottish Land Court ".

- (5) Where an election under section 60 above ceases to have effect in relation to any land by virtue of subsection (3) of that section any notice served by virtue of this section shall cease to have effect in relation thereto.
- (6) Subsection (3) above shall apply in the case of the holding of a statutory small tenant as if after the word " 1845 " there were inserted the words " and section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 ".

63 Interest on compensation for injurious affection where no land taken

- (1) Compensation under section 68 of the Lands Clauses Consolidation Act 1845 or section 10 of the Compulsory Purchase Act 1965 (compensation for injurious affection where no land taken) shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961, from the date of the claim until payment.
- (2) Compensation under section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (compensation for injurious affection where no land taken) shall carry interest, at the rate for the time being prescribed under section 40 of the Land Compensation (Scotland) Act 1963, from the date of the claim until payment.

64 Extension of grounds for challenging validity of compulsory purchase order

In paragraph 15 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 and paragraph 15 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (which enable an aggrieved person to challenge the validity of a compulsory purchase order on the ground that certain requirements have not been complied with) references to those requirements shall include references to any requirements of the Tribunals and Inquiries Act 1971 or of any rules made, or having effect as if made, under that Act.

65 Construction of section 6 of Railways Clauses Consolidation (Scotland) Act 1845

At the end of section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (construction of railway to be subject to that Act and Lands Clauses Consolidation (Scotland) Act 1845) there shall be added the following subsection—

- “(2) For the avoidance of doubt it is hereby declared that in this section the reference to the construction of the railway includes a reference to the execution of works in connection therewith.”

66 Amendment of section 35 of Roads (Scotland) Act 1970

Section 35 of the Roads (Scotland) Act 1970 (general provisions as to acquisition of land) shall have effect as if—

- (a) after subsection (1) there were inserted the following subsection—

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

“(1A) Any power to acquire land compulsorily conferred by any of the said sections or by section 22 of the Land Compensation Act 1973 shall include power to acquire a servitude or other right in or over land by the creation of a new right.”;

(b) at the end there were added the following subsection—

“(5) Where under section 29, 30, 31, 32 or 33 of this Act or section 22 of the Land Compensation Act 1973 a highway authority are authorised to acquire land by agreement, the Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845 and sections 6 and 70 of the Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act, as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923, shall be incorporated with this Act, and in construing those Acts for the purposes of this subsection this Act shall be deemed to be the special Act, and the highway authority to be the promoters of the undertaking or company, as the case may require, and the word 'land' shall have the meaning assigned to it by section 50(1) of this Act”.

67 Provisions relating to acquisition of new rights in Scotland

(1) Subject to the provisions of this section, the Lands Clauses Consolidation (Scotland) Act 1845 and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply subject to any necessary modifications to the compulsory acquisition under any enactment of a right in or over land by the creation of a new right as they apply to the compulsory acquisition of land under the enactment in question.

(2) Section 61 of the said Act of 1845 (estimation of purchase money and compensation) shall apply to the compulsory acquisition of such a right as if for the words from "value " to " undertaking " there were substituted the words " extent (if any) to which the value of the land in or over which the right is to be acquired is depreciated by the acquisition of the right ".

(3) Paragraph 4 of Schedule 2 to the said Act of 1947 (protection for vendor against severance of house, garden, etc.) shall apply to the compulsory acquisition of such a right as if at the end there were added the following sub-paragraph—

“(2) In considering the extent of any material detriment to a house, building or manufactory or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal for Scotland shall have regard not only to the right which is to be acquired in or over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”

(4) Nothing in this section shall affect the operation of any enactment which makes specific provision to the like effect as the provisions of this section.

PART V

PLANNING BLIGHT

Extension of classes of blighted land

68 Land affected by proposed structure and local plans etc.

- (1) In paragraph (a) of section 192(1) of the Act of 1971 (land indicated in a structure plan in force for the relevant district as land which may be required for the purposes of functions of public authorities or as land which may be included in an action area) the reference to a structure plan in force shall include a reference to—
 - (a) a structure plan which has been submitted to the Secretary of State under section 7 of that Act;
 - (b) proposals for alterations to a structure plan which have been submitted to the Secretary of State under section 10 of that Act;
 - (c) modifications proposed to be made by the Secretary of State in any such plan or proposals as are mentioned in the preceding paragraphs, being modifications of which he has given notice in accordance with regulations under Part II of that Act.
- (2) In paragraph (b) of the said section 192(1) (land allocated for the purposes of functions of public authorities by a local plan in force for the relevant district and land defined in such a plan as the site of proposed development for the purposes of any such functions) the reference to a local plan in force shall include a reference to—
 - (a) a local plan of which copies have been made available for inspection under section 12(2) of the Act of 1971 ;
 - (b) proposals for alterations to a local plan of which copies have been made available for inspection, under section 15(3) of that Act;
 - (c) modifications proposed to be made by the local planning authority or the Secretary of State in any such plan or proposals as are mentioned in the preceding paragraphs, being modifications of which notice has been given by the authority or the Secretary of State in accordance with regulations under Part II of that Act.
- (3) In section 138(1)(b) of the Town and Country Planning Act 1962 as it has effect by virtue of paragraph 58 of Schedule 24 to the Act of 1971 (provisions corresponding to section 192(1)(b) of the Act of 1971 pending coming into force of local plans) the reference to a development plan shall include a reference to—
 - (a) proposals for alterations to a development plan submitted to the Secretary of State under paragraph 3 or 9 of Schedule 5 to the Act of 1971;
 - (b) modifications proposed to be made by the Secretary of State in any such proposals, being modifications of which notice has been given by the Secretary of State by advertisement.
- (4) No blight notice shall be served by virtue of subsection (1) or (2) above at any time after the copies of the plan or proposals made available for inspection have been withdrawn under—
 - (a) section 8(6) or 12(5) of the Act of 1971 (directions by Secretary of State requiring further publicity); or
 - (b) section 10B of that Act (withdrawal of structure plans);

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

but so much of the said section 10B as provides that a structure plan which has been withdrawn shall be treated as never having been submitted shall not invalidate any blight notice served by virtue of subsection (1)(a) above before the withdrawal of the structure plan.

- (5) No blight notice shall be served by virtue of this section after the relevant plan or alterations have come into force (whether in their original form or with modifications) or the Secretary of State has decided to reject or, in the case of a local plan, the local planning authority have decided to abandon the plan or alterations and notice of the decision has been given by advertisement.
- (6) Where an appropriate authority have served a counter-notice objecting to a blight notice served by virtue of this section, then, if the relevant plan or alterations come into force (whether in their original form or with modifications) the appropriate authority may serve on the claimant, in substitution for the counter-notice already served, a further counter-notice specifying different grounds of objection, and section 195 of the Act of 1971 (reference of objections to Lands Tribunal) shall have effect in relation to the further counter-notice as it has effect in relation to the counter-notice already served:
- Provided that a further counter-notice under this subsection shall not be served—
- (a) at any time after the end of the period of two months beginning with the date on which the relevant plan or alterations come into force; or
 - (b) if the objection in the counter-notice already served has been withdrawn or the Lands Tribunal has already determined whether or not to uphold that objection.
- (7) References in subsections (1) to (3) above to anything done under any of the provisions there mentioned include references to anything done under those provisions as they apply by virtue of section 17 of, or paragraph 4 of Schedule 5 to, the Act of 1971 (default powers of Secretary of State).
- (8) In the application of this section to Greater London—
- (a) the reference to section 10 of the Act of 1971 shall include a reference to paragraph 6 of Schedule 4 to that Act;
 - (b) for the reference to section 12(2) of that Act there shall be substituted a reference to paragraphs 12(2) and 13(2) of that Schedule;
 - (c) for the reference to section 12(5) of that Act there shall be substituted a reference to paragraph 14(3) of that Schedule;
 - (d) for the reference to section 15(3) of that Act there shall be substituted a reference to the said section 15(3) as substituted by paragraph 16(1), and to paragraph 16(4), of that Schedule.
- (9) In this section references to alterations to a local plan include references to its replacement, and references to alterations to a development plan include references to additions to it.
- (10) In relation to land tailing within section 192(1)(b) of the Act of 1971 or section 138(1)(b) of the Town and Country Planning Act 1962, as extended by this section, "the appropriate enactment" for the purposes of sections 192 to 207 of the Act of 1971 shall be determined in accordance with section 206(2) of that Act as if references therein to the development plan were references to any such plan, proposal or modifications as are mentioned in subsection (2)(a), (b) or (c) and subsection (3)(a) or (b) above.

69 Land affected by proposed highway orders

- (1) In section 192(1)(d) of the Act of 1971 (land on or adjacent to line of highway proposed to be constructed etc. as indicated in an order or scheme which has come into operation under the provisions of Part II of the Highways Act 1959 relating to trunk roads or special roads or in an order which has come into operation under section 1 of the Highways Act 1971) the reference to an order or scheme which has come into operation as aforesaid shall include a reference to—
 - (a) an order or scheme which has been submitted for confirmation to, or been prepared in draft by, the Secretary of State under the provisions of Part II of the said Act of 1959 relating to trunk roads or special roads and in respect of which a notice has been published under paragraph 1, 2 or 7 of Schedule 1 to that Act;
 - (b) an order which has been submitted for confirmation to the Secretary of State under the said section 1 and in respect of which a notice has been published under paragraph 2 of that Schedule.
- (2) No blight notice shall be served by virtue of this section at any time after the relevant order or scheme has come into operation (whether in its original form or with modifications) or the Secretary of State has decided not to confirm or make the order or scheme.
- (3) Subsection (6) of section 68 above shall have effect in relation to a blight notice served by virtue of this section as it has effect in relation to a blight notice served by virtue of that section taking references to the relevant plan or alterations as references to the relevant order or scheme.

70 Land affected by proposed compulsory purchase orders

- (1) Section 192(1)(g) and (f) of the Act of 1971 (land in respect of which a compulsory purchase order is in force where a notice to treat has not been served) shall apply also to land in respect of which a compulsory purchase order has been submitted for confirmation to, or been prepared in draft by, a Minister and in respect of which a notice has been published under paragraph 3(1)(a) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 or under any corresponding enactment applicable thereto.
- (2) No blight notice shall be served by virtue of this section at any time after the relevant compulsory purchase order has come into force (whether in its original form or with modifications) or the Minister concerned has decided not to confirm or make the order.
- (3) In relation to land falling within the said section 192(1)(g) or (i) by virtue of this section "the appropriate enactment" for the purposes of sections 192 to 207 of the Act of 1971 shall be the enactment which would provide for the compulsory acquisition of the land or of the rights over the land if the relevant compulsory purchase order were confirmed or made.

71 Land affected by resolution of planning authority or directions of Secretary of State

- (1) Section 192(1) of the Act of 1971 shall have effect as if the land specified therein included land which—
 - (a) is land indicated in a plan (not being a development plan) approved by a resolution passed by a local planning authority for the purpose of the exercise

of their powers under Part III of that Act as land which may be required for the purposes of any functions of a government department, local authority or statutory undertakers; or

- (b) is land in respect of which a local planning authority have resolved to take action to safeguard it for development for the purposes of any such functions or been directed by the Secretary of State to restrict the grant of planning permission in order to safeguard it for such development.

- (2) Paragraph (a) of the said section 192(1) shall not apply to land within subsection (1) above.
- (3) In relation to land falling within subsection (1) above " the appropriate enactment" for the purposes of sections 192 to 207 of the Act of 1971 shall be determined in accordance with section 206(2) of that Act as if references therein to the development plan were references to the resolution or direction in question.

72 Land affected by orders relating to new towns

- (1) Section 192(1) of the Act of 1971 shall have effect as if the land specified therein included land which—
 - (a) is land within an area described as the site of a proposed new town in the draft of an order in respect of which a notice has been published under paragraph 2 of Schedule 1 to the New Towns Act 1965 ; or
 - (b) is land within an area designated as the site of a proposed new town by an order which has come into operation under section 1 of the said Act of 1965.
- (2) No blight notice shall be served by virtue of subsection (1)(a) above at any time after the order there mentioned has come into operation (whether in the form of the draft or with modifications) or the Secretary of State has decided not to make the order.
- (3) Until such time as a development corporation is established for the new town, sections 192 to 207 of the Act of 1971 shall have effect in relation to land within subsection (1) above as if " the appropriate authority " and " the appropriate enactment" were the Secretary of State and subsection (4) below respectively.
- (4) Until such time as aforesaid the Secretary of State shall have power to acquire compulsorily any interest in land in pursuance of a blight notice served by virtue of subsection (1) above; and where he acquires an interest as aforesaid, then—
 - (a) if the land is or becomes land within subsection (1)(b) above, the interest shall be transferred by him to the development corporation established for the new town ; and
 - (b) in any other case, the interest may be disposed of by him in such manner as he thinks fit.
- (5) The Land Compensation Act 1961 shall have effect in relation to the compensation payable in respect of the acquisition of an interest by the Secretary of State under subsection (4) above as if the acquisition were by a development corporation under the New Towns Act 1965 and as if, in the case of land within subsection (1)(a) above, the land formed part of an area designated as the site of a new town by an order which has come into operation under section 1 of the said Act of 1965.
- (6) Section 11 of the said Act of 1965 (right to require development corporation to acquire land within area designated as the site of a new town) shall cease to have effect except

in relation to any notice served under that section before the coming into force of this section.

73 Land affected by slum clearance resolution

- (1) Section 192(1) of the Act of 1971 shall have effect as if the land specified therein included land which—
 - (a) is land within an area declared to be a clearance area by a resolution under section 42 of the Housing Act 1957; or
 - (b) is land surrounded by or adjoining an area declared as aforesaid to be a clearance area, being land which a local authority have determined to purchase under section 43 of that Act.
- (2) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of subsection (1) above shall not include those specified in section 194(2)(b) or (c) of the Act of 1971 (no intention to acquire the land).
- (3) In relation to land within subsection (1) above "the appropriate enactment" for the purposes of sections 192 to 207 of the Act of 1971 shall be section 43 of the Housing Act 1957.
- (4) Where an interest in land is acquired in pursuance of a blight notice served by virtue of subsection (1)(a) above the compensation payable for the acquisition shall be assessed in accordance with section 59(2) of the said Act of 1957 (site value) and paragraph 2 of Schedule 2 to the Land Compensation Act 1961 shall not apply.
- (5) Where the land in which an interest is acquired as aforesaid comprises a house—
 - (a) section 60 of, and Part I of Schedule 2 to, the said Act of 1957 (payments in respect of well-maintained houses) shall have effect as if the house had been made the subject of a compulsory purchase order under Part III of that Act as being unfit for human habitation;
 - (b) Part II of Schedule 2 to the said Act of 1957 and Schedule 5 to the Housing Act 1969 (payments to owner-occupiers) shall have effect as if the house had been purchased at site value in pursuance of a compulsory purchase order made by virtue of the said Part III;

and references in the said Schedules 2 and 5 to the date of the making of the compulsory purchase order and the date when the house was purchased compulsorily shall be respectively construed as references to the date of service of the blight notice and the date of acquisition in pursuance of that notice.

74 Land affected by proposed exercise of powers under section 22

- (1) in section 192(1)(d) of the Act of 1971—
 - (a) the reference to a power of compulsory acquisition conferred by any of the provisions there mentioned shall include a reference to the power of compulsory acquisition conferred by section 22(1) above ;
 - (b) the reference to land required for purposes of construction, improvement or alteration as indicated in an order or scheme there mentioned shall include a reference to land required for the purposes of the said section 22(1).
- (2) Section 192(1) of the Act of 1971 shall have effect as if the land specified therein included land which—

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

- (a) is land shown on plans approved by a resolution of a local highway authority as land proposed to be acquired by them for the purposes of the said section 22(1); or
- (b) is land shown in a written notice given by the Secretary of State to the local planning authority as land proposed to be acquired by him for those purposes in connection with a trunk road or special road which he proposes to provide.

75 Land affected by compulsory purchase orders providing for acquisition of rights over land

- (1) Section 192(1)(g) of the Act of 1971 (land in respect of which there is in force a compulsory purchase order made by a highway authority in the exercise of highway land acquisition powers and providing for the acquisition of rights over land) shall apply generally to land in respect of which there is in force a compulsory purchase order providing for the acquisition of a right or rights over that land, and the provisions of that Act mentioned in subsections (2) and (3) below shall accordingly be amended in accordance with those subsections.
- (2) In the said section 192(1)(g)—
 - (a) in sub-paragraph (i) for the words from "made by" to " 1971" there shall be substituted the word " providing ";
 - (b) in sub-paragraph (ii) for the words " highway authority " there shall be substituted the words " appropriate authority ".
- (3) In section 194—
 - (a) in subsection (4) for the words " is one of the enactments conferring highway land acquisition powers" there shall be substituted the words " confers power to acquire rights over land ";
 - (b) in subsection (6), in paragraphs (a) and (b), after the word "acquire" there shall be inserted the words " or to acquire any rights over " and the words following paragraph (b) as far as the semi-colon shall be omitted.

76 Land affected by new street orders

- (1) Section 192(1) of the Act of 1971 shall have effect as if the land specified therein included land which—
 - (a) either—
 - (i) is within the outer lines prescribed by an order under section 159 of the Highways Act 1959 (orders prescribing minimum width of new streets); or
 - (ii) has a frontage to a highway declared to be a new street by an order under section 30 of the Public Health Act 1925 and lies within the minimum width of the street prescribed by any byelaws or local Act applicable by virtue of the order; and
 - (b) is, or is part of—
 - (i) a dwelling erected before, or under construction on, the date on which the order is made; or
 - (ii) the curtilage of any such dwelling.

- (2) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of subsection (1) above shall not include those specified in section 194(2)(b) or (c) of the Act of 1971.
- (3) In relation to land within subsection (1) above " the appropriate authority " and " the appropriate enactment " for the purposes of sections 192 to 207 of the Act of 1971 shall be the highway authority for the highway in relation to which the order mentioned in that subsection was made and section 214(8) of the said Act of 1959 respectively.
- (4) This section shall not enable a blight notice to be served in respect of any land in which the appropriate authority have previously acquired an interest either in pursuance of a blight notice served by virtue of this section or by agreement in circumstances such that they could have been required to acquire it in pursuance of such a notice.

Attempts to sell blighted property

77 Amended requirements about attempts to sell blighted property

- (1) In section 193(1)(c) and section 201(1)(b) of the Act of 1971 (which require a person serving a blight notice to have made reasonable endeavours to sell his interest since the relevant date, that is to say, the date on which the land became blighted) the words " since the relevant date " and " since the relevant date (within the meaning of section 193 of this Act) " shall be omitted.
- (2) In sections 193(1)(d) and 201(1)(c) of the Act of 1971 (which require a person serving a blight notice to have been unable to sell his interest except at a price lower than if the land had not been blighted) for the words from " he has been unable to sell " onwards there shall be substituted the words " in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest 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, or were likely to be, comprised in such land ".
- (3) This section does not affect any blight notice served before the passing of this Act.

Blight notices by personal representatives

78 Power of personal representative to serve blight notice

- (1) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions, and a person claims that—
 - (a) he is the personal representative of a person (" the deceased ") who at the date of his death was entitled to an interest in that hereditament or unit; and
 - (b) the interest was one which would have qualified for protection under sections 192 to 207 of the Act of 1971 if a notice under section 193 of that Act had been served in respect thereof on that date ; and
 - (c) he has made reasonable endeavours to sell that interest; and
 - (d) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest 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, or were likely to be, comprised in such land; and

- (e) one or more individuals are (to the exclusion of any body corporate) beneficially entitled to that interest,

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, the said sections 192 to 207.

- (2) Subsection (1) 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 any person—

- (a) if the deceased was entitled to an interest in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of the deceased's interest in part of the hereditament or unit; or
- (b) if the deceased was entitled to an interest only in part of the hereditament or agricultural unit, to make or serve any such claim or notice in respect of the deceased's interest in less than the entirety of that part.

- (3) Subject to sections 73(2) and 76(2) above and 80(2) below, the grounds on which objection may be made in a counter-notice under section 194 of the Act of 1971 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 it applies, the grounds specified in paragraph (d) of that subsection and also the following grounds—

- (a) that the claimant is not the personal representative of the deceased or that, on the date of the deceased's death, the deceased was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;
- (b) that (for reasons specified in the counter-notice) the interest of the deceased is not such as is specified in subsection (1)(a) above;
- (c) that the conditions specified in subsection (1)(c), (d) or (e) above are not fulfilled.

- (4) For the purpose of section 201(4) and (5) of the Act of 1971 (which prevent the service of concurrent blight notices under sections 193 and 201 of that Act) a notice served under this section shall be treated as a notice served under the said section 193.

- (5) In section 139(1)(c) of the Transport Act 1968 (compensation where land acquired for special road service area) the reference to a notice under section 193 of the Act of 1971 shall include a reference to a notice under this section.

Blight notices in respect of agricultural units

79 Blight notice requiring purchase of whole agricultural unit

- (1) Where a blight notice is served in respect of an interest in the whole or part of an agricultural unit and on the date of service that unit or part contains land (hereafter referred to as " the unaffected area ") which does not fall within any of the specified descriptions as well as land (hereafter referred to as " the affected area ") which does so, the claimant may include in the notice—

- (a) a claim that the unaffected area is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
 - (b) a requirement that the appropriate authority shall purchase his interest in the whole of the unit or, as the case may be, in the whole of the part of it to which the notice relates.
- (2) Subject to section 80(3) below, " other relevant land " in subsection (1) above means—
- (a) land comprised in the remainder of the agricultural unit if the blight notice is served only in respect of part of it;
 - (b) land comprised in any other agricultural unit occupied by the claimant on the date of service, being land in respect of which he is then entitled to an owner's interest as defined in section 203(4) of the Act of 1971.

80 Objection to blight notice requiring purchase of whole agricultural unit

- (1) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of section 79 above shall include the grounds that the claim made in the notice is not justified.
- (2) Objection shall not be made to a blight notice served by virtue of section 79 above on the grounds mentioned in section 194(2)(c) of the Act of 1971 (part only of affected area proposed to be acquired) unless it is also made on the grounds mentioned in subsection (1) above; and the Lands Tribunal shall not uphold an objection to any such notice on the grounds mentioned in the said section 194(2)(c) unless it also upholds the objection on the grounds mentioned in subsection (1) above.
- (3) Where objection is made to a blight notice served by virtue of section 79 above on the grounds mentioned in subsection (1) above and also on those mentioned in the said section 194(2)(c), the Lands Tribunal, in determining whether or not to uphold the objection, shall treat that part of the affected area which is not specified in the counter-notice as included in " other relevant land " as defined in section 79(2) above.
- (4) If the Lands Tribunal upholds an objection but only on the grounds mentioned in subsection (1) above, the Tribunal shall declare that the blight notice is a valid notice in relation to the affected area but not in relation to the unaffected area.
- (5) If the Tribunal upholds an objection both on the grounds mentioned in subsection (1) above and on the grounds mentioned in the said section 194(2)(c) (but not on any other grounds) the Tribunal shall declare that the blight notice is a valid notice in relation to the part of the affected area specified in the counter-notice as being the part which the appropriate authority propose to acquire as therein mentioned but not in relation to any other part of the affected area or in relation to the unaffected area.
- (6) In a case falling within subsection (4) or (5) above, the Tribunal shall give directions specifying a date on which notice to treat (as mentioned in section 81 below and section 196 of the Act of 1971) is to be deemed to have been served.
- (7) Section 195(5) of the Act of 1971 shall not apply to any blight notice served by virtue of section 79 above.

81 Effect of blight notice requiring purchase of whole agricultural unit

(1) In relation to a blight notice served by virtue of section 79 above, subsection (1) of section 196 of the Act of 1971 shall have effect as if for the words " or (in the case of an agricultural unit) the interest of the claimant in so far as it subsists in the affected area " there were substituted the words " or agricultural unit " and subsection (3) of that section shall not apply to any such blight notice.

(2) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 80(1) above, then if either—

- (a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired, gives notice to the appropriate authority that he withdraws his claim as to the unaffected area: or
- (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 80(4) above,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the affected area (but not in so far as it subsists in the unaffected area) and to have served a notice to treat in respect thereof on the date mentioned in subsection (3) below.

(3) The said date—

- (a) in a case falling within paragraph (a) of subsection (2) above, is the date on which notice is given in accordance with that paragraph; and
- (b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 80(6) above.

(4) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 80(1) above and also on the grounds mentioned in section 194(2)(c) of the Act of 1971 then if either—

- (a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired, gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the affected area specified in the counter-notice, and withdraws his claim as to the remainder of that area and as to the unaffected area; or
- (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 80(5) above in respect of that part of the affected area,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the affected area specified in the counter-notice (but not in so far as it subsists in any other part of that area or in the unaffected area) and to have served a notice to treat in respect thereof on the date mentioned in subsection (5) below.

(5) The said date—to) in a case falling within paragraph—

- (a) of subsection (4) above, is the date on which notice is given in accordance with that paragraph ; and
- (b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 80(6) above.

(6) The compensation payable in respect of the acquisition by virtue of this section of an interest in land comprised in—

- (a) the unaffected area of an agricultural unit; or

- (b) if the appropriate authority have served a counter-notice objecting to the blight notice on the grounds mentioned in the said section 194(2)(c), so much of the affected area of the unit as is not specified in the counter-notice, shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) above.
- (7) In relation to a blight notice served by virtue of section 79 above references to " the appropriate authority " and " the appropriate enactment" shall be construed as if the unaffected area of an agricultural unit were part of the affected area.
- (8) The provisions mentioned in section 200(2) of the Act of 1971 (operation of blight provisions where claimant dies after serving blight notice) shall include subsections (2) and (4) above.

Supplementary

82 Supplementary provisions for Part V

- (1) In this Part of this Act " the Act of 1971 " means the Town and Country Planning Act 1971.
- (2) In section 192(6) of the Act of 1971 (definition of " blight notice ") there shall be added at the end the words " or section 78 of the Land Compensation Act 1973 ".
- (3) In section 194(5) of the Act of 1971 (which requires a counter-notice to state the grounds of objection) after the words " section 201(6) of this Act" there shall be inserted the words " or section 78(3) or 80(1) of the Land Compensation Act 1973 ".
- (4) In sections 192 to 207 of the Act of 1971 references to " these provisions " shall include references to this Part of this Act, and references to " the specified descriptions " shall include references to the descriptions contained in section 192(1)(a), (b), (d), (g) and (f) of that Act as extended by this Part of this Act and to the descriptions contained in sections 71, 72, 73, 74(2) and 76 above.
- (5) The Act of 1971 shall have effect as if this Part of this Act were included in the said sections 192 to 207.

83 Application of" Part V to Scotland

This Part of this Act shall have effect in relation to Scotland as set out in Schedule 2 to this Act.

PART VI

SUPPLEMENTARY PROVISIONS

84 Application to Crown

- (1) Part I of this Act does not apply to any aerodrome in the occupation of a government department but, subject to that, references in that Part and in Part II of this Act to public works and responsible authorities include references to any works or authority which, apart from any Crown exemption, would be public works or a responsible authority.

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

- (2) Parts III and IV of this Act apply in relation to the acquisition of interests in land (whether compulsorily or by agreement) by government departments being authorities possessing compulsory purchase powers, as they apply in relation to the acquisition of interests in land by such authorities who are not government departments.

85 Financial provisions

There shall be paid out of moneys provided by Parliament—

- (a) any expenses incurred under this Act by any government department;
- (b) any increase attributable to this Act in the sums payable out of such moneys under any other Act.

86 Repeals

The enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

87 General interpretation

(1) In this Act—

" agriculture ", " agricultural " and " agricultural land " have the meaning given in section 109 of the Agriculture Act 1947 or, in relation to Scotland, section 86 of the Agriculture (Scotland) Act 1948, and references to the farming of land include references to the carrying on in relation to the land of any agricultural activities;

" agricultural holding " has the meaning given in section 1 of the Agricultural Holdings Act 1948 or, in relation to Scotland, section 1 of the Agricultural Holdings (Scotland) Act 1949 and " landlord ", " tenant " and " notice to quit ", in relation to an agricultural holding, have the same meaning as in those Acts respectively ;

" agricultural unit " has the meaning given in section 207(1) of the Town and Country Planning Act 1971 or, in relation to Scotland, section 196(1) of the Town and Country Planning (Scotland) Act 1972 ;

" acquiring authority " and " authority possessing compulsory purchase powers " have the same meaning as in the Land Compensation Act 1961 or, in relation to Scotland, the Land Compensation (Scotland) Act 1963 ;

" aerodrome " has the meaning given in section 63(1) of the Civil Aviation Act 1949 ;

" cottar " has the same meaning as in section 28(4) of the Crofters (Scotland) Act 1955 ;

" croft ", " crofter " and " landlord ", in relation to a croft, have the same meanings respectively as in the Crofters (Scotland) Act 1955 ;

" disabled person " means a person who is substantially and permanently handicapped by illness, injury or congenital infirmity, or, in relation to Scotland, means a person in need under section 12 of the Social Work (Scotland) Act 1968 as read with section 1 of the Chronically Sick and Disabled Persons (Scotland) Act 1972;

" dwelling " means a building or part of a building occupied or (if not occupied) last occupied or intended to be occupied as a private dwelling or, in relation to Scotland, a private house, and (except in section 29) includes any

garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part;

" heritable security " means any security capable of being constituted over any interest in land by a disposition or assignation of that interest in security of any debt and of being recorded in the Register of Sasines;

" holding ", in relation to a landholder and a statutory small tenant, has the same meaning as in section 2(1) of the Small Landholders (Scotland) Act 1911 and:

" landlord ", in relation to such a holding, has the same meaning as in the Agricultural Holdings (Scotland) Act 1949;

" landholder " has the same meaning as in section 2(2) of the Small Landholders (Scotland) Act 1911;

" owner ", in relation to Scotland, has the same meaning as in section 45(1) of the Land Compensation (Scotland) Act 1963;

" road " has the meaning assigned to it in the Roads (Scotland) Act 1970;

" statutory small tenant " has the same meaning as in section 32(1) of the Small Landholders (Scotland) Act 1911 ;

" tenancy ", in relation to England and Wales and otherwise than in relation to an agricultural holding, has the same meaning as in the Landlord and Tenant Act 1954.

- (2) In this Act references to the council of a district are, until 1st April 1974, references to the council of a county district or county borough and, thereafter, to the council of a district within the meaning of the Local Government Act 1972 ; and references to a London borough and the council of a London borough include references to the City of London and the Common Council.
- (3) Sections 22 to 25 above shall be construed as one with the Highways Act 1959 or, in relation to Scotland, the Roads (Scotland) Act 1970.
- (4) Except where the context otherwise requires, references in this Act to any enactment are references to that enactment as amended, and include references to that enactment as extended or applied, by any other enactment, including this Act.

88 Northern Ireland

- (1) Her Majesty may by Order in Council—
 - (a) extend this Act (other than Part V thereof), with such additions, exceptions and modifications as appear to Her Majesty to be expedient, to—
 - (i) the provision, operation, management or use of public works in Northern Ireland under any enactment relating to a matter in respect of which the Parliament of Northern Ireland does not have power to make laws (in this section referred to as " a reserved enactment "); and
 - (ii) acquisitions of land in Northern Ireland by any department or body exercising powers of acquisition under a reserved enactment;
 - (b) apply, with such additions, exceptions and modifications as appear to Her Majesty to be expedient, the provisions of Schedules 5 and 6 to the Roads Act (Northern Ireland) 1948 or Schedule 6 to the Local Government Act (Northern Ireland) 1972 to the acquisition, otherwise than by agreement, of land in Northern Ireland by any department or body exercising powers of acquisition under a reserved enactment.

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

- (2) An Order in Council under this section may include such provisions as appear to Her Majesty to be incidental to or consequential on any provision contained in such an Order by virtue of subsection (1) above.
- (3) An Order in Council under this section may be varied or revoked by a further Order in Council made thereunder.

89 Short title, commencement and extent

- (1) This Act may be cited as the Land Compensation Act 1973.
- (2) Part I of this Act shall not come into force until the expiration of the period of one month beginning with the date on which this Act is passed.
- (3) Section 48 above does not affect any compensation which fell or falls to be assessed by reference to prices current on a date before the passing of this Act, and the other provisions of Part IV of this Act relating to the assessment of compensation do not affect any compensation which fell or falls to be assessed by reference to prices current on a date before 17th October 1972.
- (4) This Act, except section 88, does not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 60.

APPLICATION OF SECTION 60 TO STATUTORY SMALL TENANTS

PART I

MODIFICATION OF SECTION 60

Section 60 above shall apply to a statutory small tenant subject to the following modifications—

- (a) for any reference to a croft, crofter or section 12 of the Crofters (Scotland) Act 1955 there shall be substituted respectively a reference to a holding, statutory small tenant or section 32(15) of the Small Landholders (Scotland) Act 1911 ;
- (b) in subsection (1), for the words from "crofter" in paragraph (a) to " so required " in paragraph (b) there shall be substituted the words " statutory small tenant and resumption of the holding is authorised by an order of the Scottish Land Court under section 32(15) of the Small Landholders (Scotland) Act 1911 ; and (b) the resumption is so authorised ";
- (c) in subsection (2), for the words "crofter required by such an order to surrender his croft " there shall be substituted the words " statutory small tenant, resumption of whose holding is authorised by such an order ";
- (d) in subsections (2) and (3), for the words " croft is required to be surrendered", wherever they occur, there shall be substituted the words " holding is authorised to be resumed ";
- (e) in subsection (2)(a), after the words " year, etc.) " there shall be inserted the words " and section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 " and for the words " the crofter had not been so required to surrender his croft" there shall be substituted the words " resumption of the holding had not been so authorised ";
- (f) for subsection (2)(b) there shall be substituted the following paragraph—
 - “(b) any provision of the said section 32(15) relating to compensation to a statutory small tenant shall not have effect in relation to the resumption of the holding by reason of the order.”;
- (g) in subsection (5), for the words "to surrender", wherever they occur, there shall be substituted the words " authorising resumption of ".

PART II

SECTION 60 AS MODIFIED, IN ITS APPLICATION TO STATUTORY SMALL TENANTS

“60 Resumption of holding of statutory small tenant: right to opt for notice of entry compensation.

- (1) This section has effect where—

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

- (a) the person in occupation of an agricultural holding is a statutory small tenant and resumption of the holding is authorised by an order of the Scottish Land Court under section 32(15) of the Small Landholders (Scotland) Act 1911 ; and
 - (b) the resumption is so authorised—
 - (i) after an acquiring authority have served notice to treat on the landlord of the holding or, being an authority possessing compulsory purchase powers, have agreed to acquire his interest in the holding ; and
 - (ii) where the Court have been satisfied under the said section 32(15) that the landlord desires to resume the holding for a reasonable purpose which is a purpose other than an agricultural purpose.
- (2) If the statutory small tenant, resumption of whose holding is authorised by such an order, elects that this subsection shall apply to the order and gives up possession of the holding to the acquiring authority on or before the date on which the holding is authorised to be resumed in accordance with the order—
- (a) section 114 of the Lands Clauses Consolidation (Scotland) Act 1845 (compensation for tenants from year to year, etc.) and section 12 of the Agriculture (Miscellaneous Provisions) Act 1968 shall have effect as if resumption of the holding had not been so authorised and the acquiring authority had taken possession of the holding in pursuance of a notice of entry under paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 on the day before that on which the holding is authorised to be resumed in accordance with the order; and
 - (b) any provision of the said section 32(15) relating to compensation to a statutory small tenant shall not have effect in relation to the resumption of the holding by reason of the order.
- (3) No election under subsection (2) above shall be made or, if already made, continue to have effect in relation to any land to which such an order relates if, before the date on which the holding is authorised to be resumed in accordance with the order, an acquiring authority take possession of that land in pursuance of an enactment providing for the taking of possession of land compulsorily.
- (4) Any election under subsection (2) above shall be made by notice in writing served on the acquiring authority not later than the date on which possession of the holding is given up.
- (5) This section shall have effect in relation to an order authorising resumption of part of a holding as it has effect in relation to an order authorising resumption of an entire holding and references to a holding shall be construed accordingly.
- (6) The reference in subsection (1)(b)(i) above to a notice to treat served by an acquiring authority includes a reference to a notice to treat deemed to have been so served under any of the provisions mentioned in section 53(5) above.”

SCHEDULE 2

Section 83.

APPLICATION OF PART V TO SCOTLAND

“Planning Blight

Extension of classes of blighted land

68 Land affected by proposed structure and local plans etc.

- (1) In paragraph (a) of section 181(1) of the Act of 1972 (land indicated in a structure plan in force as land which may be required for the purposes of functions of public authorities or as land which may be included in an action area) the reference to a structure plan in force shall include a reference to—
 - (a) a structure plan which has been submitted to the Secretary of State under section 5 of that Act;
 - (b) proposals for alterations to a structure plan which have been submitted to the Secretary of State under section 8 of that Act;
 - (c) modifications proposed to be made by the Secretary of State in any such plan or proposals as are mentioned in the preceding paragraphs, being modifications of which he has given notice in accordance with regulations under Part II of that Act.
- (2) In paragraph (b) of the said section 181(1) (land allocated for the purposes of functions of public authorities by a local plan in force and land defined in such a plan as the site of proposed development for the purposes of any such functions) the reference to a local plan in force shall include a reference to—
 - (a) a local plan of which copies have been made available for inspection under section 10(2) of the Act of 1972 ;
 - (b) proposals for alterations to a local plan of which copies have been made available for inspection under section 13(2) of that Act;
 - (c) modifications proposed to be made by the local planning authority or the Secretary of State in any such plan or proposals as are mentioned in the preceding paragraphs, being modifications of which notice has been given by the authority or the Secretary of State in accordance with regulations under Part II of that Act.
- (3) In section 38(1)(b) of the Town and Country Planning (Scotland) Act 1959 as it has effect by virtue of paragraph 49 of Schedule 22 to the Act of 1972 (provisions corresponding to section 181(1)(b) of the Act of 1972 pending coming into force of local plans) the reference to a development plan shall include a reference to—
 - (a) proposals for alterations to a development plan submitted to the Secretary of State under paragraph 3 of Schedule 3 to the Act of 1972 ;
 - (b) modifications proposed to be made by the Secretary of State in any such proposals, being modifications of which notice has been given by the Secretary of State by advertisement.
- (4) No blight notice shall be served by virtue of subsection (1) or (2) above at any time after the copies of the plan or proposals made available for inspection have been withdrawn under section 6(6) or 10(5) of the Act of 1972 (directions by Secretary of State requiring further publicity).
- (5) No blight notice shall be served by virtue of this section after the relevant plan or alterations have come into force (whether in their original form or with modifications) or the Secretary of State has decided to reject or, in the case of a local plan, the local planning authority have decided to abandon the plan or alterations and notice of the decision has been given by advertisement.

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

- (6) Where an appropriate authority have served a counter-notice objecting to a blight notice served by virtue of this section, then, if the relevant plan or alterations come into force (whether in their original form or with modifications) the appropriate authority may serve on the claimant, in substitution for the counter-notice already served, a further counter-notice specifying different grounds of objection, and section 184 of the Act of 1972 (reference of objections to Lands Tribunal for Scotland) shall have effect in relation to the further counter-notice as it has effect in relation to the counter-notice already served :

Provided that a further counter-notice under this subsection shall not be served—

- (a) at any time after the end of the period of two months beginning with the date on which the relevant plan or alterations come into force ; or
 - (b) if the objection in the counter-notice already served has been withdrawn or the Lands Tribunal for Scotland has already determined whether or not to uphold that objection.
- (7) References in subsections (1) to (3) above to anything done under any of the provisions there mentioned include references to anything done under those provisions as they apply by virtue of section 15 of, or paragraph 4 of Schedule 3 to, the Act of 1972 (default powers of Secretary of State).
- (8) In this section references to alterations to a local plan include references to its replacement, and references to alterations to a development plan include references to additions to it.
- (9) In relation to land falling within section 181(1)(b) of the Act of 1972 or section 38(1)(b) of the Town and Country Planning (Scotland) Act 1959, as extended by this section, " the appropriate enactment" for the purposes of sections 181 to 196 of the Act of 1972 shall be determined in accordance with section 195(2) of the Act of 1972 as if references therein to the development plan were references to any such plan, proposals or modifications as are mentioned in subsection (2)(a), (b) or (c) and subsection (3)(a) or (b) above.

69 Land affected by proposed highway orders.

- (1) In section 181(1)(e) of the Act of 1972 (land on or adjacent to line of road proposed to be constructed etc. as indicated in an order or scheme which has come into operation under the provisions of the Trunk Roads Act 1946 or Special Roads Act 1949)—
- (a) the reference to such an order or scheme which has come into force as aforesaid shall include a reference to an order or scheme proposed to be made or confirmed under section 1(2) of the Trunk Roads Act 1946, section 1, 3 or 14 of the Special Roads Act 1949 or section 15 of the Roads (Scotland) Act 1970 in respect of which a notice has been published under Schedule 2 to the said Act of 1946 or Schedule 1 to the said Act of 1949 ; and
 - (b) for the reference to section 13 of the Restriction of Ribbon Development Act 1935 there shall be substituted a reference to sections 29 to 33 of the Roads (Scotland) Act 1970 as read with, in addition to the enactments specified in the said section 181(1)(e), section 15 of the said Act of 1970.
- (2) No blight notice shall be served by virtue of this section at any time after the relevant order or scheme has come into operation (whether in its original form or with modifications) or the Secretary of State has decided not to confirm or make the order or scheme.

- (3) Subsection (6) of section 68 above shall have effect in relation to a blight notice served by virtue of this section as it has effect in relation to a blight notice served by virtue of that section taking references to the relevant plan or alterations as references to the relevant order or scheme.

70 Land affected by proposed compulsory purchase orders.

- (1) Section 181(1)(g) and (i) of the Act of 1972 (land in respect of which a compulsory purchase order is in force where a notice to treat has not been served) shall apply also to land in respect of which a compulsory purchase order has been submitted for confirmation to, or been prepared in draft by, a Minister and in respect of which a notice has been published under paragraph 3(1)(a) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 or under any corresponding enactment applicable thereto.
- (2) No blight notice shall be served by virtue of this section at any time after the relevant compulsory purchase order has come into force (whether in its original form or with modifications) or the Minister concerned has decided not to confirm or make the order.
- (3) In relation to land falling within the said section 181(1)(g) or (i) by virtue of this section "the appropriate enactment" for the purposes of sections 181 to 196 of the Act of 1972 shall be the enactment which would provide for the compulsory acquisition of the land or of the rights in or over the land if the relevant compulsory purchase order were confirmed or made.

71 Land affected by resolution of planning authority or directions of Secretary of State.

- (1) Section 181(1) of the Act of 1972 shall have effect as if the land specified therein included land which—
- (a) is land indicated in a plan (not being a development plan) approved by a resolution passed by a local planning authority for the purpose of the exercise of their powers under Part III of that Act as land which may be required for the purposes of any functions of a government department, local authority or statutory undertakers ; or
 - (b) is land in respect of which a local planning authority have resolved to take action to safeguard it for development for the purposes of any such functions or been directed by the Secretary of State to restrict the grant of planning permission in order to safeguard it for such development.
- (2) Paragraph (a) of the said section 181(1) shall not apply to land within subsection (1) above.
- (3) In relation to land falling within subsection (1) above "the appropriate enactment" for the purposes of sections 181 to 196 of the Act of 1972 shall be determined in accordance with section 195(2) of that Act as if references therein to the development plan were references to the resolution or direction in question.

72 Land affected by orders relating to new towns.

- (1) Section 181(1) of the Act of 1972 shall have effect as if the land specified therein included land which—

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

- (a) is land within an area described as the site of a proposed new town in the draft of an order in respect of which a notice has been published under paragraph 2 of Schedule 1 to the New Towns (Scotland) Act 1968 ; or
 - (b) is land within an area designated as the site of a proposed new town by an order which has come into operation under section 1 of the said Act of 1968.
- (2) No blight notice shall be served by virtue of subsection (1)(a) above at any time after the order there mentioned has come into operation (whether in the form of the draft or with modifications) or the Secretary of State has decided not to make the order.
- (3) Until such time as a development corporation is established for the new town, sections 181 to 196 of the Act of 1972 shall have effect in relation to land within subsection (1) above as if " the appropriate authority" and the "appropriate enactment" were the Secretary of State and subsection (4) below respectively.
- (4) Until such time as aforesaid the Secretary of State shall have power to acquire compulsorily any interest in land in pursuance of a blight notice served by virtue of subsection (1) above ; and where he acquires an interest as aforesaid, then—
- (a) if the land is or becomes land within subsection (1)(b) above, the interest shall be transferred by him to the development corporation established for the new town ; and
 - (b) in any other case, the interest may be disposed of by him in such manner as he thinks fit.
- (5) The Land Compensation (Scotland) Act 1963 shall have effect in relation to the compensation payable in respect of the acquisition of an interest by the Secretary of State under subsection (4) above as if the acquisition were by a development corporation under the New Towns (Scotland) Act 1968 and as if, in the case of land within subsection (1)(a) above, the land formed part of an area designated as the site of a new town by an order which has come into operation under section 1 of the said Act of 1968.
- (6) Section 11 of the said Act of 1968 (right to require development corporation to acquire land within area designated as the site of a new town) shall cease to have effect except in relation to any notice served under that section before the coming into force of this section.

73 Land affected by housing treatment resolution.

- (1) Section 181(1) of the Act of 1972 shall have effect as if the land specified therein included land which—
- (a) is land within an area declared to be a housing treatment area by a resolution under section 4 of the Housing (Scotland) Act 1969 where the resolution provides that any of the buildings in that area are to be demolished ; or
 - (b) is land surrounded by or adjoining an area declared as aforesaid to be a housing treatment area, whether or not the resolution provides that any of the buildings in that area are to be demolished.
- (2) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of subsection (1) above shall not include those specified in section 183(2)(b) or (c) of the Act of 1972 (no intention to acquire the land).
- (3) In relation to land within subsection (1) above " the appropriate enactment" for the purposes of sections 181 to 196 of the Act of 1972 shall be section 5 of the Housing (Scotland) Act 1969.

74 Land affected by proposed exercise of powers under section 22.

- (1) In section 1810(e) of the Act of 1972—
- (a) the reference to a power of compulsory acquisition conferred by any of the provisions there mentioned shall include a reference to the power of compulsory acquisition conferred by section 22(1) above;
 - (b) the reference to land required for purposes of construction, improvement or alteration as indicated in an order or scheme there mentioned shall include a reference to land required for the purposes of the said section 22(1).
- (2) Section 181(1) of the Act of 1972 shall have effect as if the land specified therein included land which—
- (a) is land shown on plans approved by a resolution of a local highway authority as land proposed to be acquired by them for the purposes of the said section 22(1); or
 - (b) is land shown in a written notice given by the Secretary of State to the local planning authority as land proposed to be acquired by him for those purposes in connection with a trunk road or special road which he proposes to provide.

75 Land affected by compulsory purchase orders providing for acquisition of rights in or over land.

- (1) Section 181(1) of the Act of 1972 (which sets out the classes of blighted land) shall apply to land in the case of which there is in force a compulsory purchase order providing for the acquisition of a right in or over that land, and the appropriate authority have power to serve, but have not served, notice to treat in respect of the right; and the provisions of that Act mentioned in subsections (2) to (4) below shall accordingly be amended in accordance with those subsections.
- (2) In section 181—
- (a) at the end of subsection (1) there shall be added the following paragraph—
 - “(i) is land in the case of which there is in force a compulsory purchase order providing for the acquisition of a right in or over that land, and the appropriate authority have power to serve, but have not served, notice to treat in respect of the right.”;
 - (b) in subsection (6), for the word “(h)” there shall be substituted the word “(i)”.
- (3) In section 183—
- (a) after subsection (3) there shall be inserted the following subsection—
 - “(3A) Where the appropriate enactment confers power to acquire a right in or over land, subsection (2) of this section shall have effect as if—
 - (a) in paragraph (b), after the word ‘acquire’ there were inserted the words ‘or to acquire any right in or over’;
 - (b) in paragraph (c), for the words ‘do not propose to acquire’ there were substituted the words ‘propose neither to acquire nor to acquire any right in or over’;
 - (c) in paragraph (d), after the words ‘affected area’ there were inserted the words ‘or to acquire any right in or over any part thereof’;
 - (b) in subsection (5), in paragraphs (a) and (3), after the word ‘acquire’ there shall be inserted the words ‘or to acquire any right in or over’

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

- (4) At the end of section 195(1) there shall be added the following words " or, as respects the description contained in paragraph (f) of section 181(1) of this Act, the enactment under which the compulsory purchase order referred to in that paragraph was made. ".

Attempts to sell blighted property

76 Amended requirements about attempts to sell blighted property.

- (1) In sections 182(1)(c) and 190(1)(b) of the Act of 1972 (which require a person serving a blight notice to have made reasonable endeavours to sell his interest since the relevant date, that is to say, the date on which the land became blighted) the words "since the relevant date " and " since the relevant date (within the meaning of section 182 of this Act) " shall be omitted.
- (2) In sections 182(1)(d) and 190(1)(c) of the Act of 1972 (which require a person serving a blight notice to have been unable to sell his interest except at a price lower than if the land had not been blighted) for the words from " he has been unable to sell" onwards there shall be substituted the words " in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest 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, or were likely to be, comprised in such land ".
- (3) This section does not affect any blight notice served before the passing of this Act.

Blight notices by personal representatives

77 Power of personal representative to serve blight notice.

- (1) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions, and a person claims that—
- (a) he is the personal representative of a person (" the deceased ") who at the date of his death was entitled to an interest in that hereditament or unit; and
 - (b) the interest was one which would have qualified for protection under sections 181 to 196 of the Act of 1972 if a notice under section 182 of that Act had been served in respect thereof on that date ; and
 - (c) he has made reasonable endeavours to sell that interest; and
 - (d) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest 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, or were likely to be, comprised in such land ; and
 - (e) one or more individuals are (to the exclusion of any body corporate) beneficially entitled to that interest,

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, the said sections 181 to 196.

- (2) Subsection (1) 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:

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

Provided that this subsection shall not enable any person—

- (a) if the deceased was entitled to an interest in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of the deceased's interest in part of the hereditament or unit; or
 - (b) if the deceased was entitled to an interest only in part of the hereditament or agricultural unit, to make or serve any such claim or notice in respect of the deceased's interest in less than the entirety of that part.
- (3) Subject to sections 73(2) above and 79(2) below, the grounds on which objection may be made in a counter-notice under section 183 of the Act of 1972 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 it applies, the grounds specified in paragraph (d) of that subsection and also the following grounds—
- (a) that the claimant is not the personal representative of the deceased or that, on the date of the deceased's death, the deceased was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates ;
 - (b) that (for reasons specified in the counter-notice) the interest of the deceased is not such as is specified in subsection (1)(3) above;
 - (c) that the conditions specified in subsection (1)(c), (d) or (e) above are not fulfilled.
- (4) For the purpose of section 190(4) and (5) of the Act of 1972 (which prevent the service of concurrent blight notices under sections 182 and 190 of that Act) a notice served under this section shall be treated as a notice served under the said section 182.
- (5) In section 139(1)(c) of the Transport Act 1968 (compensation where land acquired for special road service area) the reference to a notice under section 182 of the Act of 1972 shall include a reference to a notice under this section.

Blight notices in respect of agricultural units

78 Blight notice requiring purchase of whole agricultural unit.

- (1) Where a blight notice is served in respect of an interest in the whole or part of an agricultural unit and on the date of service that unit or part contains land (hereafter referred to as "the unaffected area ") which does not fall within any of the specified descriptions as well as land (hereafter referred to as " the affected area which does so, the claimant may include in the notice—
- (a) a claim that the unaffected area is not reasonably capable of being farmed, either by itself or in conjunction with other relevant land, as a separate agricultural unit; and
 - (b) a requirement that the appropriate authority shall purchase his interest in the whole of the unit or, as the case may be, in the whole of the part of it to which the notice relates.
- (2) Subject to section 79(3) below, " other relevant land " in subsection (1) above means—
- (a) land comprised in the remainder of the agricultural unit if the blight notice is served only in respect of part of it;
 - (b) land comprised in any other agricultural unit occupied by the claimant on the date of service, being land in respect of which he is then entitled to an owner's interest as defined in section 192(4) of the Act of 1972.

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

79 Objection to blight notice requiring purchase of whole agricultural unit.

- (1) The grounds on which objection may be made in a counter-notice to a blight notice served by virtue of section 78 above shall include the grounds that the claim made in the notice is not justified.
- (2) Objection shall not be made to a blight notice served by virtue of section 78 above on the grounds mentioned in section 183(2)(c) of the Act of 1972 (part only of affected area proposed to be acquired) unless it is also made on the grounds mentioned in subsection (1) above; and the Lands Tribunal for Scotland shall not uphold an objection to any such notice on the grounds mentioned in the said section 183(2)(c) unless it also upholds the objection on the grounds mentioned in subsection (1) above.
- (3) Where objection is made to a blight notice served by virtue of section 78 above on the grounds mentioned in subsection (1) above and also on those mentioned in the said section 183(2)(c), the Lands Tribunal for Scotland, in determining whether or not to uphold the objection, shall treat that part of the affected area which is not specified in the counter-notice as included in " other relevant land " as defined in section 78(2) above.
- (4) If the Lands Tribunal for Scotland upholds an objection but only on the grounds mentioned in subsection (1) above, the Tribunal shall declare that the blight notice is a valid notice in relation to the affected area but not in relation to the unaffected area.
- (5) If the Tribunal upholds an objection both on the grounds mentioned in subsection (1) above and on the grounds mentioned in the said section 183(2)(c) (but not on any other grounds) the Tribunal shall declare that the blight notice is a valid notice in relation to the part of the affected area specified in the counter-notice as being the part which the appropriate authority propose to acquire as therein mentioned but not in relation to any other part of the affected area or in relation to the unaffected area.
- (6) In a case falling within subsection (4) or (5) above, the Tribunal shall give directions specifying a date on which notice to treat (as mentioned in section 80 below and section 185 of the Act of 1972) is to be deemed to have been served.
- (7) Section 184(5) of the Act of 1972 shall not apply to any blight notice served by virtue of section 78 above.

80 Effect of blight notice requiring purchase of whole agricultural unit.

- (1) In relation to a blight notice served by virtue of section 78 above, subsection (1) of section 185 of the Act of 1972 shall have effect as if for the words "or (in the case of an agricultural unit) the interest of the claimant in so far as it subsists in the affected area" there were substituted the words "" or agricultural unit" and subsection (3) of that section shall not apply to any such blight notice.
- (2) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 79(1) above, then if either—
 - (a) the claimant, without referring that objection to the Lands Tribunal for Scotland, and before the time for so referring it has expired, gives notice to the appropriate authority that he withdraws his claim as to the unaffected area ; or
 - (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 79(4) above,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the

affected area (but not in so far as it subsists in the unaffected area) and to have served a notice to treat in respect thereof on the date mentioned in subsection (3) below.

- (3) The said date—
- (a) in a case falling within paragraph (a) of subsection (2) above, is the date on which notice is given in accordance with that paragraph ; and
 - (b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 79(6) above.
- (4) Where the appropriate authority have served a counter-notice objection to a blight notice on the grounds mentioned in section 79(1) above and also on the grounds mentioned in section 183(2)(c) of the Act of 1972, then if either—
- (a) the claimant, without referring that objection to the Lands Tribunal for Scotland, and before the time for so referring it has expired, gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the affected area specified in the counter-notice, and withdraws his claim as to the remainder of that area and as to the unaffected area ; or
 - (b) on a reference to the Tribunal, the Tribunal makes a declaration in accordance with section 79(5) above in respect of that part of the affected area,
- the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the affected area specified in the counter-notice (but not in so far as it subsists in any other part of that area or in the unaffected area) and to have served a notice to treat in respect thereof on the date mentioned in subsection (5) below.
- (5) The said date—
- (a) in a case falling within paragraph (a) of subsection (4) above, is the date on which notice is given in accordance with that paragraph ; and
 - (b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Tribunal in accordance with section 79(6) above.
- (6) The compensation payable in respect of the acquisition by virtue of this section of an interest in land comprised in—
- (a) the unaffected area of an agricultural unit; or
 - (b) if the appropriate authority have served a counter-notice objecting to the blight notice on the grounds mentioned in the said section 183(2)(c), so much of the affected area of the unit as is not specified in the counter-notice,
- shall be assessed on the assumptions mentioned in section 5(2), (3) and (4) above.
- (7) In relation to a blight notice served by virtue of section 78 above references to " the appropriate authority " and " the appropriate enactment " shall be construed as if the unaffected area of an agricultural unit were part of the affected area.
- (8) The provisions mentioned in section 189(2) of the Act of 1972 (operation of blight provisions where claimant dies after serving blight notice) shall include subsections (2) and (4) above.

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

Supplementary

81 Supplementary provisions for Part V.

- (1) In this Part of this Act "the Act of 1972" means the Town and Country Planning (Scotland) Act 1972.
- (2) In section 181(6) of the Act of 1972 (definition of "blight notice ") there shall be added at the end the words " or section 77 of the Land Compensation Act 1973 ".
- (3) In section 183(4) of the Act of 1972 (which requires a counter-notice to state the grounds of objection) after the words "section 190(6) of this Act", there shall be inserted the words " or section 77(3) or 79(1) of the Land Compensation Act 1973 ".
- (4) In sections 181 to 196 of the Act of 1972 references to "these provisions" shall include references to this Part of this Act, and references to " the specified descriptions" shall include references to the descriptions contained in section 181(1)(a), (b), (e), (g) and (i) of that Act as extended by this Part of this Act and to the descriptions contained in sections 71, 72, 73 and 74(2) above.
- (5) The Act of 1972 shall have effect as if this Part of this Act were included in the said sections 181 to 196."

SCHEDULE 3

Section 86.

REPEALS

Chapter	Short Title	Extent of Repeal
49 & 50 Vict. c. 22.	The Metropolitan Police Act 1886.	Section 5.
12, 13 & 14 Geo. 6 c. 67.	The Civil Aviation Act 1949.	Section 31(3).
2 & 3 Eliz. 2. c. 56.	The Landlord and Tenant Act 1954.	Section 39(1).
5 & 6 Eliz. 2. c. 56.	The Housing Act 1957.	Section 32. Section 42(3). Section 63(1). Section 100. Section 144. Schedule 9.
7 & 8 Eliz. 2. c. 25.	The Highways Act 1959.	In section 82(2) the words " subsection (5), or subsection (6)". In section 214, subsections (5), (6) and (7) and the proviso to subsection (8). Section 222(5) and (10).

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

Chapter	Short Title	Extent of Repeal
		Section 225(1) and (2).
9 & 10 Eliz. 2. c. 33.	The Land Compensation Act 1961.	In section 238(3) the words " (5) and (6) " . Section 30.
1963 c. 33.	The London Government Act 1963.	In Schedule 6 paragraph 58. In Schedule 8 paragraphs 12 and 13.
1963 c. 51.	The Land Compensation (Scotland) Act 1963.	Section 38 except so far as relating to land used for the purposes of agriculture.
1965 c. 16.	The Airports Authority Act 1965.	In Schedule 4 paragraph 2(3).
1965 c. 56.	The Compulsory Purchase Act 1965.	In Schedule 7 the entry relating to the Landlord and Tenant Act 1954.
1965 c. 59.	The New Towns Act 1965.	Section 11 and paragraph 7 of Schedule 6 except in relation to any notice served under section 11 before the passing of this Act.
		Section 22(1), (2), (5) and (6).
1966 c. 49.	The Housing (Scotland) Act 1966.	Section 160(1) and (2). Section 168. Schedule 8.
1968 c. 16.	The New Towns (Scotland) Act 1968.	Section 11 and paragraph 8 of Schedule 6 except in relation to any notice served under section 11 before the passing of this Act.
		Section 22(1), (2), (5) and (6).
1968 c. 34.	The Agriculture (Miscellaneous Provisions) Act 1968.	Sections 15(1) and 42 except in relation to compensation falling to be assessed by reference to prices current on a date before the passing of this Act and except for the purposes of section 48(6) of this Act.
1969 c. 33.	The Housings Act 1969.	Section 32(3) and (4).

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

Chapter	Short Title	Extent of Repeal
1969 c. 34.	The Housing (Scotland) Act 1969.	Sections 63 and 64.
1971 c. 78.	The Town and Country Planning Act 1971.	<p>Section 130(1), (2), (4) and (5).</p> <p>In section 193, in subsection (1)(c) the words " since the relevant date" and subsection (3) except in relation to a blight notice served before the passing of this Act.</p> <p>In section 194(6) the words following paragraph (b) as far as the semi-colon.</p> <p>In section 201(1)(b) the words " since the relevant date (within the meaning of section 193 of this Act)" except in relation to a blight notice served before the passing of this Act.</p> <p>In section 207(1) the definition of " highway land acquisition powers".</p>
1972 c. 47.	The Housing Finance Act 1972.	Section 94.
1972 c. 52.	The Town and Country Planning (Scotland) Act 1972.	<p>Section 120(5) and (6).</p> <p>In section 182, in subsection (1)(c) the words " since the relevant date" and subsection (3) except in relation to a blight notice served before the passing of this Act.</p> <p>In section 190(1)(b) the words " since the relevant date (within the meaning of section 182 of this Act)" except in relation to a blight notice served before the passing of this Act.</p>