

*Status: Point in time view as at 22/01/2022.*

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## SCHEDULES

### SCHEDULE 1

Section 24(4).

#### OLD DEVELOPMENT PLANS

##### *Preliminary*

- 1 In this Schedule “old development plan” means—
- [<sup>F1</sup>(a)] a development plan to which paragraph 2 of Schedule 5 to the 1972 Act (continuation in force of development plans prepared before structure plans became operative) applied immediately before the commencement of this Act[<sup>F2</sup>, and
- (b) except in paragraph 5, a development plan within the meaning of section 24 as that section applied immediately before the coming into force of section 2 of the Planning etc. (Scotland) Act 2006 (asp 17)].

##### **Textual Amendments**

- F1** Words in Sch. 1 para. 1 renumbered as Sch. 1 para. 1(a) (28.2.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 53(2), 59(2)** (with [S.S.I. 2008/427](#), arts. 1(1), **6**); [S.S.I. 2009/70](#), art. 2, sch.
- F2** Sch. 1 para. 1(b) and word added (28.2.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 53(2), 59(2)** (with [S.S.I. 2008/427](#), arts. 1(1), **6**); [S.S.I. 2009/70](#), art. 2, sch.

##### *Continuation in force of old development plans*

- 2 Any old development plan which immediately before the [<sup>F3</sup>coming into force of that section] was in force as respects any area shall, subject to the 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 the development plan for that area.

##### **Textual Amendments**

- F3** Words in Sch. 1 para. 2 substituted (28.2.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 53(3), 59(2)** (with [S.S.I. 2008/427](#), arts. 1(1), **6**); [S.S.I. 2009/70](#), art. 2, sch.

##### **Marginal Citations**

- M1** 1963 c. 51.

##### *Structure plans to prevail over old development plans*

- 3 Subject to the following provisions of this Schedule, where by virtue of paragraph 2 the old development plan[<sup>F4</sup>, not being the structure plan or local plan,] for any

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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 [<sup>F5</sup>the strategic development plan or] the structure plan for that area, the provisions of [<sup>F6</sup>the strategic development plan or as the case may be] the structure plan shall be taken to prevail for the purposes of Parts III and V to VIII and section 85 of this Act, the <sup>M2</sup>Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the <sup>M3</sup>Planning (Hazardous Substances) (Scotland) Act 1997.

**Textual Amendments**

- F4** Words in Sch. 1 para. 3 inserted (28.2.2009) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 53(4)(a), 59(2)(with S.S.I. 2008/427, arts. 1(1), 6) ; S.S.I. 2009/70, art. 2, sch.
- F5** Words in Sch. 1 para. 3 inserted (28.2.2009) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 53(4)(b), 59(2)(with S.S.I. 2008/427, arts. 1(1), 6) ; S.S.I. 2009/70, art. 2, sch.
- F6** Words in Sch. 1 para. 3 inserted (28.2.2009) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 53(4)(c), 59(2)(with S.S.I. 2008/427, arts. 1(1), 6) ; S.S.I. 2009/70, art. 2, sch.

**Marginal Citations**

- M2** 1997 c. 9.
- M3** 1997 c. 10.

*Street authorisation maps*

<sup>F74</sup> .....

**Textual Amendments**

- F7** Sch. 1 para. 4 repealed (28.2.2009) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 53(5), 59(2)(with S.S.I. 2008/427, arts. 1(1), 6) ; S.S.I. 2009/70, art. 2, sch.

*Development plans for compensation purposes*

- 5 Where there is no local plan in force in an area to which a structure plan applies, then, for any of the purposes of the Land Compensation (Scotland) Act 1963—
- (a) the development plan or current development plan shall as respects that area be taken as being—
    - (i) the structure plan so far as applicable to the area, and any alterations to it, together with the Secretary of State’s notice of approval of the plan and alterations, or
    - (ii) the old development plan,
 whichever 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, and
  - (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—
    - (i) any area wholly or partly within that area selected by the structure plan as an action area, or
    - (ii) the area so defined in the old development plan,
 whichever leads to such assumptions as are mentioned in paragraph (a).

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*[<sup>F8</sup>Discontinuance of old development plan on approval of strategic development plan or adoption of local development plan]*

**Textual Amendments**

**F8** Sch. 1 para. 6 cross-heading substituted (28.2.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), ss. [53\(9\)](#), [59\(2\)](#) (with [S.S.I. 2008/427](#), arts. [1\(1\)](#), [6](#)); [S.S.I. 2009/70](#), art. 2, sch.

- 6 Subject to paragraph 7, on the<sup>F9</sup>—
- (a) approval of a strategic development plan under section 13, so much of any structure plan as relates to the area to which the plan so approved relates,
  - (b) adoption of a local development plan under section 20, so much of any old development plan as relates to the area to which the plan so adopted relates, shall cease to have effect. ]

**Textual Amendments**

**F9** Words in Sch. 1 para. 6 substituted (28.2.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), ss. [53\(6\)](#), [59\(2\)](#) (with [S.S.I. 2008/427](#), arts. [1\(1\)](#), [6](#)); [S.S.I. 2009/70](#), art. 2, sch.

- 7 The Secretary of State may by order direct that any of the provisions of the old development plan shall continue in force in relation to the area to which the [<sup>F10</sup>plan so approved, or as the case may be adopted,] relates and, if he does so, the provisions of the old development plan specified in the order shall continue in force to the extent so specified.

**Textual Amendments**

**F10** Words in Sch. 1 para. 7 substituted (28.2.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), ss. [53\(7\)](#), [59\(2\)](#) (with [S.S.I. 2008/427](#), arts. [1\(1\)](#), [6](#)); [S.S.I. 2009/70](#), art. 2, sch.

- 8 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 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.
- 9 Before making an order with respect to a development plan under paragraph 7 or 8, the Secretary of State shall consult the planning authority for the district<sup>F11</sup>, and the strategic development planning authority for any strategic development plan area,] to which the plan relates.

**Textual Amendments**

**F11** Words in Sch. 1 para. 9 inserted (28.2.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), ss. [53\(8\)](#), [59\(2\)](#) (with [S.S.I. 2008/427](#), arts. [1\(1\)](#), [6](#)); [S.S.I. 2009/70](#), art. 2, sch.

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*<sup>F12</sup>Further provision as to interpretation*

**Textual Amendments**

**F12** Sch. 1 para. 10 and cross-heading added (28.2.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), ss. [53\(10\)](#), [59\(2\)](#) (with [S.S.I. 2008/427](#), arts. 1(1), 6); [S.S.I. 2009/70](#), art. 2, sch.

- 10 In this Schedule, “structure plan” is to be construed in accordance with section 6 and “local plan” in accordance with section 11 as those sections applied immediately before the coming into force of section 2 of the Planning etc. (Scotland) Act 2006 (asp 17).]

SCHEDULE 2

Section 28(7).

EXEMPTIONS FROM PLANNING PERMISSION FOR CERTAIN LAND USES IN 1948

- 1 Where on 1st July 1948 land was being temporarily used for a purpose other than the purpose for which it was normally used, planning permission is not required for the resumption of the use of the land for the latter purpose before 8th December 1969.
- 2 Where on 1st July 1948 land was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required in respect of the use of the land for that other purpose on similar occasions on or after 8th December 1969 if the land has been used for that other purpose on at least one similar occasion since 1st July 1948 and before the beginning of 1969.
- 3 Where land was unoccupied on 1st July 1948, but had before that date been occupied at some time on or after 7th January 1937, planning permission is not required in respect of any use of the land begun before 8th December 1969 for the purpose for which the land was last used before 1st July 1948.
- 4 Notwithstanding anything in paragraphs 1 to 3, the use of land as a caravan site shall not, by virtue of any of those paragraphs, be treated as a use for which planning permission is not required, unless the land was so used on one occasion at least during the period of 2 years ending with 9th March 1960.

SCHEDULE 3

Sections 41(6) and 65(5).

CONDITIONS RELATING TO MINERAL WORKING

PART I

CONDITIONS IMPOSED ON GRANT OF PERMISSION

*Duration of development*

- 1 (1) Every planning permission for development—  
 (a) consisting of the winning and working of minerals, or

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- (b) involving the depositing of mineral waste,  
shall be subject to a condition as to the duration of the development.
- (2) Except where a condition is specified under sub-paragraph (3), the condition in the case of planning permission granted or deemed to be granted after 22nd February 1982 is that the winning and working of minerals or the depositing of mineral waste must cease not later than the expiration of the period of 60 years beginning with the date of the permission.
- (3) An authority granting planning permission after that date or directing after that date that planning permission shall be deemed to be granted may specify a longer or shorter period than 60 years, and if they do so, the condition is that the winning and working of minerals or the depositing of mineral waste must cease not later than the expiration of a period of the specified length beginning with the date of the permission.
- (4) A longer or shorter period than 60 years may be prescribed for the purposes of sub-paragraphs (2) and (3).
- (5) The condition in the case of planning permission granted or deemed to have been granted before 22nd February 1982 is that the winning and working of minerals or the depositing of mineral waste must cease not later than the expiration of the period of 60 years beginning with that date.
- (6) A condition to which planning permission for development is subject by virtue of this paragraph—
- (a) is not to be regarded for the purposes of the planning Acts as a condition such as is mentioned in section 41(1)(b), but
  - (b) is to be regarded for the purposes of sections 47 and 48 as a condition imposed by a decision of the planning authority, and may accordingly be the subject of an appeal under section 47.

*Power to impose aftercare conditions*

- 2 (1) Where—
- (a) planning permission for development consisting of the winning and working of minerals or involving the depositing of refuse or waste materials is granted, and
  - (b) the permission is granted subject to a restoration condition,
- it may be granted subject also to any such aftercare condition as the planning authority think fit.
- (2) In this Act—
- “restoration condition” means a condition requiring that after the winning and working is completed or the depositing has ceased, the site shall be restored by the use of any or all of the following, namely, subsoil, topsoil and soil-making material; and
- “aftercare condition” means a condition requiring that such steps shall be taken as may be necessary to bring land to the required standard for whichever of the following uses is specified in the condition, namely—
- (a) use for agriculture,
  - (b) use for forestry, or
  - (c) use for amenity.

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- (3) An aftercare condition may either—
  - (a) specify the steps to be taken, or
  - (b) require that the steps be taken in accordance with a scheme (in this Schedule referred Act as an “aftercare scheme”) approved by the planning authority.
- (4) A planning authority may approve an aftercare scheme in the form in which it is submitted to them or may modify it and approve it as modified.
- (5) The steps that may be specified in an aftercare condition or an aftercare scheme may consist of planting, cultivating, fertilising, watering, draining or otherwise treating the land.
- (6) Where a step is specified in a condition or a scheme, the period during which it is to be taken may also be specified, but no step may be required to be taken after the expiry of the aftercare period.
- (7) In sub-paragraph (6) “the aftercare period” means a period of 5 years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed; and in respect of any part of a site, the aftercare period shall commence on compliance with the restoration condition in respect of that part.
- (8) The power to prescribe maximum periods conferred by sub-paragraph (7) includes power to prescribe maximum periods differing according to the use specified.
- (9) In this paragraph “forestry” means the growing of a utilisable crop of timber.

*Meaning of “required standard”*

- 3 (1) In a case where—
  - (a) the use specified in an aftercare condition is a use for agriculture,
  - (b) the land was in use for agriculture at the time of the grant of the planning permission or had previously been used for that purpose and had not at the time of the grant been used for any authorised purpose since its use for agriculture ceased, and
  - (c) the planning authority is aware of, or can readily ascertain, the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.
- (2) In any other case where the use specified in an aftercare condition is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.
- (3) Where the use specified in an aftercare condition is a use for forestry, the land is brought to the required standard when it is reasonably fit for that use.
- (4) Where the use specified in an aftercare condition is a use for amenity, the land is brought to the required standard when it is suitable for sustaining trees, shrubs or other plants.
- (5) In this paragraph—
 

“authorised” means authorised by planning permission; and

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“forestry” has the same meaning as in paragraph 2.

#### *Consultations*

- 4 (1) Before imposing an aftercare condition specifying a use for forestry, the planning authority shall consult the Forestry Commission as to whether it is appropriate to specify that use.
- (2) Where after consultations required by sub-paragraph (1) the planning authority are satisfied that the use that they ought to specify is a use for forestry, they shall consult the Forestry Commission with regard to whether the steps to be taken should be specified in the aftercare condition or in an aftercare scheme.
- (3) The planning authority shall also consult the Forestry Commission—
- (a) as to the steps to be specified in an aftercare condition which specifies a use<sup>F13</sup> ... for forestry, and
  - (b) before approving an aftercare scheme submitted in accordance with an aftercare condition which specifies such a use.
- (4) The planning authority shall also, from time to time as they consider expedient, consult the Forestry Commission as to whether the steps specified in an aftercare condition or an aftercare scheme are being taken.
- (5) In this paragraph “forestry” has the same meaning as in paragraph 2.

#### **Textual Amendments**

**F13** Words in Sch. 3 para. 4(3)(a) repealed (3.8.2009) by Planning etc. (Scotland) Act 2006 (asp 17), s. 59(2), sch.; S.S.I. 2009/219, art. 2, sch.

#### *Certificate of compliance*

- 5 If, on the application of any person with an interest in land in respect of which an aftercare condition has been imposed, the planning authority are satisfied that the condition has been complied with they shall issue a certificate to that effect.

#### *Recovery of expenses of compliance*

- 6 A person who has complied with an aftercare condition but who has not himself won and worked minerals or deposited refuse or waste materials shall be entitled, subject to any condition to the contrary contained in a contract which is enforceable against him by the person who last carried out such operations, to recover from that person any expenses reasonably incurred in complying with the aftercare condition.

## **PART II**

### **CONDITIONS IMPOSED ON REVOCATION OR MODIFICATION OF PERMISSION**

- 7 An order under section 65 may, in relation to planning permission for development consisting of the winning and working of minerals or involving the depositing of refuse or waste materials, include such aftercare condition as the planning authority think fit if—

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- (a) it also includes a restoration condition, or
  - (b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Act.
- 8 Paragraphs 2(3) to (9) and 3 to 6 shall apply in relation to an aftercare condition so imposed as they apply in relation to such a condition imposed under paragraph 2.

## SCHEDULE 4

Sections 48, 131, 154, 169 and 180.

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

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

- 1 (1) The Secretary of State may by regulations prescribe classes of appeals under sections 47, [F14 75B, 75F,] 130, 154, 169 and 180 which are to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.
- (2) Those classes of appeals shall be so determined except in such classes of case—
- (a) as may for the time being be prescribed, or
  - (b) as may be specified in directions given by the Secretary of State.
- (3) Such regulations may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.
- (4) This paragraph shall not affect any provision in this Act or any instrument made under it that an appeal shall lie to, or a notice of appeal shall be served on, the Secretary of State.
- (5) A person appointed under this paragraph is referred to in this Schedule as an “appointed person”.

#### **Textual Amendments**

**F14** Words in Sch. 4 para. 1(1) inserted (16.12.2010) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), ss. **54(18)** (a), 59(2) (with [S.S.I. 2009/222](#), [art. 9\(2\)\(h\)](#)); [S.S.I. 2010/430](#), art. 2

#### *Powers and duties of appointed persons*

- 2 (1) An appointed person shall have the same powers and duties—
- (a) in relation to an appeal under section 47, as the Secretary of State has under section 48(1), (3), (5) and (8);
  - [F15 (aa) in relation to an appeal under section 75B, as the Scottish Ministers have under subsections (4) and (5) of that section;
  - (ab) in relation to an appeal under section 75F, as the Scottish Ministers have under subsections (4) and (5) of that section;]
  - (b) in relation to an appeal under section 130, as he has under sections 132(1), (2) and (4) and 133(1) to (4);
  - (c) in relation to an appeal under section 154, as he has under subsection (2) and (3) of that section;

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- (d) in relation to an appeal under section 169, as he has under subsections (5), (6), (8) and (9) of that section;
- (e) in relation to an appeal under section 180, as he has under subsections (4) and (6) of that section; and
- (f) in relation to an appeal under paragraph 6(11) or (12) or 11(1) of Schedule 9 or paragraph 9(1) of Schedule 10, as he has under paragraph 18 of Schedule 8.

F16(2) .....

F16(3) .....

F16(4) .....

F16(5) .....

- (6) Where an appeal has been determined by an appointed person, his decision shall be treated as that of the Secretary of State.
- (7) Except as provided by section 239, the decision of an appointed person on an appeal shall be final.

**Textual Amendments**

- F15** Sch. 4 para. 2(1)(aa)(ab) inserted (1.2.2011) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), [ss. 54\(18\)\(b\)\(i\)](#), [59\(2\)](#) (with [S.S.I. 2009/222](#), [art. 9\(2\)\(h\)](#)); [S.S.I. 2010/400](#), [art. 3](#), [sch.](#) (as amended (2.12.2010) by [S.S.I. 2010/430](#), [art. 3](#))
- F16** Sch. 4 para. 2(2)-(5) repealed (3.8.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), [s. 59\(2\)](#), [sch.](#); [S.S.I. 2009/219](#), [art. 2](#), [sch.](#)

*Determination of appeals by Secretary of State*

- 3 (1) The Secretary of State may, if he thinks fit, direct that an appeal which would otherwise fall to be determined by an appointed person shall instead be determined by the Secretary of State.
- (2) Such a direction shall state the reasons for which it is given and shall be served on the 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 38(2) and, if any person has been appointed under paragraph 1, on him.
- (3) Where in consequence of such a direction an appeal falls to be determined by the Secretary of State himself, 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.

F17(4) .....

F17(5) .....

F17(6) .....

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- (7) 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**

**F17** Sch. 4 para. 3(4)-(6) repealed (3.8.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), s. 59(2), [sch.](#); [S.S.I. 2009/219](#), [art. 2](#), [sch.](#)

- 4 (1) The Secretary of State may by a further direction revoke a direction under paragraph 3 at any time before the determination of the appeal.
- (2) Such a further direction 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 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 38(2).
- (3) Where such a further direction 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 appointed person (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.

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

- 5 (1) At any time before the appointed person has determined the appeal the Secretary of State may—
- (a) revoke his appointment, and
  - (b) appoint another person under paragraph 1 to determine the appeal instead.
- (2) Where such a new appointment is made the consideration of the appeal or any inquiry or other hearing in connection with it shall be begun afresh.
- (3) Nothing in sub-paragraph (2) shall require—
- (a) the question referred to in paragraph 2(2) to be asked again with reference to the new appointed person if before his appointment it was asked with reference to the previous appointed person (any answers being treated as given with reference to the new appointed person), or
  - (b) any person to be given an opportunity of making fresh representations or modifying or withdrawing any representations already made.

#### *Local inquiries and hearings*

- 6 (1) Whether or not the parties to an appeal have asked for an opportunity to appear and be heard, an appointed person—
- (a) may hold a local inquiry in connection with the appeal, and
  - (b) shall do so if the Secretary of State so directs.
- (2) Where an appointed person—

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- (a) holds a hearing <sup>F18</sup> ..., 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.
- (3) Subject to sub-paragraph (4), the expenses of any such hearing or inquiry shall be paid by the Secretary of State.
- (4) Subsections (4) to (13) of section 265 apply to an inquiry held under this paragraph as they apply to an inquiry held under that section.
- (5) The appointed person has the same power to make orders under subsection (9) of that section in relation to proceedings under this Schedule which do not give rise to an inquiry as he has in relation to such an inquiry.
- (6) For the purposes of this paragraph, references to the Minister in subsections (9) and (12) of that section shall be treated as references to the appointed person.

#### Textual Amendments

**F18** Words in Sch. 4 para. 6(2)(a) repealed (3.8.2009) by [Planning etc. \(Scotland\) Act 2006 \(Consequential Amendments\) Order 2009 \(S.S.I. 2009/256\)](#), arts. 1(3), **2(7)**

#### *Supplementary provisions*

- 7 If, before or during the determination of an appeal under section 47 which is to be or is being determined in accordance with paragraph 1, the Secretary of State forms the opinion mentioned in section 48(7), he may direct that the determination shall not be begun or proceeded with.
- 8 (1) The <sup>M4</sup>Tribunals and Inquiries Act 1992 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 10(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 an appointed person.
- (2) The functions of determining an appeal and doing anything in connection with it conferred by this Schedule on an appointed person who is [<sup>F19</sup>a member of the staff of the Scottish Administration shall be treated for the purposes of the Scottish Public Services Ombudsman Act 2002 (asp 11) as functions conferred on the Scottish Ministers.]

#### Textual Amendments

**F19** Words in Sch. 4 para. 8 substituted (23.10.2002) by [2002 asp 11, s. 25, Sch. 6 para. 17; S.S.I. 2002/467, art. 2](#)

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

**C1** Sch. 4 para. 8 modified by [S.I. 1999/1351, art. 17\(a\); S.I. 1999/3178](#)

*Status: Point in time view as at 22/01/2022.*

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#### Marginal Citations

M4 1992 c. 53.

## SCHEDULE 5

Section 50(3).

### SIMPLIFIED PLANNING ZONES

#### *General*

- 1 (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.
- (2) A simplified planning zone scheme 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.

#### *Notification of proposals to make or alter scheme*

- 2 An authority who decide under section 50(2) 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 3 months from the date of the request decide to do so,
- 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 12 months preceding his request, or
  - (b) in the case of a request to alter the 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

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- (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) After the Secretary of State has—
  - (a) considered the matter and any written representations made by the applicant or the authority, and
  - (b) carried out such consultations with such persons as he thinks fit, he may 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,and, in either case, requires the planning authority to take all the steps required by this Schedule for the adoption of proposals for the making or, as the case may be, alteration of a scheme.
- (2) A direction under sub-paragraph (1)(a) or (b) may extend—
  - (a) to the land specified in the request to the authority,
  - (b) to any part of the land so specified, or
  - (c) to 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.

*Steps to be taken before depositing proposals*

- 5 (1) A planning authority proposing to make or alter a simplified planning zone scheme shall, before determining the content of their proposals, comply with this paragraph.
- (2) They shall—
  - (a) consult—
    - (i) the Secretary of State, and
    - (ii) any local roads authority in whose area the proposed zone or any part of it lies,as to the effect any proposals they may make might have on existing or future roads, and
  - (b) consult or notify such persons as regulations may require them to consult or, as the case may be, notify.
- (3) They shall take such steps as may be prescribed, or as the Secretary of State may in a particular case direct, to publicise—
  - (a) the fact that they propose to make or alter a simplified planning zone scheme, and
  - (b) the matters which they are considering including in the proposals.
- (4) They shall consider any representations that are made in accordance with regulations.

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*Procedure after deposit of proposals*

- 6 Where a planning authority have prepared a proposed simplified planning zone scheme, or proposed alterations to a simplified planning zone scheme, they shall—
- (a) make copies of the proposed scheme or alterations available for inspection at such places as may be prescribed,
  - (b) take such steps as may be prescribed for the purpose of advertising the fact that the proposed scheme or alterations are so available and the places at which, and times during which, they may be inspected,
  - (c) take such steps as may be prescribed for inviting representations or objections to be made within such period as may be prescribed, and
  - (d) send a copy of the proposed scheme or alterations to the Secretary of State and to any local roads authority whom they have consulted under paragraph 5(2)(a).

*Procedure for dealing with objections*

- 7 (1) Where objections to the proposed scheme or alterations are made, the planning authority may—
- (a) for the purpose of considering the objections, cause a local inquiry or other hearing to be held by a person appointed by the Secretary of State or, in such cases as may be prescribed, appointed by the authority, or
  - (b) require the objections to be considered by a person appointed by the Secretary of State.
- (2) A planning authority shall exercise the power under sub-paragraph (1), or paragraph (a) or (b) of that sub-paragraph, if directed to do so by the Secretary of State.
- (3) Regulations may—
- (a) make provision with respect to the appointment, and qualifications for appointment, of persons for the purposes of this paragraph;
  - (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.
- (4) The <sup>M5</sup>Tribunals and Inquiries Act 1992 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 10(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.
- (5) The planning authority shall—
- (a) where a person appointed under or by virtue of this paragraph is in the public service of the Crown, pay the Secretary of State, and
  - (b) in any other case, pay the person so appointed,
- a sum, determined in accordance with regulations under sub-paragraph (6), in respect of the performance by the person so appointed of his functions in relation to the inquiry or hearing (whether or not it takes place).

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- (6) Regulations made by the Secretary of State may make provision with respect to the determination of the sum referred to in sub-paragraph (5) and may in particular prescribe, in relation to any class of person appointed under or by virtue of this paragraph, a standard daily amount applicable in respect of each day on which a person of that class is engaged in holding, or in work connected with, the inquiry or hearing.
- (7) Without prejudice to the generality of sub-paragraph (6), the Secretary of State may, in prescribing by virtue of that sub-paragraph a standard daily amount for any class of person—
- (a) where the persons of that class are in the public service of the Crown, have regard to the general staff costs and overheads of his department, and
  - (b) in any other case, have regard to the general administrative costs incurred by persons of that class in connection with the performance by them of their functions in relation to such inquiries and hearings.

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

C2 Sch. 5 para. 7(5)-(7) amended (27.5.1997) by 1997 c. 11, ss. 5, 6(2), Sch. 3 para. 14

**Marginal Citations**

M5 1992 c. 53.

*Adoption of proposals by planning authority*

- 8 (1) After the expiry of the period for making objections or, if objections have been made in accordance with the regulations, after considering those objections and the views of any person holding an inquiry or hearing or considering the objections under paragraph 7, the planning authority may by resolution adopt the proposals (subject to the following provisions of this paragraph and of paragraph 9).
- (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) or 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.

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(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 or any consideration of objections 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.

*Approval of 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, consider any objections made in accordance with regulations (and not withdrawn) except objections which—
- (a) have already been considered by the planning authority or by a person appointed by the Secretary of State, or
  - (b) have already been considered at a local inquiry or other hearing.
- (4) The Secretary of State may—
- (a) for the purpose of considering any objections and the views of the planning authority and of such other persons as he thinks fit, cause a local inquiry or other hearing to be held by a person appointed by him, or
  - (b) require such objections and views to be considered by a person appointed by him.
- (5) In considering the proposals the Secretary of State may consult, or consider the views of, any planning authority or any other person; but he need not do so, or give an opportunity for the making or consideration of representations or objections, except so far as he is required to do so by sub-paragraph (3) of this paragraph.

*Default powers*

- 11 (1) Where—
- (a) a planning authority are directed under paragraph 3 to make a simplified planning zone scheme which the Secretary of State considers appropriate or to alter such a scheme in such manner as he considers appropriate, and
  - (b) the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the authority are not taking within a reasonable period the steps required by this Schedule for the adoption of proposals for the making or, as the case may be, alteration of a scheme,
- he may himself make a scheme or, as the case may be, the alterations.
- (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

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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.

#### *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) make provision with respect to the circumstances in which representations with respect to the matters to be included in such a scheme or proposals for its alteration are to be treated, for the purposes of this Schedule, as being objections made in accordance with regulations;
  - (d) without prejudice to paragraph (a), 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 have notified the planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge;
  - (e) require or authorise a planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;
  - (f) 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, subject (if the regulations so provide) to the payment of a reasonable charge;
  - (g) 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 throughout Scotland 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 give directions to any planning authority or to planning authorities generally—

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- (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.

## SCHEDULE 6

Section 69(4).

### PLANNING INQUIRY COMMISSIONS

#### *Constitution*

- 1 (1) A Planning Inquiry Commission (“a commission”) shall consist of a chairman and not less than 2 nor more than 4 other members appointed by the Secretary of State.
- (2) The Secretary of State may—
- (a) pay to the members of a commission such remuneration and allowances as he may with the consent of the Treasury determine, and
  - (b) provide for a commission such officers or servants, and such accommodation, as appears to him expedient to provide for the purpose of assisting the commission in the discharge of their functions.
- (3) The validity of any proceedings of a commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.

#### *References*

- 2 (1) Two or more of the matters mentioned in section 69(2) may be referred to the same commission if it appears to the responsible Minister or Ministers that they relate to proposals to carry out development for similar purposes on different sites.
- (2) Where a matter referred to a commission under section 69(2) relates to a proposal to carry out development for any purpose at a particular site, the responsible Minister or Ministers may also refer to the commission the question whether development for that purpose should instead be carried out at an alternative site.
- (3) On referring a matter to a commission under section 69(2), the responsible Minister or Ministers—
- (a) shall state in the reference the reasons for the reference, and
  - (b) may draw the attention of the commission to any points which seem to him or them to be relevant to their inquiry.

#### *Procedure on reference*

- 3 (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 section 69(2) may be made at any time before, but not after, the determination of the relevant application referred under section 46 or the relevant appeal under section 47 or, as the case may be, the giving of the relevant direction under section 57.

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- (3) The fact that an inquiry or other hearing has been held into a proposal by a person appointed by any Minister for the purpose shall not prevent a reference of the proposal to a commission.
- (4) Notice of the making of a reference to a commission shall be published in the prescribed manner.
- (5) A copy of the notice shall be served on the planning authority for the area in which it is proposed that the relevant development shall be carried out, and—
  - (a) in the case of an application for planning permission referred under section 46 or an appeal under section 47, on the applicant and any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 38(1) or (2);
  - (b) in the case of a proposal that a direction should be given under section 57 with respect to any development, on the local authority or statutory undertakers applying for authorisation to carry out that development.
- (6) Subject to the provisions of this Schedule and to any directions given to them by the responsible Minister or Ministers, a commission shall have power to regulate their own procedure.

#### *Functions on reference*

- 4 (1) A commission inquiring into a matter referred to them under section 69(2) shall—
  - (a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out, and
  - (b) assess the importance to be attached to those considerations or aspects.
- (2) If—
  - (a) in the case of a matter mentioned in section 69(2)(a), (b) or (c), the applicant, or
  - (b) in any case, the planning authority,so wish, the commission shall give to each of them, and, in the case of an application or appeal mentioned in section 69(2)(a) or (b), also to any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 38(1) or (2), an opportunity of appearing before and being heard by one or more members of the commission.
- (3) The commission shall then report to the responsible Minister or Ministers on the matter referred to them.
- (4) A commission may, with the approval of the Secretary of State and at his expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to them to be relevant to a matter referred to them for inquiry and report.

#### *Local inquiries held by commission*

- 5 (1) A commission shall, for the purpose of complying with paragraph 4(2), hold a local inquiry.

*Status: Point in time view as at 22/01/2022.*

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- (2) They may hold such an inquiry, if they think it necessary for the proper discharge of their functions, although neither the applicant nor the planning authority wish an opportunity to appear and be heard.
- (3) Where a commission are to hold a local inquiry under this paragraph in connection with a matter referred to them, and it appears to the responsible Minister or Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than paragraph 4 and this paragraph to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, he or, as the case may be, they may direct that the two inquiries be held concurrently or combined as one inquiry.
- (4) An inquiry held by a commission under this paragraph shall be treated for the purposes of the <sup>M6</sup>Tribunals and Inquiries Act 1992 as one held by a Minister in pursuance of a duty imposed by a statutory provision.

[<sup>F20</sup>(4A) <sup>F21</sup>.....]

- (5) Subsections (4) to (13) of section 265 (power to summon and examine witnesses, and expenses at inquiries) shall apply to an inquiry held under this paragraph as they apply to an inquiry held under that section.

*“ The responsible Minister or Ministers ”*

**Textual Amendments**

- F20** Sch. 6 para. 5(4A) inserted (1.11.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 8 para. 50](#); [S.I. 2007/2709](#), art. 3(b)(i)
- F21** Sch. 6 para. 5(4A) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), [Sch. para. 17\(a\)](#)

**Marginal Citations**

- M6** 1992 c. 53.

- 6 (1) In section 69 and this Schedule “the responsible Minister or Ministers” means, in relation to a matter specified in column 1 of the following Table (matters which may be referred to a Planning Inquiry Commission under section 69(2)), the Minister or Ministers specified opposite in column 2.
- (2) Where an entry in column 2 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 47—	(a) the Secretary of State and the appropriate Minister (if different);
(a) relating to land to which section 218(1) applies;	
(b) relating to other land.	(b) the Secretary of State.

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2. Proposal that a government department should give a direction under section 57(1) 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.
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## SCHEDULE 7

Section 70(4).

### JOINT PLANNING INQUIRY COMMISSIONS

#### *Constitution*

- 1 (1) A Joint Planning Inquiry Commission (a “joint commission”) shall consist of a chairman and not less than 2 nor more than 4 other members appointed by the Ministers.
- (2) The Ministers may—
- (a) pay to the members of a joint commission such remuneration and allowances as they may with the consent of the Treasury determine, and
  - (b) provide for a joint commission such officers or servants, and such accommodation, as appears to them expedient to provide for the purpose of assisting the commission in the discharge of their functions.
- (3) The validity of any proceedings of a joint commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.

#### *References*

- 2 (1) Two or more of the matters mentioned in section 70(2) (“referred matters”) may be referred to the same joint commission if it appears to the responsible Ministers that they relate to proposals to carry out development for similar purposes on different sites.
- (2) Where a referred matter relates to a proposal to carry out development for any purpose at a particular site, the responsible Ministers may also refer to the commission the question whether development for that purpose should be instead carried out at an alternative site, whether in Scotland or in England, or partly in one and partly in the other.
- (3) On referring a matter to a joint commission, the responsible Ministers—
- (a) shall state in the reference the reasons for it, and
  - (b) may draw the attention of the commission to any points which seem to them to be relevant to their inquiry.

#### *Procedure on reference*

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

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- (2) A reference of any other matter mentioned in section 70(2) 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.
- (3) Notice of the making of a reference to a joint commission shall be published in the prescribed manner.
- (4) A copy of the notice shall be served on the planning authority for the district, or as the case may be the local planning authority for the area, in which it is proposed that the relevant development shall be carried out.
- (5) In the case of an application for planning permission referred under section 46 of this Act or section 77 of the 1990 Act or an appeal under section 47 of this Act or section 78 of the 1990 Act, 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 planning authority are required to take into account under section 38(1) or (2) of this Act or, as the case may be, the local planning authority are required to take into account under section 71(1) or (2) of the 1990 Act.
- (6) In the case of a proposal that a direction should be given by a government department under section 57(1) of this Act or section 90(1) of the 1990 Act 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.
- (7) Subject to the provisions of this Schedule, and to any directions given to them by the responsible Ministers, a joint commission shall have power to regulate their own procedure.
- (8) In this paragraph “prescribed” means prescribed by regulations made by the Secretary of State and the <sup>[F22]</sup>Secretary of State for Transport] jointly in the exercise of their respective powers under this Act and the 1990 Act.

#### Textual Amendments

**F22** Words in [Sch. 7 para. 3\(8\)](#) substituted (25.11.2002) by [S.I. 2002/2626, art. 20](#), [Sch. 2 para. 22](#)

#### *Functions on reference*

- 4 A joint commission inquiring into a referred matter shall—
  - (a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out,
  - (b) assess the importance to be attached to those considerations or aspects,
  - (c) give to persons an opportunity of appearing before, and being heard by, one or more members of the commission in accordance with paragraph 5, and
  - (d) report to the responsible Ministers on the matter.

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- 5 A joint commission shall give an opportunity of appearing and being heard by one or more of its members to—
- (a) in any case, the planning authority or, as the case may be, the local planning authority, if the authority so wish,
  - (b) in the case of a matter mentioned in section 69(2)(a), (b) or (c) of this Act or section 101(2)(a), (b) or (c) of the 1990 Act, the applicant, if he so wishes, and
  - (c) in the case of an application or appeal mentioned in section 69(2)(a) or (b) of this Act or section 101(2)(a) or (b) of the 1990 Act, any person who has made representations relating to the subject matter of the application or appeal which the planning authority are required to take into account under section 38(1) or (2) of this Act or, as the case may be, the local planning authority are required to take into account under section 71(1) or (2) of the 1990 Act.
- 6 A joint commission may, with the approval of the Ministers and at their expense, arrange for the carrying out, by themselves or others, of research of any kind appearing to them to be relevant to a referred matter.
- 7 The provisions of sections 46(5) and 48(2) of this Act and sections 77(5) and 79(2) of the 1990 Act and the provisions of Schedule 4 to this Act and Schedule 6 to the 1990 Act, relating to the giving 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 joint commission.

#### *Local inquiries*

- 8 (1) A joint commission shall, for the purpose of complying with paragraph 5, hold a local inquiry.
- (2) A joint commission may hold such an inquiry if they think it necessary for the proper discharge of their functions, although neither the applicant nor the planning authority or, as the case may be, the local planning authority wish an opportunity to appear and be heard.
- (3) Where a joint 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.
- (4) For the purposes of the <sup>M7</sup>Tribunals and Inquiries Act 1992 a local inquiry held by a joint 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 [<sup>F23</sup>the Secretary of State for Transport] in pursuance of a duty so imposed.

[<sup>F24</sup>(4A) <sup>F25</sup>.....]

- (5) Subsections (4) to (13) of section 265 shall apply to a local inquiry held by a joint commission in Scotland as they apply to an inquiry held under that section.

*Status: Point in time view as at 22/01/2022.*

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- (6) Subsections (2) to (5) of section 250 of the <sup>M8</sup>Local Government Act 1972 (evidence and costs at local inquiries) shall apply in relation to a local inquiry held by a joint commission in England as they apply in relation to an inquiry caused to be held by a Minister under subsection (1) of that section, with the substitution for references to a Minister causing the inquiry to be held (other than the first reference in subsection (4)) of references to the responsible Ministers.

#### Textual Amendments

- F23** Words in Sch. 7 para. 8(4)(b) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 22**
- F24** Sch. 7 para. 8(4A) inserted (1.11.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 8 para. 51**; S.I. 2007/2709, art. 3(b)(i)
- F25** Sch. 7 para. 8(4A) omitted (19.9.2013) by virtue of The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 17(b)**

#### Marginal Citations

- M7** 1992 c. 53.
- M8** 1972 c. 70.

#### Interpretation

9 In this Schedule—

“the 1990 Act” means the <sup>M9</sup>Town and Country Planning Act 1990;

“the Ministers” has the meaning given in section 70(3), except that their functions under paragraphs 1(2) and 6 may, by arrangements between them, be exercised by either acting on behalf of both; and

“the responsible Ministers” means, in relation to a matter specified in column 1 of the following Table (matters which may be referred to a Joint Planning Inquiry Commission under section 70(2)), those specified opposite in column 2, acting jointly.

TABLE

Referred Matter	Responsible Ministers
1. Application for planning permission or appeal under section 47 of this Act— (a) relating to land to which section 218(1) of this Act or section 266(1) of the 1990 Act applies;	(a) 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).
Referred Matter	Responsible Ministers
(b) relating to other land.	(b) the Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England.

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2. Proposal that a government department should give a direction under section 57(1) of this Act or section 90(1) of the 1990 Act, 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.

#### Marginal Citations

M9 1990 c. 8.

## SCHEDULE 8

Section 71(8).

### OLD MINERAL WORKINGS AND PERMISSIONS

#### PART I

##### REQUIREMENTS RELATING TO DISCONTINUANCE OF MINERAL WORKING

###### *Orders requiring discontinuance of mineral working*

- 1 (1) If, having regard to the development plan and to any other material considerations, it appears to a planning authority that it is expedient in the interests of the proper planning of their district (including the interests of amenity)—
- (a) that any use of land for development consisting of the winning and working of minerals or involving the deposit of refuse or waste materials in, on or under the land should be discontinued, or that any conditions should be imposed on the continuance of that use of land,
  - (b) that any buildings or works on land so used should be altered or removed, or
  - (c) that any plant or machinery used for the winning and working of or depositing of minerals should be altered or removed,
- the planning authority may by order require the discontinuance of that use, or impose such conditions as may be specified in the order on the continuance of it or, as the case may be, require such steps as may be so specified to be taken for the alteration or removal of the buildings or works or plant or machinery.
- (2) Subsections (2) to (5) and (7) of section 71 and section 72 apply to orders under this paragraph as they apply to orders under section 71.
- 2 (1) Where development consisting of the winning and working of minerals or involving the deposit of refuse or waste materials is being carried out in, on or under any land, the conditions which an order under paragraph 1 may impose include a restoration condition.
- (2) If—
- (a) such an order includes a restoration condition, or
  - (b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Act,

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the order may also include any such aftercare condition as the planning authority think fit.

- (3) An order under paragraph 1 may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be—
  - (a) required by paragraph 1 of Schedule 3, or
  - (b) specified in the order.
- (4) In a case where—
  - (a) the use specified in an aftercare condition is a use for agriculture,
  - (b) the land was in use for agriculture immediately before the development began or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased, and
  - (c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.
- (5) In any other case where the use specified in an aftercare condition is a use for agriculture, the land is brought to the required standard when it is reasonably fit for that use.

#### *Prohibition of resumption of mineral working*

- 3 (1) Where it appears to the planning authority that development of land consisting of the winning and working of minerals or involving the depositing of mineral waste has occurred, but the winning and working or depositing has permanently ceased, the planning authority may by order—
  - (a) prohibit the resumption of the winning and working or the depositing, and
  - (b) impose, in relation to the site, any such requirement as is specified in sub-paragraph (3).
- (2) The planning authority may assume that the winning and working or the depositing has permanently ceased only when—
  - (a) no winning and working or depositing has occurred, to any substantial extent, at the site for a period of at least 2 years, and
  - (b) it appears to the planning authority, on the evidence available to them at the time when they make the order, that resumption of the winning and working or the depositing to any substantial extent at the site is unlikely.
- (3) The requirements mentioned in sub-paragraph (1) are—
  - (a) a requirement to alter or remove plant or machinery which was used for the purpose of the winning and working or the depositing or for any purpose ancillary to that purpose,
  - (b) a requirement to take such steps as may be specified in the order, within such period as may be so specified, for the purpose of removing or alleviating any injury to amenity which has been caused by the winning and working or depositing, other than injury due to subsidence caused by underground mining operations,

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- (c) a requirement that any condition subject to which planning permission for the development was granted or which has been imposed by virtue of any provision of this Act shall be complied with, and
    - (d) a restoration condition.
  - (4) If—
    - (a) an order under this paragraph includes a restoration condition, or
    - (b) a restoration condition has previously been imposed in relation to the site by virtue of any provision of this Act,the order may include any such aftercare condition as the planning authority think fit.
  - (5) Paragraphs 2(3) to (9), 3(3) and (4) and 4 to 6 of Schedule 3 apply in relation to an aftercare condition imposed under this paragraph as they apply to such a condition imposed under paragraph 2 of that Schedule.
  - (6) In a case where—
    - (a) the use specified in an aftercare condition is a use for agriculture,
    - (b) the land was in use for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on, or under it or had previously been used for any authorised purpose since its use for agriculture ceased, and
    - (c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.
  - (7) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.
- 4 (1) An order under paragraph 3 shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.
- (2) Where a planning authority submit such an order to the Secretary of State for his confirmation under this paragraph, the authority shall serve notice of the order—
  - (a) on any person who is an owner or occupier of any of the land to which the order relates, and
  - (b) on any other person who in their opinion will be affected by it.
- (3) The notice shall specify the period within which any person on whom the notice is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.
- (4) If within that period such a person so requires, the Secretary of State shall, before confirming the order, give such an opportunity both to that person and to the planning authority.
- (5) The period referred to in sub-paragraph (3) must not be less than 28 days from the service of the notice.

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- (6) Where an order under paragraph 3 has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice under sub-paragraph (2).
- (7) When an order under paragraph 3 takes effect any planning permission for the development to which the order relates shall cease to have effect.
- (8) Sub-paragraph (7) is without prejudice to the power of the planning authority, on revoking the order, to make a further grant of planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste.

*Orders after suspension of winning and working of minerals*

- 5 (1) Where it appears to the planning authority—
  - (a) that development of land—
    - (i) consisting of the winning and working of minerals, or
    - (ii) involving the depositing of mineral waste,
 has occurred, but
  - (b) the winning and working or depositing has been temporarily suspended,
 the planning authority may by order (in this Act referred to as a “suspension order”) require that steps be taken for the protection of the environment.
- (2) The planning authority may assume that the winning and working or the depositing has been temporarily suspended only when—
  - (a) no such winning and working or depositing has occurred, to any substantial extent, at the site for a period of at least 12 months, but
  - (b) it appears to the planning authority, on the evidence available to them at the time when they make the order, that a resumption of such winning and working or depositing to a substantial extent is likely.
- (3) In this Act “steps for the protection of the environment” means steps for the purpose of—
  - (a) preserving the amenities of the area in which the land in, on or under which the development was carried out is situated during the period while the winning and working or the depositing is suspended,
  - (b) protecting that area from damage during that period, or
  - (c) preventing any deterioration in the condition of the land during that period.
- (4) A suspension order shall specify a period, commencing with the date on which it is to take effect, within which any required step for the protection of the environment is to be taken and may specify different periods for the taking of different steps.

*Supplementary suspension orders*

- 6 (1) At any time when a suspension order is in operation the planning authority may by order direct—
  - (a) that steps for the protection of the environment shall be taken in addition to or in substitution for any of the steps which the suspension order or a previous order under this sub-paragraph specified as required to be taken, or

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(b) that the suspension order or any order under this sub-paragraph shall cease to have effect.

(2) An order under sub-paragraph (1) is in this Act referred to as a “supplementary suspension order”.

*Confirmation and coming into operation of suspension orders*

7 (1) Subject to sub-paragraph (2) and without prejudice to paragraph 8, a suspension order or a supplementary suspension order shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.

(2) A supplementary suspension order revoking a suspension order or a previous supplementary suspension order and not requiring that any fresh step shall be taken for the protection of the environment shall take effect without confirmation.

(3) Sub-paragraphs (2) to (5) of paragraph 4 shall have effect in relation to a suspension order or supplementary suspension order submitted to the Secretary of State for his confirmation as they have effect in relation to an order submitted to him for his confirmation under that paragraph.

(4) Where a suspension order or supplementary suspension order has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice of the order by virtue of sub-paragraph (3).

*Registration of suspension orders*

8 An order made under paragraph 3, 5 or 6 shall not take effect until it is registered either—

- (a) in a case where the land affected by the order is registered in that Register, in the Land Register for Scotland, or
- (b) in any other case, in the appropriate division of the General Register of Sasines.

*Review of suspension orders*

9 (1) It shall be the duty of a planning authority—

(a) to undertake in accordance with the following provisions of this paragraph reviews of suspension orders and supplementary suspension orders which are in operation in their district, and

(b) to determine whether they should make in relation to any land to which a suspension order or supplementary suspension order applies—

- (i) an order under paragraph 3, or
- (ii) a supplementary suspension order.

(2) The first review of a suspension order shall be undertaken not more than 5 years from the date on which the order takes effect.

(3) Each subsequent review shall be undertaken not more than 5 years after the previous review.

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- (4) If a supplementary suspension order is in operation for any part of the area for which a suspension order is in operation, they shall be reviewed together.
- (5) If a planning authority have made a supplementary suspension order which requires the taking of steps for the protection of the environment in substitution for all the steps required to be taken by a previous suspension order or supplementary suspension order, the authority shall undertake reviews of the supplementary suspension order in accordance with sub-paragraphs (6) and (7).
- (6) The first review shall be undertaken not more than 5 years from the date on which the order takes effect.
- (7) Each subsequent review shall be undertaken not more than 5 years after the previous review.

#### *Old mining permissions*

- 10 (1) In this paragraph and Part II of this Schedule, “old mining permission” means any planning permission for development—
  - (a) consisting of the winning and working of minerals, or
  - (b) involving the depositing of mineral waste,
 which is deemed to have been granted by virtue of paragraph 77 of Schedule 22 to the 1972 Act (development authorised under interim development orders after 10th November 1943).
- (2) An old mining permission shall, if an application under Part II of this Schedule to determine the conditions to which the permission is to be subject is finally determined, have effect as from the final determination as if granted on the terms required to be registered.
- (3) If no such development has, at any time in the period of 2 years ending with 16th May 1991, been carried out to any substantial extent anywhere in, on or under the land to which an old mining permission relates, that permission shall not authorise any such development to be carried out after 24 January 1992 unless—
  - (a) the permission has effect in accordance with sub-paragraph (2), and
  - (b) the development is carried out after such an application is finally determined.
- (4) An old mining permission shall—
  - (a) if no application for the registration of the permission is made under Part II of this Schedule, cease to have effect on the day following the last date on which such an application may be made, and
  - (b) if such an application is refused, cease to have effect on the day following the date on which the application is finally determined.
- (5) An old mining permission shall, if—
  - (a) such an application is granted, but
  - (b) an application under Part II of this Schedule to determine the conditions to which the permission is to be subject is required to be served before the end of any period and is not so served,
 cease to have effect on the day following the last date on which the application to determine those conditions may be served.
- (6) Subject to sub-paragraph (3), this paragraph—

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- (a) shall not affect any development carried out under an old mining permission before an application under Part II of this Schedule to determine the conditions to which the permission is to be subject is finally determined or, as the case may be, the date on which the permission ceases to have effect, and
- (b) shall not affect any order made or having effect as if made under paragraphs 1 to 9 and 11.

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

**C3** Sch. 8 para. 10 applied (with modifications) (12.6.2006) by [Planning and Compulsory Purchase Act 2004](#) (c. 5), ss. [97\(2\)](#), [121\(4\)](#) (with s. [111](#)); S.S.I. 2006/268, art. [3\(b\)](#)

*Resumption of mineral working after suspension order*

- 11
- (1) Subject to sub-paragraph (2), nothing in a suspension order or a supplementary suspension order shall prevent the recommencement of development consisting of the winning and working of minerals or involving the depositing of mineral waste at the site in relation to which the order has effect.
  - (2) No person shall recommence such development without first giving the planning authority notice of his intention to do so.
  - (3) A notice under sub-paragraph (2) shall specify the date on which the person giving the notice intends to recommence the development.
  - (4) The planning authority shall revoke the order if the winning and working of minerals or the depositing of mineral waste has recommenced to a substantial extent at the site in relation to which the order has effect.
  - (5) If the authority do not revoke the order before the end of the period of 2 months from the date specified in the notice under sub-paragraph (2), the person who gave that notice may apply to the Secretary of State for the revocation of the order.
  - (6) Notice of an application under sub-paragraph (5) shall be given by the applicant to the planning authority.
  - (7) If he is required to do so by the person who gave the notice or by the planning authority, the Secretary of State shall, before deciding whether to revoke the order, give him and the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
  - (8) If the Secretary of State is satisfied that the winning and working of minerals or the depositing of mineral waste has recommenced to a substantial extent at the site in relation to which the order has effect, he shall revoke the order.
  - (9) If the Secretary of State revokes an order by virtue of sub-paragraph (8), he shall give notice of its revocation—
    - (a) to the person who applied to him for the revocation, and
    - (b) to the planning authority.

*Default powers of Secretary of State*

- 12
- (1) If it appears to the Secretary of State that it is expedient that any order should be made under paragraph 1, 3, 5 or 6, he may himself make such an order.

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- (2) Such an order made by the Secretary of State shall have the same effect as if it had been made by the planning authority and confirmed by the Secretary of State.
- (3) The Secretary of State shall not make such an order without consulting the planning authority.
- (4) Where the Secretary of State proposes to make an order under paragraph 1 he shall serve a notice of the proposal on the planning authority.
- (5) The notice shall specify the period (which must not be less than 28 days from the date of its service) within which the authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (6) If within that period the authority so require, the Secretary of State shall, before making the order, give the authority such an opportunity.
- (7) The provisions of this Schedule and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the planning authority of any order under paragraph 1, 3, 5 or 6, as the case may be, its confirmation by the Secretary of State and the service of copies of it as confirmed 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 sub-paragraph (1), its making by him and the service of copies of it.

## PART II

### REGISTRATION OF OLD MINING PERMISSIONS

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

- C4** [Sch. 8 Pt. II](#) applied (with modifications) (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), [ss. 97\(2\)](#), [121\(4\)](#) (with [s. 111](#)); [S.S.I. 2006/268](#), [art. 3\(b\)](#)

#### *Application for registration*

- 13
- (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 6 months beginning on 24 January 1992.
  - (4) On an application under this paragraph, the planning authority must—
    - (a) if they are satisfied that (apart from paragraph 10(3)) 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

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- (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 3 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 paragraph 10 and this Part of this Schedule as having been refused by the authority.

#### *Determination of conditions*

- 14 (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 13(4)(a), and
  - (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), and
  - (b) except where paragraph 10(3) applies, before the end of the period of 12 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) 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 17, 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 3 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

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treated for the purposes of paragraph 10 and this Part of 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 subparagraph (1)(c) is not to be regarded for the purposes of the planning Acts as a condition such as is mentioned in section 41(1)(b) (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 13 was granted.

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

- C5** Sch. 8 para. 14(6)(b) restricted (1.6.2011) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/139\)](#), regs. 1, **33(17)(a)**

*Registration*

- 15 (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 36 and the entry must specify the area of land ascertained under paragraph 13(4)(a).
- (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.

*General provisions about applications*

- 16 (1) An application under paragraph 13 or 14 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 13 or 14, 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 34 or 35 to accompany the application if it were an application for planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste, but

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

(6) Sections 34(3) and (4) and 35(5) (offences) shall also have effect in relation to any certificate purporting to be an appropriate certificate.

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

**C6** Sch. 8 para. 16(4) excluded (1.6.2011) by The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 (S.S.I. 2011/139), regs. 1, **33(18)**

*Right of appeal*

- 17 (1) Where the planning authority—
- (a) refuse an application under paragraph 13, 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 14, 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), the notice must be given to the Secretary of State before the end of the period of 3 months beginning with the determination or, in the case of an application treated as refused by virtue of paragraph 13(5), beginning at the end of the period or extended period referred to in paragraph 13(5)(b).
- (5) In the case of an appeal under sub-paragraph (2), the notice must be given to the Secretary of State before the end of the period of 6 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 16(5) and (6) shall apply for the purposes of sub-paragraph (7) as it applies for the purposes of paragraph 16(1).

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

**C7** Sch. 8 para. 17(2) modified (1.6.2011) by The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 (S.S.I. 2011/139), regs. 1, **33(21)(a)**

**C8** Sch. 8 para. 17(2) modified (16.5.2017) by The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I. 2017/102), regs. 1, **38(18)**, (22) (with regs. 2(10), 38, 39, 40, 60(7))

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- C9** Sch. 8 para. 17(5) modified (1.6.2011) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/139\)](#), regs. 1, **33(21)(b)**
- C10** Sch. 8 para. 17(5) modified (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/102\)](#), regs. 1, **38(18)**, (22) (with regs. 2(10), 38, 39, 40, 60(7))

### *Determination of appeal*

- 18 (1) On an appeal under paragraph 17 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.

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

- C11** Sch. 8 para. 18 applied (with modifications) (1.4.2010) by [The Management of Extractive Waste \(Scotland\) Regulations 2010 \(S.S.I. 2010/60\)](#), regs. 1(1), **29(3)** (with regs. 4, 5)

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

- 19 (1) The Secretary of State may give directions requiring applications under this Part of 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), the following provisions of this Schedule—
    - (i) paragraph 13(1) to (4),
    - (ii) paragraph 14(1) to (6)(a), (7) and (8),
    - (iii) paragraphs 15 and 16, and
    - (iv) paragraphs 20 to 22,

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- 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 13 is so referred to him, paragraph 14(5) shall apply as if for paragraphs (a) and (b) there were substituted “the date on which the application for registration is finally determined”.

*Two or more applicants*

- 20 (1) Where a person has served an application under paragraph 13 or 14 in respect of an old mining permission—
- (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 13 or 14 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 Part of 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.

*Application of provisions relating to planning permission*

- 21 (1) Subject to paragraph 15, section 36 and any provision of regulations 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 13 or 14.
- (2) Where the planning authority are 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 15 and with that section as applied by this paragraph.
- (3) Sections 237 and 239 (validity of certain decisions and proceedings for questioning their validity) shall have effect as if the action mentioned in section 237(3) included any decision of the Secretary of State on an appeal under paragraph 17 or on an application referred to him under paragraph 19.

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

**C12** Sch. 8 para. 21(3) applied (with modifications) (1.4.2010) by [The Management of Extractive Waste \(Scotland\) Regulations 2010 \(S.S.I. 2010/60\)](#), regs. 1(1), **29(3)** (with regs. 4, 5)

*Interpretation*

- 22 (1) In this Part of 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 7 years.
- (2) For the purposes of paragraph 10 and this Part of this Schedule, an application under paragraph 13 or 14 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 239, have been determined, and
  - (b) any time for appealing under paragraph 17, or applying or further applying under that section (where there is a right to do so), has expired.

SCHEDULE 9

Section 74.

REVIEW OF OLD MINERAL PLANNING PERMISSIONS

*Interpretation*

- 1 (1) In this Schedule—
- “dormant site” means a Phase I or Phase II site in, on or under which no minerals development has been carried out to any substantial extent at any time in the period beginning on 22nd February 1982 and ending with 6th June 1995 otherwise than by virtue of a planning permission which is not a relevant planning permission relating to the site;
- “first list”, in relation to a planning authority, means the list prepared by them pursuant to paragraph 3;
- “mineral site” has the meaning given by sub-paragraph (2);
- “old mining permission” has the meaning given by paragraph 10(1) of Schedule 8;
- “owner”, in relation to any land, has the meaning given by paragraph 22(1) of Schedule 8;
- “Phase I site” and “Phase II site” have the meaning given by paragraph 2;
- “relevant planning permission” means any planning permission, other than an old mining permission or a planning permission granted by a development order, granted after 30th June 1948 for minerals development; and

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“second list”, in relation to a planning authority, means the list prepared by them pursuant to paragraph 4.

- (2) For the purposes of this Schedule, but subject to sub-paragraph (3), “mineral site” means—
  - (a) in a case where it appears to the planning authority to be expedient to treat as a single site the aggregate of the land to which any two or more relevant planning permissions relate, the aggregate of the land to which those permissions relate, and
  - (b) in any other case, the land to which a relevant planning permission relates.
- (3) In determining whether it appears to them to be expedient to treat as a single site the aggregate of the land to which two or more relevant planning permissions relate a planning authority shall have regard to any guidance issued for the purpose by the Secretary of State.
- (4) Any reference (however expressed) in this Schedule to an old mining permission or a relevant planning permission relating to a mineral site is a reference to the mineral site, or some part of it, being the land to which the permission relates; and where any such permission authorises the carrying out of development consisting of the winning and working of minerals but only in respect of any particular mineral or minerals, that permission shall not be taken, for the purposes of this Schedule, as relating to any other mineral in, on or under the land to which the permission relates.
- (5) For the purposes of this Schedule, a mineral site which is a Phase I site or a Phase II site is active if it is not a dormant site.
- (6) For the purposes of this Schedule, working rights are restricted in respect of a mineral site if any of—
  - (a) the size of the area which may be used for the winning and working of minerals or the depositing of mineral waste,
  - (b) the depth to which operations for the winning and working of minerals may extend,
  - (c) the height of any deposit of mineral waste,
  - (d) the rate at which any particular mineral may be extracted,
  - (e) the rate at which any particular mineral waste may be deposited,
  - (f) the period at the expiry of which any winning or working of minerals or depositing of mineral waste is to cease, or
  - (g) the total quantity of minerals which may be extracted from, or of mineral waste which may be deposited on, the site,is restricted or reduced in respect of the mineral site in question.
- (7) For the purposes of this Schedule, where an application is made under paragraph 9 for the determination of the conditions to which the relevant planning permissions relating to the mineral site to which the application relates are to be subject, those conditions are finally determined when—
  - (a) the proceedings on the application, including any proceedings on or in consequence of an application under section 239, have been determined, and
  - (b) any time for appealing under paragraph 11(1), or applying or further applying under paragraph 9, (where there is a right to do so) has expired.

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- [<sup>F26</sup>(8) Where an electronic communication is used to make an application to a planning authority under any of paragraphs 6, 7 or 9 below, the applicant shall be deemed to have agreed—
- (a) to the use of electronic communication for all purposes relating to the application which are capable of being given effect to using such communications; and
  - (b) that the applicant's address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application (or other such address as the applicant may notify in writing to the planning authority),
- unless the applicant gives notice in writing to the planning authority in accordance with sub paragraphs (9) and (10).
- (9) An applicant may give notice that the applicant no longer agrees to the use of electronic communications for the purposes mentioned in paragraphs (a) or (b) of sub-paragraph (8).
- (10) Any such notice shall take effect on the date specified in it as the effective date, being a date occurring after the period of seven days, beginning with the date on which the notice is given.]

#### Textual Amendments

**F26** Sch. 9 para. 1(8)-(10) inserted (28.7.2004) by [Town and Country Planning \(Electronic Communications\) \(Scotland\) Order 2004 \(S.S.I. 2004/332\)](#), arts. 1(1), **7(2)**

#### *Phase I and II sites*

- 2 (1) This paragraph has effect for the purposes of determining which mineral sites are Phase I sites, which are Phase II sites, and which are neither Phase I nor Phase II sites.
- (2) A mineral site is neither a Phase I site nor a Phase II site where—
- (a) all the relevant planning permissions which relate to the site have been granted after 21st February 1982, or
  - (b) some only of the relevant planning permissions which relate to the site have been granted after 21st February 1982, and the parts of the site to which those permissions relate constitute the greater part of that site.
- (3) With the exception of those mineral sites which, by virtue of sub-paragraph (2), are neither Phase I nor Phase II sites, every mineral site is either a Phase I site or a Phase II site.
- (4) Subject to sub-paragraph (2), where any part of a mineral site is situated within—
- (a) a site in respect of which a notification under section 28 of the <sup>M10</sup>Wildlife and Countryside Act 1981 (sites of special scientific interest) is in force,
  - (b) an area designated as a National Scenic Area under section 262C of the 1972 Act, or
  - (c) an area designated as a Natural Heritage Area under section 6 of the <sup>M11</sup>Natural Heritage (Scotland) Act 1991,
- that site is a Phase I site.

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- (5) Subject to sub-paragraphs (2) and (4), where—
- (a) all the relevant planning permissions which relate to a mineral site, and which were not granted after 21st February 1982, were granted after 7th December 1969, or
  - (b) the parts of a mineral site to which relate such of the relevant planning permissions relating to the site as were granted after 7th December 1969 but before 22nd February 1982 constitute a greater part of the site than is constituted by those parts of the site to which no such relevant planning permission relates but to which a relevant planning permission granted on or before 7th December 1969 does relate,
- the mineral site is a Phase II site.
- (6) Every other mineral site, that is to say any mineral site other than one—
- (a) which is, by virtue of sub-paragraph (2), neither a Phase I nor a Phase II site,
  - (b) which is a Phase I site by virtue of sub-paragraph (4), or
  - (c) which is a Phase II site by virtue of sub-paragraph (5),
- is a Phase I site.
- (7) In ascertaining, for the purposes of sub-paragraph (2) or (5), whether any parts of a mineral site constitute the greater part of that site, or whether a part of a mineral site is greater than any other part, that mineral site shall be treated as not including any part of the site—
- (a) to which an old mining permission relates, or
  - (b) which is a part where minerals development has been (but is no longer being) carried out and which has, in the opinion of the planning authority, been satisfactorily restored;
- but no part of a site shall be treated, by virtue of paragraph (b), as being not included in the site unless the planning authority are satisfied that any aftercare conditions which relate to that part have, so far as relating to that part, been complied with.

#### **Marginal Citations**

**M10** 1981 c. 69.

**M11** 1991 c. 28.

#### *The “first list”*

- 3 (1) A planning authority shall, in accordance with the following provisions of this paragraph, prepare a list of mineral sites in their area (the “first list”).
- (2) A site shall, but shall only, be included in the first list if it is a mineral site in the area of the planning authority and is either—
- (a) an active Phase I site,
  - (b) an active Phase II site, or
  - (c) a dormant site.
- (3) In respect of each site included in the first list, the list shall indicate whether the site is an active Phase I site, an active Phase II site or a dormant site.

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- (4) In respect of each active Phase I site included in the first list, that list shall specify the date by which an application is to be made to the planning authority under paragraph 9.
- (5) Any date specified pursuant to sub-paragraph (4) shall be a date—
  - (a) not earlier than the date upon which expires the period of 12 months from the date on which the first list is first advertised in accordance with paragraph 5, and
  - (b) not later than the date upon which expires the period of three years from the date upon which the provisions of this Schedule come into force.
- (6) The preparation of the first list shall be completed before the day upon which it is first advertised in accordance with paragraph 5.

*The “second list”*

- 4 (1) A planning authority shall, in accordance with the following provisions of this paragraph, prepare a list of the active Phase II sites in their area (the “second list”).
- (2) The second list shall include each mineral site in the planning authority’s area which is an active Phase II site.
- (3) In respect of each site included in the second list, that list shall indicate the date by which an application is to be made to the planning authority under paragraph 9.
- (4) Subject to sub-paragraph (5), any date specified pursuant to sub-paragraph (3) shall be a date—
  - (a) not earlier than the date upon which expires the period of 12 months from the date on which the second list is first advertised in accordance with paragraph 5, and
  - (b) not later than the date upon which expires the period of six years from the date upon which the provisions of this Schedule come into force.
- (5) The Secretary of State may by order provide that sub-paragraph (4)(b) shall have effect as if for the period of six years referred to in that paragraph there were substituted such longer period specified in the order.
- (6) The preparation of the second list shall be completed before the day upon which it is first advertised in accordance with paragraph 5.

*Advertisement of the first and second lists*

- 5 (1) This paragraph makes provision for the advertisement of the first and second lists prepared by a planning authority.
- (2) The planning authority shall advertise each of the first and second lists by causing to be published, in each of two successive weeks, in one or more newspapers circulating in its area, notice of the list having been prepared.
- (3) In respect of each of those lists, such notice shall—
  - (a) state that the list has been prepared by the authority, and
  - (b) specify one or more places within the area of the authority at which the list may be inspected, and in respect of each such place specify the times (which

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shall be reasonable times) during which facilities for inspection of the list will be afforded.

- (4) In respect of the first list, such notice shall—
- (a) be first published no later than the day upon which expires the period of three months from the date upon which the provisions of this Schedule come into force,
  - (b) explain the general effect of a mineral site being classified as a dormant site or, as the case may be, as an active Phase I site or an active Phase II site,
  - (c) explain the consequences which will occur if no application is made under paragraph 9 in respect of an active Phase I site included in the list by the date specified in the list for that site,
  - (d) explain the effects for any dormant or active Phase I or II site not included in the list of its not being included in the list and—
    - (i) set out the right to make an application to the authority for that site to be included in the list,
    - (ii) set out the date by which such an application must be made, and
    - (iii) state that the owner of such a site has a right of appeal against any decision of the authority upon such an application, and
  - (e) explain that the owner of an active Phase I site has a right to apply for postponement of the date specified in the list for the making of an application under paragraph 9, and set out the date by which an application for such postponement must be made.
- (5) In respect of the second list, such notice shall—
- (a) be first published no later than the day upon which expires the period of three years, or such longer period as the Secretary of State may by order specify, from the date upon which the provisions of this Schedule come into force, and
  - (b) explain the consequences which will occur if no application is made under paragraph 9 in respect of an active Phase II site included in the list by the date specified in the list for that site.

*Applications for inclusion in the first list of sites not included in that list as originally prepared and appeals from decisions upon such applications*

- 6 (1) Any person who is the owner of any land, or is entitled to an interest in a mineral, may, if that land or interest is not a mineral site included in the first list and does not form part of any mineral site included in that list, apply to the planning authority for that land or interest to be included in that list.
- (2) An application under sub-paragraph (1) shall be made no later than the day upon which expires the period of three months from the day when the first list was first advertised in accordance with paragraph 5.
- (3) Where the planning authority consider that—
- (a) the land or interest is, or forms part of, any dormant or active Phase I or II site, they shall accede to the application, or
  - (b) part only of the land or interest is, or forms part of, any dormant or active Phase I or II site, they shall accede to the application so far as it relates to that part of the land or interest,
- but shall otherwise refuse the application.

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- (4) On acceding, whether in whole or in part, to an application made under sub-paragraph (1), the planning authority shall amend the first list as follows—
- (a) where they consider that the land or interest, or any part of the land or interest, is a dormant site or an active Phase I or II site, they shall add the mineral site consisting of the land or interest or, as the case may be, that part, to the first list and shall cause the list to indicate whether the site is an active Phase I site, an active Phase II site or a dormant site;
  - (b) where they consider that the land or interest, or any part of the land or interest, forms part of any mineral site included in the first list, they shall amend the entry in the first list for that site accordingly.
- (5) Where the planning authority amend the first list in accordance with sub-paragraph (4), they shall also—
- (a) in a case where an active Phase I site is added to the first list pursuant to sub-paragraph (4)(a), cause that list to specify, in respect of that site, the date by which an application is to be made to the planning authority under paragraph 9;
  - (b) in a case where—
    - (i) the entry for an active Phase I site included in the first list is amended pursuant to sub-paragraph (4)(b), and
    - (ii) the date specified in that list in respect of that site as the date by which an application is to be made to the planning authority under paragraph 9 is a date falling less than 12 months after the date upon which the authority make their decision upon the application in question,
 cause that date to be amended so as to specify instead the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the authority's decision upon his application.
- (6) Any date specified pursuant to sub-paragraph (5)(a) shall be a date—
- (a) not earlier than the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the planning authority's decision upon his application, and
  - (b) not later than the later of—
    - (i) the date upon which expires the period of three years from the date upon which the provisions of this Schedule come into force; and
    - (ii) the date mentioned in paragraph (a).
- (7) On acceding, whether in whole or in part, to an application made under sub-paragraph (1), the planning authority shall, if the second list has been first advertised in accordance with paragraph 5 prior to the time at which they make their decision on the application, amend the second list as follows—
- (a) where they consider that the land or interest, or any part of the land or interest, is an active Phase II site, they shall add the mineral site consisting of the land or interest or, as the case may be, that part, to the second list;
  - (b) where they consider that the land or interest, or any part of the land or interest, forms part of any active Phase II site included in the second list, they shall amend the entry in that list for that site accordingly.

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- (8) Where the planning authority amend the second list in accordance with sub-paragraph (7), they shall also—
- (a) in a case where an active Phase II site is added to the second list pursuant to sub-paragraph (7)(a), cause that list to specify, in respect of that site, the date by which an application is to be made to the authority under paragraph 9;
  - (b) in a case where—
    - (i) the entry for an active Phase II site included in the second list is amended pursuant to sub-paragraph (7)(b), and
    - (ii) the date specified in that list in respect of that site as the date by which an application is to be made to the authority under paragraph 9 is a date falling less than 12 months after the date upon which the authority make their decision upon the application in question,cause that date to be amended so as to specify instead the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the authority's decision upon his application.
- (9) Any date specified pursuant to sub-paragraph (8)(a) shall be a date—
- (a) not earlier than the date upon which expires the period of 12 months from the date on which the applicant is notified under sub-paragraph (10) of the planning authority's decision upon his application, and
  - (b) not later than the later of—
    - (i) the date upon which expires the period of six years from the date upon which the provisions of this Schedule come into force, and
    - (ii) the date mentioned in paragraph (a).
- (10) When a planning authority determine an application made under sub-paragraph (1), they shall notify the applicant in writing of their decision and, in a case where they have acceded to the application, whether in whole or in part, shall supply the applicant with details of any amendment to be made to the first or second list in accordance with sub-paragraph (4) or (8).
- (11) Where a planning authority—
- (a) refuse an application made under sub-paragraph (1), or
  - (b) accede to such an application only so far as it relates to part of the land or interest in respect of which it was made,
- the applicant may by notice appeal to the Secretary of State.
- (12) A person who has made such an application may also appeal to the Secretary of State if the planning authority have not given notice to the applicant of their decision on the application within eight weeks of their having received the application or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.
- (13) An appeal under sub-paragraph (11) or (12) must be made by giving notice of appeal to the Secretary of State before the end of the period of six months beginning with—
- (a) in the case of an appeal under sub-paragraph (11), the determination, or
  - (b) in the case of an appeal under sub-paragraph (12), the end of the period of eight weeks mentioned in that sub-paragraph or, as the case may be, the end of the extended period mentioned in that sub-paragraph.

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*Postponement of the date specified in the first or second list for review of the permissions relating to a Phase I or II site in cases where the existing conditions are satisfactory*

- 7 (1) Any person who is the owner of any land, or of any interest in any mineral, comprised in—
- (a) an active Phase I site included in the first list, or
  - (b) an active Phase II site included in the second list,
- may apply to the planning authority for the postponement of the date specified in that list in respect of that site as the date by which an application is to be made to the authority under paragraph 9 (in this paragraph referred to as “the specified date”).
- (2) Subject to sub-paragraph (3), an application under sub-paragraph (1) shall be made no later than the day upon which expires the period of three months from the day when—
- (a) in the case of an active Phase I site, the first list, or
  - (b) in the case of an active Phase II site, the second list,
- was first advertised in accordance with paragraph 5.
- (3) In the case of—
- (a) an active Phase I site—
    - (i) added to the first list in accordance with paragraph 6(4)(a); or
    - (ii) in respect of which the entry in the first list was amended in accordance with paragraph 6(4)(b);
 or
  - (b) an active Phase II site—
    - (i) added to the second list in accordance with paragraph 6(7)(a); or
    - (ii) in respect of which the entry in the second list was amended in accordance with paragraph 6(7)(b),
 an application under sub-paragraph (1) shall be made no later than the day upon which expires the period of three months from the day on which notice was given under paragraph 6(10) of the planning authority’s decision to add the site to or, as the case may be, so to amend the list in question.
- (4) An application under sub-paragraph (1) shall be in writing and shall—
- (a) set out the conditions to which each relevant planning permission relating to the site is subject,
  - (b) set out the applicant’s reasons for considering those conditions to be satisfactory,
  - (c) set out the date which the applicant wishes to be substituted for the specified date, and
  - (d) be accompanied by the appropriate certificate.
- (5) For the purposes of sub-paragraph (4)(d), the appropriate certificate is each of the certificates which would be required, under or by virtue of sections 34 and 35, to accompany the application if it were an application for planning permission for minerals development, but with such modifications as are required for the purposes of this paragraph; and sections 34(3) and (4) and 35(5) shall have effect in relation to any certificate purporting to be the appropriate certificate.
- (6) Where the planning authority receive an application made under sub-paragraph (1)—

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- (a) if they consider the conditions referred to in sub-paragraph (4)(a) to be satisfactory they shall agree to the specified date being postponed in which event they shall determine the date to be substituted for that date,
  - (b) in any other case they shall refuse the application.
- (7) Where the planning authority agree to the specified date being postponed they shall cause the first or, as the case may be, the second list to be amended accordingly.
- (8) When a planning authority determine an application made under sub-paragraph (1), they shall notify the applicant in writing of their decision and, in a case where they have agreed to the postponement of the specified date, shall notify the applicant of the date which they have determined should be substituted for the specified date.
- (9) Where, within three months of the planning authority having received an application under sub-paragraph (1), 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 notice, under sub-paragraph (8), to the applicant of their decision upon the application, the authority shall be treated as—
- (a) having agreed to the specified date being postponed, and
  - (b) having determined that the date referred to in sub-paragraph (4)(c) be substituted for the specified date,
- and sub-paragraph (7) shall apply accordingly.

*Service on owners etc. of notice of preparation of the first and second lists*

- 8 (1) The planning authority shall, no later than the date upon which the first list is first advertised in accordance with paragraph 5, serve notice in writing of the first list having been prepared on each person appearing to them to be the owner of any land, or entitled to an interest in any mineral, included within a mineral site included in the first list, but this sub-paragraph is subject to sub-paragraph (7).
- (2) A notice required to be served by sub-paragraph (1) shall—
- (a) indicate whether the mineral site in question is a dormant site or an active Phase I or II site, and
  - (b) where that site is an active Phase I site—
    - (i) indicate the date specified in the first list in relation to that site as the date by which an application is to be made to the planning authority under paragraph 9,
    - (ii) explain the consequences which will occur if such an application is not made by the date so specified, and
    - (iii) explain the right to apply to have that date postponed, and indicate the date by which such an application must be made.
- (3) Where, in relation to any land or mineral included in an active Phase I site, the planning authority—
- (a) have served notice on any person under sub-paragraph (1), and
  - (b) have received no application under paragraph 9 from that person by the date falling eight weeks before the date specified in the first list as the date by which such applications should be made in respect of the site in question,
- the authority shall serve a written reminder on that person, and such a reminder shall—

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- (i) indicate that the land or mineral in question is included in an active Phase I site,
  - (ii) comply with the requirements of sub-paragraph (2)(b)(i) and (ii), and
  - (iii) be served on that person on or before the date falling four weeks before the date specified in the first list in respect of that site as the date by which an application is to be made to the authority under paragraph 9.
- (4) The planning authority shall, no later than the date upon which the second list is first advertised in accordance with paragraph 5, serve notice in writing of the second list having been prepared on each person appearing to them to be the owner of any land, or entitled to an interest in any mineral, included within an active Phase II site included in the second list, but this sub-paragraph is subject to sub-paragraph (7).
- (5) A notice required to be served by sub-paragraph (4) shall—
- (a) indicate that the mineral site in question is an active Phase II site,
  - (b) indicate the date specified in the second list in relation to that site as the date by which an application is to be made to the planning authority under paragraph 9,
  - (c) explain the consequences which will occur if such an application is not made by the date so specified, and
  - (d) explain the right to apply to have that date postponed, and indicate the date by which such an application must be made.
- (6) Where, in relation to any land or mineral included in an active Phase II site, the planning authority—
- (a) have served notice on any person under sub-paragraph (4), and
  - (b) have received no application under paragraph 9 from that person by the date falling eight weeks before the date specified in the second list as the date by which such applications should be made in respect of the site in question,
- the authority shall serve a written reminder on that person, and such a reminder shall—
- (i) comply with the requirements of sub-paragraph (5)(a) to (c), and
  - (ii) be served on that person on or before the date falling four weeks before the date specified in the second list in respect of that site as the date by which an application is to be made to the authority under paragraph 9.
- (7) Sub-paragraph (1) or (4) shall not require the planning authority to serve notice under that sub-paragraph upon any person whose identity or address for service is not known to and cannot practicably, after reasonable inquiry, be ascertained by them, but in any such case the authority shall cause to be firmly affixed, to each of one or more conspicuous objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of the notice which they would (apart from the provisions of this sub-paragraph) have had to serve under that sub-paragraph on the owner of that land or interest.
- (8) If, in a case where sub-paragraph (7) applies, no person makes an application to the authority under paragraph 9 in respect of the active Phase I or II site which includes the land or interest in question by the date falling eight weeks before the date specified in the first or, as the case may be, the second list as the date by which such applications should be made in respect of that site, the authority shall cause to be firmly affixed, to each of one or more conspicuous objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of

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the written reminder that would, in a case not falling within sub-paragraph (7), have been served under sub-paragraph (3) or (6).

(9) Where by sub-paragraph (7) or (8) a copy of any notice is required to be affixed to an object on any land that copy shall—

- (a) be displayed in such a way as to be easily visible and legible,
- (b) be first displayed—
  - (i) in a case where the requirement arises under sub-paragraph (7), no later than the date upon which the first or, as the case may be, the second list is first advertised in accordance with paragraph 5, or
  - (ii) in a case where the requirement arises under sub-paragraph (8), no later than the date falling four weeks before the date specified in the first or, as the case may be, the second list in respect of the site in question as the date by which an application is to be made to the authority under paragraph 9, and
- (c) be left in position for at least the period of 21 days from the date when it is first displayed, but where the notice is, without fault or intention of the authority, removed, obscured or defaced before that period has elapsed, that requirement shall be treated as having been complied with if the authority have taken reasonable steps for protection of the notice and, if need be, its replacement.

(10) In sub-paragraphs (7) and (8), any reference to a conspicuous object on any land includes, in a case where the person serving a notice considers that there are no or insufficient such objects on the land, a reference to a post driven into or erected upon the land by the person serving the notice for the purpose of having affixed to it the notice in question.

(11) Where the planning authority, being required—

- (a) by sub-paragraph (3) or (6) to serve a written reminder on any person, or
- (b) by sub-paragraph (8) to cause a copy of such a reminder to be displayed in the manner set out in that sub-paragraph,

fail to comply with that requirement by the date specified for the purpose, they may at any later time serve or, as the case may be, cause to be displayed, such a written reminder and, in any such case, the date by which an application in relation to the mineral site in question is to be made under paragraph 9 is the date upon which expires the period of three months from the date when the reminder was served or posted in accordance with the provisions of this sub-paragraph.

*Applications for approval of conditions and appeals in cases where the conditions approved are not those proposed*

9 (1) Any person who is the owner of any land, or who is entitled to an interest in a mineral, may, if that land or mineral is or forms part of a dormant site or an active Phase I or II site, apply to the planning authority to determine the conditions to which the relevant planning permissions relating to that site are to be subject.

(2) An application under this paragraph shall be in writing and shall—

- (a) identify the mineral site to which the application relates,
- (b) specify the land or minerals comprised in the site of which the applicant is the owner or, as the case may be, in which the applicant is entitled to an interest,
- (c) identify any relevant planning permissions relating to the site,

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- (d) identify, and give [<sup>F27</sup>a postal address] for, each other person that the applicant knows or, after reasonable inquiry, has cause to believe to be an owner of any land, or entitled to any interest in any mineral, comprised in the site,
  - (e) set out the conditions to which the applicant proposes the permissions referred to in paragraph (c) should be subject, and
  - (f) be accompanied by the appropriate certificate.
- (3) For the purposes of sub-paragraph (2), the appropriate certificate is each of the certificates which would be required, under or by virtue of sections 34 and 35, to accompany the application if it were an application for planning permission for minerals development, but with such modifications as are required for the purposes of this paragraph; and sections 34(3) and (4) and 35(5) shall have effect in relation to any certificate purporting to be the appropriate certificate.
- (4) Section 35 shall have effect, with any necessary modifications, as if subsection (1) also authorised a development order to provide for publicising applications under this paragraph.
- (5) Where the planning authority receive an application under this paragraph in relation to a dormant site or an active Phase I or II site they shall determine the conditions to which each relevant planning permission relating to the site is to be subject; and any such permission shall, from the date when the conditions to which it is to be subject are finally determined, have effect subject to the conditions which are determined under this Schedule as being the conditions to which it is to be subject.
- (6) The conditions imposed by virtue of a determination under sub-paragraph (5)—
- (a) may include any conditions which may be imposed on a grant of planning permission for minerals development;
  - (b) may be in addition to, or in substitution for, any existing conditions to which the permission in question is subject.
- (7) In determining that a relevant planning permission is to be subject to any condition relating to development for which planning permission is granted by a development order, the planning authority shall have regard to any guidance issued for the purpose by the Secretary of State.
- (8) Subject to sub-paragraph (9), where, within the period of three months from the planning authority having received an application under this paragraph, 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 notice to the applicant of their decision upon the application, the authority shall be treated as having at the end of that period or, as the case may be, that extended period, determined that the conditions to which any relevant planning permission to which the application relates is to be subject are those specified in the application as being proposed in relation to that permission; and any such permission shall, from that time, have effect subject to those conditions.
- (9) Where a planning authority, having received an application under this paragraph, are of the opinion that they are unable to determine the application unless further details are supplied to them, they shall within the period of one month from having received the application give notice to the applicant—
- (a) stating that they are of such opinion, and
  - (b) specifying the further details which they require,

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and where the authority so serve such a notice the period of three months referred to in sub-paragraph (8) shall run not from the authority having received the application but from the time when the authority have received all the further details specified in the notice.

(10) Without prejudice to the generality of sub-paragraph (9), the further details which may be specified in a notice under that sub-paragraph include any—

- (a) information, plans or drawings, or
- (b) evidence verifying any particulars of details supplied to the authority in respect of the application in question,

which it is reasonable for the authority to request for the purpose of enabling them to determine the application.

#### **Textual Amendments**

**F27** Words in Sch. 9 para. 9(2)(d) substituted (28.7.2004) by [Town and Country Planning \(Electronic Communications\) \(Scotland\) Order 2004 \(S.S.I. 2004/332\)](#), arts. 1(1), **7(3)**

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

**C13** Sch. 9 para. 9(8) restricted (1.6.2011) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/139\)](#), regs. 1, **33(17)(a)**

#### *Notice of determination of conditions to be accompanied by additional information in certain cases*

- 10 (1) This paragraph applies in a case where—
- (a) on an application made to the planning authority under paragraph 9 in respect of an active Phase I or II site the authority determine under that paragraph the conditions to which the relevant planning permissions relating to the site are to be subject,
  - (b) those conditions differ in any respect from the proposed conditions set out in the application, and
  - (c) the effect of the conditions, other than any restoration or aftercare conditions, so determined by the authority, as compared with the effect of the conditions, other than any restoration or aftercare conditions, to which the relevant planning permissions in question were subject immediately prior to the authority making the determination, is to restrict working rights in respect of the site.
- (2) In a case where this paragraph applies, the planning authority shall, upon giving to the applicant notice of the conditions determined by the authority under paragraph 9, also give to the applicant notice—
- (a) stating that the conditions determined by the authority differ in some respect from the proposed conditions set out in the application,
  - (b) stating that the effect of the conditions, other than any restoration or aftercare conditions, determined by the authority, as compared with the effect of the conditions, other than any restoration or aftercare conditions, to which the relevant planning permissions relating to the site in question were subject immediately prior to the making of the authority's determination, is to restrict working rights in respect of the site,
  - (c) identifying the working rights so restricted, and

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- (d) stating whether, in the opinion of the authority, the effect of that restriction of working rights would be such as to prejudice adversely to an unreasonable degree—
  - (i) the economic viability of operating the site, or
  - (ii) the asset value of the site.
- (3) In determining whether, in their opinion, the effect of that restriction of working rights would be such as is mentioned in sub-paragraph (2)(d), a planning authority shall have regard to any guidance issued for the purpose by the Secretary of State.
- (4) In this paragraph, “the applicant” means the person who made the application in question under paragraph 9.

*Right to appeal against planning authority’s determination of conditions etc.*

- 11 (1) Where the planning authority—
- (a) on an application under paragraph 9 determine under that paragraph conditions that differ in any respect from the proposed conditions set out in the application, or
  - (b) give notice, under paragraph 10(2)(d), stating that, in their opinion, the restriction of working rights in question would not be such as to prejudice adversely to an unreasonable degree either of the matters referred to in paragraph 10(2)(d)(i) and (ii),
- the person who made the application may appeal to the Secretary of State.
- (2) An appeal under sub-paragraph (1) must be made by giving notice of appeal to the Secretary of State before the end of the period of six months beginning with the date on which the authority give notice to the applicant of their determination or, as the case may be, stating their opinion.

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

- C14** Sch. 9 para. 11(1) modified (1.6.2011) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/139\)](#), regs. 1, **33(21)(a)**
- C15** Sch. 9 para. 11(1) modified (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/102\)](#), regs. 1, **38(18)**, (22) (with regs. 2(10), 38, 39, 40, 60(7))
- C16** Sch. 9 para. 11(2) modified (1.6.2011) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/139\)](#), regs. 1, **33(21)(b)**
- C17** Sch. 9 para. 11(2) modified (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/102\)](#), regs. 1, **38(18)**, (22) (with regs. 2(10), 38, 39, 40, 60(7))

*Permissions ceasing to have effect*

- 12 (1) Subject to paragraph 8(11), where no application under paragraph 9 in respect of an active Phase I or II site has been served on the planning authority by the date specified in the first or, as the case may be, the second list as the date by which applications under that paragraph in respect of that site are to be made, or by such later date as may at any time be agreed upon in writing between the applicant and the authority, each relevant planning permission relating to the site shall cease to have effect, except in

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so far as it imposes any restoration or aftercare condition, on the day following the last date on which such an application may be made.

- (2) The reference in sub-paragraph (1) to the date specified in the first or, as the case may be, the second list as the date by which applications under paragraph 9 are to be made in respect of any Phase I or II site is a reference to the date specified for that purpose in respect of that site in that list as prepared by the planning authority or, where that date has been varied by virtue of any provision of this Schedule, to that date as so varied.
- (3) Subject to sub-paragraph (4), no relevant planning permission which relates to a dormant site shall have effect to authorise the carrying out of minerals development unless—
  - (a) an application has been made under paragraph 9 in respect of that site, and
  - (b) that permission has effect in accordance with paragraph 9(5).
- (4) A relevant planning permission which relates to a Phase I or II site not included in the first list shall cease to have effect, except in so far as it imposes any restoration or aftercare condition, on the day following the last date on which an application under sub-paragraph (1) of paragraph 6 may be made in respect of that site unless an application has been made under that sub-paragraph by that date in which event, unless the site is added to that list, such a permission shall cease to have effect when the following conditions are met—
  - (a) the proceedings on that application, including any proceedings on or in consequence of the application under section 239, have been determined, and
  - (b) any time for appealing under paragraph 6(11) or (12), or applying or further applying under paragraph 6(1), (where there is a right to do so) has expired.

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

- 13 (1) The Secretary of State may give directions requiring applications under paragraph 9 to any planning authority to be referred to him for determination instead of being dealt with by the authority.
- (2) Any such 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 the Secretary of State in accordance with such a direction—
  - (a) subject to paragraph (b), the following provisions of this Schedule—
    - (i) paragraph 9(5) and (6),
    - (ii) paragraph 10, and
    - (iii) paragraph 14 so far as relating to applications under paragraph 9, 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.

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### *Two or more applicants*

- 14 (1) Where a planning authority have received from any person a duly made application under paragraph 7(1) or 9—
- (a) that person may not make any further application under the paragraph in question in respect of the same site, and
  - (b) if the application has been determined, whether or not in the case of an application under paragraph 9 it has been finally determined, no other person may make an application under the paragraph in question in respect of the same site.
- (2) Where—
- (a) a planning authority have received from any person in respect of a mineral site a duly made application under paragraph 7(1) or 9, and
  - (b) the authority receive from another person a duly made application under the paragraph in question in respect of the same site,
- 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 received by the authority on the date on which the later application was received by the authority and references to the applicant shall be read as references to either or any of the applicants.

### *Compensation*

- 15 (1) This paragraph applies in a case where—
- (a) an application made under paragraph 9 in respect of an active Phase I or II site is finally determined, and
  - (b) the requirements of either sub-paragraph (2) or (3) are satisfied.
- (2) The requirements of this sub-paragraph are—
- (a) that the conditions to which the relevant planning permissions relating to the site are to be subject were determined by the planning authority,
  - (b) no appeal was made under paragraph 11(1)(a) in respect of that determination or any such appeal was withdrawn or dismissed, and
  - (c) the authority gave notice under paragraph 10(2)(d) and either—
    - (i) that notice stated that, in the authority’s opinion, the restriction of working rights in question would be such as to prejudice adversely to an unreasonable degree either of the matters referred to in paragraph 10(2)(d)(i) and (ii), or
    - (ii) that notice stated that, in the authority’s opinion, the restriction in question would not be such as would so prejudice either of those matters but an appeal under paragraph 11(1) in respect of the giving of the notice has been allowed.
- (3) The requirements of this sub-paragraph are that the conditions to which the relevant planning permissions are to be subject were determined by the Secretary of State (whether upon an appeal under paragraph 11(1)(a) or upon a reference under paragraph 13) and—
- (a) in a case where those conditions were determined upon an appeal under paragraph 11(1)(a) either—
    - (i) the planning authority gave notice under paragraph 10(2)(d) stating that, in their opinion, the restriction of working rights in question

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would be such as to prejudice adversely to an unreasonable degree either of the matters referred to in paragraph 10(2)(d)(i) and (ii), or  
(ii) the authority gave a notice under paragraph 10(2)(d) stating that, in their opinion, the restriction in question would not be such as would so prejudice either of those matters but an appeal under paragraph 11(1)(b) in respect of the giving of that notice has been allowed,

or

(b) in a case where those conditions were determined upon a reference under paragraph 13, the Secretary of State gave notice under paragraph 10(2)(d) stating that, in his opinion, the restriction of working rights in question would be such as to prejudice adversely to an unreasonable degree either of the matters referred to in paragraph 10(2)(d)(i) and (ii).

- (4) In a case to which this paragraph applies Parts IV and X of this Act shall have effect as if an order made under section 65 had been confirmed by the Secretary of State under section 66 at the time when the application in question was finally determined and, as so confirmed, had effect to modify those permissions to the extent specified in sub-paragraph (5).
- (5) For the purposes of sub-paragraph (4), the order which is treated by virtue of that sub-paragraph as having been made under section 65 is one whose only effect adverse to the interests of any person having an interest in the land or minerals comprised in the mineral site is to restrict working rights in respect of the site to the same extent as the relevant restriction.
- (6) For the purposes of Schedule 13 and of any regulations made under that Schedule, the permissions treated as being modified by the order mentioned in sub-paragraph (4) shall be treated as if they were planning permissions for development which neither consists of nor includes any minerals development.

*Appeals: general procedural provisions*

- 16 (1) This paragraph applies to appeals under paragraph 6(11) or (12) or 11(1).
- (2) Notice of appeal in respect of an appeal to which this paragraph applies shall be given on a form supplied by or on behalf of the Secretary of State for use for that purpose, and giving, so far as reasonably practicable, the information required by that form.
- (3) Paragraph 18 of Schedule 8 shall apply to an appeal to which this paragraph applies as it applies to appeals under paragraph 17 of that Schedule.
- (4) Sections 237 to 239 shall have effect as if the action mentioned in section 237(3) included any decision of the Secretary of State—
- (a) on an appeal to which this paragraph applies, or
- (b) on an application under paragraph 9 referred to him under paragraph 13.
- (5) Schedule 4 shall apply to appeals to which this paragraph applies.

*Status: Point in time view as at 22/01/2022.*

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## SCHEDULE 10

Section 74.

### PERIODIC REVIEW OF MINERAL PLANNING PERMISSIONS

#### *Duty to carry out periodic reviews*

- 1       The planning authority shall, in accordance with the provisions of this Schedule, cause periodic reviews to be carried out of the mineral permissions relating to a mining site.

#### *Interpretation*

- 2       (1) For the purposes of this Schedule—
- “first review date”, in relation to a mining site, shall, subject to [F<sup>28</sup>paragraphs 3A and 5], be ascertained in accordance with paragraph 3;
- “mineral permission” means any planning permission, other than a planning permission granted by a development order, for minerals development;
- “mining site” means—
- (a) in a case where it appears to the planning authority to be expedient to treat as a single site the aggregate of the land to which any two or more mineral permissions relate, the aggregate of the land to which those permissions relate; and
- (b) in any other case, the land to which a mineral permission relates;
- “old mining permission” has the meaning given by paragraph 10(1) of Schedule 8; and
- “owner”, in relation to any land, has the meaning given by paragraph 22(1) of Schedule 8.
- (2) In determining whether it appears to them to be expedient to treat as a single site the aggregate of the land to which two or more mineral permissions relate a planning authority shall have regard to any guidance issued for the purpose by the Secretary of State.
- (3) Any reference (however expressed) in this Schedule to a mining site being a site to which relates—
- (a) an old mining permission, or
- (b) a mineral permission,
- is a reference to the mining site, or some part of it, being the land to which the permission relates.
- (4) For the purposes of this Schedule, an application made under paragraph 6 is finally determined when—
- (a) the proceedings on the application, including any proceedings on or in consequence of an application under section 239, have been determined, and
- (b) any time for appealing under paragraph 9(1), or applying or further applying under paragraph 6, (where there is a right to do so) has expired.
- [F<sup>29</sup>(5) Where an electronic communication is used to make an application to a planning authority under paragraphs 5 or 6 below, the applicant shall be deemed to have agreed—

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- (a) to the use of electronic communication for all purposes relating to the application which are capable of being given effect to using such communications; and
  - (b) that the applicant's address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application (or such other address as the applicant may notify in writing to the planning authority),
- unless the applicant gives notice in writing to the planning authority in accordance with sub-paragraphs (6) and (7).
- (6) An applicant may give notice that the applicant no longer agrees to the use of electronic communications for the purposes mentioned in paragraph (a) or (b) of sub-paragraph (5).
  - (7) Any such notice shall take effect on the date specified in it as the effective date, being a date occurring after the period of seven days, beginning with the date on which the notice is given.]

#### Textual Amendments

- F28** Words in Sch. 10 para. 2(1) substituted (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 121\(4\), Sch. 7 para. 20\(4\)\(a\)](#) (with s. 111); S.S.I. 2006/268, art. 3(d)
- F29** Sch. 10 para. 2(5)-(7) inserted (28.7.2004) by [Town and Country Planning \(Electronic Communications\) \(Scotland\) Order 2004 \(S.S.I. 2004/332\)](#), arts. 1(1), **8(2)**

#### *The first review date*

- 3 (1) Subject to sub-paragraph (7), in a case where the mineral permissions relating to a mining site include an old mining permission, the first review date means—
  - (a) the date falling fifteen years after the date upon which, pursuant to an application made under paragraph 14 of Schedule 8, the conditions to which that old mining permission is to be subject are finally determined under that Schedule, or
  - (b) where there are two or more old mining permissions relating to that site, and the date upon which those conditions are finally determined is not the same date for each of those permissions, the date falling fifteen years after the date upon which was made the last such final determination to be so made in respect of any of those permissions,and paragraph 22(2) of that Schedule shall apply for the purposes of this sub-paragraph as it applies for the purposes of paragraph 10 and Part II of that Schedule.
- (2) Subject to sub-paragraph (7), in the case of a mining site which is a Phase I or II site within the meaning of Schedule 9, the first review date means the date falling fifteen years after the date upon which, pursuant to an application made under paragraph 9 of that Schedule, there is determined under that paragraph the conditions to which the relevant planning permissions (within the meaning of that Schedule) relating to the site are to be subject.
- (3) Subject to sub-paragraphs (4) and (7), in the case of a mining site—
  - (a) which is not a Phase I or II site within the meaning of Schedule 9, and
  - (b) to which no old mining permission relates,

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the first review date is the date falling fifteen years after the date upon which was granted the most recent mineral permission which relates to the site.

- (4) Where, in the case of a mining site falling within sub-paragraph (3), the most recent mineral permission relating to that site relates, or the most recent such permissions (whether or not granted on the same date) between them relate, to part only of the site, and in the opinion of the planning authority it is expedient, for the purpose of ascertaining, under that sub-paragraph, the first review date in respect of that site, to treat that permission or those permissions as having been granted at the same time as the last of the other mineral permissions relating to the site, the first review date for that site shall be ascertained under that sub-paragraph accordingly.
- (5) A planning authority shall, in deciding whether they are of such an opinion as is mentioned in sub-paragraph (4), have regard to any guidance issued by the Secretary of State for the purpose.
- (6) Subject to sub-paragraph (7), in the case of a mining site—
- (a) to which relates a mineral permission in respect of which an order has been made under section 65, or
  - (b) in respect of which, or any part of which, an order has been made under paragraph 1 of Schedule 8,
- the first review date shall be the date falling fifteen years after the date upon which the order took effect or, in a case where there is more than one such order, upon which the last of those orders to take effect took effect.
- (7) In the case of a mining site for which the preceding provisions of this paragraph have effect to specify two or more different dates as the first review date, the first review date shall be the latest of those dates.
- [<sup>F30</sup>3A (1) The Scottish Ministers may by order specify a first review date different from the first review date found in pursuance of paragraph 3(1) or (2).
- (2) Sub-paragraph (3) applies if no first review date is found in pursuance of paragraph 3(1) or (2).
- (3) The Scottish Ministers may by order specify a first review date.
- (4) An order under sub-paragraph (3) may make different provision for different cases or different classes of case.
- (5) An order under this paragraph must be made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.]

#### **Textual Amendments**

**F30** Sch. 10 para. 3A inserted (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 121\(4\)](#), [Sch. 7 para. 20\(4\)\(b\)](#) (with [s. 111](#)); [S.S.I. 2006/268, art. 3\(d\)](#)

#### *Service of notice of first periodic review*

- 4 (1) The planning authority shall, in connection with the first periodic review of the mineral permissions relating to a mining site, no later than 12 months before the first review date, serve notice upon each person appearing to them to be the owner of any land, or entitled to an interest in any mineral, included in that site.

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- (2) A notice required to be served under sub-paragraph (1) shall—
  - (a) specify the mining site to which it relates,
  - (b) identify the mineral permissions relating to that site,
  - (c) state the first review date,
  - (d) state that the first review date is the date by which an application must be made for approval of the conditions to which the mineral permissions relating to the site are to be subject and explain the consequences which will occur if no such application is made by that date, and
  - (e) explain the right to apply for postponement of the first review date and give the date by which such an application has to be made.
- (3) Where, in relation to any land or mineral included in a mining site, the planning authority—
  - (a) have served notice on any person under sub-paragraph (1), and
  - (b) have received no application under paragraph 6 from that person by the date falling eight weeks before the first review date,the authority shall serve a written reminder on that person.
- (4) A reminder required to be served under sub-paragraph (3) shall—
  - (a) indicate that the land or mineral in question is included in a mining site,
  - (b) comply with the requirements of sub-paragraph (2)(a) to (d), and
  - (c) be served on the person in question on or before the date falling four weeks before the first review date.
- (5) Sub-paragraph (1) shall not require the planning authority to serve notice under that sub-paragraph upon any person whose identity or address for service is not known to and cannot practicably, after reasonable inquiry, be ascertained by them, but in any such case the authority shall cause to be firmly affixed, to each of one or more conspicuous objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of the notice which they would (apart from the provisions of this sub-paragraph) have had to serve under that sub-paragraph on the owner of that land or interest.
- (6) If, in a case where sub-paragraph (5) applies, no person makes an application to the authority under paragraph 6 in respect of the mining site which includes the land or interest in question by the date falling eight weeks before the first review date, the authority shall cause to be firmly affixed, to each of one or more conspicuous objects on the land or, as the case may be, on the surface of the land above the interest in question, a copy of the written reminder that would, in a case not falling within sub-paragraph (5), have been served under sub-paragraph (3).
- (7) Where by sub-paragraph (5) or (6) a copy of any notice is required to be affixed to an object on any land that copy shall—
  - (a) be displayed in such a way as to be easily visible and legible,
  - (b) be first displayed—
    - (i) in a case where the requirement arises under sub-paragraph (5), no later than 12 months before the first review date, or
    - (ii) in a case where the requirement arises under sub-paragraph (6), no later than the date falling four weeks before the first review date,and

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- (c) be left in position for at least the period of 21 days from the date when it is first displayed, but where the notice is, without fault or intention of the authority, removed, obscured or defaced before that period has elapsed, that requirement shall be treated as having been complied with if the authority have taken reasonable steps for protection of the notice and, if need be, its replacement.
- (8) In sub-paragraphs (5) and (6), any reference to a conspicuous object on any land includes, in a case where the person serving a notice considers that there are no or insufficient such objects on the land, a reference to a post driven into or erected upon the land by the person serving the notice for the purpose of having affixed to it a copy of the notice in question.

*Application for postponement of the first review date*

- 5 (1) Any person who is the owner of any land, or of any interest in any mineral, comprised in a mining site may, no later than the day upon which expires the period of three months from the day upon which notice was served upon him under paragraph 4, apply under this paragraph to the planning authority for the postponement of the first review date.
- (2) An application under this paragraph shall be in writing and shall set out—
- (a) the conditions to which each mineral permission relating to the site is subject,
  - (b) the applicant's reasons for considering those conditions to be satisfactory, and
  - (c) the date which the applicant wishes to have substituted for the first review date.
- (3) Where the planning authority receive an application made under this paragraph—
- (a) if they consider the conditions referred to in sub-paragraph (2)(a) to be satisfactory they shall agree to the first review date being postponed in which event they shall determine the date to be substituted for that date;
  - (b) in any other case they shall refuse the application.
- (4) When a planning authority determine an application made under this paragraph, they shall notify the applicant in writing of their decision and, in a case where they have agreed to the postponement of the first review date, shall notify the applicant of the date which they have determined should be substituted for the first review date.
- (5) Where, within the period of three months of the planning authority having received an application under this paragraph, 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 notice, under sub-paragraph (4), to the applicant of their decision upon the application, the authority shall be treated as having, at the end of that period or, as the case may be, that extended period—
- (a) agreed to the first review date being postponed, and
  - (b) determined that the date referred to in sub-paragraph (2)(c) be substituted for the first review date.

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*Application to determine the conditions to which the mineral permissions relating to a mining site are to be subject*

- 6 (1) Any person who is the owner of any land, or who is entitled to an interest in a mineral, may, if that land or mineral is or forms part of a mining site, apply to the planning authority to determine the conditions to which the mineral permissions relating to that site are to be subject.
- (2) An application under this paragraph shall be in writing and shall—
- (a) identify the mining site in respect of which the application is made and state that the application is made in connection with the first periodic review of the mineral permissions relating to that site,
  - (b) specify the land or minerals comprised in the site of which the applicant is the owner or, as the case may be, in which the applicant is entitled to an interest,
  - (c) identify the mineral permissions relating to the site,
  - (d) identify, and give [<sup>F31</sup>a postal address] for, each other person that the applicant knows or, after reasonable inquiry, has cause to believe to be an owner of any land, or entitled to any interest in any mineral, comprised in the site,
  - (e) set out the conditions to which the applicant proposes the permissions referred to in paragraph (c) should be subject, and
  - (f) be accompanied by the appropriate certificate.
- (3) For the purposes of sub-paragraph (2), the appropriate certificate is each of the certificates which would be required, under or by virtue of sections 34 and 35, to accompany the application if it were an application for planning permission for minerals development, but with such modifications as are required for the purposes of this paragraph; and sections 34(3) and(4) and 35(5) shall have effect in relation to any certificate purporting to be the appropriate certificate.
- (4) Where the planning authority receive an application under this paragraph in relation to a mining site they shall determine the conditions to which each mineral permission relating to the site is to be subject.
- (5) The conditions imposed by virtue of a determination under sub-paragraph (4)—
- (a) may include any conditions which may be imposed on a grant of planning permission for minerals development;
  - (b) may be in addition to, or in substitution for, any existing conditions to which the permission in question is subject.
- (6) In determining that a mineral permission is to be subject to any condition relating to development for which planning permission is granted by a development order, the planning authority shall have regard to any guidance issued for the purpose by the Secretary of State.
- (7) Subject to sub-paragraph (8), where, within the period of three months of the planning authority having received an application under this paragraph, 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 notice to the applicant of their decision upon the application, the authority shall be treated as having at the end of that period or, as the case may be, that extended period, determined that the conditions to which any mineral permission to which the application relates is to be subject are those specified in the application as being proposed in relation to that

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permission; and any such permission shall, from that time, have effect subject to those conditions.

- (8) Where a planning authority, having received an application under this paragraph, are of the opinion that they are unable to determine the application unless further details are supplied to them, they shall within the period of one month from having received the application give notice to the applicant—

- (a) stating that they are of such opinion, and
- (b) specifying the further details which they require,

and where the authority so serve such a notice the period of three months referred to in sub-paragraph (7) shall run not from the authority having received the application but from the time when the authority have received all the further details specified in the notice.

- (9) Without prejudice to the generality of sub-paragraph (8), the further details which may be specified in a notice under that sub-paragraph include any—

- (a) information, plans or drawings, or
- (b) evidence verifying any particulars of details supplied to the authority in respect of the application in question,

which it is reasonable for the authority to request for the purpose of enabling them to determine the application.

#### **Textual Amendments**

- F31** Words in Sch. 10 para. 6(2)(d) substituted (28.7.2004) by [Town and Country Planning \(Electronic Communications\) \(Scotland\) Order 2004 \(S.S.I. 2004/332\)](#), arts. 1(1), **8(3)**

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

- C18** Sch. 10 para. 6(7) restricted (1.6.2011) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/139\)](#), regs. 1, **33(17)(a)**

#### *Permissions ceasing to have effect*

- 7 Where no application under paragraph 6 in respect of a mining site has been served on the planning authority by the first review date, or by such later date as may at any time be agreed upon in writing between the applicant and the authority, each mineral permission—

- (a) relating to the site, and
- (b) identified in the notice served in relation to the site under paragraph 4,

shall cease to have effect, except in so far as it imposes any restoration or aftercare condition, on the day following the first review date or, as the case may be, such later agreed date.

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

- 8 (1) The Secretary of State may give directions requiring applications made under paragraph 6 to any planning authority to be referred to him for determination instead of being dealt with by the authority.
- (2) A direction under sub-paragraph (1) may relate either to a particular application or to applications of a class specified in the direction.

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- (3) Where an application is referred to the Secretary of State in accordance with a direction under sub-paragraph (1)—
- (a) subject to paragraph (b), paragraph 6(4) and (5), and paragraph 11 so far as relating to applications under paragraph 6, shall apply, with any necessary modifications, to his determination of the application as they apply to the determination of applications 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.

#### *Appeals*

- 9 (1) Where on an application under paragraph 6 the planning authority determine conditions that differ in any respect from the proposed conditions set out in the application, the applicant may appeal to the Secretary of State.
- (2) An appeal under sub-paragraph (1) must be made by giving notice of appeal to the Secretary of State, before the end of the period of six months beginning with the determination, on a form supplied by or on behalf of the Secretary of State for use for that purpose, and giving, so far as reasonably practicable, the information required by that form.
- (3) Paragraph 18 of Schedule 8 shall apply to appeals under sub-paragraph (1) as it applies to appeals under paragraph 17 of that Schedule.
- (4) Sections 237 to 239 shall have effect as if the action mentioned in section 237(3) included any decision of the Secretary of State—
- (a) on an appeal under sub-paragraph (1), or
  - (b) on an application under paragraph 6 referred to him under paragraph 8.
- (5) Schedule 4 shall apply to appeals under sub-paragraph (1).

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

- C19** Sch. 10 para. 9(1) modified (1.6.2011) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/139\)](#), regs. 1, **33(21)(a)**
- C20** Sch. 10 para. 9(1) modified (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/102\)](#), regs. 1, **38(18)**, (22) (with regs. 2(10), 38, 39, 40, 60(7))
- C21** Sch. 10 para. 9(2) modified (1.6.2011) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2011 \(S.S.I. 2011/139\)](#), regs. 1, **33(21)(b)**
- C22** Sch. 10 para. 9(2) modified (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/102\)](#), regs. 1, **38(18)**, (22) (with regs. 2(10), 38, 39, 40, 60(7))

#### *Time from which conditions determined under this Schedule are to take effect*

- 10 (1) Where an application has been made under paragraph 6 in respect of a mining site, each of the mineral permissions relating to the site shall, from the time when the

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application is finally determined, have effect subject to the conditions to which it is determined under this Schedule that that permission is to be subject.

(2) Sub-paragraph (1) is without prejudice to paragraph 6(7).

*Two or more applicants*

11 (1) Where a planning authority have received from any person a duly made application under paragraph 5 or 6—

- (a) that person may not make any further application under the paragraph in question in respect of the same site, and
- (b) if the application has been determined, whether or not in the case of an application under paragraph 6 it has been finally determined, no other person may make an application under the paragraph in question in respect of the same site.

(2) Where—

- (a) a planning authority have received from any person in respect of a mineral site a duly made application under paragraph 5 or 6; and
- (b) the authority receive from another person a duly made application under the paragraph in question in respect of the same site,

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 received by the authority on the date on which the later application was received by the authority and references to the applicant shall be read as references to either or any of the applicants.

*Second and subsequent periodic reviews*

12 (1) In this paragraph, in relation to a mining site, but subject to paragraph 5 as applied by sub-paragraph (2), “review date” means—

- (a) in the case of the second periodic review, the date falling fifteen years after the date upon which was finally determined an application made under paragraph 6 in respect of the site, and
- (b) in the case of subsequent periodic reviews, the date falling fifteen years after the date upon which there was last finally determined under this Schedule an application made in respect of that site under paragraph 6 as applied by sub-paragraph (2).

(2) Paragraphs 4 to 11 shall apply in respect of the second or any subsequent periodic review of the mineral permissions relating to a mining site as they apply to the first such periodic review, but as if—

- (a) any reference in those paragraphs to the “first review date” were a reference to the review date, and
- (b) the references in paragraphs 4(1) and 6(2)(a) to the first periodic review were references to the periodic review in question.

*Compensation*

13 (1) This paragraph applies where—

- (a) an application made under paragraph 6 in respect of a mining site is finally determined,

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- (b) the conditions to which the mineral permissions relating to the site are to be subject, as determined under this Schedule, differ in any respect from the proposed conditions set out in the application, and
  - (c) the effect of the new conditions, except in so far as they are restoration or aftercare conditions, as compared with the effect of the existing conditions, except in so far as they were restoration or aftercare conditions, is to restrict working rights in respect of the site.
- (2) For the purposes of this paragraph—
  - “the new conditions”, in relation to a mining site, means the conditions, determined under this Schedule, to which the mineral permissions relating to the site are to be subject; and
  - “the existing conditions”, in relation to a mining site, means the conditions to which the mineral permissions relating to the site were subject immediately prior to the final determination of the application made under paragraph 6 in respect of that site.
- (3) For the purposes of this paragraph, working rights are restricted in respect of a mining site if any of—
  - (a) the size of the area which may be used for the winning and working of minerals or the depositing of mineral waste,
  - (b) the depth to which operations for the winning and working of minerals may extend,
  - (c) the height of any deposit of mineral waste,
  - (d) the rate at which any particular mineral may be extracted,
  - (e) the rate at which any particular mineral waste may be deposited,
  - (f) the period at the expiry of which any winning or working of minerals or depositing of mineral waste is to cease, or
  - (g) the total quantity of minerals which may be extracted from, or of mineral waste which may be deposited on, the site,is restricted or reduced in respect of the mining site in question.
- (4) In a case to which this paragraph applies, but subject to sub-paragraph (6), Parts IV and X of this Act shall have effect as if an order made under section 65—
  - (a) had been confirmed by the Secretary of State under section 66 at the time when the application in question was finally determined, and
  - (b) as so confirmed, had effect to modify those permissions to the extent specified in sub-paragraph (6).
- (5) For the purposes of this paragraph, the order referred to in sub-paragraph (4) is one whose only effect adverse to the interests of any person having an interest in the land or minerals comprised in the mineral site is to restrict working rights in respect of the site to the same extent as the relevant restriction.
- (6) For the purposes of Schedule 13 and of any regulations made under that Schedule, the permissions treated as being modified by the order mentioned in sub-paragraph (4) shall be treated as if they were planning permissions for development which neither consists of nor includes any minerals development.

*Status: Point in time view as at 22/01/2022.*

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## SCHEDULE 11

Sections 76 and 89.

### DEVELOPMENT NOT CONSTITUTING NEW DEVELOPMENT

- 1 (1) The carrying out of—
- (a) the rebuilding, as often as occasion may require, of any building which was in existence on 1st July 1948, or of any building which was in existence before that date 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 occasion may require, of any building erected after 1st July 1948 which was in existence at a material date;
  - (c) works for the maintenance, improvement or other alteration of any building, being works which—
    - (i) affect only the interior of the building, or do not materially affect the external appearance of the building, and
    - (ii) are works for making good war damage,
 so long as the cubic content of the original building, as ascertained by external measurement, is not substantially exceeded.
- (2) In sub-paragraph (1) “war damage” has the same meaning as in the <sup>M12</sup>War Damage Act 1943.

#### Marginal Citations

M12 1943 c. 21.

- 2 The use as two or more separate dwellinghouses of any building which at a material date was used as a single dwellinghouse.
- 3 Where after 1st July 1948—
- (a) any buildings or works have been erected or constructed, or any use of land has been instituted, and
  - (b) any condition imposed under Part III [<sup>F32</sup>or by virtue of section 242A] 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 to those buildings or works or that use,
- this Schedule shall not operate except as respects the period specified in that condition.

#### Textual Amendments

F32 Words in Sch. 11 para. 3(b) inserted (11.5.2006) by [Planning and Compulsory Purchase Act 2004 \(Commencement No.2 and Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/243\)](#), arts. 1(1), 4(13)

- 4 For the purposes of paragraph 1 the cubic content of a building is substantially exceeded—
- (a) in the case of a dwellinghouse, if it is exceeded by more than one-tenth or 1,750 cubic feet, whichever is the greater, and
  - (b) in any other case, if it is exceeded by more than one-tenth.
- 5 (1) In this Schedule “at a material date” means at either—

*Status: Point in time view as at 22/01/2022.*

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- (a) 1st July 1948, or
  - (b) the date by reference to which this Schedule falls to be applied in the particular case in question.
- (2) Sub-paragraph (1)(b) 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.
- 6 (1) In relation to a building erected after 1st July 1948 which results from the carrying out of any such works as are described in paragraph 1, 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.
- (2) This paragraph does not apply for the purposes of sections 82 or 88.

## SCHEDULE 12

Section 80(5).

### 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 10 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 (1) For the purposes of this Schedule gross floor space shall be ascertained by external measurement.  
(2) 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 1st July 1948 which is a building resulting from the carrying out of any such works as are described in paragraph 1 of Schedule 11, 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.

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## SCHEDULE 13

Section 84.

### REGULATIONS AS TO COMPENSATION IN RESPECT OF ORDERS RELATING TO MINERAL WORKING

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

**C23** Sch. 13 modified (1.4.2010) by [The Management of Extractive Waste \(Scotland\) Regulations 2010 \(S.S.I. 2010/60\)](#), regs. 1(1), **31(5)** (with arts. 4, 5)

#### *Power to modify compensation provisions*

- 1 (1) The Secretary of State may by regulations <sup>F33</sup> . . . provide, in relation to orders made under—
- (a) section 65 modifying planning permission for development consisting of the winning or working of minerals or involving the depositing of mineral waste, or
  - (b) section 71, and paragraph 1, 3, 5 or 6 of Schedule 8 with respect to such winning and working or depositing,
- that sections 76, 83, 87, 232 and 233 shall have effect subject, in such cases as may be prescribed, to such modifications as may be prescribed.
- (2) Without prejudice to the generality of sub-paragraph (1), such regulations may make provision—
- (a) as to circumstances in which compensation is not to be payable;
  - (b) for the modification of the basis on which any amount to be paid by way of compensation is to be assessed;
  - (c) for the assessment of any such amount on a basis different from that on which it would otherwise have been assessed,
- and may also make different provision for different cases, and incidental or supplementary provision.
- (3) Such regulations shall be of no effect unless approved by a resolution of each House of Parliament.
- (4) Before making any such regulations, the Secretary of State shall consult such persons as appear to him to be representative of—
- (a) persons carrying out mining operations;
  - (b) owners of interests in land containing minerals;
  - (c) planning authorities.

#### **Textual Amendments**

**F33** Words in Sch. 13 para. 1(1) repealed (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 127\(23\)](#), Pt. IV; [S.I. 1998/3178](#), art. 3

*Status: Point in time view as at 22/01/2022.*

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### *Determination of claims*

- 2 The references in section 86 to questions of disputed compensation under Part IV include references to questions of disputed compensation under sections 76, 83, 87, 232 and 233 as modified by regulations under paragraph 1.

## SCHEDULE 14

Section 100.

### BLIGHTED LAND

#### *Land allocated for public authority functions in development plans etc.*

- 1 (1) This paragraph applies to land indicated in a [<sup>F34</sup>strategic development] plan in force for the area in which it is situated either—
- (a) as land which may be required for the purposes—
    - (i) of the functions of a government department, local authority or statutory undertakers, or
    - (ii) of the [<sup>F35</sup>provision by an electronic communications operator of an electronic communications code network or the provision by a former PTO of a public electronic communications network or a public electronic communications service], or
  - (b) as land which may be included in an action area.
- (2) This paragraph does not apply to land situated in an area for which a local [<sup>F36</sup>development] plan is in force, where that plan—
- (a) allocates any land in the area for the purposes of such functions as are mentioned in this paragraph, or
  - (b) defines any land in the area as the site of proposed development for the purposes of any such functions.
- (3) This paragraph does not apply to land to which paragraph 3 or 4 applies.
- [<sup>F37</sup>(4) In sub-paragraph (1), the reference to a strategic development plan in force includes a reference to—
- (a) a proposed strategic development plan which has been submitted to the Scottish Ministers under section 10(3)(b), and
  - (b) intended modifications published under section 13(4)(b)(i).]

[<sup>F37</sup>(5) Sub-paragraph (4) ceases to apply—

    - (a) when the proposed strategic development plan (whether or not in whole or in part and whether or not modified) is constituted under subsection (2) of section 13 as the strategic development plan,
    - (b) when as regards the proposed strategic development plan the strategic development planning authority arrive at the consideration mentioned in section 12A(6), or
    - (c) when, under subsection (1) of section 13, the Scottish Ministers reject the proposed strategic development plan.]

(6) In sub-paragraph (4) references to anything done under any provision include reference to anything done under that provision as it applies by virtue of section [<sup>F38</sup>23B].

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#### Textual Amendments

- F34** Words in Sch. 14 para. 1(1) substituted (6.4.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), [ss. 54\(19\)\(a\)\(i\)](#), [59\(2\)](#) (with [S.S.I. 2009/101](#), arts. 1(1), [3](#)); [S.S.I. 2009/100](#), art. 2, sch.
- F35** Words in Sch. 14 para. 1(1)(a)(ii) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), [Sch. 1 para. 13\(4\)](#)
- F36** Word in Sch. 14 para. 1(2) inserted (6.4.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), [ss. 54\(19\)\(a\)\(ii\)](#), [59\(2\)](#) (with [S.S.I. 2009/101](#), arts. 1(1), [3](#)); [S.S.I. 2009/100](#), art. 2, sch.
- F37** Sch. 14 para. 1(4)(5) substituted (6.4.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), [ss. 54\(19\)\(a\)\(iii\)](#), [59\(2\)](#) (with [S.S.I. 2009/101](#), arts. 1(1), [3](#)); [S.S.I. 2009/100](#), art. 2, sch.
- F38** Word in Sch. 14 para. 1(6) substituted (6.4.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), [ss. 54\(19\)\(a\)\(iv\)](#), [59\(2\)](#) (with [S.S.I. 2009/101](#), arts. 1(1), [3](#)); [S.S.I. 2009/100](#), art. 2, sch.

- 2 (1) This paragraph applies to land which—
- is allocated for the purposes of any such functions as are mentioned in paragraph 1(1)(a)(i) or (ii) by a local [<sup>F39</sup>development] plan in force, or
  - is land defined in such a plan as the site of proposed development for the purposes of any such functions.
- [<sup>F40</sup>(2) In sub-paragraph (1), the reference to a local development plan in force includes a reference to a proposed local development plan which has been submitted to the Scottish Ministers under section 18(3)(b) or 19A(5)(b)(ii).]
- [<sup>F40</sup>(3) Sub-paragraph (2) ceases to apply—
- when the proposed local development plan (whether or not modified) is constituted under section 20(1) as the local development plan, or
  - when as regards the proposed local development plan the planning authority arrive at the consideration mentioned in section 19A(6).]
- (4) In sub-paragraph (2) references to anything done under any provision include references to anything done under that provision as it applies by virtue of section [<sup>F41</sup>23B].

#### Textual Amendments

- F39** Word in Sch. 14 para. 2(1)(a) inserted (6.4.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), [ss. 54\(19\)\(b\)\(i\)](#), [59\(2\)](#) (with [S.S.I. 2009/101](#), arts. 1(1), [3](#)); [S.S.I. 2009/100](#), art. 2, sch.
- F40** Sch. 14 para. 2(2)(3) substituted (6.4.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), [ss. 54\(19\)\(b\)\(ii\)](#), [59\(2\)](#) (with [S.S.I. 2009/101](#), arts. 1(1), [3](#)); [S.S.I. 2009/100](#), art. 2, sch.
- F41** Word in Sch. 14 para. 2(4) substituted (6.4.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), [ss. 54\(19\)\(b\)\(iii\)](#), [59\(2\)](#) (with [S.S.I. 2009/101](#), arts. 1(1), [3](#)); [S.S.I. 2009/100](#), art. 2, sch.

- 3 This paragraph applies to land indicated in a plan (other than a development plan) approved by a resolution passed by a planning authority for the purpose of the exercise of their powers under Part III as land which may be required for the purposes of any functions of a government department, local authority or statutory undertakers.
- 4 This paragraph applies to land in respect of which a planning authority—
- have resolved to take action to safeguard it for development for the purposes of any such functions as are mentioned in paragraph 3, or

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- (b) have been directed by the Secretary of State to restrict the grant of planning permission in order to safeguard it for such development.

*New towns and urban development areas*

- 5 (1) This paragraph applies to land within an area described as the site of a proposed new town in the draft of an order in respect of which a notice has been published under paragraph 2 of Schedule 1 to the <sup>M13</sup>New Towns (Scotland) Act 1968.
- (2) Land shall cease to be within this paragraph when—
- (a) the order comes into force (whether in the form of the draft or with modifications), or
  - (b) the Secretary of State decides not to make the order.

**Marginal Citations**

**M13** 1968 c. 16.

- 6 This paragraph applies to land within an area designated as the site of a proposed new town by an order which has come into operation under section 1 of the New Towns (Scotland) Act 1968.
- 7 (1) This paragraph applies to land which is—
- (a) within an area intended to be designated as an urban development area by an order which has been made under section 134 of the <sup>M14</sup>Local Government, Planning and Land Act 1980 but has not come into effect, or
  - (b) within an area which has been so designated by an order under that section which has come into effect.
- (2) Land shall cease to be within this paragraph when the order comes into force.

**Marginal Citations**

**M14** 1980 c. 65.

*Housing action areas*

- 8 This paragraph applies to land within an area declared to be a housing action area by a resolution under section 89, 90 or 91 of the <sup>M15</sup>Housing (Scotland) Act 1987 in relation to houses or parts of buildings which have been identified in accordance with section 92(4)(c) of that Act.

**Marginal Citations**

**M15** 1987 c. 26.

- 9 This paragraph applies to land which is surrounded by or adjoining an area declared to be a housing action area by a resolution under section 89, 90 or 91 of the <sup>M16</sup>Housing (Scotland) Act 1987 whether or not the resolution identifies any of the buildings in accordance with section 92(4)(a) of that Act.

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#### Marginal Citations

**M16** 1987 c. 26.

#### Roads

- 10 This paragraph applies to land indicated in a development plan (otherwise than by being dealt with in a manner mentioned in paragraphs 1, 2, 3 and 4) as—
- (a) land on which a road is proposed to be constructed, or
  - (b) land to be included in a road as proposed to be improved or altered.
- 11 (1) This paragraph applies to land on or adjacent to the line of a road proposed to be constructed, improved or altered, as indicated in an order or scheme—
- (a) which has come into operation under, or
  - (b) which is proposed to be made or conferred under, and in respect of which a notice has been published under Schedule 1 to,
- the <sup>M17</sup>Roads (Scotland) Act 1984, being land in relation to which a power of compulsory acquisition conferred by that Act may become exercisable, as being land required for purposes of construction, improvement or alteration as indicated in the order or scheme.
- (2) Land shall cease to be within sub-paragraph (1)(b) when—
- (a) the relevant order or scheme comes into operation (whether in its original form or with modifications), or
  - (b) the Secretary of State decides not to confirm or make the order or scheme.

#### Marginal Citations

**M17** 1984 c. 54.

- 12 This paragraph applies to land shown on plans approved by a resolution of a roads authority as land comprised in the site of a road as proposed to be constructed, improved or altered by that authority.
- 13 This paragraph applies to land comprised in the site of a road as proposed to be constructed, improved or altered by the Secretary of State if the Secretary of State has given written notice of the proposal, together with maps or plans sufficient to identify the land in question, to the planning authority.

#### Compulsory purchase

- 14 This paragraph applies to land authorised by a special enactment to be compulsorily acquired, or land falling within the limits of deviation within which powers of compulsory acquisition conferred by a special enactment are exercisable.

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

**C24** Sch. 14 para. 14 modified (27.4.2006) by [Edinburgh Tram \(Line Two\) Act 2006 \(asp 6\)](#), s. 74(1) (with s. 75)

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**C25** Sch. 14 para. 14 modified (8.5.2006) by [Edinburgh Tram \(Line One\) Act 2006 \(asp 7\)](#), **s. 75(1)** (with [ss. 76, 84](#))

- 15 (1) This paragraph applies to land in respect of which—
- (a) a compulsory purchase order is in force, or
  - (b) there is in force a compulsory purchase order providing for the acquisition of a right in or over that land,
- and the appropriate authority have power to serve, but have not served, notice to treat in respect of the land or, as the case may be, the right or rights.
- (2) This paragraph applies also to land in respect of which—
- (a) a compulsory purchase order has been submitted for confirmation to, or been prepared in draft by, a Minister, and
  - (b) a notice has been published under paragraph 3(1)(a) of Schedule 1 to the <sup>M18</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 or under any corresponding enactment applicable to it.
- (3) Sub-paragraph (2) shall cease to apply when—
- (a) the relevant compulsory purchase order comes into force (whether in its original form or with modifications), or
  - (b) the Minister concerned decides not to confirm or make the order.

#### Marginal Citations

**M18** 1947 c. 42.

- [<sup>F42</sup>16 This paragraph applies to land—
- (a) the compulsory acquisition of which is authorised by an order under section 1 of the Transport and Works (Scotland) Act 2007,
  - (b) which falls within the limits of deviation within which powers of compulsory acquisition conferred by such an order are exercisable, or
  - (c) which is the subject of a proposal, contained in an application made in accordance with rules under section 4 of that Act or in a draft order prepared under section 6(3) of that Act, that it should be such land.]

#### Textual Amendments

**F42** Sch. 14 para. 16 added (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 15(2), 30(4)**; [S.S.I. 2007/516](#), **art. 2**

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

**C26** Sch. 14 para. 16 applied (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), **ss. 52(2)(3), 70(1)**

- [<sup>F43</sup>17 (1) This paragraph applies to land which relates to the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—
- (a) one end of which is in England or Wales, and
  - (b) the other end of which is in Scotland,
- where one of the following conditions is met.
- (2) The conditions are—

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- (a) the compulsory acquisition of the land is authorised by an order granting development consent under the Planning Act 2008,
- (b) the land falls within the limits of deviation within which powers of compulsory acquisition conferred by such an order are exercisable,
- (c) an application for such an order seeks authority to compulsorily acquire the land.

#### Textual Amendments

**F43** Sch. 14 paras. 17, 18 and cross-heading inserted (6.4.2009 for specified purposes, 1.3.2010 in so far as not already in force) by [Planning Act 2008 \(c. 29\)](#), [ss. 176\(2\), 241\(8\)](#) (with [s. 226](#)); [S.I. 2009/400](#), [art. 4\(a\)](#), [S.I. 2010/101](#), [art. 5](#) (with [art. 6](#))

#### *Land identified in national policy statements so far as relating to certain pipe-lines*

- 18 This paragraph applies to land which is in a location identified in a national policy statement as suitable (or potentially suitable) for the construction (other than by a gas transporter) of an oil or gas cross-country pipe-line—
- (a) one end of which is in England or Wales, and
  - (b) the other end of which is in Scotland.

#### *Note*

Land ceases to be within this paragraph when the national policy statement—

- (a) ceases to have effect, or
- (b) ceases to identify the land as suitable or potentially suitable for the construction of such a pipe-line.]

## SCHEDULE 15

Section 195.

### GENERAL VESTING DECLARATIONS

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

- C27** Sch. 15 applied (with modifications) (23.12.1999) by [S.I. 1999/201](#), [art. 26\(1\)\(2\)](#)  
Sch. 15 applied (with modifications) (23.12.1999) by [S.I. 1999/203](#), [art. 27\(1\)](#)
- C28** Sch. 15 applied (with modifications) (2.4.2004) by [Highland Council \(Inverie\) Harbour Empowerment Order 2004 \(S.S.I. 2004/171\)](#), [arts. 1, 26](#) (with [arts. 28, 29](#))
- C29** Sch. 15 applied (with modifications) (18.1.2006) by [Highland Council \(Raasay\) Harbour Revision Order 2006 \(S.S.I. 2006/17\)](#), [arts. 1, 31](#) (with [art. 35](#))
- C30** Sch. 15 applied (27.4.2006) by [Edinburgh Tram \(Line Two\) Act 2006 \(asp 6\)](#), [s. 42\(1\)](#) (with [s. 75](#))
- C31** Sch. 15 applied (8.5.2006) by [Edinburgh Tram \(Line One\) Act 2006 \(asp 7\)](#), [s. 42\(1\)](#) (with [ss. 76, 84](#))
- C32** Sch. 15 applied (24.7.2006) by [Waverley Railway \(Scotland\) Act 2006 \(asp 13\)](#), [s. 42](#) (with [ss. 50\(2\), 51](#))
- C33** Sch. 15 applied (15.1.2007) by [Glasgow Airport Rail Link Act 2007 \(asp 1\)](#), [s. 40\(1\)](#) (with [s. 50](#))
- C34** Sch. 15 applied (19.4.2007) by [Edinburgh Airport Rail Link Act 2007 \(asp 16\)](#), [s. 35\(1\)](#) (with [ss. 52, 60](#))
- C35** Sch. 15 applied (8.5.2007) by [Airdrie-Bathgate Railway and Linked Improvements Act 2007 \(asp 19\)](#), [s. 35\(1\)](#) (with [ss. 48, 59](#))

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- C36** Sch. 15 applied (with modifications) (1.6.2010) by [The Network Rail \(Waverley Steps\) Order 2010 \(S.S.I. 2010/188\)](#), arts. 1, **24**
- C37** Sch. 15 applied (with modifications) (3.2.2011) by [Forth Crossing Act 2011 \(asp 2\)](#), ss. **35(2)**, 80(2) (with ss. 69, 78); S.S.I. 2011/38, art. 2, sch.
- C38** Sch. 15 applied (with modifications) (11.4.2017) by [The Network Rail \(Glasgow Queen Street Station\) Order 2017 \(S.S.I. 2017/100\)](#), arts. 1, **32** (with art. 37)

## 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 28 days) from the date on which the service of notices required by paragraph 4 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>M19</sup>Conveyancing (Scotland) Act 1874.

#### **Marginal Citations**

**M19** 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 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 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.
- 3 (1) Subject to sub-paragraph (2), a general vesting declaration shall not be executed before the end of the period of 2 months beginning with the date of the first publication of the notice complying with paragraph 2(1), or such longer period, if any, as may be specified in the notice.

*Status: Point in time view as at 22/01/2022.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1997 is up to date with all changes known to be in force on or before 29 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) The acquiring authority may, with the consent in writing of every occupier of any of the land specified in the declaration, execute a general vesting declaration before the end of that period of 2 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),
- 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 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>M20</sup>Railways Clauses Consolidation (Scotland) Act 1845 (both as incorporated by Schedule 2 to the Acquisition Act 1947) and of the <sup>M21</sup>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>M22</sup>Lands Clauses Consolidation (Scotland) Act 1845 (on the assumption that they required to take the whole of the land specified in the declaration and had knowledge of all the parties referred to in that section) the acquiring authority could have served such a notice, other than—
- (a) any person entitled to an interest in the land in respect of which such a notice had actually been served before the end of that period, and
  - (b) any person entitled to a short tenancy or a long tenancy which is about to expire.

**Marginal Citations**

**M20** 1845 c. 33.

**M21** 1963 c. 51.

**M22** 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 <sup>F44</sup>... rent, or other payment or incumbrance) had arisen in respect of all the land and all interests in it, and the acquiring authority had duly exercised that power accordingly at the end of that period.

*Status: Point in time view as at 22/01/2022.*

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### Textual Amendments

**F44** Words in Sch. 15 para. 7 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 para. 60(6)(a), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

- 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 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 14 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.

### *Recovery of compensation overpaid*

- 9 Paragraphs 10 to 14 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.
- 10 If, in a case falling within paragraph 9, 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.
- 11 If in a case falling within paragraph 9, 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 of it, is attributable to that part of the land, as the case may be.
- 12 Any question arising under paragraph 10 or 11—
- (a) as to the amount of the compensation to which the claimant was entitled in respect of an interest in land, or
  - (b) as to the apportionment of any compensation paid,
- shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such question, the provisions of section 9 of the <sup>M23</sup>Land Compensation (Scotland) Act 1963 shall apply, subject to any necessary modifications.

### Marginal Citations

**M23** 1963 c. 51.

*Status: Point in time view as at 22/01/2022.*

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- 13 Subject to paragraph 12, any amount recoverable by the acquiring authority under paragraph 10 or 11 shall be recoverable in any court of competent jurisdiction.
- 14 Any sum recovered under paragraph 10 or 11 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,
  - (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) be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

**PART II**

SUPPLEMENTARY PROVISIONS

- 16 This Part shall have effect for the purposes of paragraphs 6 to 8.

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

- 17 Paragraph 3 of Schedule 2 to the 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.

*Restriction on withdrawal of constructive notice to treat*

- 18 The power conferred by section 39 of the <sup>M24</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, 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.

**Marginal Citations**

M24 1963 c. 51.

*Status: Point in time view as at 22/01/2022.*

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### *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.
- 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 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, a notice of objection to severance served by any person shall not have effect if it is served more than 28 days after the date on which the notice required by paragraph 4 above is served on him.

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

- C39** Sch. 15 para. 20 excluded (15.1.2007) by [Glasgow Airport Rail Link Act 2007 \(asp 1\), s. 13\(3\)](#) (with s. 50)
- C40** Sch. 15 para. 20 excluded (19.4.2007) by [Edinburgh Airport Rail Link Act 2007 \(asp 16\), s. 18\(3\)](#) (with ss. 52, 60)
- C41** Sch. 15 para. 20 excluded (8.5.2007) by [Airdrie-Bathgate Railway and Linked Improvements Act 2007 \(asp 19\), s. 18\(3\)](#) (with ss. 48, 59)
- C42** Sch. 15 para. 20 excluded (1.6.2010) by [The Network Rail \(Waverley Steps\) Order 2010 \(S.S.I. 2010/188\), arts. 1, 15\(3\)](#)
- C43** Sch. 15 para. 20 excluded (11.4.2017) by [The Network Rail \(Glasgow Queen Street Station\) Order 2017 \(S.S.I. 2017/100\), arts. 1, 17\(3\)](#) (with art. 37)

- 21 Where a notice of objection to severance is served in respect of a person’s interest in any land (in this Part referred to as “the land proposed to be severed”), and is so served within the time allowed in accordance with paragraph 20(2), then, notwithstanding anything in paragraph 7—
- (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.
- 22 Within 3 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,
- (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.
- 23 If the acquiring authority do not take action in accordance with paragraph 22 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.

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- 24 Where in accordance with paragraph 22 or 23 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.
- 25 Where an acquiring authority take action in accordance with paragraph 22(b), the general vesting declaration (and, where applicable, the compulsory purchase order) shall have effect as mentioned in that 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.
- 26 Where in accordance with paragraph 22(c) 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 shall thereupon cease to have effect in relation to that notice.
- 27 (1) If on such a reference the Lands Tribunal does not make a determination in accordance with paragraph 26, 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 sub-paragraph (1) 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 that sub-paragraph as if the whole of that area had been comprised in the compulsory purchase order as well as in the declaration.
- 28 Where by virtue of paragraph 22(a), 23, 25 or 27 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.
- 29 (1) Where in accordance with paragraph 20(1) a person is entitled to serve a notice of objection to severance, and it is proved—
- (a) that he did not receive the notice required by paragraph 4 to be served on him, or received that notice less than 28 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 28 days after the date on which he first had knowledge of the execution of the general vesting declaration,

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that notice shall have effect notwithstanding that it is served after the time allowed in accordance with paragraph 20(2) has expired.

- (2) Where, in the circumstances specified in sub-paragraph (1), 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 shall not have effect in relation to that notice,
  - (b) paragraph 22 shall have effect in relation to that notice as if sub-paragraph (a) of that paragraph were omitted,
  - (c) paragraph 23 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 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.

### *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, 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 Acquisition Act 1947.
- 31 Sections 56 to 60 and sections 63 to 66 of the <sup>M25</sup>Lands Clauses Consolidation (Scotland) Act 1845 (absent and untraced owners) and sections 117 to 119 of that 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.

#### **Marginal Citations**

**M25** 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), be treated as having been extinguished by virtue of paragraphs 6 to 8 on the vesting of that land in the acquiring authority under those paragraphs.
- (2) Where by virtue of sub-paragraph (1) a portion of a charge is treated as having been extinguished, sections 108 to 111 of the Act of 1845 shall have effect as if the extinguishment had taken place under section 110 of that Act.
- (3) If, in the circumstances described in sub-paragraph (1), the person entitled to the charge and the owner of the land subject to it enter into an agreement to that effect, sections 108 to 111 of the Act of 1845 shall have effect as if, at the time of the vesting of the land in the acquiring authority under paragraphs 6 to 8, the person entitled to the charge had released that land from the charge on the condition mentioned in

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section 109 of that Act; 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 with it.

- (4) In this paragraph “charge” means any such feuduty, ground annual or rent or other payment or incumbrance as is mentioned in the introductory words to sections 107 to 111 of the Act of 1845.
- 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>M26</sup>Lands Clauses Consolidation (Scotland) Act 1845 shall have effect in relation to it as if for references to the time of the apportionment of rent mentioned in it there were substituted references to the time of the vesting of the tenancy in the acquiring authority.

#### Marginal Citations

**M26** 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, any person who, in consequence of it, is relieved from any liability (whether in respect of <sup>F45</sup>... 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.

#### Textual Amendments

**F45** Words in Sch. 15 para. 34 repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), Sch. 12 para. 60(6)(b), **Sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

#### Miscellaneous

- 35 Where, after land has become vested in an acquiring authority under paragraphs 6 to 8, 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 acknowledgement in writing of the right of the acquiring authority to production of that document and to delivery of copies of it 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 of it.
- 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, may be referred to the Lands Tribunal shall be 6 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 6 years referred to in sub-paragraph (1), no account shall be taken of any period during which the person claiming compensation or the person from whom he derives title was under legal disability by reason of nonage or otherwise.

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- 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, shall be recorded in the General Register of Sasines or, as the case may be, registered in the Land Register of Scotland, and on being so recorded or registered shall have the same effect as a conveyance registered in accordance with section 80 of the <sup>M27</sup>Lands Clauses Consolidation (Scotland) Act 1845.

**Marginal Citations**

**M27** 1845 c. 19.

**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 later available to him, and
- (b) that the landlord will exercise any option to terminate the tenancy then or later available to him.
- 39 In this Schedule—
- “Acquisition Act 1947” means the <sup>M28</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; and
- “land”, in relation to compulsory acquisition by an acquiring authority, has the same meaning as in the relevant enactments.

**Marginal Citations**

**M28** 1947 c. 42.

*Status: Point in time view as at 22/01/2022.*

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## SCHEDULE 16

Section 209.

### PROCEDURE FOR MAKING AND CONFIRMING ORDERS RELATING TO ROADS AND RIGHTS OF WAY

#### PART I

#### MAKING ORDERS

##### *Procedure for making of orders by Secretary of State*

- 1 (1) Before making an order under section 202 or 206(1)(a) the Secretary of State shall publish in at least one local newspaper circulating in the relevant area, and in the Edinburgh Gazette, a notice—
  - (a) stating the general effect of the order,
  - (b) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the last day on which publication of the notice has taken place, and
  - (c) stating that, within the period, any person may by notice to the Secretary of State object to the making of the order.
- (2) Not later than the last day on which publication has taken place in accordance with sub-paragraph (1), the Secretary of State—
  - (a) shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan, on every local authority in whose area any road or, as the case may be, any land to which the order relates is situated, and on any water, hydraulic power or electricity undertakers or public gas transporter having any cables, mains, pipes or wires laid along, across, under or over any road to be stopped up or diverted or, as the case may be, any land over which a right of way is to be extinguished, under the order, and
  - (b) shall cause a copy of the notice to be displayed in a prominent position at the ends of so much of any road as is proposed to be stopped up or diverted or, as the case may be, of the right of way proposed to be extinguished under the order.
- (3) Subject to sub-paragraph (4), if before the end of the said period of 28 days an objection is received by the Secretary of State from any local authority, undertakers or transporter on whom a notice is required to be served under sub-paragraph (2), or from any other person appearing to him to be affected by the order, and the objection is not withdrawn, the Secretary of State shall cause a local inquiry to be held.
- (4) If the objection is made by a person other than such a local authority, undertakers or transporter, the Secretary of State may dispense with such an inquiry if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.
- (5) After considering any objections to the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State (subject to sub-paragraph (6)) may make the order either without modification or subject to such modifications as he thinks fit.

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- (6) Where the order contains a provision requiring any such payment, repayment or contribution as is mentioned in section 202(4)(a), and objection to that provision is duly made, in accordance with sub-paragraph (3), by an authority or person who would be required by it to make such a payment, repayment or contribution, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.
- (7) Immediately after the order has been made, the Secretary of State shall publish, in the manner specified in sub-paragraph (1), a notice stating that the order has been made, and naming a place where a copy of the order may be seen at all reasonable hours; and sub-paragraph (2) shall have effect in relation to any such notice as it has effect in relation to a notice under sub-paragraph (1).
- (8) In this paragraph “the relevant area”, in relation to an order, means the area in which any road or land to which the order relates is situated.

*Procedure in anticipation of planning permission, etc.*

- 2 (1) Where the Secretary of State would, if planning permission for any development had been granted under Part III [<sup>F46</sup>or section 242A], have power to make an order under section 202 authorising the stopping-up or diversion of a road in order to enable that development to be carried out, then, notwithstanding that such permission has not been granted, the Secretary of State may, in the circumstances specified in sub-paragraphs (2) to (4), publish notice of the draft of such an order in accordance with paragraph 1.
- (2) The Secretary of State may publish such a notice where the relevant development is the subject of an application for planning permission and either—
  - (a) that application is made by a local authority or statutory undertakers,
  - [<sup>F47</sup>(aa) that application is made under section 242A;]
  - (b) that application stands referred to the Secretary of State in pursuance of a direction under section 46, or
  - (c) the applicant has appealed to the Secretary of State under section 47 against a refusal of planning permission or of approval required under a development order, or against a condition of any such permission or approval.
- (3) The Secretary of State may publish such a notice where—
  - (a) the relevant development is to be carried out by a local authority or statutory undertakers and requires, by virtue of an enactment, the authorisation of a government department, and
  - (b) the developers have made application to the department for that authorisation and also requested a direction under section 57 that planning permission be deemed to be granted for that development.
- (4) The Secretary of State may publish such a notice where the planning authority certify that they have begun to take such steps, in accordance with regulations made by virtue of section 263, as are requisite in order to enable them to obtain planning permission for the relevant development.
- (5) Paragraph 1(5) shall not be construed as authorising the Secretary of State to make an order under section 202 of which notice has been published by virtue of sub-paragraph (1) until planning permission is granted for the development which occasions the making of the order.

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#### **Textual Amendments**

- F46** Words in Sch. 16 para. 2(1) inserted (11.5.2006) by [Planning and Compulsory Purchase Act 2004 \(Commencement No.2 and Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/243\)](#), arts. 1(1), **4(14)(a)**
- F47** Sch. 16 para. 2(2)(aa) inserted (11.5.2006) by [Planning and Compulsory Purchase Act 2004 \(Commencement No.2 and Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/243\)](#), arts. 1(1), **4(14)(b)**

*Further procedure in anticipation of planning permission, etc.*

- 3 (1) Where a planning authority would, if planning permission for any development had been granted under Part III [<sup>F48</sup>or section 242A], have power to make an order under section 207 authorising the stopping-up or diversion of a road in order to enable that development to be carried out, then, notwithstanding that such permission has not been granted, the authority may, in the circumstances specified in sub-paragraphs (3) to (5), publish notice of the draft of such an order in accordance with the following provisions of this Schedule.
- (2) Nothing in those provisions shall be construed as authorising the authority to make the order in anticipation of such permission.
- (3) The authority may publish such a notice where the development is the subject of an application for planning permission.
- (4) The authority may publish such a notice where—
- (a) the development is to be carried out by a local authority or statutory undertakers and requires, by virtue of an enactment, the authorisation of a government department, and
  - (b) the developers have made an application to the department for that authorisation and also requested a direction under section 57 that planning permission be deemed to be granted for that development.
- (5) The planning authority may publish such a notice where they have begun to take such steps, in accordance with regulations made by virtue of section 263, as are requisite in order to enable them to obtain planning permission for the development.

#### **Textual Amendments**

- F48** Words in Sch. 16 para. 3(1) inserted (11.5.2006) by [Planning and Compulsory Purchase Act 2004 \(Commencement No.2 and Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/243\)](#), arts. 1(1), **4(14)(c)**

*Status: Point in time view as at 22/01/2022.*

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## PART II

### CONFIRMATION OF ORDERS

#### *Application*

- 4 (1) This Part shall have effect with respect to the confirmation of orders under section 203, 206(1)(b), 207 and 208 and the publicity for such orders after they are confirmed.
- (2) This Part has no application as regards orders made by the Secretary of State.

#### *Confirmation of orders made by other authorities*

- 5 (1) An order made under section 203 by a competent authority, section 206(1)(b) by a local authority or section 207 or 208 by a planning authority shall not take effect unless confirmed—
- (a) by the Secretary of State in a case where the order is opposed, and
  - (b) in any other case by the authority making the order.
- (2) The Secretary of State shall not confirm any such order unless satisfied as to every matter of which the authority making the order are required under section 206(1)(b), 207 or 208 (as the case may be) to be satisfied.
- (3) The time specified—
- (a) in an order under section 203 as the time from which a right is to be extinguished,
  - (b) in an order under section 206(1)(b) as the time from which a right of way is to be extinguished,
  - (c) in an order under section 207 as the time from which a road is to be stopped up or diverted, or
  - (d) in an order under section 208 as the time from which a footpath or bridleway is to be stopped up or diverted,
- shall not be earlier than confirmation of the order.
- 6 (1) Before an order under section 203, 206(1)(b), 207 or 208 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 28 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), the notice to be given under sub-paragraph (1) 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 similar notice on—

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- (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>M29</sup>Rent (Scotland) Act 1984) of any of that land,
  - (ii) every 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 208(2)(d), 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).
- (4) If he so directs in the case of any land, then in addition to publication—
- (a) the notice shall be addressed to “the owners and any occupiers” of the land (describing it), and
  - (b) a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.

#### **Marginal Citations**

**M29** 1984 c. 58.

- 7 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).
- 8 (1) This paragraph applies where any representation or objection duly made is not withdrawn.
- (2) If the objection is made by a local authority, the Secretary of State shall, before confirming the order, cause a local inquiry to be held.
- (3) If the representation or objection is made by a person other than a local authority, the Secretary of State shall, before confirming the order, either—
- (a) cause a local inquiry to be held, or
  - (b) give 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.
- (4) After considering the report of the person appointed under sub-paragraph (2) or (3) to hold the inquiry or hear representations or objections, the Secretary of State may confirm the order, with or without modifications.
- (5) In the case of an order under section 207 or 208, 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 22/01/2022.*

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- (6) Notwithstanding anything in the previous 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 (which must not be less than 28 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, as the case may be, to hear representations or objections.
- (7) In the case of an order under section 207 or 208, 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.
- 9 (1) The Secretary of State shall not confirm an order under section 203, 207 or 208 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.
- (2) 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.
- (3) The consent of statutory undertakers to any such order shall not be unreasonably withheld.
- (4) Any question arising under this paragraph whether the withholding of consent is unreasonable, or whether any requirement is reasonable, shall be determined by [F49the Scottish Ministers].

#### Textual Amendments

**F49** Words in Sch. 16 para. 9(4) substituted by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 127(24); S.I. 1998/3178, art. 3

- 10 Regulations may, subject to this Part, make such provision as the Secretary of State thinks expedient as to the procedure on the making, submission and confirmation of orders under sections 203, 206(1)(b), 207 and 208.

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### PART III

#### PUBLICITY FOR ORDERS AFTER CONFIRMATION

- 11 (1) As soon as may be after an order under sections 203, 206(1)(b), 207 and 208 has been confirmed by the Secretary of State or confirmed as an unopposed order, the authority by whom the order was made shall—
- (a) publish, in the manner required by paragraph 6(2), a notice in the prescribed form—
    - (i) describing the general effect of the order,
    - (ii) stating that it has been confirmed, and
    - (iii) naming a place in the area in which the land to which the order relates is situated where a copy of the order as confirmed may be inspected free of charge at all reasonable hours,
  - (b) serve a similar notice and a copy of the order as confirmed on any persons on whom notices were required to be served under paragraph 6(2), and
  - (c) cause a similar notice to be displayed in the similar manner as the notice required to be displayed under paragraph 6(2).
- (2) No such notice or copy need be served on a person unless he has sent to the authority a request in that behalf, specifying an address for service.

#### SCHEDULE 17

Section 251(5).

#### ENFORCEMENT AS RESPECTS WAR-TIME BREACHES BY THE CROWN OF PLANNING CONTROL

##### *Preliminary*

- 1 In this Schedule—
- “authority” means an authority responsible for enforcing planning control,
- “compliance determination application” means an application under section 251(3), and
- “compliance determination” means a determination given on such an application.

##### *Making of compliance determination applications*

- 2 (1) A compliance determination application may be made with respect to any land—
- (a) by the owner or occupier of the land, or
  - (b) by any person who proves that he has or intends to acquire an interest in the land which will be affected by a compliance determination or that he has borne any of the cost of carrying out works on the land during the war period.
- (2) In the case of land owned or occupied by or on behalf of the Crown, or leased to, or to a person acting on behalf of, the Crown, or land with respect to which it is proved that there is held, or intended to be acquired, by or on behalf of the Crown an interest in the land which will be affected as mentioned in sub-paragraph (1) or that any of the cost there mentioned has been borne by the Crown, a compliance determination application may be made by any person acting on behalf of the Crown.

*Status: Point in time view as at 22/01/2022.*

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- 3 A compliance determination application shall be accompanied by such plans and other information as are necessary to enable the application to be determined.
- 4 (1) The authority to whom a compliance determination application is made shall within 14 days from the receipt of the application publish notice of it in one or more local newspapers circulating in the area in which the land is situated and serve notice of it on any person appearing to the authority to be specially affected by the application.
- (2) The authority shall take into consideration any representations made to them in connection with the application within 14 days from the publication of the notice.

*Determination of applications*

- 5 (1) Where a compliance determination application is made to an authority the authority shall determine whether the works or use in question fail to comply with any planning control which the authority are responsible for enforcing and, if so, shall specify the control in question.
- (2) Where the authority determine that works or a use fail so to comply they shall further determine whether having regard to all relevant circumstances the works or use shall, notwithstanding the failure, be deemed so to comply, either unconditionally or subject to such conditions as to the time for which the works or use may be continued, the carrying out of alterations, or other matters, as the authority think expedient.

*Appeals against compliance determinations or failure to make such determinations*

- 6 (1) Where the applicant is aggrieved by a compliance determination, or where a person by whom representations have been made as mentioned in paragraph 4 is aggrieved by such a determination, he may appeal to the Secretary of State.
- (2) The applicant may also appeal if he is aggrieved by the failure of the authority to determine the application within 2 months from the last day on which representations under paragraph 4 may be made and has served notice on the authority that he appeals to the Secretary of State.
- (3) An appeal under this paragraph must be made within the period of 28 days after the applicant has notice of the determination or, in the case of an appeal under subparagraph (2), after the applicant has served notice on the authority of the appeal, or within such extended period as the Secretary of State may allow.
- 7 (1) On such an appeal the Secretary of State may give, in substitution for the determination, if any, given by the authority, such determination as appears to him to be proper having regard to all relevant circumstances, or, if he is satisfied that the applicant was not a person entitled to make the application, may decide that the application is not to be entertained.
- (2) At any stage of the proceedings on such an appeal to him the Secretary of State may, and shall if so directed by the Court of Session, state in the form of a special case for the opinion of the Court of Session any question of law arising in connection with the appeal.
- 8 Subject to paragraph 9 and to any determination or decision of the Secretary of State on an appeal under paragraph 7, any compliance determination shall be final and any such failure to give a determination as mentioned in paragraph 6(2) shall be taken on the service of the notice there mentioned as a final refusal by the authority

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to entertain the application, and any determination or decision of the Secretary of State on an appeal under paragraph 7 shall be final.

*Fresh applications where alteration in circumstances*

- 9 Where a compliance determination has been given that works on land or a use of land shall not be deemed to comply with planning control or shall be deemed to comply with it subject to conditions, then if a person entitled to make a compliance determination application with respect to the land satisfies the authority or on appeal the Secretary of State that there has been a material change of circumstances since the previous application was determined, he may make a subsequent application and on such an application the authority or on appeal the Secretary of State may substitute for the compliance determination such determination as appears proper having regard to all relevant circumstances.

*References of application to Secretary of State*

- 10 (1) If it appears to the Secretary of State that it is expedient, having regard to considerations affecting the public interest (whether generally or in the locality concerned), that any compliance determination application to an authority, or any class or description of such applications, should instead of being determined by the authority be referred to him for decision, he may give directions to the authority requiring that application, or applications of that class or description, to be so referred.
- (2) This Schedule shall apply to any such reference as if it were an appeal under paragraph 6(2) following the failure of the authority to determine the application.

*Information*

- 11 The Secretary of State may give directions to any authority requiring them to furnish him with such information with respect to compliance determination applications received by them as he considers necessary or expedient in connection with the exercise of his functions under this Schedule.

*Opportunity for hearing*

- 12 (1) On a compliance determination application the applicant may require the authority to give him an opportunity before the application is determined of appearing before and being heard by a person appointed by the authority for the purpose.
- (2) In the case of—
- (a) a compliance determination application referred to the Secretary of State for decision, or
  - (b) an appeal under this Schedule,
- the applicant or the authority may require the Secretary of State to give him or them an opportunity before the application or appeal is determined of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

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### *Notice of proposed enforcement*

- 13 (1) This paragraph applies where before the relevant date any person proposes to take steps for enforcing a planning control in the case of such works or such a use as is mentioned in section 251(1).
- (2) Subject to sub-paragraph (4), unless a compliance determination application has been made in relation to the land which has not been finally determined, that person shall serve on every owner and occupier of the land not less than 28 days' notice of the proposal, and if within that period any person makes such an application in relation to the land and within 7 days of making it serves on the person proposing to take steps as aforesaid notice that the application has been made, no steps for enforcing the control shall be taken until the final determination of the application.
- (3) If such an application has been made which has not been finally determined, no such steps shall be taken until the final determination of it.
- (4) No notice shall be required under sub-paragraph (2) if steps for enforcing a planning control in the case of any works on land are begun within 28 days of the final determination of a compliance determination application in relation to the land.
- (5) For the purpose of this paragraph a compliance determination application shall be treated as having been finally determined notwithstanding that a subsequent application may be made under paragraph 9.

### *Power of entry*

- 14 (1) At any time before the relevant date any officer of an authority shall, on producing, if so required, some duly authenticated document showing his authority to act for the purposes of this paragraph, have a right, subject to the provisions of this paragraph, to enter any premises at all reasonable hours—
- (a) for the purpose of ascertaining whether there are on the premises any works carried out during the war period which do not comply with planning control, or whether a use of the premises continues which was begun during that period and does not comply with it;
- (b) where a compliance determination application has been made to the authority, for the purpose of obtaining any information required by the authority for the exercise of their functions under section 251 and this Schedule in relation to the application.
- (2) Admission to any premises which are occupied shall not be demanded as of right unless 24 hours' notice of the intended entry has been served on the occupier.
- (3) Any person who wilfully obstructs any officer of an authority acting in the exercise of his powers under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (4) If any person who in compliance with this paragraph is admitted into a factory, workshop or workplace discloses to any person any information obtained by him in it with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months.

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### *Service of notices*

- 15 (1) Any notice or other document required or authorised to be served under this Schedule may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post.
- (2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.
- (3) For the purposes of this paragraph and of section 7 of the <sup>M30</sup>Interpretation Act 1978, the proper address of any person upon whom any such document is to be served is—
- (a) in the case of the secretary or clerk of any incorporated company or body, that of the registered or principal office of the company or body, and
  - (b) in any other case, the last known address of the person to be served.
- (4) If it is not practicable after reasonable enquiry to ascertain the name or address of an owner or occupier of land on whom any such document is to be served, the document may be served by addressing it to him by the description of “owner” or “occupier” of the premises (describing them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

#### **Marginal Citations**

**M30** 1978 c. 30.

### *Supplementary provisions*

- 16 Parts XIII and XIV do not apply to section 251 and this Schedule.

## SCHEDULE 18

Sections 261 to 263.

### PROVISIONS OF THIS ACT REFERRED TO IN SECTIONS 261 TO 263

#### PART I

##### PROVISIONS REFERRED TO IN SECTIONS 261(1) AND (2) AND 262(1)

Sections 4 to 22.

Section 24.

Section 26.

Section 27(2) to (6) so far as applying for the purposes of sections 58, 59 and 61.

Section 28.

Section 30.

Section 31 except subsection (4).

Sections 32 to 34.

Section 36.

Section 37(1) to (3).

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Section 39.

Section 41(1) to (5).

Sections 43 and 44.

Sections 46 to 48.

Section 57(1), (3) and (4).

Sections 58 to 63.

Sections 65 to 73.

Sections 75 to 77.

Section 83.

Sections 86 to 89.

Section 90(1) to (5).

Sections 91 and 92.

Section 93.

Section 94(1) to (7).

Section 95.

In section 99(1), the definition of “the relevant provisions”.

Section 108(1) and (2).

Sections 113 and 114.

Section 117.

Sections 123 to 126.

Sections 130 to 136.

Sections 138 to 145.

Sections 148 to 158.

Sections 160 to 162.

Sections 164 and 165.

Section 169(10).

Sections 170 and 171.

Section 172(4).

Sections 176 to 180.

Sections 182 to 186.

Section 188.

Section 189(1) to (7).

Sections 190 to 194.

Sections 196 to 206.

Section 208.

Sections 211 and 212.

Section 215(1) and (2).

Section 216(1) to (6).

Section 217(1) and (3).

Section 218(1) to (3).

Sections 219 to 236.

Section 237(1) except paragraphs (e) and (f).

Section 238.

Section 241, with the omission in subsection (2) of the references to section 239.

Section 242(1), with the omission of the definition of “private interest”, (2) and (3).

*Status: Point in time view as at 22/01/2022.*

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Section 243(1).

Section 245(1) to (4) (the reference, in subsection (1)(c), to Part III being construed as not referring to sections 34 and 35).

Section 246.

Sections 253 to 256.

Sections 261 and 262.

Section 263(1) to (4).

Section 269 except subsection (3).

Section 270.

Sections 272 and 273.

In section 275, subsections (4) and (5) so far as relating to section 5, and subsection (7).

In section 277(1), the definition of “mineral working deposit”.

Schedule 1.

Schedule 2 paragraphs 1 to 3.

Schedule 3 paragraphs 7 and 8.

Schedule 4.

Schedule 5 paragraph 7(5).

Schedules 6 and 7.

Schedule 8 paragraphs 1 to 12.

Schedule 11.

Schedule 13 paragraph 2.

Schedule 16 paragraphs 1, 2 and 4 to 11.

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

## F50 PART II

### PROVISIONS REFERRED TO IN SECTION 263(1)

#### Textual Amendments

**F50** Sch. 18 Pt. II repealed (1.4.2007) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), s. 59(2), [sch.](#); [S.S.I. 2007/130](#), art. 2(2), [sch.](#)

### TABLE OF DERIVATIONS

#### Notes:

- 1 This Table shows the derivation of the provisions of the Bill.
- 2 The following abbreviations are used in the Table—

#### *Acts of Parliament*

1972

= The Town and Country Planning (Scotland) Act 1972 (c. 52)

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1973C	= The Land Compensation (Scotland) Act 1973 (c. 56)
1973	= The Local Government (Scotland) Act 1973 (c. 65)
1977	= The Town and Country Planning (Scotland) Act 1977 (c. 10)
1980	= The Local Government, Planning and Land Act 1980 (c. 65)
1981MP	= The Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23)
1981	= The Town and Country Planning (Minerals) Act 1981 (c. 36)
1982	= The Local Government and Planning (Scotland) Act 1982 (c. 43)
1984P	= The Town and Country Planning Act 1984 (c. 10)
1984T	= The Telecommunications Act 1984 (c. 12)
1984	= The Roads (Scotland) Act 1984 (c. 54)
1986	= The Housing and Planning Act 1986 (c. 63)
1991	= The Planning and Compensation Act 1991 (c. 34)
1994	= The Local Government etc. (Scotland) Act 1994 (c. 39)

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- 3 The Table does not show the effect of Transfer of Functions orders.
- 4 The Table does not give details of the effect of section 172(2) of the Local Government (Scotland) Act 1973 (c.65), which omitted the word “local” in the expression “local planning authority” where it occurs in any enactment or instrument.
- 5 “Sc Law Com Rec No.” followed by a number indicates that the provision gives effect to the Recommendation bearing that number in Appendix 1 to the Scottish Law Commission’s Report on the Consolidation of Certain Enactments relating to Town and Country Planning in Scotland (Cmnd. 3644).

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<b>Provision</b>	<b>Derivation</b>
1(1)	1973 s.172(1); 1994 Sch.13 para.92(57).
(2)	1973 s.172(3); 1994 Sch.13 para.92(57).
2(1)	1980 Sch.32 para.5(8).
(2)	1980 Sch.32 para.15(2)(b)(ii).
(3)	1980 Sch.32 para.20(2).

*Status: Point in time view as at 22/01/2022.*

**Changes to legislation:** *Town and Country Planning (Scotland) Act 1997 is up to date with all changes known to be in force on or before 29 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)*

(4)	1980 Sch.32 para.25(1)(c).
(5)	1980 Sch.32 para.25(2).
3(1)	1980 s.149(6).
(2)	1980 s.149(8)(a).
4(1)	1972 s.4(1); 1994 Sch.4 para.2(a).
(2)	1972 s.4(2); 1994 Sch.4 para.2(b).
(3)	1972 s.4(3).
(4)	1972 s.4(4).
5(1)	1972 s.4A(1); 1994 s.33(1).
(2)	1972 s.4A(2); 1994 s.33(1).
(3)	1972 s.4A(3); 1994 s.33(1).
(4)	1972 s.4A(4); 1994 s.33(1).
6(1)	Drafting.
(2)	1972 s.5(1); 1994 Sch.4 para.3.
(3)	1972 s.5(1A); 1994 Sch.4 para.3.
(4)	1972 s.5(1B); 1994 Sch.4 para.3.
(5)	1972 s.5(1C); 1994 Sch.4 para.3.
(6)	1972 s.5(1D); 1994 Sch.4 para.3.
(7)	1972 s.5(2); 1981MP Sch.2 para.17(a).
(8)	1972 s.6A; 1994 Sch.4 para.5.
7(1)	1972 s.5(3); 1991 Sch.13 para.3.
(2)	1972 s.5(4).
(3)	1972 s.5(6).
8(1),(2)	1972 s.6(1).
(3)	1972 s.6(1A); 1994 Sch.4 para.4.
(4),(5)	1972 s.6(2).
(6)	1972 s.6(3).
(7),(8)	1972 s.6(4).
(9)	1972 s.6(5).
(10)	1972 s.6(6).
(11)	1972 s.6(7).
9(1)	1972 s.8(1); 1982 s.37(a).
(2)	1972 s.8(1).
(3)	1972 s.8(2); 1982 s.37(b).

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| (4)       | 1972 ss.6A, 8(3); 1982 s.37(c); 1994 Sch.4 para.5.                                       |
| (5)       | 1972 s.8(4); 1982 s.37(c).   |
| (6)       | 1972 s.8(5); 1982 s.37(c).   |
| (7)       | 1972 s.8(6); 1982 s.37(c).   |
| (8)       | 1972 s.8(7); 1982 s.37(c).   |
| (9)       | 1972 s.8(8); 1982 s.37(c).   |
| 10(1),(2) | 1972 ss.7(1), 8(2); 1994 Sch.4 para.6.   |
| (3)       | 1972 ss.7(2), 8(2).  |
| (4)       | 1972 ss.7(3), 8(2); 1973 s.175(1); 1982 s.36.  |
| (5)       | 1972 ss.7(4), 8(2); 1973 s.175(1).   |
| (6)       | 1972 ss.7(5), 8(2); 1973 s.175(1).   |
| (7)       | 1972 ss.7(5) proviso, 8(2); 1973 s.175(1).   |
| (8)       | 1972 ss.7(6), 8(2); 1973 s.175(1); Tribunals and Inquiries Act 1992 (c.53) Sch.3 para.3. |
| (9)       | 1972 ss.7(7), 8(2); 1973 s.175(1).   |
| (10)      | 1972 ss.7(8), 8(2); 1973 s.175(1).   |
| 11(1)     | 1972 s.9(1A); 1994 Sch.4 para.7.   |
| (2)       | 1972 s.9(4A); 1977 s.2(1)(a).  |
| (3)       | 1972 s.9(3),(5); 1991 Sch.13 para.4.   |
| (4)       | 1972 s.9(4).   |
| (5)       | 1972 s.9(9); 1977 s.2(1)(b).   |
| (6)       | 1972 s.9(6).   |
| 12(1)     | 1972 ss.10(1), 13(3); 1977 s.2(2).   |
| (2)       | 1972 ss.10(1), 13(3).  |
| (3)       | 1972 ss.10(2), 13(3); 1981MP Sch.2 para.19(a).   |
| (4)       | 1972 ss.10(2), 13(3).  |
| (5)       | 1972 ss.10(3), 13(3); 1981MP Sch.3 para.15.  |
| (6)       | 1972 s.13(4); 1982 s.40(c).  |
| 13(1)     | 1972 s.13(1); 1982 s.40(a).  |
| (2)       | 1972 s.13(3); 1982 s.40(c).  |
| (3),(4)   | 1972 s.13(1); 1982 s.40(a).  |

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14(1)	1972 ss.9(7), 13(2); 1981MP Sch.2 para.20.
(2)	1972 ss.9(8), 13(2); 1981MP Sch.2 paras.18(c)(i), 20.
(3)	1972 ss.9(7), 13(2); 1981MP Sch.2 para.20.
(4)	1972 ss.9(10), 13(3).
(5)	1972 ss.9(7),(11), 13(2),(3).
15(1) to (3)	1972 ss.11(1), 13(3); 1982 s.38(a),(b).
(4)	1972 ss.11(2), 13(3).
(5)	1972 ss.11(1)(a), 13(3).
(6)	1972 ss.11(1)(b), 13(3); Tribunals and Inquiries Act 1992 (c.53) Sch.3 para.4.
16(1)	1972 s.11(1A); Town and Country Planning (Costs of Inquiries etc.) Act 1995 (c.49) s.3(2)(a).
(2)	1972 s.11(1B); Town and Country Planning (Costs of Inquiries etc.) Act 1995 (c.49) s.3(2)(a).
(3)	1972 s.11(1C); Town and Country Planning (Costs of Inquiries etc.) Act 1995 (c.49) s.3(2)(a).
17(1)	1972 ss.12(1), 13(3); 1986 Sch.11 para.28(2).
(2)	1972 ss.12(1), 13(3); 1982 s.39.
(3)	1972 ss.12(2), 13(3); 1977 s.2(3).
(4)	1972 ss.12(2A), 13(3); 1986 Sch.11 para.28(1).
(5)	1972 ss.12(2B), 13(3); 1986 Sch.11 para.28(1).
18(1)	1972 ss.12(3), 13(3).
(2)	1972 ss.12(3),(4), 13(3); 1973 s.175(2).
19(1) to (4).	1972 ss.12(4), 13(3); 1973 s.175(2).
20	1972 s.14; 1984 Sch.9 para.70(2).
21(1),(2)	1972 s.16(1); 1982 Sch.2 para.1.
(3)	1972 s.16(2).
(4)	1972 s.16(3).
(5)	1972 s.16(4).
22(1)	1972 s.15(1); 1973 Sch.23 para.17(b); 1994 Sch.4 para.8(a)(ii), Sch.14.

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(2)	1972 s.15(2).
(3)	1972 s.15(2A); 1994 Sch.4 para.8(b).
(4)	1972 s.15(3).
(5)	1972 s.15(4),(5).
23(1)	1980 Sch.32 para.24(1); drafting.
(2)	1980 Sch.32 para.24(2),(3); drafting.
24(1)	1972 s.17(1).
(2)	1972 s.17(2).
(3)	1972 s.17(3).
(4)	1972 s.17(4).
(5)	1972 s.17(5); 1994 Sch.4 para.9.
(6)	1972 Sch.21 Pt.I; 1977 s.5(7).
25	1972 s.18A; 1991 s.58.
26(1)	1972 s.19(1).
(2)	1972 s.19(2); 1984 Sch.9 para.70(3); 1986 Sch.11 para.29; 1991 s.44(2).
(3)	1972 s.19(3).
(4)	1972 s.19(1A); 1991 s.44(1).
(5)	1972 s.19(3A); 1981 s.19(1).
(6)	1972 s.19(3B); 1991 s.45.
(7)	1972 s.19(4).
27(1)	1972 s.275(5).
(2),(3)	1972 ss.21C(4), 21D(6), 21E(4), 40(1), 41(1); 1980 Sch.32 para.26(1A); Housing and Planning Act 1986 (c.63) ss.26(1), 54(2).
(4)	1972 s.40(2); 1991 Sch.13 para.15.
(5)	1972 s.40(3); 1991 Sch.12 para.10.
(6)	1972 s.40(3).
28(1)	1972 s.20(1).
(2)	1972 s.20(5).
(3)	1972 s.20(8).
(4)	1972 s.20(9).
(5)	1972 s.20(6),(8).
(6)	1972 s.20(10); drafting.
(7)	Drafting.

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29(1) to (3)	Drafting.
30(1)	1972 s.21(1); 1991 Sch.13 para.5.
(2)	1972 s.21(2); 1991 Sch.13 para.5.
(3)	1972 s.21(3); 1991 Sch.13 para.5.
31(1)	1972 s.21(4).
(2),(3)	1972 s.21(5).
(4)	1972 s.21(6).
(5)	1972 s.21(7).
32	1972 s.22(1); 1982 Sch.2 para.2.
33(1)	1972 s.29(1); 1991 Sch.13 para.8.
(2)	1972 s.29(2); 1991 Sch.13 para.8.
(3)	1972 s.29(3); 1991 Sch.13 para.8.
34(1)	1972 s.23(1); 1982 s.41; 1991 Sch.13 para.6.
(2)	1972 s.23(2); 1982 s.41.
(3)	1972 s.23(3); 1982 s.41.
(4)	1972 s.23(3); 1982 s.41; Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 paras.5,6; Criminal Procedure (Scotland) Act 1995 (c.46) s.225.
(5)	1972 s.23(4); 1991 Sch.13 para.6.
(6)	1972 s.23(5); 1991 Sch.13 para.6.
35(1) to (8)	1972 s.24; 1991 s.46(1).
36(1)	1972 s.31(2),(5); 1982 Sch.2 para.9; 1986 Sch.6 Pt.IV para.1; 1991 Sch.13 para.9.
(2)	1972 s.31(3),(5); 1991 Sch.13 para.9.
(3)	1972 s.31(3),(5); 1991 Sch.13 para.9.
(4)	1972 s.31(4),(5).
37(1)	1972 s.26(1); 1986 Sch.11 para.54.
(2)	1972 s.26(1).
(3)	1972 s.26(1); drafting.
(4)	1972 s.30A; 1982 Sch.2 para.8.
38(1)	1972 s.26(2); 1982 Sch.2 para.5.
(2)	1972 s.26(3); 1991 s.46(2).
(3)	1972 s.26(3A); 1991 s.46(2).

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(4)	1972 s.26(5).
(5)	1972 s.26(6).
39(1) to (3)	1972 s.26A; 1991 s.47(1).
40(1) to (3)	1972 s.26B; 1991 s.48.
41(1)	1972 s.27(1).
(2)	1972 s.27(1) proviso.
(3)	1972 s.27(2); 1981 Sch.2 para.1.
(4)	1972 s.27(3).
(5)	1972 s.27(3).
(6)	Drafting.
42(1)	1972 s.28A(1); 1986 Sch.11 para.31.
(2)	1972 s.28A(3); 1986 Sch.11 para.31.
(3)	1972 s.28A(2); 1986 Sch.11 para.31.
(4)	1972 s.28A(4); 1986 Sch.11 para.31.
43(1)	1972 s.28(1); 1982 Sch.2 para.6(a); 1991 Sch.13 para.7.
(2)	1972 s.28(2); 1982 Sch.2 para.6(b); 1991 Sch.13 para.7(b).
44(1)	1972 s.30(1).
(2),(3)	1972 s.30(2).
45(1)	1972 s.26(4A); 1981MP s.36.
(2)	1972 s.26(4A); 1981MP s.36.
46(1)	1972 s.32(1); 1982 Sch.2 para.10(a).
(2)	1972 s.32(2).
(3)	1972 s.32(3).
(4)	1972 s.32(4); 1982 Sch.2 para.10(b)(ii), (iii); 1981 Sch.2 para.2; 1986 Sch.11 para.55; 1991 Sch.13 para.10.
(5),(6)	1972 s.32(5).
(7)	1972 s.32(6).
47(1)	1972 s.33(1); 1982 Sch.2 para.11(a).
(2)	1972 s.34; 1982 Sch.2 para.12; 1991 s.47(2); Sch.13 para.12.
(3)	1972 s.33(2); 1991 Sch.13 para.11(a).
(4)	1972 ss.33(2), 34.
(5)	1972 s.34; Sc Law Com Rec No.1.
48(1)	1972 s.33(3).

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(2)	1972 s.33(4).
(3)	1972 s.33(3) proviso.
(4)	1972 s.33(4).
(5)	1972 s.33(5); 1981 Sch.2 para.3; 1982 Sch.2 para.11(b); 1986 Sch.11 para.55; 1991 Sch.13 para.11(b).
(6)	1972 s.33(6)
(7)	1972 s.33(7); 1986 Sch.11 para.56; 1991 Sch.13 para.11(c)
(8)	1972 s.33(7A); 1991 s.50(1)
(9)	1972 s.33(8)
49(1) to (3)	1972 s.21A(1) to (3); 1986 s.26(1).
50(1)	1972 s.21A(4)(a); 1986 s.26(1).
(2)	1972 s.21A(4)(b),(5); Sch.6A para.2(1); 1986 s.26(1).
(3)	1972 s.21A(5); 1986 s.26(1).
51(1),(2)	1972 s.21B(1); 1986 s.26(1).
(3),(4)	1972 s.21B(2); 1986 s.26(1).
52(1),(2)	1972 s.21C; 1986 s.26(1),(2).
53(1) to (5)	1972 s.21D(1) to (5); 1986 s.26(1).
(6)	1972 ss.21D(6), 27(2),(3); 1986 s.26(1).
54(1) to (3)	1972 s.21E(1) to (3); 1986 s.26(1).
(4)	1972 ss.21E(4), 27(2),(3); 1986 s.26(1).
55(1)	1980 Sch.32 paras.5(4)(a), 17(1).
(2)	1980 Sch.32 paras.11(3), 17(2).
(3)	1980 Sch.32 para.17(3).
(4)	1980 Sch.32 para.17(4).
(5)	1980 Sch.32 para.17(5).
(6)	1980 Sch.32 para.17(6).
(7)	1980 Sch.32 para.25(1)(a),(b).
(8)	1980 Sch.32 para.25(2).
(9)	1980 Sch.32 para.17(7).
(10)	1980 Sch.32 para.17(8).
56(1)	1980 Sch.32 para.21; 1986 s.54(1).
(2)	1980 Sch.32 para.22(1); 1986 s.54(1).
57(1).	1972 s.37(1).

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(2)	Electricity Act 1989 (c.29) Sch.8 para.7(1).
(3)	1972 s.37(2); Electricity Act 1989 (c.29) Sch.8 para.7(3); 1991 Sch.12 para.9.
(4)	1972 s.37(3).
(5)	Electricity Act 1989 (c.29) Sch.8 para.7(4).
58(1),(2)	1972 s.38(1).
(3)	1972 s.38(2).
(4)	1972 s.38(3); 1980 Sch.32 para.19(2); 1981 s.23; 1986 Sch.6 Pt.IV para.2; 1991 Sch.8 para.3; Sch.13 para.13.
59(1)	1972 s.39(1); 1991 Sch.13 para.14.
(2),(3)	1972 s.39(2); 1982 Sch.2 para.13.
(4)	1972 s.39(3).
(5)	1972 s.39(4).
(6)	1972 s.39(5).
(7)	1972 s.39(6).
60(1)	1972 s.40(4); Electricity Act 1989 (c.29) Sch.8 para.7(3).
(2)	1972 s.40(5).
(3)	1972 s.40(6).
(4)	1972 s.40(7).
61(1)	1972 ss.21C(3), 41(1); 1980 Sch.32 para.22(2)(b); 1986 ss.26(1), 54.
(2),(3)	1972 s.41(2).
(4)	1972 s.41(3)(a).
(5),(6)	1972 s.41(6).
62(1),(2)	1972 s.41(3)(b).
(3)	1972 s.41(4).
(4),(5)	1972 s.41(5).
63(1) to (3)	1972 s.260(5).
(4)	Sc Law Com Rec No.2.
64	1972 s.31A; 1982 s.46.
65(1),(2)	1972 s.42(1).
(3)	1972 s.42(4).
(4)	1972 s.42(4) proviso.

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(5)	1972 s.42(5); 1981 s.25.
66(1)	1972 s.42(2).
(2) to (5)	1972 s.42(3).
(6)	1972 s.42(2).
67(1)	1972 s.43(1).
(2)	1972 s.43(1),(2).
(3)	1972 s.43(3).
(4)	1972 s.43(2)(a).
(5)	1972 s.43(2)(b).
(6)	1972 s.43(4).
(7)	1972 s.43(5).
(8)	1972 s.43(6).
68(1)	1972 s.260(1),(2).
(2),(3)	1972 s.260(1).
(4) to (6)	1972 s.260(4).
(7)	1972 s.260(3)
(8)	1972 s.42(5); 1981 s.25.
69(1)	1972 s.44(1).
(2)	1972 s.45(1).
(3)	1972 s.45(2).
(4)	1972 s.45(8); drafting.
70(1)	1972 s.47(1).
(2)	1972 s.47(1); Planning (Consequential Provisions) Act 1990 (c.11) Sch.2 para.27(1).
(3)	1972 s.47(6).
(4)	1972 s.47(7); drafting.
71(1)	1972 s.49(1).
(2),(3)	1972 s.49(2).
(4)	1972 s.49(3); 1991 Sch.13 para.16.
(5)	1972 s.49(3A); 1991 Sch.13 para.16.
(6)	1972 s.49(7); 1991 Sch.8 para.5(7).
(7)	1972 s.49(8).
(8)	1972 s.49(1A); 1981 s.26; 1991 Sch.8 para.5.
72(1)	1972 s.49(4).

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(2) to (4)	1972 s.49(5)
(5)	1972 s.49(6).
73(1)	1972 s.260(1),(2).
(2),(3)	1972 s.260(1).
(4) to (6)	1972 s.260(4).
(7)	1972 s.260(3).
74(1)	Environment Act 1995 (c.25) s.96(1), (3).
(2)	Environment Act 1995 (c.25) s.96(5).
(3)	Environment Act 1995 (c.25) s.96(6).
75(1),(2)	1972 s.50(1).
(3)	1972 s.50(2); 1991 s.49(1).
(4)	1972 s.50(2) proviso.
(5)	1972 s.50(3).
76(1)	1972 s.153(1); 1981 Sch.2 para.4.
(2)	1972 s.153(2).
(3)	1972 s.153(3).
(4)	1972 s.153(4); 1991 Sch.12 para.14.
(5)	1972 s.153(5).
77(1)	1972 s.154(1),(2).
(2)	1972 s.154(1A); Town and Country Planning (Compensation) Act 1985 (c.19) s.2(1).
(3)	1972 s.154(3).
(4)	1972 s.154(3A); 1991 s.44(3).
78(1)	1972 s.155(1).
(2)	1972 ss.154(2), 155(2).
(3)	1972 s.155(3); 1991 Sch.12 para.15(a).
(4)	1972 s.155(4).
(5)	1972 ss.154(2), 155(6); 1991 Sch.19 Pt.IV.
79(1)	1972 s.155(5); Land Registration (Scotland) Act 1979 (c.33) s.29(2).
(2)	1972 s.155(5A); 1991 Sch.12 para.15(c).
80(1) to (6)	1972 s.156A; 1991 Sch.12 para.17.
81(1) to (7)	1972 s.156B; 1991 Sch.12 para.17.

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82(1)	1972 s.157(2); 1991 Sch.12 para.18(b).
(2)	1972 s.157(3).
(3)	1972 s.157(3) proviso.
83(1)	1972 s.159(1); Sc Law Com Rec No.3.
(2)	1972 s.159(2).
(3)	1972 s.159(3).
(4)	1972 s.159(4).
84	Drafting.
85(1)	1972 s.145(1); 1991 Sch.13 para.28.
(2)	1972 s.145(2).
(3)	1972 s.145(3).
86(1)	1972 s.168(1); 1981 ss.32, 35.
(2)	1972 s.168(2).
87(1)	1972 s.167(1).
(2)	1972 s.167(2); 1981 Sch.2 para.6.
(3)	1972 s.167(3).
(4)	1972 s.167(4).
88(1)	1972 ss.169(1), 177(1), 178(1).
(2)	1972 ss.169(1),(7), 177(1),(2), 178(1), (2).
(3)	1972 ss.169(1), 177(1).
(4)	1972 s.178(1).
(5)	1972 s.169(4).
(6)	1972 s.169(5).
(7)	1972 s.169(6).
(8)	1972 s.178(5).
89	1972 ss.169(2), 177(2), 178(2); 1991 Sch.12 para.19.
90(1)	1972 ss.170(1), 177(2), 178(2); 1986 Sch.11 para.35(1)(a).
(2)	1972 ss.170(1), 177(2), 178(2).
(3)	1972 ss.170(2), 177(2), 178(2).
(4)	1972 ss.170(3), 177(2), 178(2); 1986 Sch.11 para.35(1)(b).
(5)	1972 ss.170(4), 177(2), 178(2).
(6)	1972 s.197.

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91(1)	1972 ss.171(1), 177(2), 178(2).
(2)	1972 ss.171(2), 177(2), 178(2).
(3),(4)	1972 ss.171(3), 177(2), 178(2).
(5)	1972 ss.171(4), 177(2), 178(2).
92(1)	1972 ss.172(1), 177(2), 178(2); Sc Law Com Rec No.4.
(2)	1972 ss.172(2), 177(2),(3), 178(2),(3).
(3)	1972 ss.172(3), 177(2), 178(2).
(4)	1972 ss.172(4), 177(2), 178(2).
(5)	1972 s.172(5).
93(1)	1972 ss.173(1), 177(2), 178(2); 1986 Sch.11 para.36; Sc Law Com Recs Nos.4, 5.
(2)	1972 s.173(2), 177(2), 178(2).
(3)	1972 s.173(3), 177(2), 178(2); 1986 Sch.11 para.36.
94(1)	1972 ss.175(1), 177(2), 178(2).
(2)	1972 s.175(2), 177(2), 178(2).
(3)	1972 ss.175(3), 177(2), 178(2); 1986 Sch.11 para.37(1).
(4)	1972 ss.175(3A), 177(2), 178(2); 1986 Sch.11 para.37(1).
(5),(6)	1972 ss.175(4), 177(2), 178(2).
(7)	1972 ss.175(5), 177(2), 178(2).
(8)	1972 s.197.
95(1)	1972 ss.176(1), 177(2), 178(2).
(2)	1972 ss.176(2), 177(2), 178(2); 1991 Sch.12 para.20(a).
(3),(4)	1972 ss.176(3), 177(2), 178(2).
(5)	1972 ss.176(4), 177(2), 178(2).
(6)	1972 ss.176(5), 177(2), 178(2); 1991 Sch.12 para.20(b).
(7)	1972 s.178(4).
96(1),(2)	1973C s.49(1),(5).
(3)	1973C s.49(3),(5).
(4)	1973C s.49(4),(5).
(5)	1973C s.49(2), (5).
(6)	1973C s.49(1),(2), (5).

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(7)	1973C s.49(5), (6).
97(1),(2)	1973C ss.49(5), 50(1).
(3)	1973C ss.49(5), 50(2).
(4),(5)	1973C ss.49(5), 50(3).
(6)	1973C ss.49(5), 50(4).
(7)	1973C ss.49(5), 50(5).
(8),(9)	1973C ss.49(5), 50(6).
(10)	1973C ss.49(5), 50(7).
(11)	1973C ss.49(5), 50(8).
98(1)	1973C ss.49(5), 78(2).
(2)	1973C ss.49(5), 80(1).
99(1)	1972 ss.170(5), 175(6), 180A; 1984T Sch.4 para.54(5).
(2)	Sc Law Com Rec No.4.
100(1)	1972 s.181(1); drafting.
(2)	1972 s.181(3),(4),(5).
(3)	1972 s.181(4).
(4)	1972 s.181(4A); Local Government Finance Act 1988 (c.41) Sch.12 para.9.
(5)	1972 s.181(4),(5).
(6)	1972 s.181(6); 1973C s.71(2)(b), 77(2).
101(1)	1972 s.182(1); 1973C s.72(1) Sch.3; 1991 Sch.17 para.11.
(2)	1972 s.182(2).
(3)	1972 s.182(2) proviso.
(4)	1972 s.182(4).
(5)	1972 s.182(5); Crofting Reform (Scotland) Act 1976 (c.21) Sch.1 para.1; Sc Law Com Rec No.6.
102(1),(2)	1972 s.183(1)
(3)	1972 s.183(4); 1973C s.77(3).
(4)	1972 s.183(2); 1980 s.92(7).
(5)	1972 s.183(3A); 1973C s.71(3)(a).
(6)	1972 s.183(3).
(7)	1973C s.69(2).
(8)	1972 s.183(5); 1973C s.71(3)(b).

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103(1)	1973C ss.64(6), 65(3); 1984 Sch.9 para.72(7)(b).
(2)	1973C s.64(6), 65(3); 1984 Sch.9 para.72(7)(b).
104(1),(2)	1972 s.184(1).
(3)	1972 s.184(2).
(4)	1972 s.184(3).
(5)	1972 s.184(4).
(6)	1972 s.184(5).
(7)	1972 s.184(6); Crofting Reform (Scotland) Act 1976 (c.21) Sch.1 para.2; Sc Law Com Rec No.6.
(8)	1973C s.64(6).
105(1),(2)	1972 s.185(1).
(3)	1972 s.185(2).
(4),(5)	1972 s.185(3).
(6)	1972 s.185(4).
(7)	1972 s.185(5); Crofting Reform (Scotland) Act 1976 (c.21) Sch.1 para.3; Sc Law Com Rec No.6.
106(1)	1972 s.188(1).
(2)	1972 s.188(2).
(3)	1972 s.188(3).
(4)	1972 s.188(4).
(5)	1972 s.188(5); Crofting Reform (Scotland) Act 1976 (c.21) Sch.1 para.4; Sc Law Com Rec No.6.
107(1),(2)	1972 s.187(1).
(3)	1972 s.187(2).
(4)	1972 s.187(3).
108(1)	1972 s.186.
(2)	1972 s.186; Housing (Scotland) Act 1974 (c.45) Sch.3 para.47; Housing (Scotland) Act 1987 (c.26) Sch.23 para.18.
(3)	1973C s.76(6).
(4)	1973C s.76(7).
109(1),(2)	1973C s.74(1).
(3)	1973C s.74(2).

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(4)	1973C s.74(3); Crofting Reform (Scotland) Act 1976 (c.21) Sch.1 para.8; Sc Law Com Rec No.6.
110(1)	1973C s.75(1).
(2),(3)	1973C s.75(2).
(4)	1973C s.75(3).
(5)	1973C s.75(4).
(6)	1973C s.75(5).
(7)	1973C s.75(6).
(8)	1973C s.75(7).
111(1)	1973C s.76(1).
(2)	1973C s.76(2).
(3)	1973C s.76(3).
(4)	1973C s.76(4).
(5)	1973C s.76(5).
(6)	1973C s.76(7).
(7)	1973C s.76(9); Crofting Reform (Scotland) Act 1976 (c.21) Sch.1 para.9; Sc Law Com Rec No.6.
112(1)	1972 s.189; 1973C s.76(8); Sc Law Com Rec No.7.
(2)	1973C s.73(1).
(3)	1973C s.73(2).
(4)	1973C s.73(2) proviso.
(5)	1973C s.73(3); Sc Law Com Rec No.8.
113(1)	1972 s.190(1); 1973C s.72(1); 1991 Sch.17 para.11.
(2)	1972 s.190(2).
(3)	1972 s.190(2) proviso.
(4)	1972 s.190(3).
(5)	1972 s.190(6); Sc Law Com Rec No.8.
114(1)	1972 s.190(4); 1973C s.73(4).
(2)	1972 s.190(5); 1973C s.73(4).
115(1)	1972 s.193(1).
(2)	1972 s.193(2).
(3)	1972 s.193(3).

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(4)	1972 s.193(4); Interpretation Act 1978 (c.30) s.25(2), Sch.1.
(5)	1972 s.193(5).
116(1),(2)	1973C s.68(4); 1980 s.147(4).
(3)	1973C s.68(5); 1980 s.147(5).
(4)	1973C s.68(6); Crofting Reform (Scotland) Act 1976 (c.21) Sch.1 para.7; Sc Law Com Rec No.6.
117(1)	1972 s.191(1),(2).
(2)	1972 s.191(2).
118	1972 s.197.
119(1)	1972 s.192(1).
(2)	1972 s.192(2).
(3)	1972 s.192(3).
(4)	1972 s.192(4); Crofting Reform (Scotland) Act 1976 (c.21) s.11, Sch.1 para.5; Sc Law Com Rec No.6.
120(1)	1972 s.194(1); 1984T Sch.4 para.54(6).
(2)	1972 s.194(2); 1984 Sch.9 para.70(6).
(3)	1972 s.194(3).
(4)	1973C s.68(3); 1980 s.147(3).
121(1)	1972 s.195(1); 1973C s.71(4).
(2)	1972 s.195(2).
(3)	1973C s.64(9).
(4)	1973C s.67(3).
(5)	1973C s.68(3); 1980 s.147(3).
(6)	1973C s.69(3); Housing (Scotland) Act 1974 (c.45) Sch.3 para.51(d); Housing (Scotland) Act 1987 (c.26) Sch.23 para.19(10).
(7)	1973C s.66(3).
(8)	1972 s.195(3); 1984 Sch.9 para.70(7) (a).
(9)	1972 s.195(4)(aa),(c); 1984 Sch.9 para.70(7)(b).
(10)	1972 s.195(5).
(11)	1972 s.195(6).
122(1)	1972 s.196(1); Crofting Reform (Scotland) Act 1976 (c.21) Sch.1

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	para.6; Crofters (Scotland) Act 1993 (c.44) Sch.6 para.3; Sc Law Com Rec No.6.
(2)	1972 s.196(2).
(3)	1972 s.196(3).
(4)	1972 s.196(4).
(5)	1972 s.196(5).
123(1) to (3)	1972 s.83A; 1991 s.36(1).
124(1) to (4)	1972 s.83B; 1991 s.36(1).
125(1) to(8)	1972 s.83C; 1991 s.33.
126(1) to (6)	1972 s.83D; 1991 s.33.
127(1) to (3)	1972 s.84; 1991 s.37.
128(1) to (14)	1972 s.84AA; 1991 s.37.
129(1) to (4)	1972 s.84AB; 1991 s.37.
130(1)	1972 s.85(1); 1991 s.38(1).
(2)	1972 s.85(2); 1991 s.38(1).
(3)	1972 s.85(2A); 1982 Sch.2 para.20(b).
131(1)	1972 s.85(2B); 1982 Sch.2 para.20(b); 1991 Sch.13 para.20(a).
(2)	1972 s.85(2D); 1982 Sch.2 para.20(b).
(3)	1972 s.85(3).
(4)	1972 s.85(9).
132(1)	1972 s.85(5).
(2)	1972 s.85(4)(a); 1991 Sch.13 para.20(b)(i).
(3)	1972 s.85(2C); 1982 Sch.2 para.20(b).
(4)	1972 s.85(4)(b);1991 Sch.13 para.20(b)(ii).
133(1)	1972 s.85(5); 1982 Sch.2 para.20(c); 1991 Sch.13 para.20(c).
(2)	1972 s.85(5A); 1991 Sch.13 para.20(d).
(3)	1972 s.85(5B); 1991 Sch.13 para.20(d).
(4)	1972 s.85(6).
(5)	1972 s.85(6A); 1991 Sch.13 para.20(e).
(6)	1972 s.85(6B); 1991 Sch.13 para.20(e).
(7)	1972 s.85(7); 1991 Sch.13 para.20(f).
(8)	1972 s.85(7A); 1991 s.38(2).

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(9)	1972 s.85(7)(a).
(10)	1972 s.85(7)(b).
(11)	1972 s.85(7)(c).
134	1972 s.85(10).
135(1)	1972 s.88(1); 1991 Sch.19 Pt.IV.
(2)	1972 s.88(1).
(3)	1972 s.88(1A); 1982 Sch.2 para.23(a).
(4)	1972 s.88(2).
(5)	1972 s.88(3); 1982 Sch.2 para.23(b).
(6),(7)	1972 s.88(4); 1982 Sch.2 para.23(b).
(8),(9)	1972 s.88(5); 1982 Sch.2 para.23(b).
(10)	1972 s.88(6); 1991 s.39.
(11)	1972 s.88(1); Sc Law Com Rec No.9.
136(1) to (9)	1972 s.86; 1991 s.40.
137(1) to (3)	1972 s.89A; 1982 Sch.2 para.25; 1991 Sch.13 para.25.
138(1)	1972 s.89(1); 1991 Sch.13 para.24(a).
(2)	1972 s.89(2).
(3)	1972 s.89(3); 1991 Sch.13 para.24(b).
(4)	1972 s.89(4); 1982 Sch.2 para.24; 1991 Sch.13 para.24; Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 paras.5, 6; Criminal Procedure (Scotland) Act 1995 (c.46) s.225.
139(1) to (3)	1972 s.260(5).
(4)	1972 s.260(5) proviso; Sc Law Com Rec No.2.
140(1)	1972 s.87(1); 1977 s.4; 1991 s.41(1).
(2)	1972 s.87(2); 1977 s.4; 1991 s.41(1).
(3)	1972 s.87(2A); 1991 s.41(1).
(4)	1972 s.87(2B); 1991 s.41(1).
(5)	1972 s.87(2C); 1991 s.41(1).
(6)	1972 s.87(2D); 1991 s.41(1).
(7)	1972 s.87(3); 1977 s.4; 1991 s.41(1).
(8)	1972 s.87(6); 1977 s.4; 1991 Sch.13 para.21(c).
(9)	1972 s.87(10); 1977 s.4.

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141(1)	1972 s.87(4); 1977 s.4; 1991 Sch.13 para.21(a).
(2)	1972 s.87(5); 1977 s.4; 1991 Sch.13 para.21(b).
(3)	1972 s.87(7); 1977 s.4(7).
(4)	1972 s.87(9); 1977 s.4; 1991 Sch.13 para.21(d).
142(1) to (3)	1972 s.260(5).
(4)	1972 s.260(5) proviso; Sc Law Com Rec No.2.
143(1)	1972 s.166(1); 1977 s.5(2)(a); 1991 Sch.13 para.29.
(2)	1972 s.166(2); 1991 Sch.13 para.30.
(3)	1972 s.166(4).
(4)	1972 s.166(5).
(5)	1972 s.166(6); 1977 s.5(2)(d); 1991 s.41(3).
(6)	1972 s.168(1).
(7)	1972 s.168(2).
144(1)	1972 s.87(8); 1991 s.41(2).
(2)	1972 s.87(8A); 1991 s.41(2).
(3)	1972 s.87(8B); 1991 s.41(2).
(4)	1972 s.87(8C); 1991 s.41(2).
(5)	1972 s.87(8D); 1991 s.41(2).
(6)	1972 s.87(8E); 1991 s.41(2).
145(1) to (13)	1972 s.87AA; 1991 s.34.
146(1) to (3)	1972 s.260A; 1991 s.35
147(1),(2)	1972 s.87A(1),(2); 1982 s.44; 1991 Sch.13 para.22.
148(1)	1972 s.100(1); 1981 s.28; 1991 Sch.8 para.9.
(2)	1972 s.100(2); 1981 s.28.
(3)	1972 s.100(3); 1981 s.28.
(4)	1972 s.100(6); 1981 s.28.
(5)	1972 s.100(7); 1981 s.28.
149(1),(2)	1972 s.100(4); 1981 s.28.
(3),(4)	1972 s.100(5); 1981 s.28.
150(1) to (7)	1972 s.90; 1991 s.42(1).

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151(1) to (4)	1972 s.90A; 1991 s.42(1).
152(1) to (8)	1972 s.90B; 1991 s.42(1).
153(1),(2)	1972 s.90C; 1991 s.42(1).
154(1)	1972 s.91(2); 1991 Sch.13 para.26(a); Sc Law Com Rec No.10.
(2)	Sc Law Com Rec No.10.
(3)	1972 s.91(2); 1991 Sch.13 para.26(a); Sc Law Com Rec No.10.
(4)	1972 s.91(2).
(5)	1972 s.91(6).
155(1)	1972 s.91(4); 1981MP Sch.2 para.24(c).
(2)	1972 s.91(7); 1991 Sch.13 para.26(c).
156(1) to (4)	1972 s.91A; 1991 s.43(1).
157(1) to (3)	1972 s.91B; 1991 s.43(1).
158(1) to (7)	1972 s.91C; 1991 s.43(1).
159	1972 s.57.
160(1),(2)	1972 s.58(1).
(3)	1972 s.58(1); Town and Country Amenities Act 1974 (c.32) s.11(1).
(4)	1972 s.58(2); 1991 Sch.12 para.12.
(5)	1972 s.58(3).
(6)	1972 s.58(6); Town and Country Amenities Act 1974 (c.32) s.11(2)(a).
(7)	1972 s.58(10); 1986 Sch.12 Pt.II.
161(1)	1972 s.58(4); 1981MP Sch.2 para.22(1) (a); 1984P s.2(6).
(2)	1972 s.58(4); Land Registration (Scotland) Act 1979 (c.33) s.29(2).
(3)	1972 s.58(5).
(4)	1972 s.58(5); 1981MP Sch.2 para.22(1) (b).
162(1)	1972 s.58(7).
(2)	1972 s.58(7); Interpretation Act 1978 (c.30) s.17(2)(a).
(3)	1972 s.58(8); Interpretation Act 1978 (c.30) s.17(2)(a).
(4)	1972 s.58(7),(9); Interpretation Act 1978 (c.30) s.17(2)(a).

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163(1)	1972 s.59(1).
(2)	1972 s.59(2).
(3)	1972 s.59(3).
164(1)	1972 s.260(1),(2)(c).
(2)	1972 s.260(1),(2)(c); 1986 Sch.11 para.51.
(3)	1972 s.260(1).
(4)	1972 s.260(3).
165(1)	1972 s.163.
(2),(3)	1972 s.168.
166(1)	1972 s.164(1),(2).
(2)	1972 s.164(2).
(3)	1972 s.164(3).
(4)	1972 s.164(4).
(5)	1972 s.164(5).
167(1)	1972 s.60(1); Town and Country Amenities Act 1974 (c.32) s.11(2) (b); Town and Country Planning (Amendment) Act 1985 (c.52) s.2(2).
(2)	1972 s.60(1).
(3)	1972 s.60(1A); Town and Country Planning (Amendment) Act 1985 (c.52) s.2(3).
(4)	1972 s.60(2).
(5)	1972 s.60(3).
168(1),(2)	1972 s.99(1).
(3)	1972 s.99(2); 1991 s.54(2).
(4)	1972 s.60(3).
169(1)	1972 s.99(3); 1986 Sch.11 Pt.II para.46; 1991 s.54(2)(b)(ii).
(2)	1972 ss.85(2), 99(3); 1991 s.54(2)(b)(i).
(3)	1972 ss.85(2A), 99(3); 1986 Sch.11 para.46.
(4)	1972 ss.85(2B), 99(3); 1986 Sch.11 para.46; 1991 Sch.13 para.20.
(5)	1972 ss.85(2C), 99(3); 1986 Sch.11 para.46.
(6)	1972 ss.85(2D), 99(3); 1986 Sch.11 para.46.

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| (7)        | 1972 ss.85(3), 99(3).  |
| (8)        | 1972 ss.85(4)(a), 99(3); 1991 Sch.13 para.20.  |
| (9)        | 1972 s.85(5), 99(3).   |
| (10)       | 1972 s.99(4).  |
| 170(1),(2) | 1972 ss.88(1), 99(5).  |
| (3)        | 1972 ss.88(1A), 99(5); 1982 Sch.2 para.23(a).  |
| (4)        | 1972 ss.88(2), 99(5).  |
| (5)        | 1972 ss.88(3), 99(5); 1982 Sch.2 para.23(b).   |
| (6),(7)    | 1972 ss.88(4), 99(5); 1982 Sch.2 para.23(b).   |
| (8),(9)    | 1972 ss.88(5), 99(5); 1982 Sch.2 para.23(b).   |
| (10)       | 1972 s.99(6); 1991 s.54(2)(c).   |
| 171(1)     | 1972 s.98(1); Town and Country Amenities Act 1974 (c.32) s.11(3).  |
| (2)        | 1972 s.98(1); Town and Country Amenities Act 1974 (c.32) s.11(3); 1991 s.54(1)(a).   |
| (3)        | 1972 s.98(1); Town and Country Amenities Act 1974 (c.32) s.11(3).  |
| (4)        | 1972 s.98(2); Town and Country Amenities Act 1974 (c.32) s.11(4); Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 paras. 5, 6; Criminal Procedure (Scotland) Act 1995 (c.46) s.225. |
| 172(1)     | 1972 s.59A(1); Town and Country Amenities Act 1974 (c.32) s.9.   |
| (2)        | 1972 s.59A(2); Town and Country Amenities Act 1974 (c.32) s.9.   |
| (3)        | 1972 s.59A(3); Town and Country Amenities Act 1974 (c.32) s.9.   |
| (4)        | 1972 s.98(4); Town and Country Amenities Act 1974 (c.32) s.11(6).  |
| 173(1)     | 1972 s.59A(4); Town and Country Amenities Act 1974 (c.32) s.9.   |
| (2)        | 1972 s.59A(5); Town and Country Amenities Act 1974 (c.32) s.9.   |

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| (3)           | 1972 s.59A(5); Town and Country Amenities Act 1974 (c.32) s.9.   |
| (4)           | 1972 s.59A(6); Town and Country Amenities Act 1974 (c.32) s.9.   |
| 174(1),(2)    | 1972 s.59A(8); Town and Country Amenities Act 1974 (c.32) s.9.   |
| (3)           | 1972 s.59A(9); Town and Country Amenities Act 1974 (c.32) s.9.   |
| 175           | 1972 s.59A(7); Town and Country Amenities Act 1974 (c.32) s.9.   |
| 176(1) to (8) | 1972 s.99A; 1991 s.54(3).  |
| 177(1) to (3) | 1972 s.99B; 1991 s.54(3).  |
| 178(1) to (4) | 1972 s.99C; 1991 s.54(3).  |
| 179(1)        | 1972 s.63(1); 1982 Sch.2 para.17(a); 1986 Sch.11 para.32(1).     |
| (2)           | 1972 s.63(1A); 1982 Sch.2 para.17(a).                            |
| (3)           | 1972 s.63(1B); 1982 Sch.2 para.17(a); 1986 Sch.11 para.32(2).    |
| (4)           | 1972 s.63(1C); 1982 Sch.2 para.17(a); 1986 Sch.11 para.32(2).    |
| (5)           | 1972 s.63(2).  |
| (6)           | 1972 s.63(3).  |
| 180(1)        | 1972 s.63A(1); 1982 Sch.2 para.18; 1986 Sch.11 para.33(1).       |
| (2)           | 1972 s.63A(2); 1982 Sch.2 para.18.                               |
| (3)           | 1972 s.63A(3); 1982 Sch.2 para.18.                               |
| (4)           | 1972 s.63A(4); 1982 Sch.2 para.18.                               |
| (5)           | 1972 s.63A(5); 1982 Sch.2 para.18; 1986 Sch.11 para.33(1).       |
| (6)           | 1972 s.63A(6); 1982 Sch.2 para.18.                               |
| (7)           | 1972 s.63A(7); 1986 Sch.11 para.34(1).                           |
| 181(1),(2)    | 1972 s.87A(1),(2); 1982 s.44; 1991 Sch.13 para.22.               |
| 182(1)        | 1972 s.61(1).  |
| (2)           | 1972 s.61(2).  |
| (3)           | 1972 ss.61(2)(c), 180(1).  |
| 183(1) to (3) | 1972 s.61(3); Town and Country Amenities Act 1974 (c.32) s.3(2). |
| (4)           | 1972 s.61(4).  |

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(4)	1972 s.61(5).
(6)	1972 s.61(8).
184	1972 s.62.
185(1)	1972 s.165.
(2)	1972 s.168(1); 1981 s.32.
(3)	1972 s.168(2).
186(1),(2)	1972 s.101(1).
(3)	1972 s.101(2); 1986 Sch.11 para.44; 1991 Sch.13 para.27.
(4)	1972 s.101(3).
(5)	1972 s.101(3) proviso.
187(1) to (6)	1972 s.101A; 1991 s.56.
188(1)	1972 s.109(1); 1973 Sch.23 para.23.
(2)	1972 s.109(2).
(3)	1973 s.171C; 1994 s.171.
189(1)	1972 s.102(1); 1980 s.92(4).
(2)	1972 s.102(1A); 1980 s.92(4).
(3)	1972 s.102(1B); 1980 s.92(4).
(4)	1972 s.102(1C); 1980 s.92(4).
(5)	1972 s.102(2).
(6)	1972 s.102(3); 1973 Sch.23 para.21(a); 1994 Sch.4 para.10.
(7)	1972 s.102(4).
(8)	1973 s.171C; 1994 s.171.
190(1)	1972 s.103(1); 1980 s.122(2).
(2)	1980 s.122(1).
(3)	1972 s.103(2).
(4)	1972 s.103(2) proviso.
(5)	1972 s.103(3).
(6),(7)	1980 s.122(3).
191(1),(2)	1972 s.113(1).
(3)	1972 s.113(3).
(4) to (6)	1972 s.113(5).
(7)	1972 s.113(6); Sc Law Com Rec No.11.
(8)	1972 s.113(6).
(9)	1972 s.113(7).

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(10)	1972 s.113(8).
192(1),(2)	1980 s.122(6).
193(1)	1972 s.114(2).
(2)	1972 s.114(1).
(3)	1972 s.114(1),(7).
(4)	1972 s.114(5).
(5)	1972 s.114(6).
194(1)	1972 s.108(1).
(2)	1972 s.108(2); 1984T Sch.4 para.54(3).
(3)	1972 s.108(3).
(4)	1972 s.108(4).
(5)	1972 s.108(5).
195(1) to (3)	1972 s.278.
196(1)	1972 s.117(2).
(2)	1972 s.117(1).
(3)	1972 s.117(1) proviso; 1984T Sch.4 para.54(4).
(4)	1972 s.117(3).
(5)	1972 s.117(4).
(6)	1972 s.117(4) proviso.
(7)	1972 s.117(5).
197(1)	1972 s.118(1).
(2)	1972 s.118(1A); National Health Service and Community Care Act 1990 (c.19) Sch.8 para.7.
(3)	1972 s.118(3).
(4)	1972 s.118(4).
(5)	1972 s.118(5).
198(1)	1972 s.119(1).
(2)	1972 s.119(2).
199(1)	1972 s.120(1).
(2)	1972 s.120(3).
(3),(4)	1972 s.120(4).
200(1)	1972 s.121(1).
(2)	1972 s.121(2).
(3)	1972 s.121(3).

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(4)	1972 s.121(4).
201(1)	1972 s.122(1).
(2)	1972 s.122(2).
(3)	1972 s.122(3).
202(1)	1972 s.198(1); 1980 Sch.32 para.19(4); 1984 Sch.9 para.70(8)(a).
(2),(3)	1972 s.198(2); 1984 Sch.9 para.70(8) (b).
(4)	1972 s.198(3); 1984 Sch.9 para.70(8) (c).
(5)	1972 s.198(4); 1984 Sch.9 para.70(8) (d).
(6)	1972 s.198(5); 1984 Sch.9 para.70(8) (d).
203(1)	1972 s.201(1); 1984 Sch.9 para.70(10) (a).
(2)	1972 s.201(2); 1981MP Sch.2 para.27(1)(a); 1984 Sch.9 para.70(10)(b).
(3)	1972 s.201(3); 1981MP Sch.2 para.27(1)(b); 1984 Sch.9 para.70(10) (b),(c).
(4)	1972 s.201(3).
(5)	1972 s.201(4); 1984 Sch.9 para.70(10) (d).
(6)	1972 s.201(8); 1981MP Sch.2 para.27(1)(c); 1984 Sch.9 para.70(10) (d).
(7)	1972 s.201(10); 1981MP Sch.2 para.27(1)(e); 1984 Sch.9 para.70(10) (f).
(8)	1972 s.201(11); 1981MP Sch.2 para.27(1)(e); 1984 Sch.9 para.70(10) (g).
(9)	1972 s.201(9); 1973 Sch.23 para.27; 1981MP Sch.2 para.27(1)(d),(2); 1984 Sch.9 para.70(10)(e); 1994 Sch.4 para.11.
204(1)	1972 s.201(5); 1984 Sch.9 para.70(10) (d).
(2)	1972 s.201(6).
(3)	1972 ss.167(1), 201(7).

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(4)	1972 ss.167(4), 201(7).
(5)	1972 ss.168(1), 201(7).
(6)	1972 ss.168(2), 201(7).
205(1)	1972 s.202(1); 1984 Sch.9 para.70(11).
(2)	1972 s.202(2); 1984 Sch.9 para.70(11).
(3)	1972 s.202(3); 1984T Sch.4 para.54(7); 1984 Sch.9 para.70(11).
(4)	1972 s.202(4); 1984 Sch.9 para.70(11).
(5)	1972 s.202(5); 1994 Sch.4 para.12.
206(1)	1972 s.203(1).
(2)	1972 s.203(2).
207(1)	1972 s.198A(1); 1981MP Sch.2 para.25; 1984 Sch.9 para.70(9)(a).
(2)	1972 s.198A(2); 1981MP Sch.2 para.25; 1984 Sch.9 para.70(9)(b).
(3)	1972 s.198A(3); 1981MP Sch.2 para.25; 1984 Sch.9 para.70(9)(c).
(4)	1972 s.198A(4); 1981MP Sch.2 para.25; 1984 Sch.9 para.70(9)(c).
(5)	1972 s.198A(5); 1981MP Sch.2 para.25; 1984 Sch.9 para.70(9)(d).
208(1)	1972 s.199(1).
(2)	1972 s.199(2).
(3)	1972 s.199(3).
209	Drafting.
210(1)	1972 s.210A(1); 1982 s.45(1); 1984 Sch.9 para.70(18)(a).
(2)	1972 s.210A(2); 1982 s.45(2); 1984 Sch.9 para.70(18)(b).
211(1)	1972 s.208(1); 1981MP Sch.3 para.19(a); 1984 Sch.9 para.70(16)(a).
(2)	1972 s.208(2); 1981MP Sch.3 para.19(b); 1984 Sch.9 para.16(b).
212(1)	1972 s.209(1); 1984T Sch.4 para.54(8); 1984 Sch.9 para.70(17)(a).
(2)	1972 s.209(1); 1984T Sch.4 para.54(8).
(3)	1972 s.209(2); 1984T Sch.4 para.54(8); 1984 Sch.9 para.70(17)(b); New Roads and Street Works Act 1991 (c.22) Sch.8 para.104(a).

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- (4) 1972 s.209(2); 1984T Sch.4 para.54(8);  
New Roads and Street Works Act 1991  
(c.22) Sch.8 para.104(b).
- (5) 1972 s.209(3); 1984T Sch.4 para.54(8).
- (6) 1972 s.209(4); 1984T Sch.4 para.54(8).
- (7) 1972 s.209(5); 1984T Sch.4 para.54(8).
- (8) 1972 s.209(6); 1984T Sch.4 para.54(8).
- 213(1) to (3) Mineral Workings Act 1951 (c.60)  
s.32(1); 1984 Sch.9 para.41.
- (4) Mineral Workings Act 1951 (c.60)  
s.32(2); 1984 Sch.9 para.41; Sc Law  
Com Rec No.12.
- (5) Mineral Workings Act 1951 (c.60)  
s.32(3); 1984 Sch.9 para.41.
- 214(1) 1972 s.275(1); Airports Act 1986 (c.31)  
Sch.2 para.1(1); Electricity Act 1989  
(c.29) Sch.18.
- (2) 1972 s.275(1); Airports Act 1986 (c.31)  
Sch.2 para.1(1).
- (3) to (5) Post Office Act 1969 (c.48) Sch.4  
para.93(1)(xxxiv); 1972 Sch.21  
Pt.II; 1981MP Sch.3 para.13; British  
Telecommunications Act 1981 (c.38)  
Sch.3 para.10(2)(d); Civil Aviation Act  
1982 (c.16) Sch.2 para.4; 1986 Sch.7  
Pt.II para.8; Gas Act 1995 (c.45) Sch.4  
para.2(1)(xix).
- (6),(7) Electricity Act 1989 (c.29) Sch.16  
paras.1(1)(xxiii), (xxvi), 2(2)(d), (7).
- 215(1),(2) 1972 s.211.
- (3) Post Office Act 1969 (c.48) Sch.4  
para.93(4); 1972 Sch.21 Pt.II; Civil  
Aviation Act 1982 (c.16) Sch.2 para.5.
- (4) Post Office Act 1969 (c.48) Sch.4  
para.93(4); Civil Aviation Act 1982  
(c.16) Sch.2 para.5, Sch.13 Pt.III para.1.
- (5) Post Office Act 1969 (c.48) Sch.4  
para.93(4); Civil Aviation Act 1982  
(c.16) Sch.2 para.5.
- 216(1) 1972 s.212(1).
- (2) 1972 s.212(1),(2).
- (3) 1972 s.212(2)(a).

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|---------------|---|
| (4)           | 1972 s.212(2)(b); Gas Act 1986 (c.44) Sch.7 para.13; Airports Act 1986 (c.31) Sch.4 para.2. |
| (5)           | 1972 s.212(3).  |
| (6)           | Post Office Act 1969 (c.48) Sch.9 para.27(11); 1972 s.212(3).                               |
| (7)           | Post Office Act 1969 (c.48) Sch.4 para.92(2).   |
| (8)           | Civil Aviation Act 1982 (c.16) Sch.2 para.7(1).   |
| 217(1)        | 1972 s.213(1); Airports Act 1986 (c.31) Sch.2 para.1(2), Sch.6.                             |
| (2)           | Electricity Act 1989 (c.29) Sch.16 para.3(2)(e); Gas Act 1995 (c.45) Sch.4 para.2(10).      |
| (3)           | 1972 s.213(2).  |
| 218(1)        | 1972 s.214(1).  |
| (2)           | 1972 s.214(2).  |
| (3)           | 1972 s.214(5).  |
| (4)           | Civil Aviation Act 1982 (c.16) Sch.2 para.7(2).   |
| 219           | 1972 s.214(4).  |
| 220(1),(2)    | 1972 s.215(1).  |
| (3)           | 1972 ss.37(3); 215(2).  |
| 221           | 1972 s.216; Sc Law Com Rec No.13.   |
| 222           | 1972 s.217; Sc Law Com Recs Nos.13, 14.   |
| 223(1),(2)    | 1972 s.218; 1991 Sch.17 para.12.  |
| 224(1) to (3) | 1972 s.219(1).  |
| (4)           | 1972 s.219(2).  |
| (5)           | 1972 s.219(3).  |
| (6)           | 1972 s.219(4).  |
| (7)           | 1972 s.219(5).  |
| (8)           | 1972 s.219(6).  |
| 225(1) to (3) | 1972 s.219(1),(7); 1984T Sch.4 para.54(10).   |
| (4)           | 1972 s.219(2),(7); 1984T Sch.4 para.54(10).   |

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(5)	1972 s.219(3),(7); 1984T Sch.4 para.54(10).
(6)	1972 s.219(4),(7); 1984T Sch.4 para.54(10).
(7)	1972 s.219(5),(7); 1984T Sch.4 para.54(10).
(8)	1972 s.219(6),(7); 1984T Sch.4 para.54(10).
226(1)	1972 s.221(1).
(2)	1972 s.221(2).
(3)	1972 s.221(3).
(4)	1972 s.221(4).
(5)	1972 s.221(5).
(6)	1972 s.221(6).
(7),(8)	1972 s.221(7); 1984T Sch.4 para.54(11).
227(1)	1972 s.220(1).
(2)	1972 s.220(2).
(3)	1972 s.220(2); Sc Law Com Rec No.15.
(4)	1972 s.220(2).
(5)	1972 s.220(3).
(6)	1972 s.219(7); 1984T Sch.4 para.54(10).
228(1)	1972 s.222.
(2) to (6)	1972 s.223(2).
229(1) to (3)	1972 s.223(1).
230(1)	1972 s.224(1).
(2)	1972 s.224(2).
(3),(4)	1972 s.224(3).
(5)	1972 s.224(4).
(6)	1972 s.224(5).
(7)	1972 s.224(6).
(8)	1972 s.224(7).
231(1)	1972 s.225(1).
(2)	1972 s.225(2).
(3)	1972 s.225(3).
(4)	1972 s.225(4).

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(5)	1972 s.225(5).
(6),(7)	1972 s.225(6).
(8),(9)	1972 s.225(7).
(10)	1972 s.225(8).
(11)	1972 s.225(2) proviso.
232(1)	1972 s.226(1).
(2)	1972 s.226(2).
(3)	1972 ss.219(7). 226(2); 1984T Sch.4 para.54(10).
(4)	1972 s.226(3).
(5),(6)	1972 s.226(4).
(7)	1972 s.226(5).
233(1)	1972 s.227(1); 1981 Sch.2 para.7; 1984T Sch.4 para.54(10).
(2),(3)	1972 s.227(2); 1984T Sch.4 para.54(10).
(4),(5)	1972 s.227(3); 1984T Sch.4 para.54(10).
(6)	1972 s.227(4).
(7)	1972 s.227(5).
(8)	1972 s.227(6).
234(1),(2)	1972 s.228(1).
(3)	1972 s.228(2).
(4)	1972 s.228(3).
235(1) to (4)	1972 s.229.
236	1972 s.230.
237(1)	1972 s.231(1); 1986 Sch.6 Pt.IV para.4.
(2)	1972 s.231(2); 1981 Sch.2 para.8; 1986 Sch.11 para.50(b).
(3)	1972 s.231(3); 1982 s.47(a),(c), Sch.2 para.35(a),b); 1986 Sch.7 para.2; 1991 Sch.13 para.33.
(4)	1972 s.231(4).
238(1)	1972 s.232(1).
(2)	1972 s.232(2).
(3)	1972 s.232(3),(4); 1982 Sch.2 para.36; 1986 Sch.6 Pt.IV para.5.
(4)	1972 s.232(1).

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(5)	1972 s.232(1),(3); 1982 Sch.2 para.36; 1986 Sch.6 Pt.IV para.5.
(6)	1972 s.232(4); 1986 Sch.6 Pt.IV para.5.
239(1)	1972 s.233(1).
(2)	1972 s.233(2).
(3)	1972 s.233(1),(2); Sc Law Com Rec No.16.
(4)	1972 s.233(3).
(5)	1972 s.233(4).
(6)	1972 s.233(4) proviso.
(7)	1972 s.233(5).
(8)	1972 s.233(6).
(9),(10)	1972 s.233(7).
240	1972 s.235.
241(1)	1972 s.236(1).
(2)	1972 s.236(2).
242(1)	1972 ss.253(7), 255; 1984P s.6(1).
(2),(3)	1972 s.253(7).
(4)	1984P s.4(1).
243(1)	1972 s.253(3).
(2)	1984P s.3(1).
(3)	1984P s.3(2).
(4)	1984P s.3(3).
(5)	1984P s.3(4).
(6),(7)	1984P s.3(5).
244(1),(2)	1984P s.3(6).
(3),(4)	1984P s.3(7).
(5),(6)	1984P s.3(9).
245(1)	1972 s.253(1).
(2)	1972 s.253(2); 1981 Sch.2 para.9; 1986 Sch.7 Pt.2 para.3; 1991 Sch.13 para.37.
(3),(4)	1972 s.253(5).
(5)	1972 s.253(6).
246(1)	1972 s.254(1); 1991 s.49(2).
(2)	1972 s.254(1).
(3)	1972 s.254(1A); 1991 s.49(3).

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(4)	1972 s.254(1B); 1991 s.49(3).
(5)	1972 s.254(2).
(6)	1972 s.254(3).
247	1972 s.255(1); 1991 Sch.12 para.29.
248(1)	1984P s.1(1); 1991 Sch.13 para.47(2).
(2)	1984P s.1(2); 1991 Sch.13 para.47(3).
(3)	1984P s.1(3).
(4)	1984P s.1(4); 1991 Sch.13 para.47(4).
(5)	1984P s.1(5); 1991 Sch.13 para.47(5).
(6)	1984P s.1(7); 1991 Sch.13 para.47(6).
(7)	1984P s.1(6).
249(1)	1984P s.2(1).
(2)	1984P s.2(2).
(3),(4)	1984P s.2(3).
(5)	1984P s.2(4).
(6)	1984P s.2(5).
(7)	1984P s.2(5),(6).
250(1)	1984P s.5(1)
(2)	1984P s.5(2).
(3)	1984P s.5(3).
(4)	1984P s.5(5).
(6)	1984P s.5(6).
251(1)	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.1(2), 7(6).
(2)	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.1(2), 7(6), 8(3).
(3)	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) s.2(1) to (3).
(4)	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) s.4(1).
(5)	Drafting.
(6)	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.1(2),(3),(5), 2(1), 4(1), 7(1),(6), 8(3), (5); Statute Law (Repeals) Act 1989 (c.43) Sch.2 para.11.

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(7)	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) s.7(3); Sc Law Com Rec No.17.
(8)	Building Restrictions War-Time Contraventions) Act 1946 (c.35) ss.7(5), 8(5).
252(1)	1980 s.87(1).
(2)	1980 s.87(3); 1991 Sch.13 para.45.
(3)	1980 s.87(4).
(4),(5)	1980 s.87(6).
253	1972 s.240.
254(1),(2)	1972 s.241.
255(1)	1972 s.242(1); 1973 Sch.14 para.89; 1984 Sch.9 para.70(19); 1994 Sch.4 para.13.
(2)	1972 s.242(2); 1973 s.172(2); 1991 Sch.13 para.35; Sc Law Com Rec No.18.
(3)	Drafting.
256(1),(2)	1972 s.243; 1973 Sch.23 para.29; 1994 Sch.4 para.14.
257(1)	1972 s.244(1),(2).
(2)	1972 s.244(1); 1991 Sch.12 para.23(a).
(3)	1972 s.244(3).
(4)	1972 s.244(4).
(5)	1972 s.275(1).
258	1972 s.246.
259(1)	Mineral Workings Act 1951 (c.60) s.40(6); 1972 s.247(1); 1991 Sch.12 para.26, Sch.13 para.36.
(2)	1972 s.247(2).
260	1972 s.249; 1980 s.87(7).
261(1)	1972 s.250(1); 1984 Sch.9 para.70(20).
(2)	1972 s.250(2).
(3)	1972 s.250(3); 1973 Sch.23 para.30.
(4)	1972 s.250(4).
262(1)	1972 s.251(1); 1991 Sch.8 para.9.
(2)	1972 s.251(1),(2).
(3),(4)	1972 s.251(3).

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263(1)	1972 s.256(1).
(2)	1972 s.256(2).
(3)	1972 s.256(3).
(4)	1972 s.258.
(5)	1980 s.149(10).
264(1), (2)	1972 s.262C(3), (4); 1986 Sch.11 para.38; Natural Heritage (Scotland) Act 1991 (c.28) s.6(8).
265(1)	1972 s.267(1).
(2)	1972 s.267(2).
(3)	1972 s.267(3).
(4)	1972 s.267(4).
(5)	1972 s.267(4) proviso (i).
(6)	1972 s.267(4) proviso (ii).
(7)	1972 s.267(5).
(8)	1972 s.267(6); Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 paras.5, 6; Criminal Procedure (Scotland) Act 1995 (c.46) s.225.
(9)	1972 s.267(7); 1986 Sch.11 para.39.
(10)	1972 s.267(7A); 1986 Sch.11 para.39.
(11)	1972 s.267(7B); 1986 Sch.11 para.39.
(12)	1972 s.267(8); Debtors (Scotland) Act 1987 (c.18) Sch.6 para.15.
(13)	1972 s.267(9); 1986 Sch.11 para.58.
266(1),(2)	1972 s.267A; 1986 Sch.11 para.40(1).
267(1) to (3)	1972 s.267B; 1986 Sch.11 para.41.
268(1) to (5)	1972 s.268.
269(1)	1972 s.265(1); 1982 Sch.2 para.40; 1991 Sch.13 para.38.
(2)	1972 s.265(2A); 1977 s.5(3).
(3)	1972 s.265(5).
(4)	1972 s.265(6); 1991 Sch.13 para.38(f).
(5)	1972 s.265(7).
(6)	1972 s.265(8).
270(1)	1972 s.266(1); 1991 Sch.13 para.39.

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| (2)        | 1972 s.266(2); 1982 Sch.2 para.41; Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 paras.5, 6; Criminal Procedure (Scotland) Act 1995 (c.46) s.225. |
| (3)        | 1972 s.266(3).   |
| (4)        | 1972 s.266(3); 1991 Sch.13 para.39.  |
| (5)        | 1972 s.266(3); Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 para.2.  |
| (6)        | 1972 s.266(4); 1991 s.43(2).   |
| (7)        | 1972 s.266(5).   |
| (8),(9)    | 1972 s.266(6).   |
| 271(1)     | 1972 s.269(1).   |
| (2)        | 1972 s.269(2).   |
| (3)        | 1972 s.269(3).   |
| 272(1)     | 1972 s.270(1); 1977 s.5(4)(a).   |
| (2)        | 1972 s.270(1); 1977 s.5(4)(a); 1986 Sch.11 para.52.  |
| (3)        | 1972 s.270(1); 1977 s.5(4)(a).   |
| (4)        | 1972 s.270(2); Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 paras.5, 6; Criminal Procedure (Scotland) Act 1995 (c.46) s.225.                     |
| (5)        | 1972 s.270(3); Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 para.2.  |
| (6)        | 1972 s.270(4); 1977 s.5(4)(b).   |
| 273(1),(2) | 1972 s.271.  |
| 274(1)     | 1972 s.272(1).   |
| (2)        | 1972 s.272(2).   |
| (3)        | 1972 s.272(3).   |
| (4)        | 1972 s.272(4).   |
| (5)        | 1972 s.272(5).   |
| (6)        | 1972 s.272(6).   |
| (7)        | 1972 s.272(7); 1982 Sch.2 para.42.   |
| 275(1)     | 1972 s.273(1); 1991 Sch.17 para.18.  |
| (2),(3)    | 1972 s.273(2); 1980 s.87(5).   |

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(4)	1972 ss.4A(5), 273(4); 1986 Sch.6 Pt.IV para.6(a), Sch.9 Pt.II para.18(2); 1994 s.33(1).
(5)	1972 ss.4A(5), 273(5); 1981MP Sch.3 para.22; 1986 Sch.6 Pt.IV para.6(b); 1994 s.33(1).
(6)	1972 s.273(6).
(7)	1972 Sch.20.
(8)	1972 s.273(3).
276	1972 s.274.
277(1)	1972 ss.251(1A), 275(1); 1973 Sch.23 para.32(a); 1980 Sch.32 para.19(5); 1981 Sch.2 para.11; 1984 Sch.9 para.70(21); 1986 Sch.7 Pt.II para.6(c); 1991 s.55, Schs.8, 12, 13; 1994 Sch.4 para.15; Gas Act 1995 (c.45) Sch.4 para.1; Sc Law Com Rec No.19.
(2),(3)	1972 s.275(2).
(4) to (6)	1972 s.275(3) to (5).
(7) to (10)	1972 s.275(7) to (10).
278(1),(2)	Drafting.
(3),(4)	1972 s.281(3).
Sch. 1	
paras.1,2	1972 Sch.5 para.2
para.3	1972 Sch.5 para.3.
para.4	1972 Sch.5 para.4.
para.5	1972 Sch.5 para.5.
paras.6,7	1972 Sch.5 para.5A; 1977 s.5(5).
para.8	1972 Sch.5 para.6.
para.9	1972 Sch.5 para.7.
Sch. 2	
para.1	1972 s.20(2).
para.2	1972 s.20(3).
para.3	1972 s.20(4).
para.4	1972 s.20(7).
Sch. 3	
para.1	1972 s.41A; 1981 s.24; 1991 Sch.8 para.4.

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para.2	1972 s.27A(1) to (8),(19); 1981 s.22; 1991 Sch.8 para.2(a),(b).
para.3	1972 s.27A(9) to (12),(19); 1981 s.22.
para.4	1972 s.27A(13) to (16),(19); 1981 s.22.
para.5	1972 s.27A(17); 1981 s.22.
para.6	1972 s.27A(18); 1981 s.22; 1991 Sch.8 para 2(c).
para.7	1972 s.42(5); 1981 s.25.
para.8	1972 s.42(6); 1981 s.25.
Sch. 4	
para.1	1972 Sch.7 para.1; drafting.
para.2	1972 Sch.7 para.2; 1986 Sch.11 para.34(2); 1991 s.50(2), Sch.13 para.41(1), Sch.19 Pt.IV; Environment Act 1995 (c.25) Sch.22 para.16; Sc Law Com Rec No.20.
para.3	1972 Sch.7 para.3; 1991 Sch.13 para 41(3).
para.4	1972 Sch.7 para.3A; 1986 Sch.11 para.42; 1991 Sch.13 para 41(3).
para.5	1972 Sch.7 para.4.
para.6	1972 Sch.7 para.5; 1986 Sch.11 paras.40(2), 43.
para.7	1972 Sch.7 para.6.
para.8	1972 Sch.7 para.7; Tribunals and Inquiries Act 1992 (c.53) Sch.3 para.7(b).
Sch. 5	
para.1	1972 Sch.6A para.1; 1986 Sch.6 Pt.III.
para.2	1972 Sch.6A para.2(2); 1986 Sch.6 Pt.III.
para.3	1972 Sch.6A para.3; 1986 Sch.6 Pt.III.
para.4	1972 Sch.6A para.4; 1986 Sch.6 Pt.III; 1991 Sch.11 para.4.
para.5	1972 Sch.6A para.5; 1986 Sch.6 Pt.III; 1991 Sch.11 para.1.
para.6	1972 Sch.6A para.6; 1986 Sch.6 Pt.III; 1991 Sch.11 para.1.
para.7	1972 Sch.6 para.7(4), Sch.6A para.7, Sch.7 para.7(5); 1986 Sch.6 Pt.III; 1991 Sch.11 paras.2, 5; Tribunals and

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	Inquiries Act 1992 (c.53) Sch.3 para.6; Town and Country Planning (Costs of Inquiries etc.) Act 1995 (c.49) s.3(3)(a).
para.8	1972 Sch.6A para.8(1); 1986 Sch.6 Pt.III; 1991 Sch.11 para.6.
para.9	1972 Sch.6A para.9; 1986 Sch.6 Pt.III; 1991 Sch.11 para.7.
para.10	1972 Sch.6A para.10; 1986 Sch.6 Pt.III; 1991 Sch.11 para.2(2).
para.11	1972 Sch.6A para.11; 1986 Sch.6 Pt.III; 1991 Sch.11 para.8.
para.12	1972 Sch.6A para.12; 1986 Sch.6 Pt.III; 1991 Sch.11 para.9.
Sch. 6	
para.1	1972 s.44(2) to (4).
para.2	1972 s.45(3) to (5).
para.3	1972 s.46(1),(2),(7).
para.4	1972 s.45(6),(7).
para.5	1972 s.46(3) to (6); Tribunals and Inquiries Act 1992 (c.53) Sch.3 para.5.
para.6	1972 s.45(8), Sch.8 paras.1, 2; drafting.
Sch. 7	
para.1	1972 s.47(2) to (4).
para.2	1972 Sch.9 paras.3 to 5.
para.3	1972 Sch.9 paras.6, 7, 16; Planning (Consequential Provisions) Act 1990 (c.11) Sch.2 para.27(2)(c).
para.4	1972 Sch.9 para.8.
para.5	1972 Sch.9 para.9; Planning (Consequential Provisions) Act 1990 (c.11) Sch.2 para.27(2)(d),(e).
para.6	1972 Sch.9 para.15(1).
para.7	1972 Sch.9 para.10; Planning (Consequential Provisions) Act 1990 (c.11) Sch.2 para.27(2)(f).
para.8	1972 Sch.9 paras.11 to 14; Local Government Act 1972 (c.70) s.272(2); Tribunals and Inquiries Act 1992 (c.53) Sch.3 para.8.
para.9	1972 s.47(6), Sch.9 paras.1, 2, 15(2); Planning (Consequential Provisions) Act 1990 (c.11) Sch.2 para.27(2)(a).

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Sch. 8	
para.1	1972 s.49(1) to (1B),(2) to (8); 1981 s.26; 1991 Sch.8 para.5(2),(3); drafting.
para.2	1972 ss.49(1C) to (1G); 1981 s.26; 1991 Sch.8 para.5(4) to (6).
para.3	1972 s.49A(1) to (7); 1981 s.27; 1991 Sch.8 para.6.
para.4	1972 s.49A(8) to (11); 1981 s.27; 1991 Sch.8 para.6(2).
para.5	1972 s.49B(1) to (4); 1981 s.27; 1991 Sch.8 para.7.
para.6	1972 s.49B(5); 1981 s.27.
para.7	1972 s.49C; 1981 s.27.
para.8	1972 s.49D; 1981 s.27.
para.9	1972 s.49E; 1981 s.27.
para.10	1972 s.49H; 1991 s.52.
para.11	1972 s.49F; 1981 s.27; 1991 Sch.8 para.8.
para.12	1972 s.260(1) to (4); 1981 Sch.2 para.10.
para.13	1972 Sch.10A para.1; 1991 Sch.9.
para.14	1972 Sch.10A para.2; 1991 Sch.9.
para.15	1972 Sch.10A para.3; 1991 Sch.9.
para.16	1972 Sch.10A para.4; 1991 Sch.9.
para.17	1972 Sch.10A para.5; 1991 Sch.9.
para.18	1972 Sch.10A para.6; 1991 Sch.9.
para.19	1972 Sch.10A para.7; 1991 Sch.9.
para.20	1972 Sch.10A para.8; 1991 Sch.9.
para.21	1972 Sch.10A para.9; 1991 Sch.9.
para.22	1972 Sch.10A para.10; 1991 Sch.9.
Sch. 9 Environment Act 1995 (c.25) Sch.13.	
Sch. 10 Environment Act 1995 (c.25) Sch.14.	
Sch. 11	
para.1	1972 Sch.6 paras.1, 10.
para.2	1972 Sch.6 para.2.
para.3	1972 Sch.6 para.11.
para.4	1972 Sch.6 para.1.

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para.5	1972 Sch.6 para.13.
para.6	1972 Sch.6 para.14; 1991 Sch.12 para.32(b).
Sch. 12	1972 Sch.16.
Sch. 13	
para.1	1972 s.167A; 1981 s.31; 1991 Sch.8 para.11.
para.2	1972 s.168(1); 1981 s.32.
Sch. 14	
para.1	1972 s.181(1)(a),(2); 1973C ss.64(1), (4),(5),(7), 67(2); 1984T Sch.4 para.54(6); Coal Industry Act 1987 (c.3) Sch.1 para.20; Sc Law Com Rec No.21.
para.2	1972 s.181(1)(b); 1973C ss.64(2),(4), (5),(7) to (9); Sc Law Com Rec No.21.
para.3	1973C s.67(1)(a).
para.4	1973C s.67(1)(b).
para.5	1973C s.68(1)(a),(2).
para.6	1973C s.68(1)(b).
para.7	1980 s.147(1),(2).
para.8	1973C s.69(1)(a); Housing (Scotland) Act 1974 (c.45) Sch.3 para.51(a),(b); Housing (Scotland) Act 1987 (c.26) Sch.23 para.19(9)(a).
para.9	1973C s.69(1)(b); Housing (Scotland) Act 1974 (c.45) Sch.3 para.51(a),(c); Housing (Scotland) Act 1987 (c.26) Sch.23 para.19(9)(b).
para.10	1972 s.181(1)(c).
para.11	1972 s.181(1)(e); 1973C s.65(2); 1984 Sch.9 paras.70(5)(a), 72(7)(b).
para.12	1972 s.181(1)(f); 1984 Sch.9 para.70(5)(b).
para.13	1972 s.181(1); 1991 Sch.17 para.17.
para.14	1972 s.181(1)(d).
para.15	1972 s.181(1)(g)(i); 1973C ss.66(1),(2), 71(1),(2)(a).
Sch. 15	1972 Sch.24; Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 para.2.

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Sch. 16	
para.1	1972 s.204(1) to (7); 1984 Sch.9 para.70(12); Gas Act 1995 (c.45) Sch.4 para.2(2)(e); Sc Law Com Rec No.22.
para.2	1972 s.205(1) to (5); 1984 Sch.9 para.70(13); 1986 Sch.11 paras.48, 49.
para.3	1972 s.205A(1) to (4); 1981MP Sch.3 para.16; 1984 Sch.9 para.70(13),(14); 1986 Sch.11 para.48.
para.4	1972 s.206(4); 1981MP Sch.3 para.17(d).
para.5	1972 s.206(1) to (3); 1981MP Sch.3 para.17(a) to (c); 1984 Sch.9 para.70(15).
para.6	1972 Sch.18 para.1; 1973 Sch.23 para.34; 1981MP Sch.3 para.23(a).
para.7	1972 Sch.18 para.2.
para.8	1972 Sch.18 para.3(1),(2); 1981MP Sch.3 para.23(b); 1984 Sch.9 para.70(22)(a).
para.9	1972 Sch.18 para.4; 1981MP Sch.3 para.23(c).
para.10	1972 Sch.18 para.5; 1981MP Sch.3 para.23(a).
para.11	1972 Sch.18 para.6; 1981MP Sch.3 para.23(a); Sc Law Com Rec No.23.
Sch. 17	
para.1	Drafting.
para.2	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(4),(5),(6), 8.
para.3	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(6), 8.
para.4	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(7), 8.
para.5	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(2),(3), 8.
para.6	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(7),(8), 8.

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para.7	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(8), 8(2),(4).
para.8	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(9), 8(2).
para.9	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(9) proviso, 8(2).
para.10	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(10), 8(2).
para.11	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(11), 8(2).
para.12	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.2(12); 8(2).
para.13	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.3(1),(7), 8(1).
para.14	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.5, 8; Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) Sch.1 paras. 5, 6; Criminal Procedure (Scotland) Act 1995 (c.46) s.225.
para.15	Building Restrictions (War-Time Contraventions) Act 1946 (c.35) ss.6, 8.
para.16	Drafting.
Sch. 18	1972 Sch.19.

## [<sup>F51</sup>SCHEDULE 19

(introduced by section 15A)

### LOCAL PLACE PLANS

#### Textual Amendments

**F51** Sch. 19 inserted (8.11.2019 for specified purposes, 22.1.2022 in so far as not already in force) by [Planning \(Scotland\) Act 2019 \(asp 13\)](#), ss. **14(7)**, 63(2); S.S.I. 2019/314, reg. 2; S.S.I. 2021/480, reg. 2(1)

#### Preparation of local place plans

- 1 (1) A community body may prepare a local place plan.

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- (2) A local place plan is a proposal as to the development or use of land.
- (3) It may also identify land and buildings that the community body considers to be of particular significance to the local area.
- (4) In preparing a local place plan, a community body must—
  - (a) have regard to—
    - (i) the local development plan for the land, or any part of the land, to which the local place plan relates,
    - (ii) the National Planning Framework,
    - (iii) such other matters (if any) as are prescribed,
  - (b) set out reasons for considering that the local development plan should be amended, and
  - (c) comply with any prescribed requirements as to—
    - (i) the form and content of the plan, and
    - (ii) steps which must be taken before preparing the plan.

#### *Submission of local place plans*

- 2 (1) A community body must comply with any prescribed requirements as to—
  - (a) steps which must be taken before submitting a local place plan,
  - (b) how the views of councillors for the area to which the local place plan relates are to be taken into account in the preparation of the local place plan, and
  - (c) information which must be submitted alongside a local place plan.
- (2) Having complied with any requirements under sub-paragraph (1), a community body may submit a local place plan to the planning authority for the district to which the plan relates.

#### *Register of local place plans*

- 3 (1) Every planning authority must keep a register of local place plans.
- (2) When a valid local place plan relating to their district is submitted to them by a community body, a planning authority must—
  - (a) include it in their register, and
  - (b) inform the community body that submitted the plan that it has been registered.
- (3) If a planning authority decide not to register a local place plan on the basis that it is not valid, the authority must give their reasons for reaching that view to the community body that submitted the plan.
- (4) A local place plan is valid, for the purpose of this paragraph, if the requirements under paragraphs 1(4) and 2(1) have been complied with in relation to it.
- (5) The Scottish Ministers may by regulations make provision about—
  - (a) the manner in which a register must be—
    - (i) kept, and
    - (ii) made available to the public,
  - (b) the information about a local place plan that must be included in a register,

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- (c) when a planning authority may, or must, remove a local place plan from their register, causing it to cease to be a registered local place plan.

*Map of local place plans*

- 4 Every planning authority must make publicly available, in the manner prescribed, a map of their district that shows the land to which the local place plans in their register of local place plans relate.

*Meaning of “community body”*

- 5 In this schedule, “community body” means—
- (a) a community-controlled body within the definition given in section 19 of the Community Empowerment (Scotland) Act 2015, or
  - (b) a community council established in accordance with Part 4 of the Local Government (Scotland) Act 1973.]

**Status:**

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**Changes to legislation:**

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