



# Building (Scotland) Act 1959

## 1959 CHAPTER 24

### PART I

#### BUILDINGS AUTHORITIES

#### **1 Constitution of buildings authorities**

- (1) For every burgh and the landward area of every county there shall be an authority (in this Act referred to as "the buildings authority ") who shall have in relation to that burgh or, as the case may be, the landward area of that county the jurisdiction and functions conferred on them by this Act.
- (2) For a burgh having a dean of guild court which immediately before the commencement of this Act exercised jurisdiction in respect of the construction of buildings throughout the burgh, and for any burgh constituted after the commencement of this Act, the buildings authority shall be the dean of guild court of the burgh.
- (3) For a burgh not falling within the last foregoing subsection and for the landward area of a county the buildings authority shall consist of not less than three persons appointed by the local authority from among their own number.
- (4) The jurisdiction and functions conferred by this Act on a buildings authority which is a dean of guild court shall be in lieu of any jurisdiction or functions which would be exercisable by the court apart from this Act, whether by custom or by virtue of any enactment, except so far as—
  - (a) conferred by the enactments specified in the First Schedule to this Act, or
  - (b) relating to matters of private right;and in relation to the area of any such buildings authority the provisions of this Act shall be in lieu of any enactment or rule of law in force immediately before the commencement of this Act making it unlawful to erect, alter, repair or otherwise deal with a building, or occupy a building in any particular way, without the sanction of the dean of guild court for that area.
- (5) References in this Act to—

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- (a) the area of a buildings authority are references to the burgh or, as the case may be, the landward area of the county for which the buildings authority is constituted under this Act;
- (b) the buildings authority in relation to any particular building or place are references to the buildings authority whose area includes the building or place.

## **2 General provisions relating to buildings authorities**

- (1) The following provisions of the Local Government (Scotland) Act, 1947, that is to say, subsections (5) to (9) of section three hundred and twenty-one, subsection (5) of section three hundred and twenty-two and section three hundred and twenty-three (which relate to the proceedings of dean of guild courts), section three hundred and twenty-six (which relates to the clerks of such courts), section three hundred and twenty-seven (which relates to the holding of meetings of such courts) and section three hundred and twenty-eight (which relates to the expenses of such courts) shall have effect for the purposes of this Act in relation to a buildings authority which is a dean of guild court (being a court to which, immediately before the commencement of this Act, these provisions applied) as they have effect in relation to that court for purposes other than those of this Act:

Provided that the said section three hundred and twenty-six as applied by this subsection shall have effect with the omission, in subsection (1) thereof, of the words "and the burgh prosecutor shall act as prosecutor in the dean of guild court"

- (2) In relation to a buildings authority which is a dean of guild court to which immediately before the commencement of this Act the said provisions of the Local Government (Scotland) Act, 1947, did not apply, the foregoing subsection shall have effect with the substitution for references to the said provisions of references to the corresponding provisions, if any, of any local Act which immediately before the commencement of this Act applied to that court.
- (3) The provisions of the Second Schedule to this Act shall have effect in relation to a buildings authority which is not a dean of guild court.
- (4) The Secretary of State may by regulations make supplementary provision with respect to the constitution of buildings authorities which are not dean of guild courts and with respect to the procedure of buildings authorities, whether dean of guild courts or not; and such regulations may, without prejudice to the foregoing generality.—
- (a) provide for the matters specified in the Third Schedule to this Act, and
  - (b) in relation to a buildings authority which is a dean of guild court, provide that where, in the case of any building, matters come before the court both under this Act and otherwise than under this Act they may be dealt with by the court in conjunction.
- (5) Regulations made under this section may provide for a combination in one document of—
- (a) any application required or authorised under this Act to be made, and
  - (b) any application such as is mentioned in subsection (2) of section ninety-eight of the Town and Country Planning (Scotland) Act, 1947 ;

for the making of such combined application in such form and manner, and to such authority, as may be prescribed by the regulations ; and for the transmission of copies of the application by that authority to such other authorities or persons as may be so prescribed.

- (6) Subsections (3) and (4) of the said section ninety-eight shall have effect in relation to regulations made under the last foregoing subsection as they have effect in relation to regulations made under subsection (2) of the said section ninety-eight.

## **PART II**

### **BUILDING STANDARDS AND BUILDING OPERATIONS**

#### **3 Building standards regulations**

- (1) For the purposes of this Act the Secretary of State may (subject to the subsequent provisions of this Act) by regulations prescribe standards (expressed in terms of performance, types of material, methods of construction or otherwise) in relation to any or all of the matters specified in the Fourth Schedule to this Act, and such other matters relating to buildings as appear to him after consultation with the Building Standards Advisory Committee to be relevant to the said purposes.

Regulations made under this subsection are in this Act referred to as " building standards regulations ", and references to the building standards regulations in relation to a building of any particular class are references to so much of the regulations as apply to a building of that class.

- (2) The standards prescribed under the foregoing subsection shall be such as in the opinion of the Secretary of State can reasonably be expected to be attained in buildings of the classes to which they relate, having regard to the need for securing the health, safety and convenience of the persons who will inhabit or frequent such buildings and the safety of the public generally.
- (3) Without prejudice to the generality of the foregoing provisions of this section building standards regulations may—
- (a) prescribe different standards for buildings of different classes;
  - (b) make special provision for buildings intended to have a life not exceeding such period, being a period of ten years or less, as may be specified in the regulations;
  - (c) provide for buildings constructed with materials of such types or by such methods of construction as may be specified in the regulations to be deemed to satisfy such standards as may be so specified in relation to those types of material, or, as the case may be, those methods of construction.
- (4) Building standards regulations shall not apply to—
- (a) buildings belonging to, or in the occupation of, the United Kingdom Atomic Energy Authority, being buildings other than dwelling houses or offices; or
  - (b) buildings of such other classes as may be specified in the regulations as exempted classes.
- (5) For the purposes of this Act and any regulations made thereunder buildings may be classified by reference to size, description, design, purpose, location or any other characteristic whatsoever.
- (6) Before making any regulations under this section the Secretary of State shall—
- (a) consult the Building Standards Advisory Committee as to the contents of the proposed regulations;

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- (b) publish in such manner as he thinks expedient a draft of the proposed regulations, together with a notice stating that representations as to the draft may be lodged with him in such manner and within such time as may be stated in the notice;
- (c) if required by any person who has duly lodged representations with him under the last foregoing paragraph, direct the holding of a public inquiry with respect to any representations so lodged;
- (d) consider and representations duly lodged under paragraph (b) of this subsection, and the report of the person holding the inquiry, if any, under paragraph (c) of this subsection ; and
- (e) consult the Building Standards Advisory Committee as to any alteration that he may propose to the said draft.

#### **4 Relaxation of building standards regulations in particular cases**

- (1) If it appears to the Secretary of State, on application made to him in the prescribed manner in relation to any particular building, that it is unreasonable that any provision of the building standards regulations (being a provision which apart from this section applies, or by reason of a proposed change of use will apply, to that building) should apply to the building, or apply to it without modification, he may, subject to the next following subsection, direct that the provision shall not apply to that building or, as the case may be, shall so apply subject to such modifications as may be specified in the direction.
- (2) No direction under the foregoing subsection shall be given in respect of any provision of the building standards regulations which is described in the regulations as not being subject to a direction under this section.
- (3) A direction given under this section may be given either unconditionally or subject to such conditions as may be specified in the direction.
- (4) The provisions of the Fifth Schedule to this Act shall have effect as respects the procedure to be followed in connection with directions under this section.

#### **5 Building operations regulations**

- (1) The Secretary of State may make such regulations (in this Act referred to as "building operations regulations") for the conduct of operations for the construction, repair, maintenance or demolition of buildings as he considers expedient to secure the safety of the public; and regulations under this subsection may make different provision for different classes of operations.
- (2) Any person who contravenes any provision of the building operations regulations shall be guilty of an offence against this Act.

#### **6 Application of building standards regulations and building operations regulations to construction or demolition, and to change of use, of buildings**

- (1) No person shall—
  - (a) in any place conduct any operations for the construction or demolition of a building of a class to which the building standards regulations apply, or
  - (b) change the use of any building,

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unless there has been obtained from the buildings authority a warrant for the construction, demolition or change of use, as the case may be, and any person who contravenes this subsection shall be guilty of an offence against this Act:

Provided that nothing in this subsection shall apply to any operations for the alteration of a building which consist solely of the fitting of a fixture of any such kind as may be prescribed for the purposes of this subsection.

- (2) A buildings authority shall, subject to subsection (8) of this section, grant a warrant such as is mentioned in the foregoing subsection on application being made therefor in the prescribed manner—
  - (a) in the case of a warrant for the construction or demolition of a building, if, but only if, they are satisfied that the operations involved will be conducted in accordance with the building operations regulations, and (in the case of operations for the construction of a building) that nothing in any plan, specification or other information submitted with the application shows that the building when constructed will fail to conform to the building standards regulations ; and
  - (b) in the case of a warrant for the change of use of a building, if, but only if, they are satisfied that after the change of use the building will conform to so much of the building standards regulations as will become applicable, or will apply more onerously, to the building by reason of the change of use.
- (3) A warrant for the construction of a building shall be subject to the condition that the building shall be constructed as described in the warrant (including any relative plans and specifications) and in accordance with the building standards regulations, and, in a case where a direction has been given under section four of this Act, subject also to the condition that such conditions, if any, as are specified in the direction are observed.
- (4) In relation to a building to be constructed in accordance with any special provisions of the building standards regulations relating to buildings intended to have a limited life (as mentioned in paragraph (b) of subsection (3) of section three of this Act) any application for a warrant shall state the period of intended life of the building (being not greater than that specified in the said provisions of the building standards regulations) and, without prejudice to the last foregoing subsection and subject to the next following subsection, the warrant shall be subject to the condition that the building will be demolished on or before the expiration of the period so stated.
- (5) Where a warrant contains such a condition as is mentioned in the last foregoing subsection application may be made to the buildings authority, before the expiration of the period specified in the warrant, for an extension of the said period and the authority may, if they are satisfied that it is proper to do so, having regard to the special provisions mentioned in the last foregoing subsection, extend the period, and further extend it from time to time, so however that no such extension by itself shall exceed the period for the time being specified in the said provisions in the building standards regulations.
- (6) A warrant for the demolition of a building shall be subject to the condition that the demolition shall be completed within such period from the commencement of the operations for the demolition as may be specified in the warrant.
- (7) If, after a warrant has been granted for the construction of a building and before any certificate of completion has been granted in respect of the building, the person holding the warrant desires to deviate from any plans or specifications to which he is required by the warrant to adhere he may apply to the buildings authority for an amendment of

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the terms of the warrant to cover the proposed deviation, and that authority shall then (subject to the next following subsection) make the amendment if, but only if, they are satisfied that the proposed deviation is in conformity with the building standards regulations.

- (8) Notwithstanding anything in this section it shall be competent for—
- (a) a buildings authority which is a dean of guild court to refuse to grant a warrant (or an amendment of the terms of a warrant) if in the exercise of any jurisdiction exercisable by them apart from this Act they have determined that the operations or change of use in respect of which the warrant or amendment has been applied for would result in an infringement of a private right or otherwise be contrary to law, or
  - (b) any buildings authority to refuse to grant a warrant (or an amendment of the terms of a warrant) if the application for it has not been duly made in the prescribed manner, or if, where the application relates to an extension to, or alteration of, a building, they consider that, as a direct result of the extension or, as the case may be, the alteration, the building as extended or altered will fail to conform with the building standards regulations;
- and nothing in this section shall be taken to prejudice the operation of section seventeen of the Restriction of Ribbon Development Act, 1935, or sections two, three or six of the Thermal Insulation (Industrial Buildings) Act, 1957 (which sections in their application to Scotland relate to the power of buildings authorities to refuse to grant warrants in certain circumstances).
- (9) Where under any provision of this Act or any other enactment a person is required or authorised—
- (a) by a buildings authority to carry out any operations for the construction or demolition of any building, or
  - (b) by a local authority to demolish any building,
- a warrant shall be deemed to have been granted in respect of the construction or, as the case may be, the demolition.
- (10) For avoidance of doubt it is hereby declared that, in respect of any building, subsection (1) of this section applies to any such deviation as is mentioned in subsection (7) of this section as it applies to the construction of the building.

## 7 **Minor works**

- (1) In relation to such construction of buildings as may be prescribed, being construction of a minor character, a buildings authority shall, subject to the provisions of this section, delegate their functions under the last foregoing section—
- (a) to their clerk, or
  - (b) with the consent of the local authority, to the master of works appointed by the local authority.
- (2) An application shall not be dealt with under a delegation made by virtue of the foregoing subsection unless it is shown in the prescribed manner that there is no objection to the granting of the application—
- (a) in a case where the delegation has been made to the clerk of the buildings authority, on the part of the master of works, and

- (b) in any case, on the part of any person other than the master of works on whom the application is required by regulations made under section two of this Act to be served;

and in any case where it is not so shown the application shall be dealt with as if this section had not passed.

- (3) If any person is aggrieved by a refusal of the clerk of a buildings authority or a master of works to grant a warrant applied for by him he may require his application to be referred to, and dealt with by, the buildings authority.
- (4) Regulations made under section two of this Act may include provision for procedural matters in connection with applications which could be dealt with under a delegation made by virtue of this section, including the making of reports to the buildings authority by the clerk or, as the case may be, the master of works as to any applications dealt with under such a delegation.

## **8 Occupation of parts of roads for deposit of materials, etc.**

- (1) A buildings authority, on application made to them, may grant permission in writing to any person conducting operations for the construction, repair, maintenance or demolition of any building to occupy temporarily, for the purpose of depositing materials or otherwise in connection with those operations, such portion of any road, whether public or private, adjoining the building as may be specified in the permission, and may by such permission authorise the erection of staging or scaffolding so as to project over that portion of the road or such other portion of the road as may be so specified; and notwithstanding anything in any enactment or rule of law, any person who complies with any permission granted under this section (including any conditions to which the permission is subject by virtue of the next following subsection) shall not thereby be guilty of an offence.
- (2) Any permission granted under this section may be granted either unconditionally or subject to such conditions as may be specified in the permission.
- (3) A buildings authority may delegate their functions under this section, as respects such cases and subject to such conditions as they may determine.—
  - (a) to their clerk, or
  - (b) with the consent of the local authority, to the master of works appointed by the local authority:

Provided that where by virtue of any regulations made under section two of this Act an application for permission under this section is combined with an application for a warrant the application for permission under this section shall be dealt with by the same authority (whether the buildings authority, the clerk or the master of works) as the application for the warrant.

## **9 Certificates of completion**

- (1) After the completion of the construction of any building in respect of which a warrant has been granted by a buildings authority any person having an interest to do so may apply to the buildings authority for a certificate under this section (in this Act referred to as a "certificate of completion"), and within such period as may be prescribed the buildings authority shall, in accordance with the following provisions of this section, either grant the certificate or notify the applicant of their refusal to do so.

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- (2) A buildings authority shall grant a certificate of completion in respect of any building if, but only if, they are satisfied that the building complies with the conditions on which the relative warrant was granted.
- (3) In respect of so much of a building as consists of an electrical installation a buildings authority shall not be satisfied as mentioned in the last foregoing subsection unless there is produced to them a certificate granted by the person who installed the installation certifying that the installation complies with such of the said conditions as relate to it:

Provided that this subsection shall not apply in a case where it is shown to the satisfaction of the buildings authority that for some reasonable cause such a certificate cannot be produced.

- (4) If any person, for the purpose of procuring the grant of a certificate of completion, grants or produces under the last foregoing subsection a certificate which he knows to be false or misleading in a material particular, or recklessly grants or produces such a certificate which is false or misleading in a material particular, he shall be guilty of an offence against this Act.
- (5) Subject to the next following subsection, no person shall occupy or use a building (being a building which has been constructed by virtue of a warrant granted under this Act) before a certificate of completion in respect of the building has been issued by the buildings authority, and any person who wilfully contravenes this subsection shall be guilty of an offence against this Act:

Provided that nothing in this subsection shall apply to any occupation or use which is solely for the purpose of the construction of the building.

- (6) Where on application made to them it appears to a buildings authority that, because of exceptional circumstances, it is reasonable that a building to which the last foregoing subsection applies should be temporarily occupied or used before a certificate of completion in respect of it has been issued they may (whether or not the construction of the building has been completed) grant written permission for such occupation or use during such period as may be specified in the permission (which period may be extended from time to time by a like permission); and while any permission under this subsection is in force in relation to any building the last foregoing subsection shall not have effect in relation to that building.
- (7) A buildings authority shall, subject to the provisions of this section, delegate their functions under this section—
- (a) to their clerk, or
  - (b) with the consent of the -local authority, to the master of works appointed by the local authority.
- (8) Subsections (2) to (4) of section seven of this Act shall have effect in relation to a delegation made by virtue of the last foregoing subsection as they have effect in relation to delegations made by virtue of that section.

## **10 Powers in relation to buildings constructed without warrant or in contravention of conditions of warrant, and buildings whose life has expired**

- (1) If it appears to the master of works that any building of a class to which the building standards regulations apply—



- (a) has been or is being constructed without a warrant in respect of the construction having been obtained, or in contravention of the conditions on which a warrant was obtained, or
- (b) remains in existence after the expiration of any period limited for it by the conditions on which the warrant for its construction was obtained,

he may serve upon—

- (i) the person by whom, or on whose behalf, the building has been or is being constructed, or
- (ii) if that person no longer has an interest in the building any other person who at the material time is entitled to the interest in the building which that person formerly had, or, if at the material time there is no such other person, the owner of the building,

a notice requiring him within such period as may be specified in the notice, being a period of not less than twenty-one days from the service of the notice, to show cause to the buildings authority why he should not be required to execute such operations as may be specified in the notice, being operations for the removal of the building or operations necessary to make the building conform to the building standards regulations ; and if the person upon whom the notice has been served fails to show cause as aforesaid to the satisfaction of the buildings authority they may order him within such period as may be specified in the order, being a period of not less than twenty-eight days from the date when the order becomes operative, to execute the operations aforesaid or such other operations for the same purpose as may be specified in the order.

- (2) Subject to the provisions of section seventeen of this Act, if on the expiration of the period specified in the order mentioned in the foregoing subsection the person against whom the order has been made has not complied therewith, he shall be guilty of an offence against this Act, and the buildings authority may authorise the local authority to execute the operations which the said person has failed to execute; and the local authority shall thereupon be entitled to act accordingly and any expenses thereby incurred by them shall be recoverable from the said person as a debt.
- (3) The provisions of the Sixth Schedule to this Act shall have effect for the purpose of securing the recovery by a local authority of any expenses recoverable by them under the last foregoing subsection from any person, if that person is the owner of the building.
- (4) An order served under subsection (1) of this section shall become operative only in accordance with subsection (4) of section sixteen of this Act.
- (5) A master of works may include in a notice served by him under subsection (1) of this section in respect of a building which is being constructed a requirement that the person on whom the notice is served shall cause the work thereon to be suspended until the matters raised in the notice have been determined, or until the expiration of the period of one month from the date of service of the notice, whichever first occurs.
- (6) References in this section to the period limited for a building by the conditions on which the warrant for its construction was obtained are references to that period together with any extension thereof authorised by virtue of subsection (5) of section six of this Act.
- (7) This section shall apply in relation to a part of a building, being a fixture the fitting of which is excluded from the operation of subsection (1) of section six of this Act by virtue of the proviso thereto, which—

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- (a) has been fitted, and
- (b) either in itself or in the manner of its fitting fails to conform to the building standards regulations,

as it applies to a building which has been constructed as mentioned in paragraph (a) of subsection (1) of this section.

- (8) For avoidance of doubt it is hereby declared that, in respect of any building, this section applies to any such deviation as is mentioned in subsection (7) of section six of this Act as it applies to the construction of the building.

## **11 Power of local authorities to require buildings to conform to building standards regulations**

- (1) The following provisions of this section shall have effect in relation to a building in the area of a local authority, being a building of a class to which the building standards regulations apply, where—

- (a) the building does not conform to a provision of the building standards regulations;
- (b) the local authority consider that the building ought, having regard to the need for securing the health, safety and convenience of the persons who will inhabit or frequent it and the safety of the public generally, to be made to conform to that provision ; and
- (c) it is reasonably practicable to make the building conform to that provision.

- (2) The local authority may serve on the owner of the building a notice specifying the provision to which they consider that the building ought to conform (in this section referred to as " the specified provision ") and requiring the owner within such period as may be specified in the notice, being a period of not less than twenty-eight days from the service of the notice, to show cause why the building should not conform to the specified provision.

- (3) If within the period specified in the notice mentioned in the last foregoing subsection the owner of the building applies to the Secretary of State for a direction under section four of this Act in respect of the building and notifies the local authority that he has done so, the said period shall be deemed to be extended so as to expire at the end of the period of twenty-eight days from the date of the giving of the direction or, as the case may be, the refusal to give a direction; and any reference in the subsequent provisions of this section to the specified provision shall, in a case where the specified provision is modified by any such direction, be construed as a reference to the specified provision as so modified.

- (4) If within the period specified in the notice mentioned in subsection (2) of this section (or, in a case falling within the last foregoing subsection, that period as extended by virtue of that subsection) the owner fails to show cause to the satisfaction of the local authority why the building should not be made to conform to the specified provision, the local authority may order the owner to make the building conform to the specified provision within such period as may be specified in the order, being a period of not less than twenty-eight days from the date when the order becomes operative.

- (5) Subject to the provisions of section seventeen of this Act, if on the expiration of the period specified in the order mentioned in the last foregoing subsection the owner of the building has not complied therewith, he shall be guilty of an offence against this Act, and the local authority may themselves execute the operations necessary to make

the building conform to the specified provision; and any expenses thereby incurred by them shall be recoverable from the owner of the building as a debt.

- (6) The provisions of the Sixth Schedule to this Act shall have effect for the purpose of securing the recovery by a local authority of any expenses recoverable by them under the last foregoing subsection.
- (7) No notice served under this section shall specify any provision of the building standards regulations which is described in the regulations as not being subject to specification in such a notice.
- (8) An order under subsection (4) of this section shall not become operative—
  - (a) except in accordance with subsection (4) of section sixteen of this Act;
  - (b) before the disposal of any application for a warrant in respect of the operations which are the subject of the order, including the disposal of any appeal under section sixteen of this Act against a decision of the buildings authority refusing to grant a warrant.
- (9) In this section "reasonably practicable" means reasonably practicable having regard to all the circumstances, including the expense involved in executing the operations necessary to make the building conform to the specified provision.

## **12 Building Standards Advisory Committee**

- (1) The Secretary of State shall, after consultation with such bodies as appear to him to be representative of the interests concerned, appoint a committee, in this Act referred to as the Building Standards Advisory Committee, for the purpose of—
  - (a) advising the Secretary of State on the exercise of his functions under section three of this Act;
  - (b) keeping under review the operation of, and making to the Secretary of State such recommendations as they think desirable in connection with, the building standards regulations; and
  - (c) advising the Secretary of State on any question relating to any of his functions under this Part of this Act which he may refer to them.
- (2) The Secretary of State may by regulations make provision with respect to the constitution and procedure of the Building Standards Advisory Committee and for the submission to him at intervals of not more than five years of reports from the Committee as to the exercise of their functions under paragraph (b) of subsection (1) of this section.
- (3) The Secretary of State may pay to the members of the Building Standards Advisory Committee, and to persons attending meetings at the request of the Committee, such allowances as he may, with the approval of the Treasury, determine in respect of travelling and subsistence expenses and in respect of other expenses (if any) necessarily incurred by them for the purpose of enabling them to discharge their functions as members of the Committee, or to attend such meetings, as the case may be.

### PART III

#### DANGEROUS BUILDINGS

#### 13 Action to be taken in respect of buildings found to be dangerous

- (1) If it appears to the master of works that any building is dangerous to persons inhabiting or frequenting it or adjacent buildings or places or to the public generally he shall forthwith—
  - (a) require any occupants of the building in question, and of any adjacent building, being persons whom he considers to be endangered by the state of the building in question, to remove immediately from those buildings ;
  - (b) cause to be executed such operations (including, if necessary, demolition operations) as in his opinion are necessary for preventing access to the building and any adjacent parts of any road or public place which appear to him to be dangerous by reason of the state of the building and otherwise for the protection of the public and of persons and property on the land adjacent to the building; and
  - (c) serve on the owner of the building a notice requiring him within a period of seven days from the service of the notice to begin, and within such further period as may be specified in the notice, being a period of not less than twenty-one days from the expiration of the first mentioned period, to complete to the satisfaction of the master of works, such operations for the repair, securing or demolition of the building as may be so specified, being operations necessary in the opinion of the master of works to remove the danger.
- (2) If on the expiration of the period of seven days referred to in paragraph (c) of the foregoing subsection the owner of the building has not begun, or if on the expiration of the period of not less than twenty-one days so referred to he has not completed, the operations required by a notice given under that paragraph the master of works may apply to the buildings authority for an order requiring the owner to execute the said operations, and the buildings authority, after giving the owner, the master of works and any other person appearing to them to have an interest an opportunity to be heard, may grant or refuse the order or grant it subject to such modifications as they think just, and (if they grant it or grant it subject to modifications) shall state in it a period within which it is to be complied with.
- (3) An order under the foregoing subsection shall become operative only in accordance with subsection (4) of section sixteen of this Act.
- (4) If an order granted by a buildings authority under subsection (2) of this section is not duly complied with the buildings authority may authorise the local authority to execute the operations which the owner has failed to execute or to demolish the building; and the local authority shall thereupon be entitled to act accordingly.
- (5) Any expenses incurred by a local authority or a master of works in executing their or his functions under this section in respect of any building, shall, subject to the provisions of section seventeen of this Act, be recoverable by the local authority from the owner of the building as a debt; and the provisions of the Sixth Schedule to this Act shall have effect for the purpose of securing the recovery by a local authority of any expenses recoverable by them under this section.
- (6) The provisions of the Seventh Schedule to this Act shall have effect for the purpose of securing the removal—

- (a) from a building, of any occupant who, on being required under paragraph (a) of subsection (1) of this section to remove from the building in the circumstances mentioned in that subsection, fails to do so; and
- (b) from a building which is the subject of an order under this section requiring it to be demolished, of the occupants thereof.

#### **14 Power of local authorities to sell materials from demolished buildings**

If a building is demolished by a master of works acting under paragraph (b) of subsection (1) of the last foregoing section, or by a local authority acting under subsection (4) of that section, the local authority may sell any building material that arises from such demolition, and if they do so they may set off the proceeds of the sale against any sums recoverable by them from the owner under the foregoing provisions of this Part of this Act, and shall account to the owner for any amount by which the proceeds exceed the aggregate of the sums so recoverable.

#### **15 Power of local authorities to purchase buildings and site where owner cannot be found**

- (1) If in relation to any building a local authority have, acting under subsection (4) of section thirteen of this Act, executed any operations such as are referred to in that subsection or demolished the building, and the expenses thereby incurred by them cannot be recovered by reason of the fact that the owner of the building cannot be found, the local authority may be authorised by the Secretary of State to purchase the building and its site compulsorily.
- (2) The provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply in relation to a compulsory purchase of land under the foregoing subsection as if that subsection had been in force immediately before the commencement of that Act.
- (3) The local authority shall be entitled to deduct from the compensation payable on the compulsory purchase of land under this section the amount of the expenses referred to in subsection (1) of this section so far as not otherwise recovered.

### **PART IV**

#### **SUPPLEMENTARY**

#### **16 Appeals**

- (1) Any person aggrieved by—
  - (a) any decision of a buildings authority refusing to grant warrant for the construction or demolition of a building or for a change of use of a building,
  - (b) any decision of a buildings authority under subsection (5) of section six of this Act refusing to extend a period relating to a building intended to have a limited life,
  - (c) any decision of a buildings authority refusing to issue a certificate of completion, (d) any order made by a buildings authority under subsection (1) of section ten of this Act requiring the execution of operations,

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

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- (e) any order under section eleven of this Act by a local authority requiring a building to be made to conform to any provision of the building standards regulations,
- (f) any order of a buildings authority under subsection (2) of section thirteen of this Act requiring the execution of operations, or
- (g) any charging order made under the Sixth Schedule to this Act,

may appeal to the sheriff by giving notice of appeal within twenty-one days after the date of the decision or the making of the order, as the case may be:

Provided that on any appeal in a case falling under paragraph (g) of this subsection no question shall be raised which might have been raised on an appeal against the original order requiring the execution of the operations concerned.

- (2) The procedure on any appeal to the sheriff under this section shall be such as the Court of Session may by act of sederunt determine; and the powers of the Court of Session under this subsection shall include power to make provision as to expenses and as to the sitting with the sheriff of technical assessors.
- (3) On any appeal under this section the sheriff may—
  - (a) if the appeal is in a case falling within paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section, either confirm the decision or direct the substitution of such other decision as seems to him proper, having regard to the provisions of this Act and of any other Act relevant to the decision in question;
  - (b) if the appeal is in a case falling within any other provision of subsection (1) of this section, confirm, vary or quash the order as he thinks just and make such order in the matter as he considers equitable;

and the determination of the sheriff on any such appeal shall be binding on all parties, and shall be final:

Provided that the sheriff may, at any stage of the proceedings on the appeal, and shall whether before or after the conclusion of the proceedings if so directed by the Court of Session, state a case for the opinion of that Court on any question of law arising in connection with the appeal; and an appeal shall lie, with the leave of the Court of Session or of the House of Lords, from any decision of the Court of Session under this section, which leave may be given on such terms as to costs or otherwise as the Court of Session or the House of Lords may determine.

- (4) Any order as respects which an appeal to the sheriff might be brought under this section shall not become operative until either the time within which an appeal can be made under this section has elapsed without an appeal being made, or, in a case where an appeal is made, the appeal (including any further proceedings under the last foregoing subsection) is determined or abandoned.
- (5) The sheriff may, before considering any appeal which may be made to him under this section, require the appellant to deposit such sum to cover the expenses of the appeal as may be fixed by the act of sederunt made by the Court of Session in pursuance of subsection (2) of this section.
- (6) The power of the Court of Session to make acts of sederunt under subsection (2) of this section shall be exercisable by statutory instrument, and the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing an act of sederunt so made by the Court in like manner as if the act of sederunt had been made by a Minister of the Crown.

## **17 Supplementary provisions as to operations required to be carried out**

(1) The provisions of this section shall have effect where a person is required by any order or notice under section ten, eleven or thirteen of this Act (in this section referred to as a "requirement") to demolish, or carry out operations in relation to, a building.

(2) If the building is—

- (a) a building in respect of which a notice under subsection (1) of section six of the Ancient Monuments Act, 1931, has been served, or is deemed under subsection (4) of that section to have been served, and which has not ceased to be included in any such list as is mentioned in the said subsection (1),
- (b) subject to a building preservation order under section twenty-seven of the Town and Country Planning (Scotland) Act, 1947,
- (c) included in a list of buildings of special architectural or historic interest, being a list compiled or approved under section twenty-eight of the said Act of 1947, or
- (d) subject to an interim preservation notice under section ten, or a preservation order under section eleven, of the Historic Buildings and Ancient Monuments Act, 1953,

the requirement shall have effect only in so far as it is not inconsistent with any provision of the said Act of 1931, the said Act of 1947 or, as the case may be, the said Act of 1953 relating to the execution or carrying out of works or operations on or in relation to the building.

(3) If the person is not in occupation of the building he shall nevertheless, on giving to the occupier such notice as is reasonable in the circumstances, be entitled, notwithstanding any term to the contrary in any lease or other contract, to enter on the building, and any land adjacent thereto and held in connection therewith, for the purpose of complying with the requirement.

(4) Where, in pursuance of any provision of the said section ten, eleven or thirteen, the local authority seek to recover from the person any expenses incurred by them in carrying out operations in relation to the building, then, if the person proves—

- (a) that he has no interest in the building except in the capacity of a trustee, tutor, curator, judicial factor or liquidator of a company, and
- (b) that he has not, and since the date of the service on him of a demand for payment of the expenses aforesaid has not had, in his hands in that capacity sufficient funds, rents and other assets to discharge the whole demand of the authority,

his liability shall, notwithstanding anything in the said section ten, eleven or thirteen, be limited to the total amount of the funds, rents and other assets which he has, or has had, in his hands as aforesaid.

(5) In the case of a requirement being an order under the said section ten, or the said section eleven, it shall be a defence to any complaint charging the person with failure to comply with the requirement to prove that at the date of the making of the requirement—

- (a) the person had no interest in the building except in the capacity of a trustee, tutor, curator, judicial factor or liquidator of a company, and
- (b) the amount of the funds, rents and other assets in his possession in that capacity was less than the amount of the expenses which would have been incurred if the requirement had been complied with.

- (6) If a person alleges that the whole or any part of the expenses incurred or to be incurred in complying with the requirement ought to be borne by any other person having an interest in the building, he may apply to the sheriff, and the sheriff may make such order concerning the expenses or their apportionment as appears to him, having regard to all the circumstances of the case, including the terms of any contract between the parties, to be equitable.
- (7) The provisions of subsection (3) of the last foregoing section relating to the determination of the sheriff on an appeal under subsection (1) of that section shall apply to the order of the sheriff in an application under the last foregoing subsection as they apply to such a determination, with the substitution for any reference to the appeal under the said subsection (1) of a reference to the application.

## 18 Inspection and tests

- (1) Subject to the provisions of subsection (3) of this section the master of works, or any person authorised in writing by him or by the buildings authority on exhibiting his authority if requested to do so, may at all reasonable times enter any premises for the purpose of—
- (a) inspecting buildings which are in course of construction, or which have been constructed but for which no certificate of completion has been issued, or the sites of buildings in respect of which applications for directions under section four, or warrants under section six, of this Act have been made ;
  - (b) applying any reasonable tests to determine the quality and strength of any material used or proposed to be used in the construction of any building such as is mentioned in the foregoing paragraph;
  - (c) inspecting any buildings as to which the master of works has reasonable cause to believe that a change of use is proposed or has taken place ;
  - (d) inspecting any building which the master of works has reasonable cause to believe is dangerous to persons inhabiting or frequenting it or adjacent buildings or places or to the public generally; or
  - (e) executing any operations authorised by paragraph (b) of subsection (1) of section thirteen of this Act;
- and may execute any of the said purposes.
- (2) The foregoing subsection shall, subject as aforesaid, apply, as it applies to persons authorised as mentioned in that subsection for the purposes so mentioned, to any person authorised in writing by a local authority for the purpose of—
- (a) inspecting any building which the local authority consider should be examined in order to determine whether to exercise their powers under section eleven of this Act; or
  - (b) executing any operations authorised under section ten, section eleven or section thirteen of this Act to be executed by the local authority.
- (3) No person shall be entitled to enter any premises by virtue of subsection (1) of this section for the purposes specified in paragraph (c) thereof, or by virtue of subsection (2) of this section, unless he has given three days' notice of his intention to do so to the occupier, and (unless the owner is unknown) also to the owner, of the premises.
- (4) If a justice of the peace (not being a justice of the peace who is a member of the buildings authority or the local authority) on sworn information in writing—



- (a) is satisfied that there are reasonable grounds for entering into any premises for any such purpose as is mentioned in subsection (1) or (2) of this section, and
- (b) is also satisfied either—
  - (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier, of
  - (ii) that an application for admission, of the giving of such notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,the justice of the peace may, notwithstanding anything in subsection (3) of this section, by warrant under his hand authorise the buildings authority or local authority, as the case may be, by any authorised officer, to enter the premises, if need be by force.
- (5) A person entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as he found them.
- (6) Every warrant granted under this section shall continue in force for a period of one month.
- (7) A person who wilfully obstructs any person acting in the execution of any of the purposes mentioned in subsection (1) or subsection (2) of this section shall be guilty of an offence against this Act.
- (8) If any person who, by virtue of the provisions of this section, or of a warrant issued thereunder, enters a factory or work-place, discloses to any other person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be guilty of an offence against this Act.
- (9) In this section any reference to premises includes a reference to sites and buildings, and any reference to a justice of the peace includes a reference to the sheriff.
- (10) The master of works or any person authorised by him may require—
  - (a) any person who has made an application for a direction under section four of this Act, or for a warrant, in respect of a building, or
  - (b) any person by whom, or on whose behalf, a building is being or has been constructed in pursuance of a warrant,to cause to be carried out such reasonable test of materials forming part of the building, or used or proposed to be used in the construction of the building, as may be specified in the requirement; and the expense of carrying out any test to be carried out under this subsection shall be met by the person so required:

Provided that the buildings authority, on application made to them, may if they think fit direct that the expense of carrying out any such test as aforesaid, or such part of that expense as may be specified in their direction, shall be met by the local authority.

## **19 Penalties**

- (1) Any person guilty of an offence under subsection (7) of section eighteen or subsection (3) of section twenty-five of this Act shall be liable on summary conviction to a fine not exceeding ten pounds.

- (2) Any person guilty of an offence against this Act, except as specified in the foregoing subsection, shall be liable on summary conviction to a fine not exceeding one hundred pounds; and, in the case of a continuing offence, to a further fine not exceeding ten pounds for every day during which the offence is continued.

## **20 Fees chargeable by buildings authorities**

- (1) A buildings authority may, in respect of such of their business as may be prescribed, charge such fees as may be prescribed in relation thereto; and different fees may be prescribed for different buildings authorities.
- (2) Any fees received by virtue of this section by a buildings authority to whom section three hundred and twenty-eight of the Local Government (Scotland) Act, 1947, or any corresponding provision of a local Act or paragraph 11 of the Second Schedule to this Act applies shall be paid by them to the local authority.

## **21 Provisions as to masters of works**

- (1) In connection with every buildings authority the local authority shall appoint a master of works and may pay to him such reasonable salary as they may determine.
- (2) A master of works appointed under this section shall hold office during the pleasure of the local authority.
- (3) Without prejudice to any other provision of this Act, it shall be the duty of the master of works appointed in connection with any buildings authority to report to the buildings authority upon all plans, specifications and other information lodged with applications to the buildings authority, to see that the orders made by the buildings authority are duly carried into execution, from time to time to inspect the works being carried out in pursuance of any warrant granted by the buildings authority and to report to the buildings authority any breach of the conditions to which the warrant is subject; and also to perform any other duties which he may be required by the local authority to perform.
- (4) A master of works shall not be connected directly or indirectly with, or interested in, any branch of the building trade in the area of the local authority by whom he is appointed, or give any assistance, or receive any fees, in connection with applications made to the buildings authority (not being applications so made by himself acting under this Act).
- (5) After such day as may be prescribed by the Secretary of State no person shall be appointed as a master of works under this section unless he is qualified in such manner as may be prescribed by the Secretary of State after consultation with such bodies as appear to him to be representative of the interests concerned; but nothing in this subsection shall affect the tenure of office of any master of works who is in office immediately before the day prescribed as aforesaid.
- (6) Section eighty-three of the Local Government (Scotland) Act, 1947 (which provides for the appointment of deputies for certain officers in counties) shall apply in relation to the master of works for the landward area of a county as it applies to the officers mentioned in that section ; and section ninety-three of the said Act of 1947 (which makes similar provision in relation to certain officers in burghs) shall apply in relation to the master of works for a burgh as it applies to the officers mentioned in that section.

- (7) For the purposes of sections eighty-two and ninety-two of the said Act of 1947 (which relate to the appointment of staff of county councils and town councils respectively) the functions of the master of works for the landward area of a county or for a burgh shall be deemed to be functions of the county council or, as the case may be, the town council.
- (8) This section shall be in lieu of any provision of any enactment (including any local Act) providing for the appointment of a master of works for a burgh or in connection with the dean of guild court of a burgh, and any person who immediately before the commencement of this Act held office as master of works under any such provision shall be deemed to have been appointed as master of works in connection with the buildings authority for the burgh under this section.

## **22 Information**

Every buildings authority shall make to the Secretary of State such reports and returns, and give him such information with respect to their functions, as the Secretary of State may require.

## **23 Inquiries**

- (1) Without prejudice to anything in subsection (6) of section three of this Act the Secretary of State may, for the purposes of any of his functions under this Act, direct the holding of such public inquiries as he may think fit.
- (2) Subsections (2) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947, shall apply to any inquiry held under this section or subsection (6) of section three of this Act as it applies to the inquiries specified in the said section three hundred and fifty-five.

## **24 Regulations**

- (1) Without prejudice to any power conferred by any other provision of this Act to make regulations the Secretary of State may make regulations prescribing—
- (a) the form of any notice or other document which is required or authorised to be used under or for the purposes of this Act, and
  - (b) any other thing which by this Act is required or authorised to be prescribed.
- (2) The forms prescribed under the foregoing subsection, or forms as near thereto as circumstances admit, shall be used in all cases in which those forms are applicable.
- (3) Any power conferred by any provision of this Act, including this section, to make regulations shall be exercisable by statutory instrument, and the statutory instrument by which any such power is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **25 Service of notices, etc.**

- (1) The provisions of section three hundred and forty-nine of the Local Government (Scotland) Act, 1947 (which relates to the service of certain notices, orders and other documents) shall apply to the service of any notice, order or other document required by any provision of this Act, or of any regulations made under this Act, to be served

as they apply to the service of the notices, orders and other documents referred to in that section.

- (2) A buildings authority or a local authority may, for the purpose of enabling them to serve any notice which they are by this Act authorised or required to serve, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein.
- (3) If any person, having been required by a buildings authority or a local authority in pursuance of the last foregoing subsection to give to them any information, fails to give that information, or makes in respect thereof any statement which he knows to be false or misleading in a material particular, or recklessly makes in respect thereof any statement which is false or misleading in a material particular, he shall be guilty of an offence against this Act.

## 26 Crown rights

- (1) Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and nothing in this Act, or in any regulations or order made, or notice given, under this Act, shall affect any Crown building:

Provided that—

- (a) in relation to a Crown building, subsection (1) of section six of this Act shall apply—
    - (i) to the conduct of any operations such as are mentioned in that subsection, and
    - (ii) to any change of use,
 

which is not effected by, or on behalf of, the Crown Estate Commissioners or a government department, or approved for the purposes of this section by the appropriate authority;
  - (b) in relation to a Crown building, the appropriate authority may direct that such provisions of section ten, section eleven and Part III of this Act as may be specified in the direction shall apply to the building as if it were not a Crown building, and may revoke any such direction;
  - (c) nothing in this section shall affect the operation of the building operations regulations in relation to operations carried out in connection with a Crown building otherwise than by servants of the Crown acting under the direction of the appropriate authority or another government department.
- (2) Except with the consent of the appropriate authority nothing in this Act, or in any regulations made, or warrant granted, under this Act, shall authorise the entry of any person into a Crown building or on to land occupied with a Crown building.
  - (3) In this section the expression " Crown building " means a building an interest in which belongs to Her Majesty in right of the Crown or to a government department, or is held in trust for Her Majesty for the purposes of a government department, or of which the Minister of Works is guardian under the Ancient Monuments Consolidation and Amendment Act, 1913 ; and, in relation to a Crown building, the expression " appropriate authority " means—

- (a) in the case of a building an interest in which belongs to Her Majesty in right of the Crown, the Crown Estate Commissioners or any government department having the management of that building;
- (b) in the case of a building an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department;
- (c) in the case of a building of which the Minister of Works is guardian as aforesaid, that Minister;

and, if any question arises as to the authority which is the appropriate authority in relation to any building, the question shall be determined by the Treasury.

## **27 Transitional provisions**

The provisions of the Eighth Schedule to this Act shall have effect for the purposes of the transitional matters specified therein.

## **28 Financial provisions**

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State in consequence of this Act, and
- (b) any increase attributable to this Act in sums payable out of moneys so provided under any other enactment.

## **29 Interpretation**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively—

" building " means any structure or erection of what kind or nature soever, whether temporary or permanent, and every part thereof including any fixture affixed thereto, not being a structure or erection or part thereof consisting of, or ancillary to—

- (a) any road, whether public or private, including in the case of a public road (but not in the case of a private road) any bridge on which the road is carried;
- (b) any sewer or water main which is, or is to be, vested in a public authority ;
- (c) any aerodrome runway;
- (d) any railway line;
- (e) any large reservoir within the meaning of the Reservoirs (Safety Provisions) Act, 1930; or
- (f) any telegraphic line as defined in section two of the Telegraph Act, 1878 ;

" buildings authority ", and " area " in relation to a buildings authority, have the meanings assigned to them respectively by section one of this Act;

" building operations regulations " has the meaning assigned to it by section five of this Act;

" Building Standards Advisory Committee " has the meaning assigned to it by section twelve of this Act;

" building standards regulations " has the meaning assigned to it by section three of this Act;

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

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" burgh " has the same meaning as in the Local Government (Scotland) Act, 1947;

" certificate of completion " has the meaning assigned to it by section nine of this Act;

" change of use " in relation to a building means such change in the use or occupation of the building as will bring it within a class of building to which the building standards regulations apply, or, if it is already within such a class, within a class to which additional or more onerous provisions of the building standards regulations apply, and " change the use " shall be construed accordingly;

" construct " includes alter, erect, extend and fit, and " construction " shall be construed accordingly;

" contravene ", in relation to a provision, includes fail to comply with the provision;

" government department " includes a Minister of the Crown;

" landward area " has the same meaning as in the Local Government (Scotland) Act, 1947 ;

" local Act " includes a decret-arbitral, provisional order or other instrument ratified or confirmed by a Parliament of Scotland or of the United Kingdom;

" local authority " means a town council or a county council, and " area " in relation to a local authority means the burgh, or, as the case may be, the landward area of the county; and references to the local authority in relation to a buildings authority and to any particular building or place are references to the local authority whose area is the area of the buildings authority or, as the case may be, includes that building or place ;

" master of works " means a master of works appointed under section twenty-one of this Act; and, in relation to any building, means the master of works so appointed for the burgh, or, as the case may be, the landward area of the county, in which the building is, or will be, situated;

" operations " includes operations carried out in relation to the enclosure and preparation of the site of a building;

" prescribed " means prescribed by the Secretary of State by regulations made under this Act;

" road " includes street and any pavement, footpath, drain, ditch or verge at the side of a road or street;

" warrant " (except in subsections (4), (5), (6) and (8) of section eighteen and subsection (2) of section twenty-six of this Act) means a warrant under section six of this Act, including (in the case of a warrant which has been granted) any conditions to which it is subject, and any amendment which has been made to it.

- (2) Any reference in this Act to a building shall, unless the context otherwise requires, be construed as including a reference to a prospective building; and, in relation to the extension, alteration or change of use of a building, the expression " building " shall in this Act, unless the context otherwise requires, be construed as a reference only to so much of the building as is comprised in the extension or is the subject of the alteration or change of use, as the case may be.
- (3) Any reference in this Act to the owner of any land or buildings shall, unless the context otherwise requires, be construed as including a reference to any person who, under

the Lands Clauses Acts, would be enabled to sell and convey the land or buildings to the promoters of an undertaking.

- (4) Any reference in this Act to a public road shall be construed as a reference to a road maintainable by the Secretary of State, a county council or a town council; and any reference to a private road shall be construed as a reference to a road not so maintainable, whether it comprises a public right of way or not.
- (5) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended, applied or extended by or under any other enactment including this Act.
- (6) Any reference in this Act to a dean of guild court shall be construed as including a reference to a dean of guild sitting as a dean of guild court.
- (7) Any reference in this Act to an enactment contained in the Burgh Police (Scotland) Acts, 1892 to 1911 or any Act amending those Acts shall be construed as including a reference to that enactment as applied or adopted by a local Act or by a resolution passed under statutory authority.
- (8) Any building which extends into the areas of two or more buildings authorities, or two or more local authorities, shall be treated for the purposes of this Act as being wholly within the area of such one of those buildings authorities or, as the case may be, such one of those local authorities, as may from time to time be agreed by the authorities concerned, or, in default of agreement, determined by the Secretary of State.
- (9) Any reference in this Act (except in section sixteen thereof) or in any other Act to the exercise by a buildings authority of any of their functions shall, in the case of a function which may be delegated to any person by virtue of any provision of this Act, be construed as including a reference to the exercise of the function by that person.

### **30 Local Act provisions**

- (1) Subject to the next following subsection, where any local Act contains any provision providing for any matter which is also provided for by any provision of this Act, or of any regulations having effect by virtue of this Act, the provision of this Act, or, as the case may be, of those regulations, shall have effect in substitution for the provision of the local Act, and the provision of the local Act shall cease to have effect:

Provided that this subsection shall be without prejudice to subsection (2) of section two of this Act.

- (2) The Secretary of State may by order made by statutory instrument except from the operation of the foregoing subsection such provisions of any local Act as may be specified in the order (being provisions to which apart from the order that subsection would apply) and direct that the corresponding provisions of this Act or of any regulations having effect by virtue of this Act (which provisions shall be specified in the order) shall not have effect in the areas in which the specified provisions of the local Act have effect:

Provided that no order under this subsection shall be made in relation to a provision (being a provision of a local Act) which has ceased to have effect.

- (3) If it appears to the Secretary of State that any provision of any local Act, not being a provision which has ceased to have effect by virtue of subsection (1) of this section, is inconsistent with any provision of this Act or is no longer required, or requires to

be amended, having regard to any provision of this Act, he may by order repeal or amend the provision of the local Act as he may consider appropriate.

- (4) The power of making orders conferred by the last foregoing subsection shall be exercisable by statutory instrument and any order made under that subsection shall be subject to special parliamentary procedure.

### **31 Minor and consequential amendments and repeals**

- (1) The enactments specified in the Ninth Schedule to this Act shall have effect subject to the amendments, being amendments consequential on the provisions of this Act or of a minor nature, specified in relation thereto in that Schedule.
- (2) The enactments specified in the Tenth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

### **32 Short title, extent and commencement**

- (1) This Act may be cited as the Building (Scotland) Act, 1959.
- (2) This Act shall extend to Scotland only.
- (3) This Act, except sections three, five, twelve, twenty-three, twenty-four and twenty-eight and subsections (2) to (4) of section thirty thereof, and paragraph 5 of the First Schedule thereto, shall come into operation on such day as the Secretary of State may by order, made by statutory instrument, appoint, and those provisions shall come into operation on the passing of this Act; and for the purposes of this Act and of the application thereto of section thirty-seven of the Interpretation Act, 1889 (which relates to the exercise of statutory powers between the passing and the commencement of an Act) references to the commencement of this Act shall, notwithstanding the provisions of section thirty-six of the said Act of 1889 with respect to the construction of the expression " commencement", be construed as references to the time at which this Act, except the provisions of this Act specified in this section, comes into operation.