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## SCHEDULES

### <sup>F1</sup>SCHEDULES 1 AND 2<sup>F1</sup>

#### Textual Amendments

**F1** Schs. 1, 2 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

### <sup>F2</sup>SCHEDULES 3 AND 4<sup>F2</sup>

#### Textual Amendments

**F2** Schs. 3, 4 repealed by [S.I. 1977/794](#), [art. 2](#) (subject to savings in art. 3 as respects certain areas in relation to which proposals had been submitted prior to 16.5.1977)

## SCHEDULE 5

Section 18.

### DEVELOPMENT PLANS: TRANSITION FROM SCHEDULE 3 TO PART II OF THIS ACT

- 1 Until the repeal of Schedule 3 to this Act as respects any area (whether the whole or part of the district of a . . . <sup>F3</sup> planning authority), proposals for any alterations or additions to a development plan in force in the area shall not without the approval of the Secretary of State be submitted to him under paragraph 3 of that Schedule.

#### Textual Amendments

**F3** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 172\(2\)](#)

- 2 On the repeal of the said Schedule as respects any area, the development plan which was in force in the area immediately before the repeal takes effect (hereafter in this Schedule referred to as “the old development plan”) shall, subject to the following provisions of this Schedule, continue in force as respects that area and be treated for the purposes of this Act, any other enactment relating to town and country planning and the <sup>M1</sup>Land Compensation (Scotland) Act 1963 as being comprised in, or as being, the development plan therefor.

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#### Marginal Citations

**M1** 1963 c. 51.

3 Subject to the following provisions of this Schedule, where by virtue of paragraph 2 of this Schedule the old development plan for any area is treated as being comprised in a development plan for that area and there is a conflict between any of its provisions and those of the structure plan for that area, the provisions of the structure plan shall be taken to prevail for the purposes of Parts III, IV, V, VI, VII and IX of this Act and Schedule 10 to this Act.

4 Where a structure plan is in force in any area, but no local plan is in force in that area, a street authorisation map prepared in pursuance of the <sup>M2</sup>Town and Country Planning (Development Plans) (Scotland) Regulations 1966 for that area shall—

- (a) if in force immediately before the structure plan comes into force be treated for the purposes of this Act as having been adopted as a local plan by the . . . <sup>F4</sup> planning authority;
- (b) if immediately before the structure plan comes into force it was under consideration by the Secretary of State be treated for those purposes as having been so adopted on being approved by the Secretary of State.

#### Textual Amendments

**F4** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

#### Marginal Citations

**M2** S.I. 1966/1385.

5 Where a structure plan is in force in any area, but no local plan is in force in that area, then, for any of the purposes of the <sup>M3</sup>Land Compensation (Scotland) Act 1963—

- (a) the development plan or current development plan shall as respects that area be taken as being whichever of the following plans gives rise to those assumptions as to the grant of planning permission which are more favourable to the owner of the land acquired, for that purpose, that is to say, the structure plan, so far as applicable to the area, and any alterations thereto, together with the Secretary of State's notice of approval of the plan and alterations, or the old development plan;
- (b) land situated in an area defined in the current development plan as an area of comprehensive development shall be taken to be situated in whichever of the following areas leads to such assumptions as aforesaid, that is to say, any area wholly or partly within the area first-mentioned in this paragraph selected by the structure plan as an action area or the area so defined in the old development plan.

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#### Marginal Citations

**M3** 1963 c. 51.

[<sup>F5</sup>5A On the adoption or approval of a local plan under section 12 of this Act, so much of any old development plan as relates to the same area shall cease to have effect, unless the Secretary of State by order directs subject to paragraph 7 of this Schedule, that the provisions of that old development plan shall continue in force to the extent specified in the order.]

#### Textual Amendments

**F5** Para 5A inserted by [Town and Country Planning \(Scotland\) Act 1977 \(c. 10\), s. 5\(5\)](#)

6 Subject to paragraph 7 of this Schedule, the Secretary of State may by order wholly or partly revoke a development plan continued in force under this Schedule whether in its application to the whole of the district of a . . . <sup>F6</sup> planning authority or in its application to part of that district and make such consequential amendments to the plan as appear to him to be necessary or expedient.

#### Textual Amendments

**F6** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

7 Before making an order with respect to a development plan under [<sup>F7</sup>paragraph 5A or] paragraph 6 of this Schedule, the Secretary of State shall consult with the . . . <sup>F8</sup> planning authority for the district to which the plan relates.

#### Textual Amendments

**F7** Words inserted by [Town and Country Planning \(Scotland\) Act 1977 \(c. 10\), s. 5\(6\)](#)

**F8** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

8 Any reference in paragraphs 1 and 2 of this Schedule to the repeal of Schedule 3 to this Act shall, in a case where that repeal is brought into force by an order under section 18 of this Act on different days, be construed as a reference to a repeal of such of the provisions of the said Schedule as may be specified in the order.

9 In relation to any development plan continued in force by virtue of this Schedule, sections 231 and 232 of this Act shall have effect with the same substitutions as are specified in paragraphs 1 to 3 of Schedule 4 to this Act.

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SCHEDULE 6

Sections 19, 153, 158, 169 and 263.

DEVELOPMENT NOT CONSTITUTING NEW DEVELOPMENT

PART I

DEVELOPMENT NOT RANKING FOR COMPENSATION UNDER S. 158

- 1 The carrying out of any of the following works, that is to say—
  - (a) the rebuilding, as often as the person having the right to rebuild may desire, of any building which was in existence on the appointed day, or of any building which was in existence before that day but was destroyed or demolished after 7th January 1937, including the making good of war damage sustained by any such building;
  - (b) the rebuilding, as often as the person having the right to rebuild may desire, of any building erected after the appointed day which was in existence at a material date;
  - (c) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building, or which do not materially affect the external appearance of the building and (in either case) are works for making good war damage,
 so long as (in the case of works falling within any of the preceding sub-paragraphs) the cubic content of the original building is not exceeded—
  - (i) in the case of a dwellinghouse, by more than one-tenth or 1,750 cubic feet, whichever is the greater; and
  - (ii) in any other case, by more than one-tenth.
  
- 2 The use as two or more separate dwellinghouses of any building which at a material date was used as a single dwellinghouse.

PART II

DEVELOPMENT RANKING FOR COMPENSATION UNDER S. 158

.....  
F<sup>9</sup>3

<p>.....</p> <p><b>Textual Amendments</b></p> <p><b>F9</b> Sch. 6 para. 3 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), <b>Sch. 19, Pt.IV</b> (with s. 84(5)); S.I. 1991/2092, <b>art.3</b></p>
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F<sup>10</sup>4

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.....  
**Textual Amendments**

**F10** Sch. 6, para. 4, repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

.....  
F11<sub>5</sub>

.....  
**Textual Amendments**

**F11** Sch. 6, para. 5, repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

.....  
F12<sub>6</sub>

.....  
**Textual Amendments**

**F12** Sch. 6, para. 6, repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

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F13<sub>7</sub>

.....  
**Textual Amendments**

**F13** Sch. 6 para. 7 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

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F14<sub>8</sub>

.....  
**Textual Amendments**

**F14** Sch. 6 para. 8 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12 para. 32(a), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

.....  
F15<sub>9</sub>

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### Textual Amendments

**F15** Sch. 6 para. 9 repealed (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), ss. 60(6), 84(6), [Sch. 12, para. 32\(a\)](#), [Sch. 19, Pt.IV](#) (with s. 84(5)); S.I. 1991/2092, [art.3](#)

## PART III

### SUPPLEMENTARY PROVISIONS

- 10 Any reference in this Schedule to the cubic content of a building shall be construed as a reference to that content as ascertained by external measurement.
- 11 Where, after the appointed day, any buildings or works have been erected or constructed, or any use of land has been instituted, and any condition imposed under Part III of this Act, limiting the period for which those buildings or works may be retained, or that use may be continued, has effect in relation thereto, this Schedule shall not operate except as respects the period specified in that condition.

.....  
<sup>F16</sup>12

### Textual Amendments

**F16** Sch. 6 para. 12 repealed (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), ss. 60(6), 84(6), [Sch. 12 para. 32\(a\)](#), [Sch. 19, Pt.IV](#) (with s. 84(5)); S.I. 1991/2092, [art.3](#)

- 13 In this Schedule “at a material date” means at either of the following dates, that is to say—
- (a) the appointed day; and
  - (b) the date by reference to which this Schedule falls to be applied in the particular case in question;

Provided that sub-paragraph (b) of this paragraph shall not apply in relation to any buildings, works or use of land in respect of which, whether before or after the date mentioned in that sub-paragraph, an enforcement notice served before that date has become or becomes effective.

- 14 (1) In relation to a building erected after the appointed day, being a building resulting from the carrying out of any such works as are described in paragraph 1 of this Schedule, any reference in this Schedule to the original building is a reference to the building in relation to which those works were carried out and not to the building resulting from the carrying out of those works.

[<sup>F17</sup>(2) This paragraph does not apply for the purposes of sections 157 and 169 of this Act.]

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#### Textual Amendments

**F17** Sch. 6, para. 14(2) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para. 32(b) (with s. 84(5)); S.I. 1991/2092, **art.3**

## [<sup>F18</sup>SCHEDULE 6A

### SIMPLIFIED PLANNING ZONE SCHEMES]

#### Textual Amendments

**F18** Sch. 6A inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(2)(3), **Sch. 6 Pt. III**

#### *General*

- 1 A simplified planning zone scheme shall consist of a map and a written statement, and such diagrams, illustrations and descriptive matter as the planning authority think appropriate for explaining or illustrating the provisions of the scheme, and shall specify—
- (a) the development or classes of development permitted by the scheme,
  - (b) the land in relation to which permission is granted; and
  - (c) any conditions, limitations or exceptions subject to which it is granted;
- and shall contain such other matters as may be prescribed.

#### *Proposals to make or alter scheme*

- 2 (1) A planning authority may at any time decide to make a simplified planning zone scheme or to alter a scheme adopted by them or, with the consent of the Secretary of State, to alter a scheme approved by him.
- (2) An authority who decide to make or alter a simplified planning zone scheme shall—
- (a) notify the Secretary of State of their decision as soon as practicable, and
  - (b) determine the date on which they will begin to prepare the scheme or the alterations.

#### *Power of Secretary of State to direct making or alteration of scheme*

- 3 (1) If a person requests a planning authority to make or alter a simplified planning zone scheme but the authority—
- (a) refuse to do so, or
  - (b) do not within the period of three months from the date of the request decide to do so,

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he may, subject to sub-paragraph (2), require them to refer the matter to the Secretary of State.

- (2) A person may not require the reference of the matter to the Secretary of State if—
    - (a) in the case of a request to make a scheme, a simplified planning zone scheme relating to the whole or part of the land specified in the request has been adopted or approved within the twelve months preceding his request;
    - (b) in the case of a request to alter a scheme, the scheme to which the request relates was adopted or approved, or any alteration to it has been adopted or approved, within that period.
  - (3) The Secretary of State shall, as soon as practicable after a matter is referred to him—
    - (a) send the authority a copy of any representations made to him by the applicant which have not been made to the authority, and
    - (b) notify the authority that if they wish to make any representations in the matter they should do so, in writing, within 28 days.
  - (4) The Secretary of State may, after—
    - (a) considering the matter and any written representations made by the applicant or the authority, and
    - (b) carrying out such consultations with such persons as he thinks fit,
 give the authority a simplified planning zone direction.
    - (5) The Secretary of State shall notify the applicant and the authority of his decision and of his reasons for it.
- 4
- (1) A simplified planning zone direction is—
    - (a) if the request was for the making of a scheme, a direction to make a scheme which the Secretary of State considers appropriate; and
    - (b) if the request was for the alteration of a scheme, a direction to alter it in such manner as he considers appropriate.
  - (2) In either case the direction may extend to—
    - (a) the land specified in the request to the authority,
    - (b) any part of the land so specified, or
    - (c) land which includes the whole or part of the land so specified;
 and, accordingly, may direct that land shall be added to or excluded from an existing simplified planning zone.

*Publicity and consultation: general*

- 5
- (1) A planning authority who propose to make or alter a simplified planning zone scheme shall proceed in accordance with this paragraph.
  - (2) Subject to paragraph 6(2) below, they shall take such steps as will in their opinion secure—
    - (a) that adequate publicity for their proposals is given in the area to which the scheme relates,
    - (b) that persons who may be expected to wish to make representations about the proposals are made aware that they are entitled to do so, and



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- (c) that such persons are given an adequate opportunity of making such representations;  
and they shall consider any representations made to them within the prescribed period.
- (3) They shall then, having prepared the relevant documents, that is, the proposed scheme or alterations—
  - (a) make copies of the documents available for inspection at their office, and
  - (b) send a copy of them to the Secretary of State.
- (4) Each copy of the documents made available for inspection shall be accompanied by a statement of the time within which objections may be made.
- (5) The planning authority shall before preparing the proposed scheme or alterations consult the Secretary of State and any local roads authority in whose district the proposed zone or any part of it lies as to the effect of their proposals on existing or future roads; and when they have prepared the proposed scheme or alterations they shall send a copy to the Secretary of State and any such local roads authority.

*Publicity and consultation: expedited procedure*

- 6 (1) The documents sent by the planning authority to the Secretary of State under paragraph 5(3) shall be accompanied by a statement—
  - (a) of the steps which the authority have taken to comply with paragraph 5(2), and
  - (b) of the authority's consultations with other persons and their consideration of the views of those persons.
- (2) Where a planning authority do not consider it appropriate to take the steps required by paragraph 5(2) of this Schedule in relation to proposals made by them under sub-paragraph (1) of that paragraph for the alteration of a simplified planning zone scheme, they may instead include, with the copies of those proposals made available for inspection and with the copy sent to the Secretary of State under paragraph (3) of that paragraph, a statement of their reasons for not taking such steps.

*Objections: local inquiry or other hearing*

- 7 (1) The planning authority may cause a local inquiry or other hearing to be held for the purpose of considering objections to their proposals for the making or alteration of a simplified planning zone scheme.
- (2) They shall hold such a local inquiry or other hearing in the case of objections made in accordance with regulations unless all the persons who have made such objections have indicated in writing that they do not wish to appear.
- (3) A local inquiry or other hearing shall be held by a person appointed by the Secretary of State or, in such cases as may be prescribed, by the authority themselves.
- (4) Regulations may—
  - (a) make provision with respect to the appointment, and qualifications for appointment, of persons to hold a local inquiry or other hearing;

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- (b) include provision enabling the Secretary of State to direct a planning authority to appoint a particular person, or one of a specified list or class of persons;
  - (c) make provision with respect to the remuneration and allowances of the person appointed.
- (5) The Tribunals and Inquiries Act 1971 applies to a local inquiry or other hearing held under this paragraph as it applies to a statutory inquiry held by the Secretary of State, with the substitution in section 12(1) (statement of reasons for decision) for the references to a decision taken by the Secretary of State of references to a decision taken by a planning authority.

*Adoption of proposals by planning authority*

- 8
- (1) After the expiry of the period afforded for making objections to proposals for the making or alteration of a simplified planning zone scheme or, if such objections were duly made within that period, after considering the objections so made, the planning authority may, subject to the following provisions of this paragraph and to paragraph 9 (calling in of proposals by Secretary of State), by resolution adopt the proposals.
  - (2) They may adopt the proposals as originally prepared or as modified so as to take account of—
    - (a) any such objections as are mentioned in sub-paragraph (1) any other objections to the proposals, or
    - (b) any other considerations which appear to the authority to be material.
  - (3) After copies of the proposals have been sent to the Secretary of State and before they have been adopted by the planning authority, the Secretary of State may, if it appears to him that the proposals are unsatisfactory, direct the authority to consider modifying the proposals in such respects as are indicated in the direction.
  - (4) An authority to whom a direction is given shall not adopt the proposals unless they satisfy the Secretary of State that they have made the modification necessary to conform with the direction or the direction is withdrawn.

*Calling in of proposals for approval by Secretary of State*

- 9
- (1) After copies of proposals have been sent to the Secretary of State and before they have been adopted by the planning authority, the Secretary of State may direct that the proposals shall be submitted to him for his approval.
  - (2) In that event—
    - (a) the authority shall not take any further steps for the adoption of the proposals, and in particular shall not hold or proceed with a local inquiry or other hearing in respect of the proposals under paragraph 7; and
    - (b) the proposals shall not have effect unless approved by the Secretary of State and shall not require adoption by the authority.

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### *Approval of the proposals by Secretary of State*

- 10 (1) The Secretary of State may after considering proposals submitted to him under paragraph 9 either approve them, in whole or in part and with or without modifications, or reject them.
- (2) In considering the proposals he may take into account any matters he thinks are relevant, whether or not they were taken into account in the proposals as submitted to him.
- (3) Where on taking the proposals into consideration the Secretary of State does not determine then to reject them, he shall, before determining whether or not to approve them—
- (a) consider any objections to them in accordance with regulations,
  - (b) afford to any person who made such an objection which has not been withdrawn an opportunity of appearing before and being heard by a person appointed by him for the purpose, and
  - (c) if a local inquiry or other hearing is held, also afford such an opportunity to the authority and such other persons as he thinks fit,
- except so far as objections have already been considered, or a local inquiry or other hearing into the objections has already been held, by the authority.
- (4) In considering the proposals the Secretary of State may consult with, or consider the views of, any planning authority or any other person; but he is under no obligation to do so, or to afford an opportunity for the making of representations or objections, or to cause a local inquiry or other hearing to be held, except as provided by subparagraph (3).

### *Default powers*

- 11 (1) Where by virtue of any of the preceding provisions of this Schedule—
- (a) a simplified planning zone scheme or proposals for the alteration of such a scheme are required to be prepared, or
  - (b) steps are required to be taken for the adoption of any such scheme or proposals,
- then, if the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the planning authority are not taking the steps necessary to enable them to prepare or adopt such a scheme or proposals within a reasonable period, he may make the scheme, or the alterations, as he thinks fit.
- (2) Where under this paragraph anything which ought to have been done by a planning authority is done by the Secretary of State, the preceding provisions of this Schedule apply, so far as practicable, with any necessary modifications in relation to the doing of that thing by the Secretary of State and the thing so done.
- (3) Where the Secretary of State incurs expenses under this paragraph in connection with the doing of anything which should have been done by a planning authority, so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by the authority to the Secretary of State.

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### *Regulations and directions*

- 12 (1) Without prejudice to the preceding provisions of this Schedule, the Secretary of State may make regulations with respect to the form and content of simplified planning zone schemes and with respect to the procedure to be followed in connection with their preparation, withdrawal, adoption, submission, approval, making or alteration.
- (2) Any such regulations may in particular—
- (a) provide for the notice to be given of, or the publicity to be given to, matters included or proposed to be included in a simplified planning zone scheme and the adoption or approval of such a scheme, or of any alteration of it, or any other prescribed procedural step, and for publicity to be given to the procedure to be followed in these respects;
  - (b) make provision with respect to the making and consideration of representations as to matters to be included in, or objections to, any such scheme or proposals for its alteration;
  - (c) without prejudice to paragraph (b), provide for notice to be given to particular persons of the adoption or approval of a simplified planning zone scheme, or an alteration to such a scheme, if they have objected to the proposals and havenotified the planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge;
  - (d) require or authorise a planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;
  - (e) require a planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request in that behalf with copies of any document which has been made public for the purpose mentioned in paragraph 5(2) or has been made available for inspection under paragraph 5(3), subject (if the regulations so provide) to the payment of a reasonable charge;
  - (f) provide for the publication and inspection of a simplified planning zone scheme which has been adopted or approved, or any document adopted or approved altering such a scheme, and for copies of any such scheme or document to be made available on sale.
- (3) Regulations under this paragraph may extend throughoutScotland or to specified areas only and may make different provision for different cases.
- (4) Subject to the preceding provisions of this Schedule and to any regulations under this paragraph, the Secretary of State may givedirections to any planning authority or to planning authorities generally—
- (a) for formulating the procedure for the carrying out of their functions under this Schedule;
  - (b) for requiring them to give him such information as he may require for carrying out any of his functions under this Schedule.

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## SCHEDULE 7

Sections 33, 85, 91, 93, 99 and 279 and  
paragraph 7 of Schedule 10.

### DETERMINATION OF CERTAIN APPEALS BY PERSON APPOINTED BY SECRETARY OF STATE

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

- C1** Sch. 7 extended (1.1.1997) by 1995 c. 25, s. 96, Sch. 13 para. 16(7) (with ss. 7(6), 115, 117); S.I. 1996/2857, art. 2  
Sch. 7 extended (1.1.1997) by 1995 c. 25, s. 96, Sch. 14 para. 9(7) (with ss. 7(6), 115, 117); S.I. 1996/2857, art. 2

#### *Determination of appeals by appointed person*

- 1 (1) An appeal to which this Schedule applies, being an appeal of a prescribed class, shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.
- (2) Regulations made for the purpose of this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.
- (3) This paragraph shall not affect any provision contained in this Act or any instrument thereunder that an appeal shall lie to, or a notice of appeal shall be served on, the Secretary of State.

#### *Powers and duties of person determining appeal*

- 2 (1) A person appointed under this Schedule to determine an appeal shall have the like powers and duties in relation to the appeal as the Secretary of State under whichever are relevant of the following provisions, that is to say—
- (a) in relation to appeals under section 33, [F19 subsections (3), (5) and (7A)] of that section;
- [F20(aa) in relation to appeals under section 63A, subsections (4) and (6);]
- (b) in relation to appeals under section 85, subsections (4) to (6) of that section;
- (c) in relation to appeals under section 91, subsection (2) and (3) of that section;
- (d) in relation to appeals under section 93, subsections (4) and (5) of that section;
- (e) in relation to appeals under section 99, section 85(4) and (5) of this Act;
- (f) in relation to appeals under paragraph 7 of Schedule 10 to this Act, subparagraph (3) of that paragraph.
- (2) The provisions of section 33(4), [F21 85(2) [F22 to (2D)]], 91(4), 93(2) [F23 and (2A)] and paragraph 7(4) of Schedule 10 to this Act relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an appeal which falls to be determined by a person appointed under this Schedule but before the determination of any such appeal the Secretary of State shall, unless (in the case of an appeal under section 36) the appeal is referred to

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a Planning Inquiry Commission under section 45 of this Act, ask the applicant or appellant, as the case may require, and the . . . <sup>F24</sup> planning authority whether they wish to appear before and be heard by the person so appointed, and—

- (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard as aforesaid; and
- (b) the person so appointed shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.

- (3) Subject to sub-paragraph (4) of this paragraph, the decision of a person appointed under this Schedule on any appeal to which this Schedule applies shall be final.

#### Textual Amendments

- F19** Words in Sch. 7, para. 2(1)(a) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 50(2), 61, **Sch. 13**, para. 41(1) (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F20** Sch. 7 para. 2(1)(aa) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 34(2)**
- F21** S. 85(2D) substituted for 85(2) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11**, Pt. ii para. 53
- F22** Words in Sch. 7 para. 2(2) expressed to be inserted (26.3.1992) “after 85(2)” by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13 para. 41(2)** (with s. 84(5)); S.I. 1992/334, art. 4, **Sch. 2**
- F23** Words in Sch. 7, para. 2(2) inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 41(2) (with s. 84(5)); S.I. 1992/334, art. 4, **Sch. 2**
- F24** Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

- <sup>F25</sup>3A (1) The Secretary of State may by a further direction revoke a direction under paragraph 3 of this Schedule at any time before the determination of the appeal.

- (2) A direction under this paragraph shall state the reasons for which it is given and shall be served on the person, if any, previously appointed to determine the appeal, the applicant or appellant, the planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section <sup>F26</sup>26(3) of this Act.
- (3) Where a direction under this paragraph has been given, the provisions of this Schedule relevant to the appeal shall apply, subject to sub-paragraph (4), as if no direction under paragraph 3 had been given.
- (4) Anything done by or on behalf of the Secretary of State in connection with the appeal which might have been done by the person appointed to determine the appeal (including any arrangements made for the holding of a hearing or local inquiry) shall, unless that person directs otherwise, be treated as having been done by him.]
- (4) An appeal determined by any such person by virtue of this Schedule shall be treated for the purposes of this Act as having been determined by the Secretary of State.

#### Textual Amendments

- F25** Sch. 7 para. 3A inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 42**

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F26** Words in Sch. 7 para. 3A(2) substituted (3.2.1995) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, Sch. 13 para. 41(4) (with s. 84(5)); S.I. 1994/3292, art. 3

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

- 3 (1) The Secretary of State may, if he thinks fit, direct that an appeal, which by virtue of paragraph 1 of this Schedule and apart from this sub-paragraph, falls to be determined by a person appointed by the Secretary of State shall instead be determined by the Secretary of State.
- (2) A direction under this paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the applicant or appellant, the . . .<sup>F27</sup> planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section [<sup>F28</sup>section 26(3)] of this Act.
- (3) Where in consequence of a direction under this paragraph an appeal to which this Schedule applies falls to be determined by the Secretary of State, the provisions of this Act which are relevant to the appeal shall, subject to the following provisions of this paragraph, apply to the appeal as if this Schedule had never applied to it.
- (4) Where in consequence of a direction under this paragraph the Secretary of State determines an appeal himself, he shall, unless (in the case of an appeal under section 33) the appeal is referred to a Planning Inquiry Commission under section 45 of this Act, afford to the applicant or appellant, the . . .<sup>F27</sup> planning authority and any person who has made any such representations as aforesaid an opportunity of appearing before and being heard by a person appointed by the Secretary of State for that purpose either—
- (a) if the reasons for the direction raise matters with respect to which either the applicant or appellant, or the . . .<sup>F27</sup> planning authority or any such person, have not made representations; or
  - (b) if the applicant or appellant or the . . .<sup>F27</sup> planning authority had not been asked in pursuance of paragraph 2(2) of this Schedule whether they wished to appear before and be heard by a person appointed to hear the appeal, or had been asked that question and had expressed no wish in answer thereto, or had expressed a wish to appear and be heard as aforesaid, but had not been afforded an opportunity of doing so.
- (5) Except as provided by sub-paragraph (4) of this paragraph, where the Secretary of State determines an appeal in consequence of a direction under this paragraph he shall not be obliged to afford any person an opportunity of appearing before and being heard by a person appointed for the purpose, or of making fresh representations or making or withdrawing any representations already made; and in determining the appeal the Secretary of State may take into account any report made to him by any person previously appointed to determine it.

#### **Textual Amendments**

**F27** Word repealed by Local Government (Scotland) Act 1973 (c. 65), s. 172(2)

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**F28** Words in Sch. 7, para. 3(2) substituted (3.2.1995) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, Sch. 13 para. 41(3) (with s. 84(5)); S.I. 1994/3292, art. 3

- <sup>F29</sup>3A (1) The Secretary of State may by a further direction revoke a direction under paragraph 3 of this Schedule at any time before the deter\*mination of the appeal.
- (2) A direction under this paragraph shall state the reasons for which it is given and shall be served on the person, if any, previously appointed to determine the appeal, the applicant or appellant, the planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section [<sup>F30</sup>26(3)] of this Act.
- (3) Where a direction under this paragraph has been given, the provisions of this Schedule relevant to the appeal shall apply, subject to sub-paragraph (4), as if no direction under paragraph 3 had been given.
- (4) Anything done by or on behalf of the Secretary of State in connection with the appeal which might have been done by the person appointed to determine the appeal (including any arrangements made for the holding of a hearing or local inquiry) shall, unless that person directs otherwise, be treated as having been done by him.

#### Textual Amendments

- F29** Sch. 7 para. 3A inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), Sch.11 Pt. II para. 42
- F30** Words in Sch. 7 para. 3A(2) substituted (3.2.1995) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, Sch. 13 para. 41(4) (with s. 84(5)); S.I. 1994/3292, art. 3

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

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



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### *Local inquiries and hearings*

- 5 (1) A person appointed under this Schedule to determine an appeal may (whether or not the parties have asked for an opportunity to appear and be heard) hold a local inquiry in connection with the appeal and shall hold such an inquiry if the Secretary of State directs him to do so.
- [<sup>F31</sup>(1A) Where a person appointed under this Schedule to determine an appeal—
- (a) holds a hearing by virtue of paragraph 2(2)(b) of this Schedule, or
  - (b) holds an inquiry by virtue of this paragraph,
- an assessor may be appointed by the Secretary of State to sit with the appointed person at the hearing or inquiry to advise him on any matters arising notwithstanding that the appointed person is to determine the appeal.]
- (2) Subject to sub-paragraph (3) of this paragraph, the expenses—
- (a) of any hearing held by virtue of paragraph 2(2)(b) of this Schedule; and
  - (b) of any inquiry held by virtue of this paragraph,
- shall be defrayed by the Secretary of State.
- (3) Subsections (4) to (9) of section 267 of this Act shall [<sup>F32</sup>subject to sub-paragraph (4) below] apply to an inquiry held under this paragraph as they apply to an inquiry held under that section.
- [<sup>F33</sup>(4) The person appointed to determine the appeal has the same power to make orders under section 267(7) of this Act in relation to proceedings under this Schedule which do not give rise to an inquiry as he has in relation to such an inquiry.
- (5) For the purposes of this paragraph, references to the Minister in subsections (7) and (8) of section 267 shall be read as references to the person appointed by the Secretary of State to determine the appeal.]

#### **Textual Amendments**

- F31** Sch. 7 para. 5(1A) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 43**
- F32** Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 40(2)(a)**
- F33** Sch. 7 para. 5(4)(5) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 40(2)(b)**

### *Stopping of appeals*

- 6 If before or during the determination of an appeal under section 33 of this Act which is to be or is being determined in accordance with paragraph 1 of this Schedule, the Secretary of State forms the opinion mentioned in subsection (7) of that section, he may direct that the determination shall not be begun or proceeded with.

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### *Supplementary provisions*

- 7 (1) The <sup>M4</sup>Tribunals and Inquiries Act 1971 shall apply to a local inquiry or other hearing held in pursuance of this Schedule as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a person appointed to determine the relevant appeal under this Schedule.
- (2) The functions of determining an appeal and doing anything in connection therewith conferred by this Schedule on a person appointed to determine an appeal thereunder who is an officer of the Scottish Office shall be treated for the purposes of the <sup>M5</sup>Parliamentary Commissioner Act 1967 as functions of that office.
- (3) In section 33(7) of this Act, for the words “and 65” there shall be substituted the words “65 and 72”; but the provisions of this sub-paragraph shall cease to have effect at the same time as the provisions referred to in section 83(1) of this Act whether or not the provisions of this sub-paragraph have by that time been brought into operation.

#### **Marginal Citations**

**M4** 1971 c. 62.

**M5** 1967 c. 13.

## SCHEDULE 8

Section 45.

### CONSTRUCTION OF REFERENCES IN SECTIONS 45 AND 46 TO “THE RESPONSIBLE MINISTER OR MINISTERS”

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

- C2** Sch. 8 extended by [Civil Aviation Act 1982 \(c. 16\)](#), [Sch. 2 para. 4](#); amended by [Civil Aviation Act 1982 \(c. 16\)](#), [Sch. 2 para. 5](#)
- C3** [S. 108\(2\)](#), [117–119](#), [121](#), [138](#), [154\(3\)](#), [170–172](#), [175](#), [181](#), [195\(6\)](#), [198\(3\)](#), [199\(2\)](#), [202\(3\)](#), [205](#), [211](#), [212](#), [214](#), [216–230](#), [233\(7\)](#), [242](#), [259](#), [266\(6\)\(b\)](#), [275\(2\)](#), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with [Sch. 8 para. 33](#))  
Sch. 8 extended (1.3.1996) by 1995 c. 45, s. 16(1), [Sch. 4 para. 2\(1\)\(xix\)](#); S.I. 1996/218, [art. 2](#)
- C4** [S. 202\(3\)](#), [205](#), [211](#), [212](#), [214–230](#), [233\(7\)](#), [242](#), [266\(6\)\(b\)](#), [275\(2\)](#), Sch. 8, Sch. 17 paras. 1–3 amended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, [35\(1\)](#))
- C5** [Ss. 214–227](#), [266\(6\)\(b\)](#), [275\(2\)](#), Sch. 8 modified by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 2\(9\)\(f\)](#) (with Sch. 8 para. 33)  
Sch. 8 modified (1.3.1996) by 1995 c. 45, s. 16(1), [Sch. 4 para. 2\(10\)\(d\)](#); S.I. 1996/218, [art. 2](#)
- C6** [Ss. 214–227](#), [266\(6\)\(b\)](#), [275\(2\)](#), Sch. 8 modified by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, [35\(1\)](#))

*Status: Point in time view as at 03/02/1995.*

**Changes to legislation:** *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 1 In relation to matters specified in the first column of the Table below (being matters mentioned in section 45(1) of this Act which may be referred to a Planning Inquiry Commission under that section) “the responsible Minister or Ministers” for the purposes of sections 45 and 46 of this Act are those specified opposite in the second column of the Table.
- 2 Where an entry in the second column of the Table specifies two or more Ministers, that entry shall be construed as referring to those Ministers acting jointly.

TABLE

Referred Matter	Responsible Minister or Ministers
1. Application for planning permission or appeal under section 33 of this Act—	
(a) relating to land to which section 214(1) of this Act applies;	The Secretary of State and the appropriate Minister (if different).
(b) relating to other land.	The Secretary of State.
2. Proposal that a government department should give a direction under section 37 of this Act or that development should be carried out by or on behalf of a government department.	The Secretary of State and the Minister (if different) in charge of the government department concerned.

SCHEDULE 9

Section 47.

JOINT PLANNING INQUIRY COMMISSIONS

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

- C7** Sch. 9 extended by [Civil Aviation Act 1982 \(c. 16\)](#), [Sch. 2 para. 4](#)
- C8** References to subsections (2) to (5) and subsections (1) and (4) of section 290 of the Local Government Act 1933 to be construed as references to subsections (2) to (5) and subsections (1) and (4) of section 250 of the Local Government Act 1972: [Local Government Act 1972 \(c. 70\)](#), [s. 272\(2\)](#)

*Interpretation*

- 1 In relation to matters specified in the first column of the Table below (being matters which under section 47 of this Act may be referred to a Joint Planning Inquiry Commission), “the responsible Ministers” for the purposes of this Schedule are those specified opposite in the second column of the Table, acting jointly.

TABLE

Referred Matter	Responsible Ministers
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*Status: Point in time view as at 03/02/1995.*

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- |  |  |
|--|--|
| 1. Application for planning permission or appeal under section 33 of this Act—   |  |
| (a) relating to land to which section 214(1) of this Act or [ <sup>F34</sup> section 266(1) of the Act of 1990] applies;   | The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England and the appropriate Minister (if different).                                      |
| (b) relating to other land.  | The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England.  |
| 2. Proposal that a government department should give a direction under section 37 of this Act or [ <sup>F34</sup> section 90(1) of the Act of 1990], or that development should be carried out by or on behalf of a government department. | The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England and the Minister (if different) in charge of the government department concerned. |

#### Textual Amendments

**F34** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 27\(2\)\(a\)](#)

- 2 In this Schedule—
- (a) [<sup>F35</sup>“Act of 1990” means the Town and Country Planning Act 1990]
  - (b) “commission” means a Joint Planning Inquiry Commission constituted under section 47 of this Act; and
  - (c) “referred matter” means a matter referred to a commission under that section.

#### Textual Amendments

**F35** Words substituted by the [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\)](#), s. 4, [Sch. 2 para. 27\(2\)\(b\)](#)

#### *The reference*

- 3 Two or more of the matters mentioned in subsection (1) of section 47 of this Act may be referred to the same commission if it appears to the responsible Ministers that they relate to proposals to carry out development for similar purposes on different sites.
- 4 Where a referred matter relates to a proposal to carry out development for any purpose at a particular site, the responsible Ministers may also refer to the commission the question whether development for that purpose should be instead

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carried out at an alternative site, whether in Scotland or in England, or partly in one and partly in the other.

- 5 The responsible Ministers shall, on referring a matter to a commission, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to them to be relevant to their inquiry.
- 6 (1) A reference to a commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time.
- (2) A reference of any other matter mentioned in subsection (1) of section 47 of this Act may be made at any time before, but not after, the determination of the relevant referred application or the relevant appeal or, as the case may be, the giving of the relevant direction, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.

*Notice of reference to persons and authorities concerned*

- 7 (1) Notice of the making of a reference to a commission shall be published in the prescribed manner, and a copy of the notice shall be served on the. . . <sup>F36</sup> planning authority for the area in which it is proposed that the relevant development shall be carried out.
- (2) In the case of an application for planning permission referred under section 32 of this Act or [<sup>F37</sup>section 77 of the Act of 1990] or an appeal under section 33 of this Act or [<sup>F37</sup>section 78 of the Act of 1990], notice shall also be served—
- (a) on the applicant or appellant; and
- (b) on any person who has made representations, relating to the subject matter of the application or appeal, which the. . . <sup>F36</sup> planning authority are required to take into account under section 26(2) or (3) of this Act or, as the case may be, [<sup>F37</sup>section 71(1) or (2) of the Act of 1990].
- (3) In the case of a proposal that a direction should be given by a government department under section 37 of this Act or [<sup>F38</sup>section 90(1) of the Act of 1990] with respect to any development, notice shall also be served on the local authority or statutory undertakers applying for authorisation to carry out that development.
- (4) In this paragraph, “prescribed” means prescribed by regulations made by the Secretary of State and the Secretary of State for the Environment jointly in the exercise of their respective powers under this Act and [<sup>F39</sup>the Act of 1990].

**Textual Amendments**

**F36** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**F37** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 27\(2\)\(c\)\(i\)](#)

**F38** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 27\(2\)\(c\)\(ii\)](#)

*Status: Point in time view as at 03/02/1995.*

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**F39** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 27\(2\)\(c\)\(iii\)](#)

*Proceedings of commission on reference*

- 8 A commission inquiring into a referred matter shall—
- (a) identify and investigate the considerations relevant to, or the technical or scientific respects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out, and assess the importance to be attached to those considerations or aspects;
  - (b) thereafter, comply with paragraph 9 below in respect of affording to persons an opportunity of appearing before, and being heard by, one or more members of the commission;
  - (c) report to the responsible Ministers on the said matter.
- 9 A commission shall afford the following persons an opportunity of appearing and being heard as aforesaid:—
- (a) in any case, the local planning authority, if the authority so desire;
  - (b) in the case of a matter mentioned in section 45(1)(a), (b) or (c) of this Act or [<sup>F40</sup>section 101(2)(a), (b) or (c) of the Act of 1990], the applicant, if he so desires; and
  - (c) in the case of an application or appeal mentioned in the said section 45(1)(a) or (b) or [<sup>F41</sup>the said section 101(2)(a) or (b)], any person who has made representations relating to the subject matter of the application or appeal which the . . . <sup>F42</sup> planning authority are required to take into account under section 26(2) or (3) of this Act or [<sup>F43</sup>section 71(1) or (2) of the Act of 1990].

**Textual Amendments**

- F40** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 27\(2\)\(d\)](#)
- F41** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 27\(2\)\(e\)\(i\)](#)
- F42** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F43** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 27\(2\)\(e\)\(ii\)](#)

- 10 The provisions of sections 32(5) and 33(4) of this Act and [<sup>F44</sup>sections 77(5) and 79(2) of the Act of 1990] and the provisions of Schedule 7 to this Act and [<sup>F45</sup>Schedule 6 to the Act of 1990], relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an application for planning permission, or an appeal, referred to a commission.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F44** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 27\(2\)\(f\)\(i\)](#)
- F45** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 27\(2\)\(f\)\(ii\)](#)

### *Local inquiries*

- 11 A commission shall, for the purpose of complying with paragraph 9 above, hold a local inquiry; and they may hold such an inquiry if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the . . . <sup>F46</sup> planning authority desire the opportunity of appearing and being heard.

#### Textual Amendments

- F46** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

- 12 Where a commission are to hold a local inquiry in connection with a referred matter and it appears to the responsible Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this Schedule to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, the responsible Minister may direct that the two inquiries be held concurrently or combined as one inquiry.
- 13 For the purposes of the <sup>M6</sup>Tribunals and Inquiries Act 1971 a local inquiry held by a commission—
- (a) if held in Scotland, shall be treated as one held by the Secretary of State in pursuance of a duty imposed by a statutory provision; and
  - (b) if held in England, shall be treated as one held by the Secretary of State for the Environment in pursuance of a duty so imposed.

#### Marginal Citations

- M6** 1971 c. 62.

- 14 (1) Subsections (4) to (9) of section 267 of this Act shall apply to a local inquiry held by a commission in Scotland as they apply to an inquiry held under that section.
- (2) Subsections (2) to (5) of section 290 of the <sup>M7</sup>Local Government Act 1933 (evidence and costs at local inquiries) shall apply in relation to a local inquiry held by a commission in England as they apply in relation to an inquiry caused to be held by a department under subsection (1) of that section, with the substitution for references



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to a department (other than the first reference in subsection (4)) of references to the Secretary of State for the Environment.

**Marginal Citations**

M7 1933 c. 51.

*Supplementary*

- 15 (1) A commission may, with the approval of the Ministers and at their expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to the commission to be relevant to a referred matter.
- (2) In this paragraph “the Ministers” means the Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England, acting jointly; but their functions under this paragraph may, by arrangements made between them, be exercised by either acting on behalf of both.
- 16 Subject to the provisions of this Schedule, and to any directions given to them by the responsible Ministers, a commission shall have power to regulate their own procedure.

SCHEDULE 10

Section 54 and 56.

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

**PART I**

APPLICATIONS FOR LISTED BUILDING CONSENT

*Form of application and effect of consent*

- 1 <sup>[F47]</sup>(1) An application for listed building consent shall be made in such form as the planning authority may require and shall contain—
- (a) sufficient particulars to identify the building to which it relates, including a plan, and
  - (b) such other plans and drawings as are necessary to describe the works which are the subject of the application
- and such other particulars as may be required by the planning authority.
- (1A) Provision may be made by regulations under this Act with respect to the manner in which applications for listed building consent are to be made, the manner in which such applications are to be advertised and the time within which they are to be dealt with by planning authorities or, as the case may be, by the Secretary of State.]



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- (2) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested therein.

**Textual Amendments**

**F47** Sch. 10 para. 1(1)(1A) substituted for para. 1(1) by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, [Sch. 9 Pt. II](#), para. 22

- 2 (1) Regulations under this Act may provide that an application for listed building consent, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one [<sup>F48</sup>prescribed under section 24] of this Act and any such regulations may—
- (a) include requirements corresponding to sections [<sup>F48</sup>24 and 26(3) and (3A)] of this Act; and
  - (b) make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision of the regulations made by virtue of this sub-paragraph.
- (2) If any person issues a certificate which purports to comply with the requirements of regulations made by virtue of this paragraph and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F49</sup>level 3 on the standard scale].

**Textual Amendments**

**F48** Words in [Sch. 10, para. 2\(1\)](#) substituted (3.2.1995) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13 para. 42\(a\)\(b\)](#) (with s. 84(5)); S.I. 1994/3292, [art. 3](#)

**F49** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F](#), 289G (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))

<sup>F50</sup>

3

**Textual Amendments**

**F50** [Sch. 10 Pt. I para. 3](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

*Status: Point in time view as at 03/02/1995.*

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### *Reference of applications to Secretary of State*

- 4 (1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the . . . <sup>F51</sup> planning authority.
- (2) A direction under this paragraph may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.
- (3) An application in respect of which a direction under this paragraph has effect shall be referred to the Secretary of State accordingly.
- (4) Before determining an application referred to him under this paragraph, the Secretary of State shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.
- (5) The decision of the Secretary of State on any application referred to him under this paragraph shall be final.

#### **Textual Amendments**

**F51** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

- 5 (1) Subject to the following provision of this paragraph, a . . . <sup>F52</sup> planning authority to whom application is made for listed building consent shall not grant such consent, unless they have notified the Secretary of State of the application (giving particulars of the works for which the consent is required) and either—
- (a) a period of twenty-eight days has expired, beginning with the date of the notification, without the Secretary of State having directed the reference of the application to him; or
- (b) the Secretary of State has notified the authority that he does not intend to require the reference of the application.
- (2) The Secretary of State may at any time before the said period expires give notice to the authority that he requires further time in which to consider whether to require the reference of the application to him [<sup>F53</sup>; and if he gives such a notice the authority shall not grant the listed building consent until he has notified them that he does not intend to require the reference of the application.]

#### **Textual Amendments**

**F52** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**F53** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 50, Sch. 9 Pt. II para. 23](#)

- 6 (1) The Secretary of State may give directions that, in the case of such descriptions of applications for listed building consent as he may specify, other than such consent for the demolition of a building, paragraph 5 of this Schedule shall not apply; and accordingly, so long as the directions are in force. . . <sup>F54</sup> planning authorities may

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determine applications of such descriptions in any manner they think fit, without notifying the Secretary of State.

- (2) Without prejudice to the foregoing provisions of this Schedule, the Secretary of State may give directions to . . . <sup>F54</sup> planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify to him and to such other persons as may be so specified any applications made to them for listed building consent, and the decisions taken by the authorities thereon.

#### Textual Amendments

**F54** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

#### *Appeal against decision*

- 7 (1) [<sup>F55</sup>Where an application is made to the planning authority—
- (a) for listed building consent, or
  - (b) for approval of the authority required by a condition imposed on the granting of listed building consent with respect to details of the works,
- and the consent or approval is refused] by the authority or is granted by them subject to conditions, the applicant, if he is aggrieved by the decision, may by notice served in the prescribed manner within such period as may be prescribed, not being less than twenty-eight days from the receipt by him of notification of the decision, appeal to the Secretary of State.
- (2) A person appealing under this paragraph may include in his notice thereunder, as the ground or one of the grounds of his appeal, a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 52 of this Act, or—
- (a) in the case of a building to which subsection (8) of that section applies, that the Secretary of State should give a direction under that subsection with respect to the building; or
  - (b) in the case of a building subject to a building preservation notice under section 56 of this Act, that the building should not be included in a list compiled or approved under the said section 52.
- (3) Subject to the following provisions of this paragraph, the Secretary of State may allow or dismiss an appeal thereunder, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, and—
- (a) may deal with the application as if it had been made to him in the first instance; and
  - (b) may, if he thinks fit, exercise his power under section 52 of this Act to amend any list compiled or approved thereunder by removing from it the building to which the appeal relates or his power under subsection (8) of that section to direct that that subsection shall no longer apply to the building.
- (4) Before determining an appeal under this paragraph, the Secretary of State shall, if either the applicant or the . . . <sup>F56</sup> planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

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(5) The decision of the Secretary of State on any appeal under this paragraph shall be final.

(6) Schedule 7 to this Act applies to appeals under this paragraph.

#### Textual Amendments

**F55** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, **Sch. 9 Pt. II para. 16(2)**

**F56** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)

#### *Appeal in default of decision*

- 8
- [<sup>F57</sup>(1)] Where an application is made to the . . . <sup>F58</sup> planning authority for listed building consent, then unless within the prescribed period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either—
- (a) give notice to the applicant of their decision on the application; or
  - (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under paragraph 4 of this Schedule,
- the provisions of paragraph 7 of this Schedule shall apply in relation to the application as if listed building consent had been refused by the authority and as if notification of their decision had been received by the applicant at the end of the prescribed period or at the end of the said extended period, as the case may be.
- [<sup>F59</sup>(2)] Sub-paragraph (1) of this paragraph applies to an application to the planning authority for approval by the authority required by a condition imposed on the granting of listed building consent with respect to details of the works as it applies to an application for listed building consent, with the following modifications—
- (a) for references to the prescribed period substitute references to the period of two months from the date of the receipt of the application, and
  - (b) omit paragraph (b) and the word “or” preceding it.]

#### Textual Amendments

**F57** [Sch. 10 para. 8](#) renumbered as para. 8(1) by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, **Sch. 9 para. 16(3)**

**F58** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)

**F59** [Sch. 10 para. 8\(2\)](#) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, **Sch. 9 para. 16(3)**

## PART II

### REVOCATION OF LISTED BUILDING CONSENT

- 9
- (1) If it appears to the . . . <sup>F60</sup> planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify listed building consent in respect of any works to a building, being consent granted

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on an application made under Part I of this Schedule, the authority, subject to the following provisions of this paragraph, may by order revoke or modify the consent to such extent as (having regard to those matters), they consider expedient.

- (2) Except as provided in paragraph 11 of this Schedule, an order under this paragraph shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.
- (3) Where a . . . <sup>F60</sup> planning authority submit an order to the Secretary of State for confirmation under this paragraph, the authority shall serve notice on the owner, on the lessee and on the occupier of the building affected and on any other person who in their opinion will be affected by the order; and if within such period as may be specified in that notice (not being less than twenty-eight days after the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the . . . <sup>F60</sup> planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (4) The power conferred by this paragraph to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

#### Textual Amendments

**F60** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

- 10 (1) If it appears to the Secretary of State, after consultation with the . . . <sup>F61</sup> planning authority, to be expedient that an order under paragraph 9 of this Schedule should be made, he . . . <sup>F62</sup> may himself make such an order; and any order so made by the Secretary of State shall have the like effect as if it had been made by the authority and confirmed by the Secretary of State under that paragraph.
- (2) The provisions of paragraph 9 of this Schedule shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order by virtue of this paragraph, in relation to the making thereof by the Secretary of State and in relation to the service of copies thereof as so made.

#### Textual Amendments

**F61** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**F62** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

- 11 (1) The following provisions shall have effect where the . . . <sup>F63</sup> planning authority have made an order under paragraph 9 of this Schedule but have not submitted the order to the Secretary of State for confirmation by him, and—

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- (a) the owner, lessee and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order. . . <sup>F64</sup>
  - (b) . . . <sup>F64</sup>
- (2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—
- (a) the period (not being less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and
  - (b) the period (not being less than fourteen days from the expiration of the period referred to in paragraph (a) of this sub-paragraph) at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this paragraph and without being confirmed by the Secretary of State.
- (3) The authority shall also serve notice to the same effect on the persons mentioned in sub-paragraph (1)(a) of this paragraph, and the notice shall include a statement to the effect that no compensation is payable under section 161 of this Act in respect of an order under paragraph 9 of this Schedule which takes effect by virtue of this paragraph and without being confirmed by the Secretary of State.
- (4) The authority shall send a copy of any advertisement published under sub-paragraph (2) of this paragraph to the Secretary of State, not more than three days after the publication.
- (5) If within the period referred to in sub-paragraph (2)(a) of this paragraph no person claiming to be affected by the order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in sub-paragraph (2)(b) of this paragraph, take effect by virtue of this paragraph and without being confirmed by the Secretary of State as required by paragraph 9(2) of this Schedule.
- (6) This paragraph does not apply to an order revoking or modifying a listed building consent granted by the Secretary of State.

#### Textual Amendments

**F63** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**F64** Word and para. 11 (1)(b) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 4 Pt. I](#)

### PART III

#### PROVISIONS APPLICABLE ON LAPSE OF BUILDING PRESERVATION NOTICE

- 12 The provisions of this Part of this Schedule apply where a building preservation notice ceases to be in force by virtue of section 56(3) of this Act, otherwise than by

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reason of the building to which it relates being included in a list compiled or approved under section 52 of this Act.

- 13 The fact that the building preservation notice has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 53 or 94 of this Act committed by him with respect to the said building while the notice was in force.
- 14 Any proceedings on or arising out of an application for listed building consent made while the building preservation notice was in force shall lapse and any listed building consent granted with respect to the building, while the notice was in force, shall also lapse.
- 15 Any listed building enforcement notice served by the . . . <sup>F65</sup> planning authority while the building preservation notice was in force shall cease to have effect and any proceedings thereon under sections 92 and 93 of this Act shall lapse, but section 95(1) and (2) of this Act shall continue to have effect as respects any expenses incurred by the [<sup>F66</sup>planning authority] owner, lessee or occupier as therein mentioned and with respect to any sums paid on account of such expenses.

**Textual Amendments**

**F65** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**F66** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 33](#)

<sup>F67</sup>SCHEDULE 10A

REGISTRATION OF OLD MINING PERMISSIONS]

**Textual Amendments**

**F67** [Sch. 10A](#) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#)

<sup>F68</sup>*Application for registration*

**Textual Amendments**

**F68** [Sch. 10A](#) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).



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- <sup>F69</sup>1 (1) Any person who is an owner of any land to which an old mining permission relates, or is entitled to an interest in a mineral to which such a permission relates, may apply to the planning authority for the permission to be registered.
- (2) The application must specify the development which the applicant claims is authorised by the permission, including the land to which the permission relates, and the conditions (if any) to which the permission is subject.
- (3) The application must be served on the planning authority before the end of the period of six months beginning with the day on which this Schedule comes into force.
- (4) On an application under this paragraph, the planning authority must—
- (a) if they are satisfied that (apart from section 49H(3) of this Act) the permission authorises development consisting of the winning and working of minerals or involving the depositing of mineral waste, ascertain—
    - (i) the area of land to which the permission relates, and
    - (ii) the conditions (if any) to which the permission is subject,
 and grant the application; and
  - (b) in any other case, refuse the application.
- (5) Where—
- (a) application has been made under this paragraph, but
  - (b) the planning authority have not given the applicant notice of their determination within the period of three months beginning with the service of notice of the application (or within such extended period as may at any time be agreed upon in writing between the applicant and the authority),
- the application is to be treated for the purposes of section 49H of this Act and this Schedule as having been refused by the authority.

**Textual Amendments**

**F69** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); [S.I. 1992/71](#), [art. 2](#).

<sup>F70</sup>*Determination of conditions*

**Textual Amendments**

**F70** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); [S.I. 1992/71](#), [art.2](#).

- <sup>F71</sup>2 (1) The conditions to which an old mining permission is to be subject—
- (a) may include any conditions which may be imposed on a grant of planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste,
  - (b) may be imposed in addition to, or in substitution for, any conditions ascertained under paragraph 1(4)(a) above, and



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- (c) must include a condition that the winning and working of minerals or depositing of mineral waste must cease not later than 21st February 2042.
- (2) Where an application for the registration of an old mining permission has been granted, any person who is an owner of any land to which the permission relates, or is entitled to an interest in a mineral to which the permission relates, may apply to the planning authority to determine the conditions to which the permission is to be subject.
- (3) The application must set out proposed conditions.
- (4) The application must be served on the planning authority—
- (a) after the date mentioned in sub-paragraph (5) below, and
  - (b) except where section 49H(3) of this Act applies, before the end of the period of twelve months beginning with that date or such extended period as may at any time be agreed upon in writing between the applicant and the authority.
- (5) The date referred to in sub-paragraph (4) above is—
- (a) the date on which the application for registration is granted by the planning authority, if no appeal is made to the Secretary of State under paragraph 5 below, and
  - (b) in any other case, the date on which the application for registration is finally determined.
- (6) On an application under this paragraph—
- (a) the planning authority must determine the conditions to which the permission is to be subject, and
  - (b) if, within the period of three months beginning with the service of notice of the application (or within such extended period as may at any time be agreed upon in writing between the applicant and the authority) the authority have not given the applicant notice of their determination, the authority shall be treated for the purposes of section 49H of this Act and this Schedule as having determined that the permission is to be subject to the conditions set out in the application.
- (7) The condition to which an old mining permission is to be subject by reason of sub-paragraph (1)(c) above is not to be regarded for the purposes of the planning Acts as a condition such as is mentioned in section 27(1)(b) of this Act (planning permission granted for a limited period).
- (8) This paragraph does not apply to an old mining permission which has ceased to have effect since the application under paragraph 1 above was granted.

#### Textual Amendments

**F71** Sch. 10A inserted (24.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 52, Sch.9 (with s. 84(5)); S.I. 1992/71, art.2.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *F72* Registration

#### Textual Amendments

**F72** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).

- F73** (1) Where an application for the registration of an old mining permission is granted, the permission must be entered in the appropriate part of the register kept under section 31 of this Act and the entry must specify the area of land ascertained under paragraph 1(4)(a) above.
- (2) Where an application to determine the conditions to which an old mining permission is to be subject is finally determined, the conditions must be entered in the appropriate part of that register.
- (3) The matters required to be entered in the register under this paragraph must be entered as soon as reasonably practicable.

#### Textual Amendments

**F73** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).

### *F74* General provisions about applications

#### Textual Amendments

**F74** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art.2](#).

- F75** (1) An application under paragraph 1 or 2 above is an application which is—
- (a) made on an official form, and
  - (b) accompanied by an appropriate certificate.
- (2) The applicant must, so far as reasonably practicable, give the information required by the form.
- (3) Where the planning authority receive an application under paragraph 1 or 2 above, they must as soon as reasonably practicable give to the applicant a written acknowledgement of the application.
- (4) Where the planning authority determine an application under either of those paragraphs, they must as soon as reasonably practicable give written notice of their determination to the applicant.
- (5) An appropriate certificate is such a certificate—
- (a) as would be required under sections 23 or 24 of this Act to accompany the application if it were an application for planning permission for

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development consisting of the winning and working of minerals or involving the depositing of mineral waste; but

(b) with such modifications as are required for the purposes of this Schedule.

(6) Sections 23(3) and 24(6) of this Act (offences) shall also have effect in relation to any certificate purporting to be an appropriate certificate.

#### Textual Amendments

**F75** Sch. 10A inserted (24.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 52, Sch.9 (with s. 84(5)); S.I. 1992/71, art.2.

#### <sup>F76</sup>Right of appeal

#### Textual Amendments

**F76** Sch. 10A inserted (24.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 52, Sch.9 (with s. 84(5)); S.I. 1992/71, art. 2.

- <sup>F775</sup> (1) Where the planning authority—
- (a) refuse an application under paragraph 1 above, or
  - (b) in granting such an application, ascertain an area of land, or conditions, which differ from those specified in the application,
- the applicant may appeal to the Secretary of State.
- (2) Where on an application under paragraph 2 above, the planning authority determine conditions that differ in any respect from the conditions set out in the application, the applicant may appeal to the Secretary of State.
- (3) An appeal under this paragraph must be made by giving notice of appeal to the Secretary of State.
- (4) In the case of an appeal under sub-paragraph (1) above, the notice must be given to the Secretary of State before the end of the period of three months beginning with the determination or, in the case of an application treated as refused by virtue of paragraph 1(5) above, beginning at the end of the period or extended period referred to in paragraph 1(5)(b).
- (5) In the case of an appeal under sub-paragraph (2) above, the notice must be given to the Secretary of State before the end of the period of six months beginning with the determination.
- (6) A notice of appeal under this paragraph is a notice which—
- (a) is made on an official form, and
  - (b) is accompanied by an appropriate certificate.
- (7) The appellant must, so far as reasonably practicable, give the information required by the form.
- (8) Paragraph 4(5) and (6) above shall apply for the purposes of sub-paragraph (7) above as it applies for the purposes of paragraph 4(1) above.

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#### Textual Amendments

**F77** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).

### *F78* *Determination of appeal*

#### Textual Amendments

**F78** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).

- F79**<sup>6</sup> (1) On an appeal under paragraph 5 above the Secretary of State may—
- (a) allow or dismiss the appeal, or
  - (b) reverse or vary any part of the decision of the planning authority (whether the appeal relates to that part of it or not),
- and may deal with the application as if it had been made to him in the first instance.
- (2) Before determining such an appeal the Secretary of State must, if either the appellant or the planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) If at any time before or during the determination of such an appeal it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—
- (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal, and
  - (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.
- (4) The decision of the Secretary of State on such an appeal shall be final.

#### Textual Amendments

**F79** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).

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

**C9** Sch. 10A para. 6 extended (1.1.1997) by 1995 c. 25, s. 96, [Sch. 13 para. 16\(5\)](#) (with ss. 7(6), 115, 117); S.I. 1996/2857, [art. 2](#)  
 Sch. 10A para. 6 extended (1.1.1997) by 1995 c. 25, s. 96, [Sch. 14 para. 9\(5\)](#) (with ss. 7(6), 115, 117); S.I. 1996/2857, [art. 2](#)

*Status: Point in time view as at 03/02/1995.*

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### *F80 Reference of applications to Secretary of State*

#### **Textual Amendments**

**F80** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art.2](#).

- F817** (1) The Secretary of State may give directions requiring applications under this Schedule to any planning authority to be referred to him for determination instead of being dealt with by the authority.
- (2) The direction may relate either to a particular application or to applications of a class specified in the direction.
- (3) Where an application is referred to him under this paragraph—
- (a) subject to paragraph (b) and sub-paragraph (4) below, the following provisions of this Schedule—
    - (i) paragraph 1(1) to (4),
    - (ii) paragraph 2(1) to (6)(a), (7) and (8),
    - (iii) paragraphs 3 and 4, and
    - (iv) paragraphs 8 to 10,shall apply, with any necessary modifications, as they apply to applications which fall to be determined by the planning authority,
  - (b) before determining the application the Secretary of State must, if either the applicant or the planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and
  - (c) the decision of the Secretary of State on the application shall be final.
- (4) Where an application under paragraph 1 above is so referred to him, paragraph 2(5) above shall apply as if for paragraphs (a) and (b) there were substituted “the date on which the application for registration is finally determined”.

#### **Textual Amendments**

**F81** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art.2](#).

### *F82 Two or more applicants*

#### **Textual Amendments**

**F82** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).

- F83g** (1) Where a person has served an application under paragraph 1 or 2 above in respect of an old mining permission—

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- (a) he may not serve any further application under the paragraph in question in respect of the same permission, and
- (b) if the application has been determined, whether or not it has been finally determined, no other person may serve an application under the paragraph in question in respect of the same permission.

(2) Where—

- (a) a person has served an application under paragraph 1 or 2 above in respect of an old mining permission, and
- (b) another person duly serves an application under the paragraph in question in respect of the same permission,

then for the purpose of the determination of the applications and any appeal against such a determination, this Schedule shall have effect as if the applications were a single application served on the date on which the later application was served and references to the applicant shall be read as references to either or any of the applicants.

#### Textual Amendments

**F83** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).

#### *<sup>F84</sup>Application of provisions relating to planning permission*

#### Textual Amendments

**F84** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).

- <sup>F859</sup> (1) Subject to paragraph 3 above, section 31 of this Act (registers of applications, etc.), and any provision of regulations under this Act or a development order made by virtue of that section, shall have effect with any necessary modifications as if references to applications for planning permission included applications under paragraph 1 or 2 above.
- (2) Where the planning authority is not the authority required to keep the register under that section, the planning authority must provide the authority required to keep the register with such information and documents as that authority requires to comply with paragraph 3 above and with that section as applied by this paragraph.
- (3) Sections 231 and 233 of this Act (validity of certain decisions and proceedings for questioning their validity) shall have effect as if the action mentioned in section 231(3) included any decision of the Secretary of State on an appeal under paragraph 5 above or on an application referred to him under paragraph 7 above.

#### Textual Amendments

**F85** Sch. 10A inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52, [Sch.9](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#).

*Status: Point in time view as at 03/02/1995.*

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## <sup>F86</sup>Interpretation

### Textual Amendments

**F86** Sch. 10A inserted (24.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 52, **Sch.9** (with s. 84(5)); S.I. 1992/71, **art. 2**.

[<sup>F87</sup>10 (1) In this Schedule—

“official form” means, in relation to an application or appeal, a document supplied by or on behalf of the Secretary of State for use for the purpose in question, and

“owner” in relation to any land means any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and includes any person entitled to possession of the land as lessee under a lease the unexpired portion of which is not less than seven years.

(2) For the purposes of section 49H of this Act and this Schedule, an application under paragraph 1 or 2 above is finally determined when the following conditions are met—

- (a) the proceedings on the application, including any proceedings on or in consequence of an application under section 233 of this Act, have been determined, and
- (b) any time for appealing under paragraph 5 above, or applying or further applying under that section, (where there is a right to do so) has expired.]

### Textual Amendments

**F87** Sch. 10A inserted (24.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 52, **Sch.9** (with s. 84(5)); S.I. 1992/71, **art. 2**.

### Modifications etc. (not altering text)

**C10** Sch. 10A para. 10(2) modified (1.1.1997) by 1995 c. 25, s. 96, **Sch. 14 para. 3(1)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

## <sup>F88</sup>SCHEDULE 11<sup>F88</sup>

### Textual Amendments

**F88** Sch. 11 repealed by S.I. 1975/1203, **art. 3 Sch.**



*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 12

Section 90.

### PROVISIONS AS TO ESTABLISHED USE CERTIFICATES

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

- 1 An application for an established use certificate shall be made in such manner as may be prescribed by a development order, and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given thereunder, or by the . . . <sup>F89</sup> planning authority or, in the case of an application referred to the Secretary of State, by him.

#### **Textual Amendments**

**F89** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

- 2 Provision may be made by a development order for regulating the manner in which applications for established use certificates are to be dealt with by . . . <sup>F90</sup> planning authorities, and, in particular—
- (a) for requiring the authority to give any applicant for such a certificate, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
  - (b) for requiring the authority to give to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for such certificates made to the authority, including information as to the manner in which any such application has been dealt with.

#### **Textual Amendments**

**F90** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

- 3 (1) A development order may provide that an application for an established use certificate, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in such form as may be prescribed by the order and corresponding to one or other of those described in section 24(1)(a) to (d) of this Act; and any such order may—
- (a) include requirements corresponding to section 24(2), (3) and (4), and section 26(3) of this Act; and
  - (b) make provision as to who, in the case of any land, is to be treated as the owner for the purposes of any provision of the order made by virtue of this sub-paragraph.
- (2) If any person issues a certificate which purports to comply with any provision of a development order made by virtue of sub-paragraph (1) above and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and



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which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F91</sup>level 3 on the standard scale].

#### Textual Amendments

**F91** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**)

#### *Provisions with respect to grant of certificate*

- 4 An established use certificate shall be in such form as may be prescribed by a development order and shall specify—
- (a) the land to which the certificate relates and any use thereof which is certified by the certificate as established;
  - (b) by reference to the paragraphs of section 90(1) of this Act, the grounds on which that use is so certified; and
  - (c) the date on which the application for the certificate was made, which shall be the date at which the use is certified as established.
- 5 Where the Secretary of State or a person appointed by him under Schedule 7 to this Act to determine an appeal grants an established use certificate, the Secretary of State or that person shall give notice to the . . . <sup>F92</sup> planning authority of that fact.

#### Textual Amendments

**F92** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **s. 172(2)**

- 6 In section 31 of this Act references to applications for planning permission shall include references to applications for established use certificates; and the information which may be prescribed as being required to be contained in a register kept under that section shall include information with respect to established use certificates granted by the Secretary of State or by a person appointed by him under Schedule 7 to this Act to determine an appeal.

### [<sup>F93</sup> SCHEDULE 13

#### ADJUSTMENT OF CLAIM HOLDINGS]

#### Textual Amendments

**F93** **Sch. 13** repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), **s. 60(4)**, **Sch. 19 Pt. IV** (with **s. 84(5)**); **S.I. 1991/2092, art. 3**; **S.I. 1995/2045, art. 3, Sch.**

*Status: Point in time view as at 03/02/1995.*

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## [<sup>F94</sup>PART I

### ADJUSTMENT OF CLAIM HOLDINGS ASSIGNED TO CENTRAL LAND BOARD AS SECURITY FOR DEVELOPMENT CHARGES]

#### Textual Amendments

**F94** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F95<sub>1</sub>

#### Textual Amendments

**F95** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F96<sub>2</sub>

#### Textual Amendments

**F96** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F97<sub>3</sub>

#### Textual Amendments

**F97** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F98<sub>4</sub>

#### Textual Amendments

**F98** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F99<sup>5</sup>

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**Textual Amendments**

**F99** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

[<sup>F100</sup>**PART II**

**ADJUSTMENT BY REFERENCE TO PAYMENTS IN RESPECT OF WAR-DAMAGED LAND]**

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**Textual Amendments**

**F100** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F101<sup>6</sup>

.....  
**Textual Amendments**

**F101** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F102<sup>7</sup>

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**Textual Amendments**

**F102** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F103<sup>g</sup>

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**Textual Amendments**

**F103** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F104<sup>9</sup>

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**Textual Amendments**

**F104** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F105<sup>10</sup>

.....  
**Textual Amendments**

**F105** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

F106 **PART III**

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**Textual Amendments**

**F106** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F107<sup>11</sup>

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**Textual Amendments**

**F107** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F108<sup>12</sup>

.....  
**Textual Amendments**

**F108** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F109<sup>13</sup>

*Status: Point in time view as at 03/02/1995.*

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**Textual Amendments**

**F109** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

**F110** 14

**Textual Amendments**

**F110** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

**F111** 15

**Textual Amendments**

**F111** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

**F112** 16

**Textual Amendments**

**F112** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

**F113** PART IV

**Textual Amendments**

**F113** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

**F114** 17

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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**Textual Amendments**

**F114** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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**F115**<sup>18</sup>

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**Textual Amendments**

**F115** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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**F116**<sup>19</sup>

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**Textual Amendments**

**F116** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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**F117**<sup>20</sup>

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**Textual Amendments**

**F117** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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**F118**<sup>21</sup>

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**Textual Amendments**

**F118** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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**F119**<sup>22</sup>

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F119** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

**F120** PART V

**Textual Amendments**

**F120** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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**F121** 23

**Textual Amendments**

**F121** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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**F122** 24

**Textual Amendments**

**F122** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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**F123** 25

**Textual Amendments**

**F123** Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

**F124** PART VI

**Textual Amendments**

**F124** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(4), 84(6), **Sch. 19, Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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F125<sup>26</sup>

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**Textual Amendments**

**F125** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F126<sup>27</sup>

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**Textual Amendments**

**F126** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F127<sup>28</sup>

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**Textual Amendments**

**F127** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F128<sup>29</sup>

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**Textual Amendments**

**F128** Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

F129<sup>SCHEDULE 14</sup>

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**Textual Amendments**

**F129** Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F130<sup>1</sup>



*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F130** Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, **art. 3, Sch.**

F131<sub>2</sub>

**Textual Amendments**

**F131** Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, **art. 3, Sch.**

F132<sub>3</sub>

**Textual Amendments**

**F132** Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, **art. 3, Sch.**

F133<sub>4</sub>

**Textual Amendments**

**F133** Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, **art. 3, Sch.**

F134<sub>5</sub>

**Textual Amendments**

**F134** Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, **art. 3, Sch.**

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## F135 SCHEDULE 15

### Textual Amendments

**F135** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

### *[<sup>F136</sup>Determination of relevant area]*

### Textual Amendments

**F136** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F137<sub>1</sub>

### Textual Amendments

**F137** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

### *[<sup>F138</sup>Preliminary calculations]*

### Textual Amendments

**F138** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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### Textual Amendments

**F139** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

### *[<sup>F140</sup>Apportionment of unexpended balance between interests]*

### Textual Amendments

**F140** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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F141<sub>3</sub>

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**Textual Amendments**

**F141** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

*[<sup>F142</sup>Application of Schedule to past acquisitions]*

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**Textual Amendments**

**F142** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F143<sub>4</sub>

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**Textual Amendments**

**F143** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

*[<sup>F144</sup>Interpretation]*

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**Textual Amendments**

**F144** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F145<sub>5</sub>

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**Textual Amendments**

**F145** Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 16

Sections 157, 158, 169 and 263.

### CONDITION TREATED AS APPLICABLE TO REBUILDING AND ALTERATIONS

- 1 Where the building to be rebuilt or altered is the original building, the amount of gross floor space in the building as rebuilt or altered which may be used for any purpose shall not exceed by more than ten per cent. the amount of gross floor space which was last used for that purpose in the original building.
- 2 Where the building to be rebuilt or altered is not the original building, the amount of gross floor space in the building as rebuilt or altered which may be used for any purpose shall not exceed the amount of gross floor space which was last used for that purpose in the building before the rebuilding or alteration.
- 3 In determining under this Schedule the purpose for which floor space was last used in any building, no account shall be taken of any use in respect of which an effective enforcement notice has been or could be served or, in the case of a use which has been discontinued, could have been served immediately before the discontinuance.
- 4 For the purposes of this Schedule gross floor space shall be ascertained by external measurement; and where different parts of a building are used for different purposes, floor space common to those purposes shall be apportioned rateably.
- 5 In relation to a building erected after the appointed day, being a building resulting from the carrying out of any such works as are described in paragraph 1 of Schedule 6 to this Act, any reference in this Schedule to the original building is a reference to the building in relation to which those works were carried out and not to the building resulting from the carrying out of those works.

## SCHEDULE 17

Section 179.

### PROCEEDINGS ON LISTED BUILDING PURCHASE NOTICE

*Action by <sup>F146</sup> planning authority on whom listed building purchase notice is served*

#### **Textual Amendments**

**F146** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

- 1 (1) The <sup>F147</sup> planning authority on whom a listed building purchase notice is served, shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner or lessee by whom the purchase notice was served a notice stating either—

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) that the authority are willing to comply with the purchase notice; or
  - (b) that another <sup>F147</sup> planning authority or statutory undertakers specified in the notice under this sub-paragraph have agreed to comply with it in their place; or
  - (c) that for reasons specified in the notice under this sub-paragraph, the authority are not willing to comply with the purchase notice and have not found any other <sup>F147</sup> planning authority or statutory undertakers who will agree to comply with it in their place [<sup>F148</sup>and that they have transmitted to the Secretary of State a copy of the purchase notice and of the notice under this sub-paragraph.]
- (2) Where the <sup>F147</sup> planning authority on whom a listed building purchase notice is served by an owner or lessee have served on him a notice in accordance with sub-paragraph (1)(a) or (b) of this paragraph the authority, or the other <sup>F147</sup> planning authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the provisions of section 104 of this Act, and to have served a notice to treat in respect thereof on the date of service of the notice under sub-paragraph (1) of this paragraph.
- (3) Where the authority on whom a listed building purchase notice is served by an owner or lessee propose to serve on him a notice in accordance with sub-paragraph (1) (c) of this paragraph [<sup>F149</sup>then, before they take steps to serve that notice, they shall transmit to the Secretary of State a copy of the purchase notice together with a copy of the notice which they propose to serve under sub-paragraph (1)(c)]; and section 171 of this Act shall then apply in relation to the purchase notice as it applies in relation to a purchase notice under section 169 of this Act with the substitution for references therein to the Secretary of State taking action under section 172 of this Act of references to his taking action under paragraph 2 of this Schedule.

#### Textual Amendments

**F147** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**F148** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 53\(1\), Sch. 11 Pt. II para. 35\(2\)\(a\)](#)

**F149** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 53\(1\), Sch. 11 Pt. II para. 35\(2\)\(b\)](#)

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

**C11** [S. 108\(2\), 117–119, 121, 138, 154\(3\), 170–172, 175, 181, 195\(6\), 198\(3\), 199\(2\), 202\(3\), 205, 211, 212, 214, 216–230, 233\(7\), 242, 259, 266\(6\)\(b\), 275\(2\), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(1\)\(3\), Sch. 7 para. 2\(1\)\(xxv\) \(with \[Sch. 8 para. 33\]\(#\)\) Sch. 17 paras. 1-3 extended \(1.3.1996\) by 1995 c. 45, s. 16\(1\), \[Sch. 4 para. 2\\(1\\)\\(xix\\)\]\(#\); S.I. 1996/218, \[art. 2\]\(#\)](#)

**C12** [S. 202\(3\), 205, 211, 212, 214–230, 233\(7\), 242, 266\(6\)\(b\), 275\(2\), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 \(c. 29, SIF 44:1\), s. 112\(1\), Sch. 16 para. 1\(1\)\(xxiii\) \(with s. 112\(3\), Sch. 17 paras. 33, \[35\\(1\\)\]\(#\)\)](#)

**C13** [Para. 1 extended by Civil Aviation Act 1982 \(c. 16\), \[Sch. 2 para. 4\]\(#\)](#)

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Action by Secretary of State in relation to listed building purchase notice*

- 2 (1) Subject to the following provisions of this paragraph, if the Secretary of State is satisfied that the conditions specified in section 179(1)(a) to (c) of this Act are fulfilled in relation to a listed building purchase notice, he shall confirm the notice:
- Provided that, if he is satisfied that the said conditions are fulfilled only in respect of part of the land, he shall confirm the notice only in respect of that part and the notice shall have effect accordingly.
- (2) The Secretary of State shall not confirm the purchase notice unless he is satisfied that the land comprises such land contiguous or adjacent to the building as is in his opinion required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.
- (3) If it appears to the Secretary of State to be expedient to do so in the case of a listed building purchase notice served on account of listed building consent being refused or granted subject to conditions, he may, in lieu of confirming the purchase notice, grant listed building consent for the works in respect of which the application was made or, where such consent for those works was granted subject to conditions, revoke or amend those conditions so far as it appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of those works.
- (4) If it appears to the Secretary of State to be expedient to do so, in the case of a listed building purchase notice served on account of listed building consent being revoked or modified by an order under Part II of Schedule 10 to this Act, he may, in lieu of confirming the notice, cancel the order revoking the consent or, where the order modified the consent by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the works in respect of which the consent was granted.
- (5) If it appears to the Secretary of State that the land, or any part of it, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other works for which listed building consent ought to be granted, he may in lieu of confirming the listed building purchase notice or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that listed building consent for those works shall be granted in the event of an application being made in that behalf.
- (6) If it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any development for which planning permission ought to be granted, he may, in lieu of confirming the listed building purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that planning permission for that development shall be granted in the event of an application being made in that behalf.
- (7) If it appears to the Secretary of State, having regard to the probable ultimate use of the building or the site thereof, that it is expedient to do so, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land, by substituting another <sup>F150</sup> planning authority or statutory undertakers for the authority on whom the notice was served.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (8) In section 171 of this Act as applied by paragraph 1(3) of this Schedule, any reference to the taking of action by the Secretary of State under this paragraph is a reference to the taking by him of any such action as is mentioned in sub-paragraphs (1) or (3) to (7) of this paragraph, or to the taking by him of a decision not to confirm the purchase notice on the grounds that any of the conditions referred to in sub-paragraph (1) of this paragraph are not fulfilled.

#### Textual Amendments

**F150** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 172\(2\)](#)

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

- C14** [S. 108\(2\)](#), [117–119](#), [121](#), [138](#), [154\(3\)](#), [170–172](#), [175](#), [181](#), [195\(6\)](#), [198\(3\)](#), [199\(2\)](#), [202\(3\)](#), [205](#), [211](#), [212](#), [214](#), [216–230](#), [233\(7\)](#), [242](#), [259](#), [266\(6\)\(b\)](#), [275\(2\)](#), [Sch. 8](#), [Sch. 17 para. 1–3](#), [Sch. 18](#) extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), [s. 67\(1\)\(3\)](#), [Sch. 7 para. 2\(1\)\(xxv\)](#) (with [Sch. 8 para. 33](#))  
[Sch. 17 paras. 1-3](#) extended (1.3.1996) by [1995 c. 45, s. 16\(1\)](#), [Sch. 4 para. 2\(1\)\(xix\)](#); [S.I. 1996/218, art. 2](#)
- C15** [S. 202\(3\)](#), [205](#), [211](#), [212](#), [214–230](#), [233\(7\)](#), [242](#), [266\(6\)\(b\)](#), [275\(2\)](#), [Sch. 8](#), [Sch. 17 paras. 1–3](#) amended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), [s. 112\(1\)](#), [Sch. 16 para. 1\(1\)\(xxiii\)](#) (with [s. 112\(3\)](#), [Sch. 17 paras. 33](#), [35\(1\)](#))
- C16** [Para. 2](#) extended by [Civil Aviation Act 1982 \(c. 16\)](#), [Sch. 2 para. 4](#)

#### *Effect of Secretary of State's action in relation to listed building purchase notice*

- 3 (1) Where the Secretary of State confirms a listed building purchase notice, the authority on whom the notice was served (or, if under paragraph 2(7) of this Schedule the Secretary of State modified the notice by substituting another authority or statutory undertakers for that authority, that other authority or those statutory undertakers) shall be deemed to be authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 104 of this Act and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct.
- (2) If, before the end of the relevant period, the Secretary of State has neither confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in sub-paragraphs (3) to (6) of paragraph 2 of this Schedule, and has not notified the owner or lessee by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the end of that period and the authority on whom the notice was served shall be deemed to have been authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 104 of this Act and to have served a notice to treat in respect thereof at the end of that period.
- (3) In this paragraph—
- (a) “the relevant interest” means the owner’s or lessee’s interest in the land or, if the purchase notice is confirmed by the Secretary of State in respect of only part of the land, the owner’s or lessee’s interest in that part;
- (b) “the relevant period” is [<sup>F151</sup> subject to sub-paragraph (3A) of this paragraph,] whichever of the following periods first expires, that is to say—
- (i) the period of nine months beginning with the date of the service of the purchase notice; and

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(ii) the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Secretary of State.

[<sup>F152</sup>(3A) The relevant period does not run if the Secretary of State has before him at the same time both a copy of the listed building purchase notice transmitted to him under paragraph 1(3) of this Schedule and an appeal notice under any of the following provisions of this Act relating to any of the land to which the purchase notice relates—

section 93 (appeal against listed building enforcement notice), or  
paragraph 7 or 8 of Schedule 10 (appeal against refusal of listed building consent, &c.).]

(4) Where the Secretary of State has notified the owner or lessee by whom a listed building purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice (including any decision to confirm the notice only in respect of part of the land, or to give any direction as to the granting of listed building consent) and that decision of the Secretary of State is quashed under the provisions of Part XII of this Act, the purchase notice shall be treated as cancelled, but the owner or lessee may serve a further listed building purchase notice in its place.

(5) For the purposes of any regulations made under this Act as to the time within which a listed building purchase notice may be served, the service of a listed building purchase notice under sub-paragraph (4) of this paragraph shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with these regulations if the decision to refuse listed building consent or to grant it subject to conditions (being the decision in consequence of which the notice is served) had been made on the date on which the decision of the Secretary of State was quashed as mentioned in sub-paragraph (4) of this paragraph.

#### Textual Amendments

**F151** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(1), **Sch. 11 Pt. II para. 37(2)**

**F152** [Sch. 17 para. 3\(3A\)](#) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(1), **Sch. 11 Pt. II para. 37(2)**

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

**C17** [S. 108\(2\)](#), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(b), 275(2), [Sch. 8](#), [Sch. 17 para. 1–3](#), [Sch. 18](#) extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 2\(1\)\(xxv\)](#) (with **Sch. 8 para. 33**)  
[Sch. 17 paras. 1-3](#) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

**C18** [S. 202\(3\)](#), 205, 211, 212, 214–230, 233(7), 242, 266(6)(b), 275(2), [Sch. 8](#), [Sch. 17 paras. 1–3](#) amended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), [Sch. 16 para. 1\(1\)\(xxiii\)](#) (with s. 112(3), [Sch. 17 paras. 33](#), **35(1)**)

**C19** [Para. 3](#) extended by [Civil Aviation Act 1982 \(c. 16\)](#), **Sch. 2 para. 4**; amended by [British Telecommunications Act 1981 \(c. 38\)](#), **Sch. 3 para. 12**

#### *Special provision as to compensation where listed building purchase notice served*

4 Where in consequence of listed building consent being revoked or modified by an order under Part II of Schedule 10 to this Act, compensation is payable by virtue of



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section 161 of this Act in respect of expenditure incurred in carrying out any works to the building in respect of which the consent was granted, then if a listed building purchase notice is served in respect of an interest in the land, any compensation payable in respect of the acquisition of that interest in pursuance of the notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable by virtue of that section.

## SCHEDULE 18

Section 206.

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

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

- C20** S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)  
Sch. 18 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**
- C21** Sch. 18 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(7)(a)(9)** (with s. 112(3), Sch. 17 paras. 33, 35(1))
- C22** Sch. 18 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

## PART I

### CONFIRMATION OF ORDERS

- 1 (1) Before an order under section [F<sup>153</sup>198A, 199, F<sup>154</sup>, 201] or 203(1)(b) of this Act is submitted to the Secretary of State for confirmation or confirmed as an unopposed order, the authority by whom the order was made shall give notice in the prescribed form—
- (a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order;
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours; and
  - (c) specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Subject to sub-paragraph (3) of this paragraph, the notice to be given under sub-paragraph (1) of this paragraph shall be given—
- (a) by publication in the Edinburgh Gazette and in at least one local newspaper circulating in the area in which the land to which the order relates is situated; and
  - (b) by serving a like notice on—
    - (i) every owner, occupier and lessee (except tenants for a month or a period less than a month and statutory tenants within the meaning of the <sup>M8</sup>Rent (Scotland) Act 1971) of any of that land;

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (ii) every [<sup>F155</sup>local authority] whose area includes any of that land;
  - (iii) any statutory undertakers to whom there belongs, or by whom there is used, for the purposes of their undertaking, any apparatus under, in, on, over, along or across that land; and
  - (iv) any person named in the order by virtue of section 199(2)(d) of this Act; and
  - (c) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any footpath or bridleway as is to be stopped up, diverted or extinguished by virtue of the order.
- (3) Except in the case of an owner, occupier or lessee being a local authority or statutory undertakers, the Secretary of State may in any particular case direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i) of this paragraph; but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to “the owners and any occupiers” of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.

#### Textual Amendments

**F153** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\)](#), [Sch. 3 para. 23\(a\)](#)

**F154** Figure repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), [Sch. 11](#) (with s. 128(1))

**F155** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 23 para. 34](#)

#### Marginal Citations

**M8** 1971 c. 28.

- 2 If no representations or objections are duly made, or if any so made are withdrawn, the authority by whom the order was made may, instead of submitting the order to the Secretary of State themselves confirm the order (but without any modification).
- 3 (1) If any representation or objection duly made is not withdrawn, the Secretary of State shall, before confirming the order, if the objection is made by a local authority, cause a local inquiry to be held, and in any other case either—
- (a) cause a local inquiry to be held; or
  - (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose,
- and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm the order, with or without modifications:
- Provided that in the case of an order under section [<sup>F156</sup>198A, [<sup>F157</sup> or 199]] of this Act, if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purpose of their undertaking, or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Notwithstanding anything in the foregoing provisions of this paragraph, the Secretary of State shall not confirm an order so as to affect land not affected by the order as submitted to him, except after—
- (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made;
  - (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose; and
  - (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections as the case may be;

and, in the case of an order under section [F156 198A, [F158 or 199]] of this Act, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking, or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

#### Textual Amendments

- F156** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\)](#), [Sch. 3 para. 23\(b\)](#)
- F157** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 70\(22\)\(a\)](#) (with s. 128(1))
- F158** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 70\(22\)\(b\)](#) (with s. 128(1))

- 4 (1) The Secretary of State shall not confirm an order under section [F159 198A, 199, F160 or 201] of this Act which extinguishes a right of way over land under, in, on, over, along or across which there is any apparatus belonging to or used by statutory undertakers for the purposes of their undertaking, unless the undertakers have consented to the confirmation of the order; and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.
- (2) The consent of statutory undertakers to any such order shall not be unreasonably withheld; and any question arising under this paragraph whether the withholding of consent is unreasonable, or whether any requirement is reasonable, shall be determined by whichever Minister is the appropriate Minister in relation to the statutory undertakers concerned.

#### Textual Amendments

- F159** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\)](#), [Sch. 3 para. 23\(c\)](#)
- F160** Figure repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), [Sch. 11](#) (with s. 128(1))

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 5 Regulations under this Act may, subject to this Part of this Schedule, make such provision as the Secretary of State thinks expedient as to the procedure on the making, submission and confirmation of orders under sections [<sup>F161</sup>198A, 199, <sup>F162</sup>, 201] and 203(1)(b) of this Act.

#### Textual Amendments

**F161** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\)](#), [Sch. 3 para. 23\(a\)](#)

**F162** Figure repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), [Sch. 11](#) (with s. 128(1))

## PART II

### PUBLICITY FOR ORDERS AFTER CONFIRMATION

- 6 As soon as may be after an order under section [<sup>F163</sup>198A, 199, <sup>F164</sup>, 201] or 203(1)(b) of this Act has been confirmed by the Secretary of State or confirmed as an unopposed order, the authority by whom the order was made shall publish, in the manner required by paragraph 1(2) of this Schedule, a notice in the prescribed form, describing the general effect of the order, stating that it has been confirmed, and naming a place where a copy thereof as confirmed may be inspected free of charge at all reasonable hours, and shall—
- (a) serve a like notice and a copy of the order as confirmed on any persons on whom notices were required to be served under the said paragraph 1(2); and
  - (b) cause a like notice to be displayed in the like manner as the notice required to be displayed under the said paragraph 1(2):

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

#### Textual Amendments

**F163** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\)](#), [Sch. 3 para. 23\(a\)](#)

**F164** Figure repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), [Sch. 11](#) (with s. 128(1))

## SCHEDULE 19

Sections 250, 251, 256, 257 and 259 and  
paragraphs 70 and 71 of Schedule 22.

PROVISIONS OF THIS ACT REFERRED TO IN SECTIONS 250, 251,  
256, 257 AND 259 AND PARAGRAPHS 70 AND 71 OF SCHEDULE 22

## PART I

Sections 1 and 2.

**Status:** Point in time view as at 03/02/1995.

**Changes to legislation:** Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Section 19.

Section 20 except subsection (7).

Section 21 except subsection (6).

Section 22.

Section 26(1).

[<sup>F165</sup>Section 26A]

#### Textual Amendments

**F165** Words in [Sch. 19 Pt. I](#) inserted (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13 para. 43\(a\)\(i\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)

Section 27.

Section 28(1).

Sections 29 and 30.

Section 31(2) and (4).

Section 32 with the omission in subsection (4) of the reference to sections 23 and 24.

Section 33(1) to (6) with the omission in subsection (5) of the reference to section 24.

Section 34.

Section 37.

Section 42.

[<sup>F166</sup>Section 49 to 50].

#### Textual Amendments

**F166** Words in [Sch. 19 Pt I](#) substituted (25.9.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13 para. 43\(a\)\(ii\)](#) (with s. 84(5)); S.I. 1992/1937, [art. 4](#) (with transitional provision in art. 5 of that S.I.)

Section 52 except subsections (6), (8) and (9).

Section 58.

[<sup>F167</sup>Sections 61 to 63A].

#### Textual Amendments

**F167** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(1), [Sch. 11 Pt. II para. 60](#)

Section 86.

Sections 88 to 89.

**Status:** Point in time view as at 03/02/1995.

*Changes to legislation:* Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[<sup>F168</sup>Section 90A.]

**Textual Amendments**

**F168** Words in *Sch. 19 Pt. I* inserted (25.9.1992) by *Planning and Compensation Act 1991 (c. 34, SIF 123:2)*, s. 61, *Sch. 13 para. 43(a)(iii)* (with s. 84(5)); S.I. 1992/1937, *art. 4* (with transitional provision in art. 5 of that S.I.)

[<sup>F169</sup>Sections 91A to 91C.]

**Textual Amendments**

**F169** Words in *Sch. 19 Pt. I* inserted (26.3.1992) by *Planning and Compensation Act 1991 (c. 34, SIF 123:2)*, s. 61, *Sch. 13 para. 43(a)(iii)* (with s. 84(5)); S.I. 1992/334, *art. 4, Sch. 2*

Section 98.

[<sup>F170</sup>Sections 99A to 99C]

**Textual Amendments**

**F170** Words in *Sch. 19 Pt. I* inserted (26.3.1992) by *Planning and Compensation Act 1991 (c. 34, SIF 123:2)*, s. 61, *Sch. 13 para. 43(a)(iv)* (with s. 84(5)); S.I. 1992/334, *art. 4, Sch. 2*

Sections 100 and 101.

Sections 108 to 115.

Sections 117 to 122.

Section 153.

Section 154 with the omission in subsection (2) of the references to sections 155 to 157.

<sup>F171</sup> . . .

**Textual Amendments**

**F171** Words in *Sch. 19 Pt. I* repealed (25. 9. 1991) by *Planning and Compensation Act 1991 (C. 34, SIF 123:2)*, s. 60(6), *Sch. 12, para. 33, Sch. 19, Pt. IV* (with s. 84(5)); S.I. 1991/2092, *art. 3*

Section 159.

Section 163.

Section 165.

Sections 167 and 168.

Section 169(1) to (4).

Sections 170 to 172.

Sections 175 to 178.

**Status:** Point in time view as at 03/02/1995.

**Changes to legislation:** Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Section 180(1).

Section 198.

Section 203 except subsection (1)(b).

Section 204.

Sections 207 and 208.

Section 209.

Section 211.

Sections 213 to 220.

Sections 222 to 225.

Section 226 except subsection (3).

Section 227 except subsections (4) and (6)(b).

Sections 228 to 230.

Section 231(1) except paragraphs (d) and (e).

Section 232.

Section 236 with the omission in subsection (2) of the references to section 233.

<sup>F172</sup>Sections 241 and 242.

#### **Textual Amendments**

**F172** Words repealed [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(2), **Sch. 12 Pt. IV**

Section 250.

Sections 251 and 252.

Section 253(1) (the reference, in paragraph (b), to Part III being construed as not referring to sections 23 and 24 and the reference, in that paragraph, to Part IV being construed as not referring to sections 71 to 83) and section 253(2) to (5) and (7).

Section 254.

Section 256.

Section 258.

Section 260.

Section 265 except subsections (4) and (5).

Section 266.

Section 270.

Schedules 1 and 2.

**Status:** Point in time view as at 03/02/1995.

*Changes to legislation:* Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Schedule 6.

Schedule 20.

Schedule 22, paragraphs 27 to 32, 38, 40 and 74 to 79.

Any other provisions of this Act in so far as they apply, or have effect for the purposes of, any of the provisions specified above.

## PART II

Section 3.

Sections 4 to 18.

Sections 23(2) to (6) except subsection (2)(a) and the reference to it in subsection (6), and subsection (8).

Section 25(2)(b) and (3).

Section 26(4).

Section 28(2) and (3).

Section 31(3).

Section 33(7) [<sup>F173</sup>to] (8).

### Textual Amendments

**F173** Words in [Sch. 19](#), Pt. ii substituted (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13](#), para. 43(b)(i) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)

Sections 38 to 41.

Sections 43 to 47.

Section 52(8) and (9).

Sections 53 and 54.

Section 56.

[<sup>F174</sup>Sections 83A to 83D.]

### Textual Amendments

**F174** Words in [Sch. 19](#), Pt. II inserted (26.3.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13](#), para. 43(b)(ii) (with s. 84(5)); S.I. 1992/334, [art. 4](#), [Sch. 2](#)

<sup>F175</sup>Sections [<sup>F175</sup> and 85.]



**Status:** Point in time view as at 03/02/1995.

**Changes to legislation:** Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F175** Words repealed [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(2), **Sch. 12 Pt. IV**

Section 87.

[<sup>F176</sup>Section 87AA.]

#### Textual Amendments

**F176** Words in [Sch. 19, Pt. II](#) inserted (25.9.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, **Sch. 13 para. 43(b)(iii)** (with s. 84(5)); S.I.1992/1937, **art. 4**

Sections 90 to 96.

Section 99(4).

Sections 102 to 107.

Sections 160 to 162.

Section 166.

Section 169(5) and (6).

Section 173.

Section 179.

Section 186.

Sections 190 and 191.

Sections 199 to 202.

Section 203(1)(b).

Sections 205 and 206

Section 210.

Section 212.

Section 221.

Section 226(3).

Section 227(4) and (6)(b).

Section 240.

Section 243.

Section 257.

Section 271.

Schedules 5, 7, 8, 9, 10, 12, 17 and 18 and paragraphs 14 to 17, 20, 26, 33, 34, 36, 48, 49 and 65 of Schedule 22.

**Status:** Point in time view as at 03/02/1995.

**Changes to legislation:** *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Any other provisions of this Act in so far as they apply, or have effect for the purposes of, any of the provisions specified above.

### PART III

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

**C23** Pt. III modified by s. 1981/829, reg. 3

Sections 19 to 22.

Section 26(1), (5) and (6).

Section 27.

Section 28(1).

Sections 29 and 30.

Section 31 except subsection (3).

Sections 32 to 34.

Section 37.

Section 42.

Sections 48 to 51.

Section 52 except subsections (2) and (7) to (9).

Section 58.

[<sup>F177</sup>Sections 61 to 63A].

**Textual Amendments**

**F177** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(1), **Sch. 11 Pt. II para. 60**

[<sup>F178</sup>Sections 83A to 83D.]

**Textual Amendments**

**F178** Words in [Sch. 19, Pt. III](#) inserted (26.3.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, **Sch. 13 para. 43(c)** (with s. 84(5)); S.I. 1992/334, art. 4, **Sch. 2**

<sup>F179</sup>Sections 84 to 91.

**Textual Amendments**

**F179** Words repealed [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(2), **Sch. 12 Pt. IV**

Section 98.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Sections 100 and 101.

Section 166.

#### PART IV

Section 25(2)(b) and (3).

Section 26(4).

Section 28(2) and (3).

Section 52(2) and (7) to (9).

Section 53.

Section 54.

Section 56.

Sections 92 to 96.

Sections 104 to 107.

Sections 160 to 162.

Section 169(5) and (6).

Section 179.

[<sup>F180</sup>Sections 231 and 233]

#### Textual Amendments

**F180** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, **Sch. 9 Pt. II para. 24**

Schedules 10 and 17.

#### SCHEDULE 20

Section 273(6).

#### ENACTMENTS EXEMPTED FROM SECTION 273(6) OF THIS ACT

1 Section 32(1) of the <sup>M9</sup>Public Health (Scotland) Act 1897.

#### Marginal Citations

**M9** 1897 c. 38.

2 Section 158 of the <sup>M10</sup>Burgh Police (Scotland) Act 1892, as extended by section 104(2)(h) of the <sup>M11</sup>Burgh Police (Scotland) Act 1903.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Marginal Citations**

**M10** 1892 c. 55.

**M11** 1903 c. 33.

**F181**

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**Textual Amendments**

**F181** Sch. 20 para. 3 repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), [Sch. 11](#) (with s. 128(1))

4           Any enactment making such provision as might by virtue of any Act of Parliament have been made in relation to the area to which the order applies by means of a byelaw, order or regulation not requiring confirmation by Parliament.

5           Any enactment which has been previously excluded or modified by a development order, and any enactment having substantially the same effect as any such enactment.

SCHEDULE 21

Sections 18 and 276.

CONSEQUENTIAL AMENDMENTS

PART I

THE <sup>M12</sup>LAND COMPENSATION (SCOTLAND) ACT 1963 (C. 51)

**Marginal Citations**

**M12** 1963 c. 51.

In the Land Compensation (Scotland) Act 1963 any reference to an area defined in the current development plan as an area of comprehensive development shall be construed as a reference to an action area for which a local plan is in force [<sup>F182</sup>or to a comprehensive development area as the case may be.].

**Textual Amendments**

**F182** Words added by [Town and Country Planning \(Scotland\) Act 1977 \(c. 10\)](#), s. 5(7)

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART II

### Modifications etc. (not altering text)

**C24** The text of Sch. 21 Pt. II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### *The Finance Act 1931 (c. 28)*

In section 28(6) (inserted by the Land Commission Act 1967), for the words “the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ”.

In Schedule 2, in paragraph (viii) (inserted by the Land Commission Act 1967), for the words “section 12(5) of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ section 31(2) of the Town and Country Planning (Scotland) Act 1972 ”.

### *The Building Restrictions (War-Time Contraventions) Act 1946 (c. 35)*

In section 8(5), in paragraph (c), after the word “1947” there shall be inserted the words “ or of paragraph 28 of Schedule 22 to the Town and Country Planning (Scotland) Act 1972 ”, and the words “under Part II of that Act” shall be omitted; and at the end of paragraph (d) there shall be added the words “ or by paragraph 28 of Schedule 22 of the Town and Country Planning (Scotland) Act 1972 ”.

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

In section 44(1), for the words “this Part of this Act” there shall be substituted the words “ Part VI of the Town and Country Planning (Scotland) Act 1972 ”.

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

Section 17(2) shall be amended as follows:—

- (a) for paragraph (b) there shall be substituted the following paragraph—
  - “(b) subject to a building preservation notice under section 56 of the Town and Country Planning (Scotland) Act 1972”;
- (b) in paragraph (c), for the words “section 28 of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ section 52 of the said Act of 1972 ”;
- (c) after the words “Act of 1931” there shall be inserted the words “ the said Act of 1972 ”.

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

For section 27(5)(b) there shall be substituted the following paragraph:—

“(b) to section 113 of the Town and Country Planning (Scotland) Act 1972”.

In Schedule 4, in paragraph 2, for the words “the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ”.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *The Gas Act 1965 (c. 36)*

In section 4(7), for the words “the Town and Country Planning (Scotland) Acts 1947 to 1963” and “section 32 of the Town and Country Planning (Scotland) Act 1947” there shall be substituted respectively the words “ the Town and Country Planning (Scotland) Act 1972 ” and “ section 37 of that Act ”.

In section 28(1)—

- (a) in the definition of “local planning authority”, for the words “section 2 of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ section 1 of the Town and Country Planning (Scotland) Act 1972 ”;
- (b) in the definition of “planning permission”, for the words “Part III of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ Part III of the Town and Country Planning (Scotland) Act 1972 ”.

In Schedule 3—

- (a) in paragraph 7(2), for the word “1947” there shall be substituted the word “ 1972 ”;
- (b) in paragraph 9(a), for the words “section 19 of the Town and Country Planning (Scotland) Act 1954”, “Part II of the said Act of 1954” and “sections 23 and 24 of the said Act of 1954” there shall be substituted respectively the words “ section 135 of the Town and Country Planning (Scotland) Act 1972 ”, “ Part VII of the said Act of 1972 ” and “ sections 35 and 36 of the said Act of 1972 ”.

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

In section 18, in subsection (1), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

- “(a) in relation to which a building preservation notice served under section 56 of the Town and Country Planning (Scotland) Act 1972 is in force, or
- (b) which is a listed building within the meaning of section 52(7) of that Act”,

and in subsection (2), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

- “(a) subject to a building preservation notice served under the said section 56, or
- (b) a listed building within the meaning of said section 52(7)”.

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

In section 9(5), for the words “the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ”.

In section 10(4), for the words “the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ”.

In section 25(3)(c), for the words from “of a building” to “notified” there shall be substituted the words “ of a building preservation notice as defined by section 56 of the Town and Country Planning (Scotland) Act 1972 or are included in a list compiled or approved under section 52 of that Act or are notified ”.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

In section 41, for the words “the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “the Town and Country Planning (Scotland) Act 1972”.

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

In section 15, for the words set out in the first column below (in each place where they occur in that section) there shall be substituted the words set out opposite to them in the second column below —:

“the Scottish Act of 1945”	“the Act of 1972”
“section 21”	“section 117”
“section 24”	“sections 219 and 220”
“Schedule 4”	“sections 226(2) and 227”
“section 35 of the Scottish Act of 1947”	“section 102”
“subsection (1) of the said section 24”	“section 219(1)”
“section 86 of the Scottish Act of 1947”	“section 259”

In section 58(3), for the words “section 113(1) of the Scottish Act of 1947” there shall be substituted the words “section 275(1) of the Act of 1972”.

In section 89(6)(b), for the words “section 113(1) of the Scottish Act of 1947” there shall be substituted the words “section 275(1) of the Act of 1972”.

In section 99—

- (a) in subsection (1), after the words “the Act of 1971” means the Town and Country Planning Act 1971” there shall be inserted the words “the Act of 1972” means the Town and Country Planning (Scotland) Act 1972”;
- (b) in subsection (2)(b), for the words from “Part I” to the end of the paragraph there shall be substituted the words “any of paragraphs 1, 2, 3 and 5 to 9 of Schedule 6 to the Act of 1972, as read with Part III of that Schedule”; and
- (c) in subsection (8), for the words from “section 113(1)” to “1959 (interpretation)” there shall be substituted the words “and section 275(1) (interpretation) of the Act of 1972”.

In Schedule 15, in paragraph (viii), for the words “section 12(5) of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “section 31 of the Town and Country Planning (Scotland) Act 1972”.

In Schedule 16, in Part II, for the words “section 27 of the Scottish Act of 1945” there shall be substituted the words “section 118 of the Act of 1972” and for the words “said section 27” there shall be substituted the words

“said section 118”.

*The Forestry Act 1967 (c. 10)*

In section 9(4)(d), for the words “the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “the Town and Country Planning (Scotland) Act 1972”.

In section 35, for the words “section 26 of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “section 58 of the Town and Country Planning (Scotland) Act 1972”.

*Status: Point in time view as at 03/02/1995.*

**Changes to legislation:** *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

In Schedule 3, in paragraph 2, for the words “section 13 of the Town and Country Planning (Scotland) Act 1947” and “the said section 13” there shall be substituted respectively the words “ section 32 of the Town and Country Planning (Scotland) Act 1972 ” and “ the said section 32 ”; and in paragraph 3, for the words “the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ”.

*The Agriculture Act 1967 (c. 22)*

In section 50(3)(b), for the words “section 113(1) of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ section 257(1) of the Town and Country Planning (Scotland) Act 1972 ”.

In section 52(2)(g), for the words “the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ”.

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

<sup>F183</sup>In section 30(1), for the words “ “the Scottish Planning Act” means the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ “the Scottish Planning Act” means the Town and Country Planning (Scotland) Act 1972 ”.

**Textual Amendments**

**F183** Entry repealed by [Refuse Disposal \(Amenity\) Act 1978 \(c. 3\)](#), **Sch. 2**

*The Public Expenditure and Receipts Act 1968 (c. 14)*

In Schedule 3, for paragraph 7(a) there shall be substituted:—

“(a) The Town and Country Planning (Scotland) Act 1972 section 134(9)”.

*The Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)*

In section 14(2), for the words “sections 34, 35 or 39(3) of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ section 102 or 110 of the Town and Country Planning (Scotland) Act 1972 ”.

*The Transport Act 1968 (c. 73)*

In section 108—

- (a) in subsection (2), for the words “section 31 of the Town and Country Planning (Scotland) Act 1947”, “the said Act of 1947” and “the said section 31” there shall be substituted respectively the words “ section 63 of the Town and Country Planning (Scotland) Act 1972 ”, “ the said Act of 1972 ” and “ the said section 63 ”;
- (b) in subsection (3), for the words “the said Act of 1947” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1947 ”.



*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

In section 112(3)(d), for the words “section 31 of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ section 63 of the Town and Country Planning (Scotland) Act 1972 ”.

In section 139(1)(b) and (c), for the words “section 17 of the Town and Country Planning (Scotland) Act 1947”, “section 38 of the Town and Country Planning (Scotland) Act 1959” and “section 41 of the Act of 1959” there shall be substituted respectively the words “ section 169, 177 or 178 of the Town and Country Planning (Scotland) Act 1972 ”,

“ section 182 of the said Act of 1972 ” and “ section 185 of the said Act of 1972 ”.

In section 141(2), for the words “section 113(1) of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “ section 275(1) of the Town and Country Planning (Scotland) Act 1972 ”.

*The Post Office Act 1969 (c. 48)*

In section 58, for the words set out in the first column below there shall be substituted the words set out opposite to them in the second column below:—

“Subsections (4) to (6) and subsection (9) of section 99 of the Town and Country Planning (Scotland) Act 1947”	“ Sections 265(8) and 266(1) to (3) and (6) of the Town and Country Planning (Scotland) Act 1972 ”
“the said section 99”	“ the said section 265 ”
“section 99(4)”	“ section 266(1) ”
“section 99(9)”	“ section 265(8) ”

In Schedule 4—

- (a) in paragraph 92(1), for the words from “section 70(1)” to “undertakers” and for the words “section 113(1) of the Act of 1947” there shall be substituted respectively the words “ section 212(1) of the Town and Country Planning (Scotland) Act 1972 ” and “ section 211 of that Act ”; and in paragraph 92(2), for the words “The said section 70” there shall be substituted the words “ The said section 212 ”.
- (b) in paragraph 93(1), sub-paragraphs (iii), (vi), (xvi) and (xxxii) shall be omitted and after sub-paragraph (xxxiii) there shall be inserted—  
“(xxxiv) sections 19, 37, 45, 46, 108(2), 117, 118, 119, 138, 154(3), 170, 171, 172, 175, 181, 195(6), 199(2), 202(3), 205, 212, 214 to 230, 233(7), 242 and 266(6)(b) of, and Schedules 8 and 9, paragraphs 1 to 3 of Schedule 17, and Schedule 18 to, the Town and Country Planning (Scotland) Act 1972”.
- (c) in paragraph 93(2), sub-paragraphs (a), (d), (h) and (r) shall be omitted and after sub-paragraph (s) there shall be inserted—  
“(t) sections 195(6), 214 to 230 and 266(6)(b) of, and Schedule 8 and paragraph 4 of Schedule 18 to, the Town and Country Planning (Scotland) Act 1972”.
- (d) in paragraph 93(4), sub-paragraphs (a), (b) and (i) shall be omitted and after sub-paragraph (j) there shall be inserted—  
“(k) sections 138(3), 154(3) and 214 to 230 of, and Schedule 8 to, the Town and Country Planning (Scotland) Act 1972”.

In Schedule 9—

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) in paragraph 27, for the words set out in the first column below (in each place where they occur in that paragraph) there shall be substituted the words set out opposite to them in the second column below:—

“Parts VII and XII of the Town and Country Planning Act 1971”	“ Parts VII and XII of the Town and Country Planning (Scotland) Act 1972 ”
“Section 78 of the Town and Country Planning Act 1971”	“ Section 76 of the Town and Country Planning (Scotland) Act 1972 ”
“Section 34 of the Town and Country Planning Act 1971”	“ Section 31 of the Town and Country Planning (Scotland) Act 1972 ”
“Minister of Housing and Local Government”	“ Secretary of State ”
“section 70 of the Town and Country Planning (Scotland) Act 1969”	“ section 212 of the Town and Country Planning (Scotland) Act 1972 ”
“the Town and Country Planning (Scotland) Act 1947”	“ the Town and Country Planning (Scotland) Act 1972 ”
“sections 66 and 67 of the Town and Country Planning (Scotland) Act 1969”	“ sections 38 and 39 of the Town and Country Planning (Scotland) Act 1972 ”
“Subsections (5) and (7) of section 43 of the Town and Country Planning Act 1971”	“ Subsections (5) and (7) of section 40 of the Town and Country Planning (Scotland) Act 1972 ”
“sections 41 and 42 of that Act”	“ sections 38 and 39 of that Act ”

- (b) in paragraph 28, for the words set out in the first column below there shall be substituted the words set out opposite to them in the second column below:—

“section 83 of the Town and Country Planning (Scotland) Act 1947”	“ section 253 of the Town and Country Planning (Scotland) Act 1972 ”
“section 36 of the Town and Country Planning (Scotland) Act 1959”	“ section 24 of the said Act of 1972 ”
“the said Act of 1947” (in paragraph 28(2))	“ the said Act of 1972 ”

- (c) in paragraph 29, for the words “section 72(1) of the Town and Country Planning (Scotland) Act 1947” and “section 15 of the Town and Country Planning (Scotland) Act 1969” there shall be substituted respectively the words “ paragraph 28 of Schedule 22 to the Town and Country Planning (Scotland) Act 1972 ” and “ section 84 of the said Act of 1972 ”.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 22

Section 277.

### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I

##### GENERAL PROVISIONS

- 1 (1) In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision in this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.
  - (2) Sub-paragraph (1) of this paragraph applies, in particular, to any order, regulation, rule, development plan or amendment or alteration of a development plan, application, objection, representation, determination, decision, reference, appeal, declaration, agreement, arrangement, claim or apportionment made, payment made or recovered, report or proposal submitted, list or amendment of a list compiled or made, permission granted, consent, approval or authorisation given, certificate, permit, information or direction issued or given, enforcement or other notice or copy served, published or registered, inquiry held, delegation effected, register kept and requirement imposed.
  - (3) In relation to any permission which (whether by virtue of an enactment repealed by this Act or otherwise) was deemed to be granted under an enactment repealed by this Act, sub-paragraph (1) of this paragraph shall apply as it applies to permission granted under such an enactment.
  - (4) Sub-paragraph (1) of this paragraph shall not apply to any regulations or order revoked as from the commencement of this Act in the exercise of the powers conferred by section 280 of this Act.
- 2 Without prejudice to section 276 of, and Schedule 21 to, this Act, where any Act (whether passed before, or in the same Session as this Act) or any document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.
  - 3 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.
  - 4 Without prejudice to paragraph 1 of this Schedule, any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to an event which has occurred, under or for the purposes of or by reference to or in contravention of any provisions of this Act shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes

*Status: Point in time view as at 03/02/1995.*

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of or by reference to or in contravention of the corresponding provisions of the enactments repealed by this Act.

- 5 (1) Nothing in this Act shall affect the enactments repealed thereby in their operation in relation to offences committed before the commencement of this Act.
- (2) Where an offence, for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence has been committed under the corresponding provision of this Act.
- 6 (1) Any reference in this Act to an order or scheme made or confirmed under an enactment which is not repealed by, and re-enacted (with or without modifications) in, this Act, shall be construed as a reference to any order or scheme so made or confirmed whether before or after the commencement of this Act.
- (2) Without prejudice to sub-paragraph (1) of this paragraph, any reference in this Act to an order or scheme made or confirmed under an enactment contained in the <sup>M13</sup>New Towns (Scotland) Act 1968, or under any other such enactment as is mentioned in that sub-paragraph, shall be construed as including a reference to any order or scheme made or confirmed under any corresponding provisions of an enactment repealed by the said Act of 1968, or repealed by the enactment in question, as the case may be.

**Marginal Citations**

**M13** 1968 c. 16

**PART II**

CENTRAL AND LOCAL ADMINISTRATION

*Transfer of property and officers to <sup>F184</sup> planning authorities*

**Textual Amendments**

**F184** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

- 7 Nothing in this Act shall affect, or be treated as having affected, the operation of any regulations made by virtue of section 97 of the Act of 1947 (provisions for transfer of property and officers to <sup>F185</sup> planning authorities and for other matters consequential upon or supplementary to section 2 of that Act) in so far as any such regulations do not have effect in accordance with paragraph 1 of this Schedule.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F185** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

## PART III

### DEVELOPMENT PLANS

#### *Effect of existing commencement orders*

- 8 (1) In relation to so much of any order made under section 104 of the Act of 1969 (commencement) as brings into operation any of the provisions of that Act specified in the Table below, paragraphs 1 and 2 of this Schedule shall have effect subject to this paragraph.
- (2) So far as the order brings any of the said provisions into operation it shall have effect as if it were an order made under section 18(2) of this Act repealing the provisions of this Act set out opposite to the first-mentioned provisions in the said Table.
- (3) Any transitional provision made by the order in connection with any of the said provisions of the Act of 1969 which it brings into operation shall be construed so as to produce a corresponding effect in connection with the provisions of this Act which by virtue of this paragraph it is treated as repealing.

#### TABLE

<i>Provision of Act of 1969 brought into operation</i>	<i>Provision of this Act treated as repealed</i>
In Schedule 9, paragraph 4.	In Schedule 4, paragraphs 2, 3, 4 and 6.
In Schedule 9, paragraph 34.	In Schedule 4, paragraph 8.
In Schedule 11, the repeal of sections 3 to 9 of the Act of 1947.	In Schedule 4, paragraph 9, and in Schedule 3, the corresponding provision.
In Schedule 11, the repeal of section 33 of the Act of 1947.	In Schedule 4, paragraph 5.
In Schedule 11, the repeal of the definition of “development plan” in section 113(1) of the Act of 1947.	In Schedule 4, paragraph 7.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART IV

### GENERAL PLANNING CONTROL

#### *Planning permission: general*

- 9 Subsection (1) of section 20 of this Act applies (subject to the provisions of that section) to the carrying out of development whether before or after the commencement of this Act, except that it does not apply to development carried out on or before the appointed day.
- 10 In sections 23 and 24 of this Act references to an application for planning permission do not include references to any application made before 16th August 1959.
- 11 Subsection (2)(b) of section 23, and the other provisions of that section relating to subsection (2)(b), do not apply to any application made before 18th May 1970.
- 12 Where by virtue of the proviso to subsection (3) of section 3 of the <sup>M14</sup>Town and Country Planning (Amendment) Act 1951 (works for making good war damage which were begun between the appointed day and 13th December 1950) any works were, immediately before the commencement of this Act, treated for the purposes of that Act as if planning permission had been granted unconditionally in respect thereof, those works shall be so treated for the purposes of this Act also.

#### **Marginal Citations**

**M14** 1951 c. 19.

#### *Review of planning decisions and orders under Part V of Act of 1954*

- 13 For the purposes of paragraph 1 of this Schedule, any direction given under section 47(3) or (4) of the Act of 1954, whether before or (by virtue of paragraph 66 of this Schedule) after the commencement of this Act, as well as any direction given under section 23 of that Act, shall be treated as a direction which could have been given under section 35 of this Act.

#### *Duration of planning permission*

- 14 Sections 38 and 39 of this Act do not apply to planning permissions granted or deemed to have been granted before 8th December 1969.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 15 (1) Subject to sub-paragraph (2) of this paragraph, every planning permission granted or deemed to have been granted before 8th December 1969 shall, if the development to which it relates had not been begun before the beginning of 1969, be deemed to have been granted subject to a condition that the development must be begun not later than the expiration of five years beginning with 8th December 1969.
- (2) Sub-paragraph (1) of this paragraph does not apply—
- (a) to any planning permission which was granted or deemed to be granted before 8th December 1969 subject to an express condition that the development to which it relates should be begun, or be completed, not later than a specified date or within a specified period; or
  - (b) to any such planning permission as is mentioned in section 38(3) of this Act.
- 16 (1) Subject to sub-paragraph (2) of this paragraph, where before 8th December 1969 outline planning permission (as defined by section 39 of this Act) has been granted for development consisting in or including the carrying out of building or other operations, and the development has not been begun before the beginning of 1969, that planning permission shall be deemed to have been granted subject to conditions to the following effect—
- (a) that, in the case of any reserved matter (as defined in that section), application for approval must be made not later than the expiration of three years beginning with 8th December 1969; and
  - (b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates—
    - (i) the expiration of five years from 8th December 1969; or
    - (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (2) Sub-paragraph (1) of this paragraph does not apply to any planning permission granted before 8th December 1969 subject to an express condition that the development to which it relates should be begun, or be completed, or that application for approval of any reserved matter should be made, not later than a specified date or within a specified period.
- 17 (1) In sections 27(3), 40(1), (5), (6) and (7), 41 and 43(6) of this Act references to sections 38 and 39 of this Act shall respectively include references to paragraphs 15 and 16 of this Schedule.
- (2) In sections 136(3), 158(7), 169(4) and 226(5) of this Act references to the conditions referred to in sections 38 and 39 of this Act shall include references to the conditions referred to in paragraphs 15 and 16 of this Schedule.
- 18 Until the coming into operation of the first regulations to be made for the purposes of paragraph (c) of section 40(3) of this Act (or the corresponding enactment previously in force), regulations made for the purposes of section 99(2) of the <sup>M15</sup>Land Commission Act 1967 shall have effect as if made also for the purposes of that paragraph.

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Marginal Citations**

M15 1967 c. 1.

**PART V**

ADDITIONAL CONTROL IN SPECIAL CIRCUMSTANCES

*Buildings of architectural or historic interest*

- 19 Section 53(1) of this Act does not apply to any works executed or caused to be executed before 3rd August 1970.
- 20 (1) Where, before 3rd August 1970, consent under a building preservation order was given, either by the <sup>F186</sup> planning authority or by the Secretary of State on appeal, for the execution of any works, the consent shall operate in respect of those works as listed building consent, subject to the same conditions (if any) as were attached to the consent under the building preservation order.
- (2) In the case of demolition works for which consent was given under a building preservation order compliance with section 53(2)(b) of this Act shall not be required.

**Textual Amendments**

F186 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

*Replacement of trees*

- 21 Section 57 of this Act does not apply in relation to planning permission granted before 28th August 1967.

F187 .....

22—25.

**Textual Amendments**

F187 [Sch. 22 paras. 22–25](#) repealed by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 53\(2\), Sch. 12 Pt. IV](#)



*Status: Point in time view as at 03/02/1995.*

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## PART VI

### ENFORCEMENT OF CONTROL

#### *Enforcement notices under enactments in force before 8th December 1969*

- 26 (1) This paragraph applies to any enforcement notice which was served before 8th December 1969 on the owner, lessee and occupier of the land to which it related under section 21 of the Act of 1947 or to which paragraph 27 or 28 of this Schedule applies.
- (2) In relation to any such notice—
- (a) the provisions of this Act (other than this Schedule) shall not apply;
  - (b) notwithstanding their repeal or amendment by the Act of 1969, the provisions of the Act of 1947 and of any other Act passed before the Act of 1969 shall, subject to the subsequent provisions of this Schedule, have effect as they would have had effect in relation to the notice if the Act of 1969 and this Act had not been passed.
- (3) Nothing in this paragraph shall prevent the withdrawal, on or after 8th December 1969, of an enforcement notice so served or the service thereafter of an enforcement notice under Part V of this Act.

#### *Enforcement notices served by virtue of section 72 of Act of 1947*

- 27 (1) This paragraph applies to any enforcement notice served before the commencement of this Act by virtue of section 72 of the Act of 1947 (which related to development contravening planning control under the enactments repealed by that Act), being a notice which had not ceased for all purposes to have effect before the commencement of this Act.
- (2) The repeal by this Act of the said section 72 shall not invalidate any enforcement notice to which this paragraph applies.
- 28 In so far as an enforcement notice could, if this Act had not been passed, have been served by virtue of section 72 of the Act of 1947 at a time on or after the date of the commencement of this Act, in respect of any works or use of land of a description to which that section applied, there shall subsist by virtue of this paragraph a corresponding power in the like circumstances to serve an enforcement notice (to the like effect as that which could have been so served) in respect of those works or that use of land.
- 29 (1) Where an enforcement notice served by virtue of paragraph 28 of this Schedule, was or is served in respect of any works being government war works within the meaning of the <sup>M16</sup>Requisitioned Land and War Works Act 1945, then, subject to the following provisions of this paragraph—

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- (a) if the steps required by the notice have been taken by the owner, lessee or occupier of the land, any expenses reasonably incurred in that behalf shall be recoverable from the authority by whom the notice was served;
  - (b) where the steps required by the notice have been taken by that authority, the authority shall not be entitled, under section 22 of the Act of 1947, to recover the expenses incurred by them in that behalf.
- (2) Where under section 2(1)(b) of the <sup>M17</sup>Compensation (Defence) Act 1939 compensation has been paid equal to the full cost (as estimated for the purposes of that compensation) of taking the steps required by the enforcement notice, sub-paragraph (1) of this paragraph shall not apply.
- (3) Where compensation has been paid in respect of the land, being either compensation under the said section 2(1)(b) but not equal to the full cost (as so estimated) of taking those steps, or being compensation under section 3(4) of that Act, the amount which by virtue of sub-paragraph (1) of this paragraph is recoverable from the authority by whom the enforcement notice was served, or, as the case may be, is not recoverable by that authority, shall be reduced so far as may be just having regard to the compensation so paid.

#### Marginal Citations

**M16** 1945 c. 43.

**M17** 1939 c. 75.

- 30 (1) The power of a <sup>F188</sup> planning authority under Part III of this Act to grant planning permission for the retention on land of buildings or works constructed or carried out before the date of application, or for the continuance of a use of land instituted before that date, shall include power to grant such permission in respect of any buildings or other works, or use of land, in respect of which that authority are empowered to serve an enforcement notice by virtue of paragraph 28 of this Schedule.
- (2) Where permission is so granted, paragraphs 27 to 29 of this Schedule shall cease to apply to the works or use to which the permission relates, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

#### Textual Amendments

**F188** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

- 31 Where in pursuance of paragraph 76(3) of this Schedule permission is granted for the retention on land of works, or the continuance of a use, authorised as mentioned in the said paragraph 76(3), such of the provisions of paragraphs 27 to 30 of this Schedule as (apart from this paragraph) would be applicable thereto shall cease to apply to those works or that use, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

*Status: Point in time view as at 03/02/1995.*

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- 32 The repeal by this Act of section 72 of the Act of 1947 shall not affect the operation of any regulations made under subsection (8) of that section (which enabled provision to be made by regulations for applying the provisions of that section to contraventions, committed before the appointed day, of restrictions under enactments other than those relating to town and country planning) or of the provisions of that section as applied by any such regulations.

*Enforcement of building preservation orders*

- 33 The repeal by the Act of 1969 of section 27 of the Act of 1947 shall not prevent a <sup>F189</sup> planning authority from taking such proceedings as could have been taken but for the repeal to enforce any building preservation order made under that section and for securing the restoration of a building to its former state; and in relation to any such proceedings the provisions of the order, and of any provisions of the Act of 1947 incorporated therein, shall continue to have the same effect as if the Act of 1969 had not been passed.

**Textual Amendments**

**F189** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

*Enforcement of duties as to trees*

- 34 Subsection (3) of section 99 of this Act shall not have effect in relation to a notice served under that section before 8th December 1969, but in relation to such a notice subsection (5)(b) of section 14 of the <sup>M18</sup>Civic Amenities Act 1967 shall apply in the form in which it was originally enacted.

**Marginal Citations**

**M18** [1967 c. 69.](#)

**PART VII**

ACQUISITION OF LAND ETC.

*Consent of Minister to acquisition, appropriation or disposal of land*

- 35 Nothing in Part I of this Schedule shall be construed as validating any transaction whereby a local authority purported, in the exercise of a power conferred by an enactment repealed by this Act, but without the consent of the Minister then required by that enactment—
- (a) to acquire land by agreement in pursuance of a contract made before 16th August 1959; or

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(b) to appropriate or dispose of land before that date, notwithstanding that the transaction could have been validly effected without that consent under the corresponding provisions of Part VI of this Act.

*Existing compulsory purchase orders*

- 36 (1) Sections 102 and 103 of this Act shall not apply, and (notwithstanding their repeal by the Act of 1969) sections 34 and 35 of the <sup>M19</sup>Act of 1947 shall continue to apply to any land the acquisition of which was, immediately before 8th December 1969, authorised by a compulsory purchase order made by a local authority or statutory undertakers or by a Minister, or was then proposed to be authorised by such an order which had not been confirmed by a Minister or, as the case may be, had been prepared in draft by a Minister, but with respect to which a notice had then been published in accordance with paragraph 3(a) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.
- (2) The validity of a compulsory purchase order made under section 34, 35 or 38 of the Act of 1947 shall not be affected by the repeal by the Act of 1969 of the section under which the order was made; and a compulsory purchase order made (but not confirmed), or made in draft, before the repeal of that section took effect may be confirmed or made thereunder as if the Act of 1969 had not been passed.

**Marginal Citations**

**M19** 1947 c. 42.

- 37 The repeals effected by this Act shall not affect the validity of any order authorising the compulsory acquisition of any land—
- (a) under section 34(2) of the Act of 1947 (which enabled the Minister of Works or the Postmaster-General, during the period before a development plan had become operative with respect to any area, to be authorised in certain circumstances to acquire land compulsorily);
  - (b) under section 35(2) of that Act (which enabled certain local authorities, during any such period, to be authorised in certain circumstances to acquire land compulsorily); or
  - (c) under subsection (3) of section 35 of that Act in a case where the power conferred by that subsection was exercisable in lieu of the exercise of the power conferred by subsection (2) thereof,
- or of any notice served or other thing done in pursuance of any such order.
- 38 Any compulsory purchase order made or confirmed under Part I of the Act of 1945 (whether before or after the appointed day) shall, if in force immediately before the commencement of this Act, continue in force and shall have effect as if it had been made under the <sup>M20</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as applied by Part VI of this Act.

*Status: Point in time view as at 03/02/1995.*

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#### Marginal Citations

M20 1947 c. 42.

#### *Application of Part VI to land acquired or authorised to be acquired under previous enactments*

- 39 The provisions of Part VI of this Act shall have effect in relation to land acquired, or authorised to be acquired, in pursuance of any such order as is mentioned in paragraph 37 of this Schedule as if—
- (a) in the case of land acquired, or authorised to be acquired, by a local authority, the land had been acquired, or authorised to be acquired, by that local authority under section 102 of this Act;
  - (b) in the case of land acquired, or authorised to be acquired, by a Minister, the land had been acquired, or authorised to be acquired, by that Minister under section 103 of this Act.
- 40 For the purposes of Part VI of this Act—
- (a) any land acquired by a local authority in pursuance of a compulsory purchase order under Part I of the Act of 1945 shall be deemed to have been acquired under section 102 of this Act;
  - (b) any land acquired by a Minister in pursuance of any such order shall be deemed to have been acquired by him under section 103 of this Act;
  - (c) any land acquired by a local authority by agreement under the Act of 1945 shall be deemed to have been acquired under section 109 of this Act.
- 41 The reference in subsection (1) of section 122 of this Act to the acquisition of land under section 102 or 109 of this Act shall include a reference to the acquisition of land under section 35 or 37 of the Act of 1947; and the reference in that subsection to the appropriation of land for purposes for which land can be or could have been acquired under the provisions there mentioned is a reference to the appropriation of land for those purposes whether before or after the commencement of this Act.

#### *Provisions as to Central Land Board*

- 42 Section 117 of this Act shall have effect in relation to land acquired by the Central Land Board under section 40 of the Act of 1947 as it has effect in relation to land acquired by a local authority for planning purposes (as defined by section 122(1) of this Act).

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## PART VIII

### COMPENSATION UNDER PART VII OF THIS ACT

#### *Compensation under Part V of Act of 1954*

- 43 (1) Subject to the following provisions of this paragraph, for the purposes of the construction of sections 147 to 150 of this Act in accordance with Part I of this Schedule, any compensation (whether by way of principal or interest) under Part V of the Act of 1954, and any claim for, or notice registered in respect of, any such compensation, as well as any compensation under Part II of that Act, or any claim for, or notice registered in respect of, compensation under the said Part II, shall be treated as compensation or, as the case may be, a claim for, or a notice registered in respect of compensation, under provisions of that Act corresponding to those of Part VII of this Act.
- (2) For the purposes of the construction of section 147 of this Act in accordance with sub-paragraph (1) of this paragraph in relation to Part V of the Act of 1954, any reference to a planning decision shall be construed as including a reference to an order under section 19 of the Act of 1947.
- (3) Where compensation under Part V of the Act of 1954 became or becomes payable in respect of an order modifying planning permission, then (notwithstanding anything in the preceding provisions of this paragraph) the provisions of sections 148 and 150 of this Act shall not apply to development in accordance with that permission as modified by the order.

#### *Provision excluding recovery of compensation*

- 44 For the purposes of the construction, in accordance with Part I of this Schedule, of section 149(4) of this Act—
- (a) the provisions of section 54(6) of the Act of 1954 as originally enacted; and
  - (b) those provisions as applied by any regulations made under section 54(8) of that Act,
- as well as the provisions of the said section 54(6) as amended by section 49 of the Act of 1959, shall be treated as provisions corresponding to those of section 244 of this Act.

## PART IX

### COMPENSATION UNDER PART VIII OF THIS ACT

#### *Compensation to statutory undertakers*

- 45 Subsection (3) of section 154 of this Act shall not apply where the refusal or grant of planning permission referred to in subsection (1)(c) of that section was before 8th December 1969.

*Status: Point in time view as at 03/02/1995.*

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### *Contribution by Secretary of State towards compensation*

- 46 For the purposes of the construction of section 156(1) of this Act in accordance with Part I of this Schedule, any compensation which could have been claimed and would have been payable under Part V of the Act of 1954, as well as any compensation which could have been claimed and would have been payable under Part II of that Act, shall be treated as compensation which could have been claimed and would have been payable under provisions of that Act corresponding to the provisions of Part VII of this Act.

### *Recovery of compensation*

- 47 For the purposes of the construction of section 157(3) of this Act in accordance with Part I of this Schedule, any grant paid—
- (a) under the provisions of the section substituted by section 52 of the Act of 1954 for section 89 of the Act of 1947, but without the amendments made by the <sup>M21</sup>Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 or the <sup>M22</sup>Local Government (Scotland) Act 1966; or
  - (b) under the provisions of Part IX of the Act of 1947 as originally enacted, as well as any grant paid under the provisions of the said section 89 shall be treated as a grant paid under provisions corresponding to those of Part XIII of this Act.

#### **Marginal Citations**

- M21** 1958 c. 64.  
**M22** 1966 c. 51.

## **PART X**

### **BLIGHT NOTICES**

#### *Notices served before 8th December 1969 or 18th May 1970*

- 48 In relation to a notice served under section 38 of the Act of 1959 before 8th December 1969 or (in the case of such a notice served by a heritable creditor) 18th May 1970, and to any hereditament or agricultural unit which is the subject of the notice, sections 183 to 196 of this Act shall, on and after that date, have effect as if they contained the provisions in Part IV of and Schedule 5 to the Act of 1959 without any of the amendments made by Part IV of the Act of 1969.

#### *Temporary inclusion of additional description of blighted land*

- 49 (1) For the purposes of the application of sections 181 to 196 of this Act to an area to which this paragraph applies—

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- (a) the description of land contained in section 38(1)(b) of the Act of 1959 shall be included among the specified descriptions as defined in section 181(6) of this Act; and
  - (b) in sections 182(3) and 195(2) of this Act references to paragraph (b) of section 181(1) of this Act shall include references to the said section 38(1)(b).
- (2) This paragraph applies to any area for which no local plan is in force under Part II of this Act—
- (a) allocating any land in the area for the purposes of such functions as are mentioned in section 181(1)(a) of this Act; or
  - (b) defining any land in the area as the site of proposed development for the purposes of any such functions.

## PART XI

### HIGHWAYS

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

**C25** [Sch. 22 Pt. XI](#) (para. 50) amended by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [Sch. 4 para. 54\(12\)](#), [Sch. 5 para. 45](#)

#### *Provisions as to telegraphic lines*

- 50 (1) In relation to an order made under section 46 of the Act of 1947 before 1st October 1969 or, as the case may be, an order under section 22 of the Act of 1945 in respect of which the notice required by Schedule 6 to the Act of 1947 was published before that date, section 209(1), (2) and (3) of this Act shall have effect as if references to a telegraphic line belonging to or used by the Post Office were references to a telegraphic line belonging to or used by the Postmaster-General.
- (2) Where the period referred to in paragraph (a) of subsection (3) of section 209 of this Act began to run before, and was current on, the said date, that paragraph shall have effect as if the reference to notice having been given by the Post Office before the end of that period included a reference to notice having been so given by the Postmaster-General, and paragraph (c) of that subsection shall have effect as if the reference to the Post Office included a reference to the Postmaster-General.

## PART XII

### STATUTORY UNDERTAKERS

#### *Application of ss. 214 to 220 to matters arising before 8th December 1969*

- 51 (1) This paragraph shall have effect as respects the application, by virtue of Part I of this Schedule, of the provisions of this Act hereinafter specified in relation to matters



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arising before 8th December 1969 (in this paragraph referred to as “the relevant date”).

- (2) In relation to any application for planning permission made before the relevant date or any appeal from the decision on an application so made, section 214 of this Act shall have effect as if it contained provisions corresponding to paragraph 1(1) of Schedule 5 to the Act of 1947 and as if subsection (2)(b) were omitted.
- (3) In relation to any decision made before the relevant date, section 215 of this Act shall have effect as if it contained provisions corresponding to paragraph 2(1)(a) of the said Schedule 5.
- (4) In relation to any order of which notice has been given under paragraph 3(2) of the said Schedule 5 before the relevant date, section 216 of this Act shall have effect as if it contained provisions corresponding to the said paragraph 3(2).
- (5) In relation to any order of which notice has been given under paragraph 4(2) of the said Schedule 5 before the relevant date, section 217 of this Act shall have effect as if it contained provisions corresponding to the said paragraph 4(2).
- (6) In relation to a compulsory purchase order made or confirmed before the relevant date, section 218 of this Act shall have effect as if it contained provisions corresponding to section 42(4)(b) of the Act of 1947.
- (7) In relation to any order made before the relevant date under section 24 of the Act of 1945, section 220 of this Act shall have effect as if it contained provisions corresponding to section 24(7) of the Act of 1945.

*Extinguishment of rights: notices served before 8th December 1969*

- 52 In relation to a notice served before 8th December 1969, section 219(1) of this Act shall have effect with the omission—
- (a) of the words from “if satisfied” to “appropriated”; and
  - (b) of the words from “of twenty-eight days” to “as may be”.

*Application of section 219 to land acquired by Central Land Board*

- 53 In section 219(1) of this Act, the reference to land acquired by a Minister, a local authority or statutory undertakers under Part VI of this Act shall be construed as including a reference to land acquired by the Central Land Board under Part IV of the Act of 1947, as well as to land acquired under the said Part IV by a Minister, a local authority or statutory undertakers.

*Right to compensation for decisions made before 8th December 1969*

- 54 In its application, by virtue of Part I of this Schedule, to a decision made before 8th December 1969, section 226 of this Act shall have effect as if for subsection (1) (a) there were substituted provisions corresponding to paragraph 1(a) or (b) of Schedule 4 to the Act of 1945 and as if subsection (5) contained a proviso corresponding to paragraph 2(2) of Schedule 5 to the Act of 1947.

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### *Enactments applying section 24 of Act of 1945*

- 55 (1) This paragraph shall have effect for the purposes of any enactment which applies the provisions of section 24 of the Act of 1945 with adaptations consisting of or including adaptations of the references in that section to a purchasing authority or to the purchasing or appropriating authority.
- (2) Any such enactment shall be construed (in accordance with Part I of this Schedule or [<sup>F190</sup>sections 16(1) and 17(2)(a) of the <sup>M23</sup>Interpretation Act 1978] as applying the provisions of section 219 and section 226(2) of this Act with corresponding adaptations of the references in those provisions to a Minister, a <sup>F191</sup> planning authority or statutory undertakers, or to the acquiring or appropriating authority, as the case may require.

#### **Textual Amendments**

**F190** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)

**F191** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

#### **Marginal Citations**

**M23** [1978 c. 30.](#)

## **PART XIII**

### VALIDITY OF PLANNING DECISIONS ETC.

#### *Orders made and action taken before 16th August 1959*

- 56 (1) Notwithstanding anything in Part I of this Schedule, the provisions of section 231 of this Act shall not have effect in relation to—
- (a) any order made before 16th August 1959 under any of the provisions of the Act of 1947 corresponding to the provisions of this Act under which the orders mentioned in subsection (2) of that section can be made; or
  - (b) any action on the part of the Secretary of State taken before the said 16th August under any of the provisions of that Act or of the Act of 1954 corresponding to the provisions of this Act under which action of the descriptions mentioned in subsection (3) of that section can be taken,
- and section 233 does not apply to any such order or action as is mentioned in this sub-paragraph.
- (2) In relation to any action which, in accordance with any provisions of the Act of 1947 corresponding to provisions of Part XI of this Act, was required to be taken by the Secretary of State and the appropriate Minister, the reference in sub-paragraph (1) of this paragraph to the Secretary of State shall be construed as a reference to the Secretary of State and the appropriate Minister.

*Status: Point in time view as at 03/02/1995.*

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- 57 Section 234 of this Act does not apply to any decision of the Secretary of State made before 16th August 1959 under any of the provisions of the Act of 1947 corresponding to the provisions of this Act mentioned in subsection (2) of that section.

*Directions under Part V of Act of 1954*

- 58 For the purposes of the construction, in accordance with Part I of this Schedule, of section 231(3)(c) of this Act (but without prejudice to paragraph 56(1) of this Schedule) any directions given on or after 16th August 1959 by the Secretary of State under section 47(3) or (4) of the Act of 1954, as well as any direction given by the Secretary of State on or after that day under section 23 of that Act, shall be treated as a direction given under provisions of that Act corresponding to the provisions of section 35 of this Act.

**PART XIV**

**FINANCIAL PROVISIONS**

*Grants*

- 59 Nothing in this Act shall affect the payment (whether before or after the commencement of this Act) of any grant in respect of any period before the commencement of this Act.

F192 .....

60

**Textual Amendments**

**F192** Sch. 22 para. 60 repealed by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(2), [Sch. 12 Pt. IV](#)

*Recovery of sums from acquiring authorities*

- 61 (1) In relation to any acquisition or sale of an interest in land in pursuance of a notice to treat served, or contract made, before 30th October 1958—
- (a) section 244 of this Act shall not apply;
  - (b) the repeals effected by this Act shall not affect any right of recovering any sum in respect thereof under the provisions of section 54(6) of the Act of 1954 as originally enacted, or under those provisions as applied by regulations made under section 54(8) of that Act.
- (2) Subject to sub-paragraph (1) of this paragraph, section 244 of this Act shall have effect in relation to interests in land acquired or sold as therein mentioned whether before or after the commencement of this Act; and for the purposes of the

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construction of that section in accordance with Part I of this Schedule, any notice recorded under the provisions of section 29 of the Act of 1954 as applied by Part V of that Act, as well as any notice recorded under those provisions as applied by Part IV of that Act, shall be treated as a notice recorded under provisions of that Act corresponding to the provisions of this Act referred to in section 244 of this Act, and references in that section to compensation specified in a notice shall be construed accordingly.

- 62 Section 245 of this Act shall have effect in relation to interests in land acquired or sold as therein mentioned whether before or after the commencement of this Act, except that it shall not have effect in relation to any acquisition or sale in pursuance of a notice to treat served, or contract made, before 13th August 1947.

*Treatment of sums received under section 248(4) before 1st April 1968*

- 63 Any sums received by the Secretary of State before 1st April 1968 by virtue of the provisions re-enacted in the provisions mentioned in section 248(4) of this Act shall be treated as paid in satisfaction, or part satisfaction, of such one or more of the instalments payable under subsections (2) and (3) of that section as the Treasury may determine.

## PART XV

### SPECIAL CASES

#### *Minerals*

- 64 In relation to any time before 10th April 1966, section 252 of this Act shall have effect as if for references to the <sup>M24</sup>Mines (Working Facilities and Support) Act 1966 there were substituted references to the <sup>M25</sup>Mines (Working Facilities and Support) Act 1923; and accordingly regulations made before that date which are in force at the commencement of this Act under section 78 of the Act of 1947, shall have effect as if made under the said section 252 and as if, in relation to any time on or after the said 10th April, references in them to the said Act of 1923 were references to the corresponding provisions of the said Act of 1966.

#### **Marginal Citations**

**M24** 1966 c. 4.

**M25** 1923 c. 20.

#### *National Coal Board*

- 65 Until the coming into operation of the first regulations made under section 259 of this Act after 8th December 1969 the provisions of the Act of 1947 applied by

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regulations under section 86(1) of that Act in relation to the National Coal Board and land of that Board shall have effect as so applied as if Part XI of this Act contained provisions corresponding to the Act of 1947 without the amendments made by sections 70 to 72 of the Act of 1969.

## PART XVI

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Rights and liabilities in respect of certain payments*

- 66 (1) The repeals effected by this Act shall not affect any right to, or claim for, or any liability in respect of, any payment under an enactment to which this paragraph applies; and any such right, claim or liability shall have effect and may be enforced, and moneys in respect of any such payment shall be applicable or may be raised, in accordance with the provisions of the enactment in question (including the provisions of any other enactment which, immediately before the commencement of this Act, had effect for the purposes of that enactment) as if this Act had not been passed, and any direction or proceedings relating thereto may be given, brought or continued accordingly.
- (2) This paragraph applies to the following enactments, that is to say—
- Parts I and V of the Act of 1954;
  - section 54(1) to (5) of that Act;
  - the scheme made under section 56 of the Act of 1947;
  - any other enactment which (if contained in an Act) was not repealed by, and re-enacted (with or without modifications) in this Act or (if not contained in an Act) has effect otherwise than by virtue of an enactment so repealed and re-enacted.
- (3) Without prejudice to the preceding provisions of this paragraph, any proceedings relating to any such claim as is mentioned in section 124(1) of this Act may be brought or continued, and shall be determined in accordance with the relevant provisions (that is to say, the provisions of the Act of 1947 and of Schedule 1 to the Act of 1954 and any other enactment having effect for the purposes thereof) as if this Act had not been passed.
- (4) Sub-paragraph (1) of this paragraph shall have effect in relation to any such right, claim or liability as is therein mentioned notwithstanding that, immediately before the commencement of this Act, the right, claim or liability had not yet accrued or been made or become enforceable, as the case may be.

Provided that, in relation to any such claim which had not been made before the commencement of this Act, so much of that sub-paragraph as provides that the claim shall have effect in accordance with the provisions therein mentioned shall be construed as providing that the claim may be made in accordance with those provisions, and, when made, shall have effect accordingly.

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*Registration of payments under s. 58 of Act of 1954*

- 67 (1) The repeals effected by this Act shall not affect the operation of subsection (1) of section 58 of the Act of 1954, in so far as that subsection would have continued to have effect if this Act had not been passed.
- (2) In subsection (1) of the said section 58, the references to subsection (7) of section 54 of that Act and to paragraph (a) of the proviso to that subsection shall be construed as including references respectively to subsection (1) and to subsection (2) of section 245 of this Act.

*Entitlement to, and amount of, compensation etc. in cases arising before 25th February 1963*

- 68 Notwithstanding Part I of this Schedule, the following provisions of this Act, that is to say, sections 157(4), 158(3)(c) and (6), in section 169(2) the words “or which would contravene the condition set out in Schedule 16 to this Act”, section 169(3), section 263(1) to (4), paragraph 14 of Schedule 6 and Schedule 16 do not affect—
  - (a) any determination arising out of a notice to treat served before 25th February 1963, or served at any time in respect of a purchase notice or notice under section 38(2) of the Act of 1959 (or any corresponding enactment previously in force) which was served before that date;
  - (b) any other determination under the Act of 1947 in respect of or arising out of a purchase notice served before that date;
  - (c) any claim for compensation under section 18(1) or 20 of the Act of 1947 (or any corresponding enactment previously in force) which arose before that date.

F193 .....

69

**Textual Amendments**  
**F193** Sch. 22 Pt. XVI para. 69 repealed by Local Government (Scotland) Act 1973 (c. 65), Sch. 29

F194 .....

70

**Textual Amendments**  
**F194** Sch. 22 para. 70 repealed by S.I. 1985/1014, art. 3

*Saving in respect of works below high-water mark*

- 71 Nothing in the provisions of this Act specified in Part I of Schedule 19 to this Act shall authorise the execution of any works (whether of construction, demolition or

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alteration) on, over or under tidal lands below high-water of ordinary spring tides, except—

- (a) with the consent of any persons whose consent would have been required if this Act had not been passed; and
- (b) in accordance with such plans and sections, and subject to such restrictions and conditions as may be approved by the Board of Trade or the Secretary of State before the works are begun.

*Land Compensation (Scotland) Act 1963 s. 39*

- 72 Any reference in this Act to the power conferred by section 39 of the <sup>M26</sup>Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall, in relation to any notice to treat falling within section 48 of that Act, be construed as a reference to the corresponding power conferred by section 5(2) of the <sup>M27</sup>Acquisition of Land (Assessment of Compensation) Act 1919.

**Marginal Citations**

**M26** 1963 c. 51.

**M27** 1919 c. 57.

*References to Ministers: previous Transfer of Functions Orders*

- 73 (1) Where the functions of a Minister under any enactment re-enacted or referred to in this Act have at any time been exercisable by another Minister or other Ministers, references in the relevant provision of this Act shall, as respects any such time, be construed as references to the other Minister or Ministers. (2) In this paragraph “Minister” includes the Board of Trade and the Treasury.

*Schemes and agreements under enactments repealed by Act of 1947*

- 74 (1) The repeal effected by this Act shall not affect the operation of—
- (a) any such scheme as was mentioned in paragraph 6 of Schedule 10 to the Act of 1947 (which related to certain schemes made under the <sup>M28</sup>Town and Country Planning (Scotland) Act 1932 and the <sup>M29</sup>Town Planning (Scotland) Act 1925) in so far as, by virtue of that paragraph, the scheme continued to have effect immediately before the commencement of this Act; or
  - (b) any order made under that paragraph (which empowered the Minister to make provision by order for winding up any such scheme) in so far as the order continued to have effect immediately before the commencement of this Act.
- (2) Any power to make orders under paragraph 6 of that Schedule shall continue to be exercisable notwithstanding the said repeal.

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#### **Marginal Citations**

**M28** 1932 c. 49.

**M29** 1925 c. 17.

- 75 (1) The repeal effected by this Act shall not affect the operation of any such agreement as was mentioned in paragraph 10 of Schedule 10 to the Act of 1947 (which related to certain agreements made before the appointed day for restricting the planning, development or use of land), or of any order discharging or modifying a restriction imposed by such an agreement, in so far as any such agreement or order was in force immediately before the commencement of this Act; and any such agreement may be enforced as if this Act had not been passed.
- (2) Nothing in any such agreement shall be construed as restricting the exercise, in relation to land to which the agreement applies, of any powers exercisable by any Minister or authority under this Act, so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Secretary of State by virtue of paragraph 5 of Schedule 4 to this Act, or as requiring the exercise of any such powers otherwise than in accordance with such provisions or directions.
- (3) If the Secretary of State is satisfied, on application made to him by any person being a party to any such agreement, or a person entitled to land affected thereby, that any restriction on the development or use of the land imposed by the agreement is inconsistent with the proper planning or development of the area comprising the land, he may by order discharge or modify that restriction so far as appears to him to be expedient.
- (4) Without prejudice to sub-paragraph (3) of this paragraph, if any person being a party to any such agreement (whether as originally made or as modified under that sub-paragraph), or a person entitled to land affected thereby, claims that the agreement ought to be modified or rescinded, having regard to the provisions of this Act or to anything done under this Act or under the Act of 1947, he may refer to arbitration the question whether the agreement should be so modified or rescinded, and the arbiter may make such award as appears to him to be just having regard to all the circumstances.

#### *Development authorised under enactments repealed by Act of 1947*

- 76 (1) Where any works on land existing at the appointed day, or any use to which land was put on that day, had been authorised by a permission granted subject to conditions under a scheme under the <sup>M30</sup>Town and Country Planning (Scotland) Act 1932 (or under an enactment repealed by that Act) or under an order made under section 10(1) of that Act (in the subsequent provisions of this Schedule referred to as “a planning scheme” and “an interim development order”) the provisions of Parts III and V of this Act, the provisions of Part IX of this Act relating to purchase notices, and the provisions of sections 214 to 217 of this Act, shall apply in relation to those works or that use as if the conditions had been imposed on the grant of planning permission.



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- (2) Without prejudice to the generality of sub-paragraph (1) of this paragraph, where any such permission was granted subject to conditions (in whatever form) restricting the period for which the works or use might be continued on the land, then, if that period had not expired at the appointed day and the works were or are not removed, or the use discontinued, at the end of that period, the provisions of Part V of this Act relating to enforcement notices shall apply in relation thereto as if the works had been carried out, or the use begun, as the case may be, at the end of that period and without the grant of planning permission in that behalf.
- (3) The power of a <sup>F195</sup> planning authority under Part III of this Act to grant permission for the retention on land of buildings or works constructed or carried out before the date of the application, or the continuance of any use of land instituted before that date, shall include power to grant such permission in respect of any works or use authorised by a permission granted subject to any such conditions as are mentioned in sub-paragraph (2) of this paragraph.
- (4) Where at any time before the appointed day it was determined under the <sup>M31</sup>Building Restrictions (War-Time Contraventions) Act 1946 that any works on land or any use of land should be deemed to comply with planning control (within the meaning of that Act) subject to any conditions specified in the determination, the provisions of this paragraph shall apply in relation to those works or that use as if those conditions had been imposed on the grant of permission under a planning scheme or an interim development order.
- (5) Provisions may be made by regulations under this Act for applying the preceding provisions of this paragraph, subject to such adaptations and modifications as may be specified in the regulations, to works on land carried out, or uses of land begun, at any time before the appointed day, in accordance with permission granted subject to conditions under any enactment repealed by the Act of 1947, other than the enactments relating to town and country planning; and for the purposes of this provision any works or use in respect of which a notice was served under subsection (1) of section 1 of the <sup>M32</sup>Restriction of Ribbon Development (Temporary Development) Act 1943 or was deemed by virtue of subsection (4) of that section to have been so served, shall be treated as carried out or begun in accordance with permission granted subject to a condition restricting the period for which the works or use might be continued on the land.

#### Textual Amendments

**F195** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

#### Marginal Citations

**M30** 1932 c. 49.

**M31** 1946 c. 35.

**M32** 1943 c. 34.

- 77 (1) Where permission for any development of land was granted, at any time after 10th November 1943 and before the appointed day, on an application in that behalf made under an interim development order, then, if and so far as that development was not carried out before the appointed day and the permission was in force immediately before that day, planning permission shall be deemed to have been

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granted in respect thereof subject to the like conditions (if any) as were imposed by the permission under the interim development order as it had effect immediately before the appointed day:

Provided that this sub-paragraph shall not apply in relation to any development for which permission was required before the appointed day under the <sup>M33</sup>Restriction of Ribbon Development Act 1935 unless that permission was also granted.

- (2) The provisions of section 42 of this Act shall apply in relation to planning permission which is deemed to have been granted by virtue of this paragraph as if it had been granted on an application under Part III of this Act; and, in relation to any order made under that section for the revocation or modification of any such permission, any reference in section 153(3) of this Act to the grant of permission shall be construed as a reference to the grant of the permission under the interim development order.
- (3) Where permission for any development of land was granted as mentioned in sub-paragraph (1) of this paragraph, and permission for that development was also granted under the Restriction of Ribbon Development Act 1935 then, if the permission so granted under the said Act of 1935 was granted subject to conditions, those conditions shall be treated for the purposes of this paragraph as conditions imposed by the permission granted under the interim development order.

#### **Marginal Citations**

**M33** 1935 c. 47.

- 78 (1) Where any works for the erection or alteration of a building had been begun but not completed before the appointed day, then if—
- (a) immediately before that day those works could have been completed in conformity with the provisions of a planning scheme or of permission granted thereunder, or in accordance with permission granted by or under an interim development order; and
  - (b) where any permission was required under the Restriction of Ribbon Development Act 1935 for the carrying out of those works, that permission was granted,
- planning permission shall be deemed to have been granted in respect of the completion of those works.
- (2) The planning permission deemed to have been granted by virtue of this paragraph shall be deemed to have been so granted subject to any conditions applicable thereto under the scheme or the permission granted by or under the interim development order, as the case may be, and to any conditions imposed by the permission (if any) granted under the <sup>M34</sup>Restriction of Ribbon Development Act 1935 and shall include permission to use the building, when erected or altered—
- (a) where the purpose for which it could be so used was prescribed by or under the planning scheme, or by the permission granted by or under the interim development order, as the case may be, for that purpose;
  - (b) in any other case, for the purpose for which the building, or the building as altered, was designed.

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- (3) In relation to any such works as are mentioned in sub-paragraph (1) of this paragraph, being works in respect of which permission was granted after 10th November 1943, on an application in that behalf made under an interim development order, the provisions of this paragraph shall have effect in substitution for the provisions of paragraph 77 of this Schedule.

#### Marginal Citations

M34 1935 c. 47.

- 79 (1) Any reference in Part VII of this Act, or in Schedule 13 thereto, to a planning decision shall, where the context so admits, include a reference to any decision deemed to have been made by virtue of the provisions of paragraph 77 or paragraph 78 of this Schedule.
- (2) Sub-paragraph (1) of this paragraph shall have effect without prejudice to the provisions of Part I of this Schedule.

#### Supplementary

- 80 (1) Where in this Act (including this Schedule except Part I thereof) express provision is made in respect of any matter, the provisions of Part I of this Schedule, in so far as they are applicable to that matter, shall have effect subject to that express provision.
- (2) Except as provided by sub-paragraph (1) of this paragraph, the mention in any provisions of this Act (including this Schedule except Part I thereof) of any matter to which Part I of this Schedule is applicable shall not be construed as affecting the generality of the provisions of Part I of this Schedule.

### SCHEDULE 23

Section 277.

#### REPEALS

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

C26 The text of Sch. 23 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act 1945.	The whole Act.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act 1947.	Sections 1 to 43.

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		Section 44(2).
		Section 46 except subsection (8).
		Sections 47 to 108.
		Section 109(2) to (6).
		Sections 110 to 112.
		Section 113(2) to (4).
		Schedules 1 to 7.
		In Schedule 8, the entry relating to the Town and Country Planning (Scotland) Act 1945.
		Schedules 9 to 11.
12 & 13 Geo. 6. c. 32.	The Special Roads Act 1949.	Section 9(2) and (4).
12 & 13 Geo. 6. c. 67.	The Civil Aviation Act 1949.	Section 30(5).
		In Schedule 4, paragraph 10(a).
14 Geo. 6. c. 39.	The Public Utilities Street Works Act 1950.	In Schedule 5, the entry relating to the Town and Country Planning (Scotland) Act 1947.
14 & 15 Geo. 6. c. 19.	The Town and Country Planning (Amendment) Act 1951.	The whole Act.
14 & 15 Geo. 6. c. 60.	The Minerals Workings Act 1951.	Section 31.
		Section 43(3).
1 & 2 Eliz. 2. c. 16.	The Town and Country Planning Act 1953.	The whole Act.
2 & 3 Eliz. 2. c. 73.	The Town and Country Planning (Scotland) Act 1954.	Sections 1 to 54.
		Sections 56 to 68.
		Section 70.
		Schedules 1 to 9.
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	In Schedule 1, in Part II, the words “A Planning Inquiry Commission constituted under Part VI of the Town and Country Planning (Scotland) Act 1969” and the words “A Joint Planning

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		Inquiry Commission constituted under Part VI of the Town and Country Planning (Scotland) Act 1969”.
7 & 8 Eliz. 2. c. 70.	The Town and Country Planning (Scotland) Act 1959.	Sections 1 to 13.  Sections 17 to 22. Sections 31 to 43. Section 49. Section 50 except subsection (4). Sections 51 to 53. Section 55, except subsections (1)(a) and (3). Schedules 1 to 3. Schedules 5 and 6. Schedule 7, except the entry relating to section 55 of the Town and Country Planning (Scotland) Act 1954. Schedules 8 and 9.
8 & 9 Eliz. 2. c. 18.	The Local Employment Act 1960.	Sections 16 to 22.  Section 26(1) and (3).
8 & 9 Eliz. 2. c. 62.	The Caravan Sites and Control of Development Act 1960.	Sections 21 and 22.
1963 c. 17.	The Town and Country Planning Act 1963.	The whole Act.
1965 c. 16.	The Airports Authority Act 1965.	Section 17(7)(d).
1965 c. 33.	The Control of Office and Industrial Development Act 1965.	The whole Act.
1966 c. 4.	The Mines (Working Facilities and Support) Act 1966.	In Schedule 2, paragraph 3.
1966 c. 34.	The Industrial Development Act 1966.	Part III.  Section 31(3).

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		In Schedule 3, in Part II, the entry relating to section 17 of the Local Employment Act 1960, and Part III.
1966 c. 51.	The Local Government (Scotland) Act 1966.	Section 8.
1967 c. 69.	The Civic Amenities Act 1967.	Section 1.  Section 3. Section 6. Section 8. Section 11. Part II except section 15(2). In section 28(1), paragraph (a) and, in paragraph (c), the words “section 6, section 14”. In section 30(1), the definition of “the Scottish Planning Act of 1969”.
1968 c. 13.	The National Loans Act 1968.	Section 11.
1968 c. 41.	The Countryside Act 1968.	Sections 25 and 26.
1969 c. 30.	The Town and Country Planning (Scotland) Act 1969.	Sections 1 to 27.  Section 28 except paragraph (b). Sections 29 to 31. Sections 33 to 38. Sections 40 to 57. Sections 60 to 97. Sections 99 to 101. Section 102(a). Section 105. Section 107. Section 108(2). Schedules 1 to 9. Schedule 10 except paragraph 11.

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		Schedule 11.
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraphs 37, 42 and 92(3).  In Schedule 9, in paragraph 27, in each of sub-paragraphs (7), (9) and (15), the words from “In the application” to the end of the sub-paragraph.
1970 c. 43.	The Trees Act 1970.	Section 1.
1971 c. 18.	The Land Commission (Dissolution) Act 1971.	In Schedule 2, paragraphs 3 and 4 and Appendix B.
1971 c. 62.	The Tribunals and Inquiries Act 1971.	In Schedule 3, the entries relating to the Town and Country Planning (Scotland) Act 1959 and the Town and Country Planning (Scotland) Act 1969.
1971 c. 75.	The Civil Aviation Act 1971.	In section 14(9), in paragraph (c), the words from “and for” to the end of the paragraph, and paragraph (d).  In Schedule 5, paragraph 9(3).
1972 c. 5.	The Local Employment Act 1972.	In Schedule 3, the entry relating to the Local Employment Act 1960.
1972 c. 42.	The Town and Country Planning (Amendment) Act 1972.	Sections 7(2) and 12(1)(b).

## SCHEDULE 24

Section 278

### GENERAL VESTING DECLARATIONS

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

**C27** Sch. 24 applied by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. **36(3)**

**C28** Sch. 24 extended by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), ss. **46(4)**, 49(5)

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## PART I

### GENERAL PROVISIONS

#### *Execution of general vesting declarations*

- 1 (1) Where a compulsory purchase order authorising an acquiring authority to acquire any land has come into operation, the authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form (in this Schedule referred to as “a general vesting declaration”) vesting the land in themselves as from the end of such period as may be specified in the declaration (not being less than twenty-eight days) from the date on which the service of notices required by paragraph 4 below is completed.
- (2) A general vesting declaration shall contain a particular description of the lands affected or a description by reference of those lands in the manner provided by section 61 of the <sup>M35</sup>Conveyancing (Scotland) Act 1874.

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

**C29** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)

**Marginal Citations**

**M35** 1874 c. 94.

- 2 (1) Before making a general vesting declaration with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include in the notice of the making or confirmation of the order which is required to be published or served by paragraph 6 of Schedule 1 to the <sup>M36</sup>Acquisition Act 1947 or any other provision of the relevant enactments corresponding to that paragraph, or in a notice given subsequently and before the service of the notice to treat in respect of that land—
- (a) such a statement of the effect of paragraphs 1 to 8 of this Schedule as may be prescribed; and
- (b) a notification to the effect that every person who, if a general vesting declaration were made in respect of all the land comprised in the order in respect of which notice to treat has not been given, would be entitled to claim compensation in respect of any such land is invited to give information to the authority making the declaration in the prescribed form with respect to his name and address and the land in question.
- (2) The requirements of the relevant enactments with respect to the publication and service of a notice of the making or confirmation of a compulsory purchase order shall apply to a notice under this paragraph given subsequently to the first-mentioned notice.

**Marginal Citations**

**M36** 1947 c. 42.



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

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

- 4 As soon as may be after executing a general vesting declaration, the acquiring authority shall serve—
- (a) on every occupier of any of the land specified in the declaration (other than land in which there subsists a short tenancy or a long tenancy which is about to expire); and
  - (b) on every other person who has given information to the authority with respect to any of that land in pursuance of the invitation published and served under paragraph 2(1) above,
- a notice in the prescribed form specifying the land and stating the effect of the declaration.

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

#### *Effect of general vesting declaration*

- 6 At the end of the period specified in a general vesting declaration, the provisions of the Lands Clauses Acts and of section 6 of the <sup>M37</sup>Railways Clauses Consolidation (Scotland) Act 1845 (both as incorporated by Schedule 2 to the <sup>M38</sup>Acquisition Act 1947) and of the Land Compensation (Scotland) Act 1963 shall apply as if, on the date on which the declaration was made, a notice to treat had been served on every person on whom, under section 17 of the <sup>M39</sup>Lands Clauses Consolidation (Scotland) Act <sup>M40</sup>1845 (on the assumption that they required to take the whole of the land specified in the declaration and had knowledge of all the parties referred to in that section) the acquiring authority could have served such a notice, other than—
- (a) any person entitled to an interest in the land in respect of which such a notice had actually been served before the end of that period; and
  - (b) any person entitled to a short tenancy or a long tenancy which is about to expire.

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

- C30** Sch. 24 para. 6 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), Sch. 6 paras. 1–3 (with s. 335)
- C31** Paras. 6–8 modified by Local Government, Planning and Land Act 1980 (c. 65), Sch. 27 paras. 15–20

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#### Marginal Citations

- M37** 1845 c. 33.  
**M38** 1947 c. 42.  
**M39** 1845 c. 19.  
**M40** 1845 c. 19.

- 7 At the end of the period specified in a general vesting declaration, the land specified in the declaration, together with the right to enter upon and take possession of it, shall vest in the acquiring authority as if the circumstances in which under the said Act of 1845 an authority authorised to purchase land compulsorily have any power to expedite a notarial instrument (whether for vesting land or any interest in land in themselves or for extinguishing the whole or part of any feu-duty, ground annual or rent, or other payment or incumbrance) had arisen in respect of all the land and all interests therein, and the acquiring authority had duly exercised that power accordingly at the end of that period.

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

- C32** Sch. 24 paras. 7, 37 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), Sch. 6 paras. 1, 2 (with s. 335)  
**C33** Paras. 6–8 modified by Local Government, Planning and Land Act 1980 (c. 65), Sch. 27 paras. 15–20

- 8 Where any land specified in a general vesting declaration is land in which there subsists a short tenancy or a long tenancy which is about to expire—
- (a) the right of entry conferred by paragraph 7 above shall not be exercisable in respect of that land unless, after serving a notice to treat in respect of that tenancy, the acquiring authority have served upon every occupier of any of the land in which the tenancy subsists a notice stating that, at the end of such period as is specified in the notice (not being less than fourteen days) from the date on which the notice is served, they intend to enter upon and take possession of such land as is specified in the notice, and that period has expired; and
  - (b) the vesting of the land in the acquiring authority shall be subject to the tenancy until that period expires, or the tenancy comes to an end, whichever first occurs.

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

- C34** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), Sch. 6 para. 1 (with s. 335)  
**C35** Paras. 6–8 modified by Local Government, Planning and Land Act 1980 (c. 65), Sch. 27 paras. 15–20  
**C36** Para. 8 modified by Land Compensation (Scotland) Act 1973 (c. 56), s. 51

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### *Recovery of compensation overpaid*

- 9 The provisions of paragraphs 10 to 14 below shall have effect where, after the acquiring authority have made a general vesting declaration in respect of any land, a person claims compensation in respect of the acquisition by the authority of an interest in any land by virtue of the declaration, and the authority pay compensation in respect of that interest.

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

- C37** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)  
**C38** Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

- 10 If, in a case falling within paragraph 9 above, it is subsequently shown—
- (a) that the land, or the claimant’s interest in it, was subject to an incumbrance which was not disclosed in the particulars of his claim; and
  - (b) that by reason of that incumbrance the compensation paid exceeded the compensation to which the claimant was entitled in respect of that interest,
- the acquiring authority may recover the amount of the excess from the claimant.

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

- C39** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)  
**C40** Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

- 11 If in a case falling within paragraph 9 above, it is subsequently shown that the claimant was not entitled to the interest in question, either in the whole or in part of the land to which the claim related, the acquiring authority may recover from him an amount equal to the compensation paid, or to so much of that compensation as, on a proper apportionment thereof, is attributable to that part of the land, as the case may be.

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

- C41** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)  
**C42** Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

- 12 Any question arising under paragraph 10 or 11 above—
- (a) as to the amount of the compensation to which the claimant was entitled in respect of an interest in land; or
  - (b) as to the apportionment of any compensation paid,

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shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such question, the provisions of section 9 of the <sup>M41</sup>Land Compensation (Scotland) Act 1963 shall apply, subject to any necessary modifications.

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

**C43** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

**C44** Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

**Marginal Citations**

**M41** 1963 c. 51.

- 13 Subject to paragraph 12 above, any amount recoverable by the acquiring authority under paragraph 10 or 11 above shall be recoverable in any court of competent jurisdiction.

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

**C45** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

**C46** Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

- 14 Any sum recovered under paragraph 10 or 11 above in respect of land by an acquiring authority who are a local authority shall be applied towards the repayment of any debt incurred in acquiring or redeveloping that land or if no debt was so incurred shall be paid into the account out of which the compensation in respect of the acquisition of that land was paid.

*Penalty for false information in claiming compensation*

- 15 (1) If any person for the purpose of obtaining for himself or for any other person any compensation in respect of the acquisition by the acquiring authority of an interest in land by virtue of a general vesting declaration—
- (a) knowingly or recklessly makes a statement which is false in a material particular; or
  - (b) with intent to deceive produces, furnishes, sends or otherwise makes use of any book, account, or other document which is false in a material particular; or
  - (c) with intent to deceive withholds any material information,
- he shall be guilty of an offence.
- (2) Any person guilty of an offence under this paragraph shall (without prejudice to the recovery of any sum under paragraph 10 or 11 above) be liable—
- (a) on summary conviction, to a fine not exceeding £400;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

## PART II

### SUPPLEMENTARY PROVISIONS

- 16 The provisions contained in this Part of this Schedule shall have effect for the purposes of paragraphs 6 to 8 above.

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

**C47** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

**C48** Para. 16 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

#### *Exclusion of power of entry under the Acquisition Act 1947*

- 17 Paragraph 3 of Schedule 2 to the <sup>M42</sup>Acquisition Act 1947 (power to enter upon land after service of notice to treat) shall not apply to land specified in a general vesting declaration under this Act.

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

**C49** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

**C50** Para. 17 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

#### Marginal Citations

**M42** 1947 c. 42.

#### *Restriction on withdrawal of constructive notice to treat*

- 18 The power conferred by section 39 of the <sup>M43</sup>Land Compensation (Scotland) Act 1963 to withdraw notice to treat shall not be exercisable, in respect of a notice to treat which is deemed to be served under paragraphs 6 to 8 above, at any time after the interest in respect of which the notice is deemed to be served has vested in an acquiring authority by virtue of paragraph 7 above.

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

**C51** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

**C52** Para. 18 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

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### Marginal Citations

**M43** 1963 c. 51.

### *Objection to severance*

- 19 Paragraph 4 of Schedule 2 to the Acquisition Act 1947 shall not apply to land in respect of which a general vesting declaration is made under this Act.

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

- C53** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)
- C54** Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

- 20 (1) If a general vesting declaration under this Act comprises part only of a house, building or factory, or of a park or garden belonging to a house, any person who is able to sell the whole of the house, building, factory, park or garden may by notice served on the acquiring authority (in this Part of this Schedule referred to as a “notice of objection to severance”) require them to purchase his interest in the whole.
- (2) Except as provided by paragraph 29 below, a notice of objection to severance served by any person shall not have effect if it is served more than twenty-eight days after the date on which the notice required by paragraph 4 above is served on him.

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

- C55** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)
- C56** Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**
- C57** Sch. 24 para 20(2) modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 4** (with s. 335)

- 21 Where a notice of objection to severance is served in respect of a person’s interest in any land (in this Part of this Schedule referred to as “the land proposed to be severed”), and is so served within the time allowed in accordance with paragraph 20(2) above, then, notwithstanding anything in paragraph 7 above,—
- (a) that interest shall not vest in the acquiring authority, and
  - (b) if he is entitled to possession of that land, the acquiring authority shall not be entitled to enter upon or take possession of it,
- until the notice has been disposed of in accordance with the following provisions of this Schedule.

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

- C58** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

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**C59** Paras. 19–29 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

- 22 Within three months after a person has served on an acquiring authority a notice of objection to severance, the acquiring authority shall either—
- (a) serve notice on him withdrawing the notice to treat deemed to have been served on him in respect of his interest in the land proposed to be severed, or
  - (b) serve notice on him that the general vesting declaration shall have effect, in relation to his interest in the land proposed to be severed, as if the whole of that land had been comprised in the declaration (and in the compulsory purchase order, if part only of that land was comprised in that order), or
  - (c) refer the notice of objection to severance to the Lands Tribunal and notify him that it has been so referred.

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

- C60** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)
- C61** Paras. 19–29 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

- 23 If the acquiring authority do not take action in accordance with the last preceding paragraph within the period allowed by that paragraph, then at the end of that period they shall be deemed to have acted in accordance with sub-paragraph (a) of that paragraph.

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

- C62** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)
- C63** Paras. 19–29 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

- 24 Where in accordance with paragraph 22 or 23 above the notice to treat deemed to have been served in respect of a person's interest in the land proposed to be severed is withdrawn, or is deemed to have been withdrawn,—
- (a) that interest shall not vest in the acquiring authority by virtue of the general vesting declaration, and
  - (b) if he is entitled to possession of that land, the acquiring authority shall not be entitled by virtue of that declaration to enter upon or take possession of it.

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

- C64** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)
- C65** Paras. 19–29 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)



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- 25 Where an acquiring authority take action in accordance with sub-paragraph (b) of paragraph 22 above, the general vesting declaration (and, where applicable, the compulsory purchase order) shall have effect as mentioned in that sub-paragraph, whether apart from this Schedule the acquiring authority could have been authorised to acquire the interest in question in the whole of the land proposed to be severed or not.

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

- C66** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)
- C67** Paras. 19–29 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

- 26 Where in accordance with paragraph 22(c) above an acquiring authority refer a notice of objection to severance to the Lands Tribunal, and on that reference the Tribunal determines that the part of the land proposed to be severed which is comprised in the general vesting declaration can be taken—
- (a) in the case of a house, building or factory, without material detriment, or
  - (b) in the case of a park or garden, without seriously affecting the amenity or convenience of the house,
- paragraph 21 above shall thereupon cease to have effect in relation to that notice.

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

- C68** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)
- C69** Paras. 19–29 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)
- C70** Para. 26 amended by [Land Compensation \(Scotland\) Act 1973 \(c. 56\)](#), [s. 54\(1\)](#)

- 27 (1) If on such a reference the Lands Tribunal does not make a determination in accordance with the last preceding paragraph, the Tribunal shall determine the area of that land (being the whole of it or a part of it which includes the part comprised in the general vesting declaration) which the acquiring authority ought to be required to take; and the general vesting declaration shall have effect, in relation to the interest in that area of the person who served the notice of objection to severance, as if the whole of that area had been comprised in the general vesting declaration, whether apart from this Schedule the acquiring authority could have been authorised to acquire that interest in the whole of that area or not.
- (2) Where the preceding sub-paragraph applies, and part of the area determined by the Lands Tribunal was not comprised in the compulsory purchase order, the general vesting declaration shall have effect as mentioned in the preceding sub-paragraph as if the whole of that area had been comprised in the compulsory purchase order as well as in the declaration.



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

- C71** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)
- C72** Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

- 28 Where by virtue of paragraph 22(a), 23, 25 or 27 above a general vesting declaration is to have effect in relation to a different area of land from that originally comprised in the declaration, the acquiring authority shall alter accordingly the description of the land affected by the declaration.

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

- C73** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)
- C74** Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

- 29 (1) Where in accordance with paragraph 20(1) above a person is entitled to serve a notice of objection to severance, and it is proved—
- (a) that he never received the notice required by paragraph 4 above to be served on him, or received that notice less than twenty-eight days before, or on or after, the date on which the period specified in the general vesting declaration expired, and
  - (b) that a notice of objection to severance served by him was served not more than twenty-eight days after the date on which he first had knowledge of the execution of the general vesting declaration,
- that notice shall have effect notwithstanding that it is served after the time allowed in accordance with paragraph 20(2) above has expired.
- (2) Where, in the circumstances specified in the preceding sub-paragraph, a person serves a notice of objection to severance after the end of the period specified in the general vesting declaration,—
- (a) paragraphs 21 and 24 above shall not have effect in relation to that notice;
  - (b) paragraph 22 above shall have effect in relation to that notice as if sub-paragraph (a) of that paragraph were omitted;
  - (c) paragraph 23 above shall have effect in relation to that notice with the substitution, for the words “sub-paragraph (a)”, of the words “sub-paragraph (b)”; and
  - (d) paragraph 26 above shall not have effect in relation to that notice, but without prejudice to the making by the Tribunal of any such determination as is mentioned in that paragraph.

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

- C75** Sch. 24 para. 29 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), Sch. 6 paras. 1, 5 (with s. 335)
- C76** Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

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### *Compensation*

- 30 Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority by virtue of paragraphs 6 to 8 above, the acquiring authority shall be liable to pay the like compensation, and the like interest on the compensation agreed or awarded, as they would have been required to pay if they had taken possession of the land under paragraph 3 of Schedule 2 to the <sup>M44</sup>Acquisition Act 1947.

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

**C77** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)

**C78** Paras. 30, 31 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

**Marginal Citations**

**M44** 1947 c. 42.

- 31 Sections 56 to 60 and sections 63 to 66 of the <sup>M45</sup>Lands Clauses Consolidation (Scotland) Act 1845 (absent and untraced owners) and sections 117 to 119 of the said Act (interests omitted from purchase) shall not apply to the compensation to be paid for any interest in land in respect of which a notice to treat is deemed to have been served by virtue of paragraphs 6 to 8 above.

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

**C79** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)

**C80** Paras. 30, 31 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

**Marginal Citations**

**M45** 1845 c. 19.

### *Charges and tenancies*

- 32 (1) Where land specified in a general vesting declaration under this Act is, together with other land not so specified, charged with a charge, such proportion of the charge as may be apportioned under section 109 of the Lands Clauses Consolidation (Scotland) Act 1845, to the first mentioned land shall, subject to sub-paragraph (3) of this paragraph, be treated as having been extinguished by virtue of paragraphs 6 to 8 above on the vesting of that land in the acquiring authority under those paragraphs.
- (2) Where by virtue of the preceding sub-paragraph a portion of a charge is treated as having been extinguished, the provisions of sections 108 to 111 of the said Act of 1845 shall have effect as if the extinguishment had taken place under section 110 of that Act.

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- (3) If, in the circumstances described in sub-paragraph (1) of this paragraph, the person entitled to the charge and the owner of the land subject thereto enter into an agreement to that effect, the said sections 108 to 111, shall have effect as if, at the time of the vesting of the land in the acquiring authority under paragraphs 6 to 8 above, the person entitled to the charge had released that land from the charge on the condition mentioned in section 109 of the said Act of 1845; and in that case no part of the charge shall be treated as having been extinguished as regards the remaining part of the land charged therewith.
- (4) In this paragraph “charge” means any such feu-duty, ground annual or rent or other payment or incumbrance as is mentioned in the words introductory to sections 107 to 111 of the said Act of 1845.

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

- C81** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)
- C82** Paras. 32–34 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

- 33 Where land specified in a general vesting declaration under this Act is, together with other land not so specified, comprised in a tenancy for a term of years unexpired, section 112 of the <sup>M46</sup>Lands Clauses Consolidation (Scotland) Act 1845, shall have effect in relation thereto as if for references to the time of the apportionment of rent therein mentioned there were substituted references to the time of the vesting of the tenancy in the acquiring authority.

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

- C83** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)
- C84** Paras. 32–34 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

**Marginal Citations**

- M46** 1845 c. 19.

- 34 Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority under paragraphs 6 to 8 above, any person who, in consequence thereof, is relieved from any liability (whether in respect of a feu-duty, ground annual, rent, interest on a heritable security or any other payment) and makes any payment as in satisfaction or part satisfaction of that liability shall, if he shows that when he made the payment he did not know of the facts which constituted the cause of his being so relieved, or of one or more of those facts, be entitled to recover the sum paid from the person to whom it was paid.

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

- C85** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

*Status: Point in time view as at 03/02/1995.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**C86** Paras. 32–34 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

### *Miscellaneous*

- 35        Where, after land has become vested in an acquiring authority under paragraphs 6 to 8 above, a person retains possession of any document relating to the title to the land, he shall be deemed to have given to the acquiring authority an acknowledgment in writing of the right of the acquiring authority to production of that document and to delivery of copies thereof and (except where he retains possession of the document as heritable creditor or as trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof.

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

- C87** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)
- C88** Paras. 35–37 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

- 36        (1) The time within which a question of disputed compensation, arising out of an acquisition of an interest in land in respect of which a notice to treat is deemed to have been served by virtue of paragraphs 6 to 8 above, may be referred to the Lands Tribunal shall be six years from the date at which the person claiming compensation, or a person from whom he derives title, first knew, or could reasonably be expected to have known, of the vesting of the interest by virtue of those paragraphs.
- (2) In reckoning the period of six years referred to in sub-paragraph (1) of this paragraph, no account shall be taken of any period during which the person claiming compensation or the person from whom he derives title was in minority or less age or was under legal disability.

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

- C89** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)
- C90** Paras. 35–37 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

- 37        At the end of the period specified in a general vesting declaration or, if a notice of objection to severance is served under this Schedule, when that notice has been disposed of in accordance with the provisions of this Schedule, that declaration, if still being proceeded with or, as the case may be, that declaration as altered under paragraph 28 above, shall be recorded in the General Register of Sasines, and on being so recorded shall have the same effect as a conveyance registered in accordance with section 80 of the Lands Clauses Consolidation (Scotland) Act 1845.

*Status: Point in time view as at 03/02/1995.*

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

- C91** Sch. 24 paras. 7, 37 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), Sch. 6 paras. 1, 2 (with s. 335)
- C92** Paras. 35–37 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

### PART III

#### INTERPRETATION

- 38 (1) In this Schedule “short tenancy” means a tenancy for a year or from year to year or any lesser interest, and “long tenancy which is about to expire”, in relation to a general vesting declaration, means a tenancy granted for an interest greater than a short tenancy, but having at the date of the declaration a period still to run which is not more than the specified period (that is to say, such period, longer than one year, as may for the purposes of this paragraph be specified in the declaration in relation to the land in which the tenancy subsists).
- (2) In determining for the purposes of this paragraph what period a tenancy still has to run at the date of a general vesting declaration it shall be assumed—
- (a) that the tenant will exercise any option to renew the tenancy, and will not exercise any option to terminate the tenancy, then or thereafter available to him, and
  - (b) that the landlord will exercise any option to terminate the tenancy then or thereafter available to him.

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

- C93** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)
- C94** Paras. 38, 39 modified by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 27 paras. 15–20](#)

- 39 In this Schedule—
- “Acquisition Act 1947” means the <sup>M47</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;
- “relevant enactments”, in relation to an acquiring authority, means the enactments under which that authority may acquire or be authorised to acquire land compulsorily and which prescribe a procedure for effecting the compulsory acquisition of land by them by means of a compulsory purchase order;
- “land”, in relation to compulsory acquisition by an acquiring authority, has the same meaning as in the relevant enactments.

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

- C95** Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 77(3), [Sch. 6 para. 1](#) (with s. 335)

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**C96** Paras. 38, 39 modified by Local Government, Planning and Land Act 1980 (c. 65), Sch. 27 paras. 15–20

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**Marginal Citations**

**M47** 1947 c. 42.

**Status:**

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