



Town and Country Planning (Scotland) Act 1947

1947 CHAPTER 53

PART II

PLANNING AND CONTROL OF DEVELOPMENT, &C.

Development plans.

3 Surveys of planning districts and preparation of development plans.

- (1) As soon as may be after the appointed day, every local planning authority shall carry out a survey: of their district, and shall, not later than three years after the appointed day, or within such; extended period as the Secretary of State may in any particular case allow, submit to the Secretary of State a report of the survey together with a plan (hereinafter called a "development plan") indicating the manner in which they propose that land in that district should be used (whether by the carrying out thereon of development or otherwise) and the stages by which any such development should be carried out.
- (2) Subject to the provisions of any regulations made under this Act for regulating the form and content of development plans, any such plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals aforesaid with such degree of particularity as may be appropriate to different parts of the district; and any such plan may in particular—
 - (a) define the sites of proposed roads, public and other buildings and works, airfields, parks, pleasure grounds, nature reserves and other open spaces, or allocate areas of land for use for agricultural, residential, industrial or other purposes of any class specified in the plan;
 - (b) designate as land subject to compulsory acquisition by any Minister, local authority or statutory undertakers any land allocated by the plan for the purposes of any of their functions (including any land which that Minister

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- or authority or those under takers are or could be authorised to acquire compulsorily under any enactment other than this Act);
- (c) designate as land subject to compulsory acquisition by the appropriate local authority—
- (i) any land comprised in "fin area denned by the plan as an area of comprehensive development (including any land therein which is allocated by the plan for any such purpose as is mentioned in paragraph (b) of this subsection);
 - (ii) any other land which, in the opinion of the local planning authority, ought to be subject to compulsory acquisition for the purpose of securing its use in the manner proposed by the plan.
- (3) For the purposes of this section a development plan may define as an area of comprehensive development any area which in the opinion of the local planning authority should be developed or-redeveloped as a whole for any one or more of the following purposes, that is to say, for the purpose of dealing satisfactorily with extensive war damage or conditions of bad layout or obsolete development, or for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the development or redevelopment of any other area, or for any other purpose specified in the plan; and land may be included in any area so defined, and designated as subject to compulsory acquisition in accordance with the provisions of subsection (2) of this section, whether or not provision is made by the plan for the development or redevelopment of that particular land.
- (4) The Secretary of State may approve any development plan submitted to him under this section either without modification or subject to such modifications as he considers expedient:
- Provided that—
- (a) he shall not approve a development plan which designates any land as subject to compulsory acquisition as aforesaid if it appears to him that the acquisition is not likely to take place within ten years from the date on which the plan is approved, or in the case of agricultural land as defined in subsection (4) of section forty-nine of this Act within seven years from that date;
 - (b) he shall not, except with the consent of all persons interested, approve a development plan subject to a modification designating as subject to compulsory acquisition any land not so designated in the plan as submitted to him;
 - (c) where a development plan as submitted to the Secretary of State designates as subject to compulsory acquisition any such land as is mentioned in paragraph 9 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (which relates to land of local authorities and statutory undertakers and inalienable land of the National Trust for Scotland) then, if objection to the proposed designation is duly made by the local authority or statutory undertakers or the National Trust for Scotland, as the case may be, and is not withdrawn, the land shall not be so designated except in pursuance of an order made by the Secretary of State (or, in the case of land being operational land of statutory undertakers, by the Secretary of State and the appropriate Minister) and any such order shall be subject to special parliamentary procedure.
- (5) At any time before a development plan with respect to the whole of the district of a local planning authority has been approved under this section, that authority may,

with the consent of the Secretary of State, and shall if so required by directions of the Secretary of State, prepare and submit to him a development plan relating to any part of that district, and the foregoing provisions of this section shall apply in relation to any such plan as they apply in relation to a plan relating to the whole of that district.

4 Amendment of development plans.

- (1) At least once in every five years after the date on which a development plan for any district is approved by the Secretary of State, the local planning authority shall carry out a fresh survey of that district, and submit to the Secretary of State a report of the survey, together with proposals for any alterations or additions to the plan which appear to them to be required having regard thereto.
- (2) Without prejudice to the provisions of the foregoing subsection, a local planning authority may at any time, and shall if so required by directions of the Secretary of State, submit to the Secretary of State proposals for such alterations or additions to the development plan relating to their district as appear to them to be expedient or as may be required by those directions, as the case may be.
- (3) Where proposals for alterations or additions to a development plan are submitted to the Secretary of State under this section, he may amend that plan to such extent as he considers expedient having regard to those proposals and to any other material considerations:

Provided that the proviso to subsection (4) of the last foregoing section shall apply in relation to the amendment of a development plan by the Secretary of State as it applies in relation to the approval of such a plan by him, and for that purpose shall have effect—

- (a) as if for the reference in paragraph (a) to the date on which the plan is approved there were substituted a reference to the date on which the amendment is effected; and
 - (b) as if for the references in paragraphs (b) and (c) to the plan as submitted to the Secretary of State there were substituted references to the proposals submitted to him under this section.
- (4) Where, under subsection (5) of the last foregoing section, a development plan is approved with respect to a part of the district of a local planning authority, the periods of five years mentioned in subsection (1) of this section shall run from the date on which development plans in respect of the whole of the district of the local planning authority have been approved by the Secretary of State.
 - (5) Any proposal submitted to the Secretary of State under this section for any alteration or addition to a development plan and any amendment made by the Secretary of State under this section to a development plan may provide for securing that any land previously designated by the plan as subject to compulsory acquisition shall cease to be so designated, or that any land not previously so designated shall be so designated.

5 Additional powers of the Secretary of State with respect to development plans.

- (1) Where, by virtue of any of the foregoing provisions of this Part of this Act, or of any directions of the Secretary of State thereunder, any development plan, or any report or proposals for alterations or additions to a development plan, are required to be submitted to the Secretary of State, then—

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- (a) if within the period prescribed in that behalf by those provisions or directions no such plan or report or proposals, or no such plan or proposals satisfactory to the Secretary of State, have been so submitted; or
- (b) if at any time it appears to the Secretary of State that the local planning Authority are not taking the Steps necessary to enable them to submit such a plan or report or proposals within that period,

the Secretary of State may, after carrying out any survey which appears to him to be expedient for the purpose, make such a development plan, or, as the case may be amend the development plan to such extent, as he considers expedient.

- (2) Where, under the foregoing provisions of this section, the Secretary of State has power to make or amend a development plan, he may, if he thinks fit, authorise the local planning authority for any neighbouring district or any other local planning authority who appear to the Secretary of State to have an interest in the proper planning of the district concerned to submit such a plan to him for his approval, or, as the case may be, to submit to him proposals for the amendment of the plan, and to carry out any survey of the land which appears to him to be expedient for the purpose, and may approve any plan so submitted either without modification or subject to such modifications as he considers expedient, or, as the case may be, may amend the plan to such extent as he considers expedient having regard to the proposals so submitted and to any other material considerations.
- (3) The foregoing provisions of this Part of this Act shall, so far as applicable, apply to the making, approval or amendment of development plans under this section, and to such plans so made, approved or amended, as they apply to the approval or amendment of development plans under those provisions, and to plans approved or amended thereunder.
- (4) Any expenses incurred by the Secretary of State under this section in connection with the making or amendment of a development plan with respect to the district, or any part of the district, of a local planning authority shall be paid in the first instance out of moneys provided by Parliament, but so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by that authority to the Secretary of State.
- (5) Where, under this section, a development plan, or proposals for the amendment of such a plan are authorised to be submitted to the Secretary of State by the local planning authority for any district other than the district in which the land is situated, any expenses reasonably incurred in that behalf by the said authority, as certified by the Secretary of State, shall be repaid to that authority by the local planning authority for the district in which the land is situated.

6 Incorporation in development plans of orders relating to trunk roads and new towns.

- (1) Where an order is made by the Minister of Transport in accordance with the Second Schedule to the Trunk Roads Act, 1946, directing that any road proposed to be constructed by him shall become a trunk road, or authorising him to construct or improve an road under section four of that Act, any development plan which relates to land on which a road is to be constructed or improved in accordance with that order shall have effect as if the provisions of that order were included in the plan.
- (2) Where an order is made by the Secretary of State under section one of the New Towns Act, 1946, designating any area as the site of a new town under that Act, any

development plan which relates to land in that area shall have effect as if the provisions of that order were included in the plan.

- (3) Nothing in this section shall be construed as prohibiting the inclusion in a development plan of provisions defining the line of roads proposed to be constructed by the Minister of Transport in accordance with any such order as is mentioned in subsection (1) of this section, or areas designated as the sites of new towns by any such order as is mentioned in subsection (2) of this section, or of provisions defining land as likely to be made the subject of any such order as aforesaid.
- (4) Provision may be made by regulations under this Act for enabling any, proceedings preliminary to the making of any such order as is mentioned in subsection (1) or subsection (2) of this section to be taken concurrently with proceedings required under this Act to be taken in connection with the approval or making of a development plan relating to land to which any such order applies or in connection with any amendment of a development plan rendered necessary or desirable in consequence of any such order.

7 Modification of development plans in relation to land designated as subject to compulsory acquisition.

- (1) Where any land is designated by a development plan as subject to compulsory acquisition, then if at the expiration of twelve years from the date on which the plan, or the amendment of the plan, by virtue of which the land was first so designated came into operation, any of that land has not been acquired by a Minister, local authority or statutory undertakers who could be authorised to acquire it compulsorily under the provisions of this Act, any owner of the land may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority a notice requiring his interest in the land to be so acquired.
- (2) Where any such notice is served as aforesaid, then unless within six months after the service of the notice either—
 - (a) notice to treat in respect of the interest to which the notice relates has been served by any such Minister, authority or undertakers as aforesaid; or
 - (b) an offer has been made to the owner of the said interest by any such Minister, local authority or undertakers to acquire it on terms that the price payable therefor shall be equal to (and shall be determined, in default of agreement, in like manner as) the compensation which would be payable in respect of that interest if it were acquired compulsorily,the development plan shall have effect, after the expiration of the said six months, as if the land were not designated as subject to compulsory acquisition.
- (3) The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is served as mentioned in paragraph (a) of the last foregoing subsection.
- (4) Where any land is designated by a development plan as subject to compulsory acquisition by the appropriate local authority (not being land comprised in an area defined by the plan as an area of comprehensive development) then if planning permission is granted for any development of the land so designated, or any part thereof, and that development is carried out in accordance with the permission so granted, the development plan shall have effect as if the land to which the permission relates were not designated as subject to compulsory acquisition:

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Provided that where any such permission as aforesaid is granted for a limited period only, the provisions of this subsection shall cease to have effect in relation to the land at the expiration of that period.

- (5) In relation to land being agricultural land as defined in subsection (4) of section forty-nine of this Act subsection (1) of this section shall have effect as if for the words "twelve years" there were substituted the words "eight years."

8 Supplementary provisions as to development plans.

- (1) Before preparing a development plan which relates to any land comprised in a small burgh in their district, or proposals for alterations or additions to any such plan, the local planning authority shall consult with the town council of that burgh, and shall, before submitting any such plan or proposal to the Secretary of State, give to such town council an opportunity to make representations with respect thereto and consider any representations so made.
- (2) Provision may be made by regulations under this Act with respect to the form and content of development plans, and with respect to the procedure to be followed in connection with the preparation, submission, approval, making and amendment of such plans, and such regulations shall in particular make provision for securing—
- (a) that before preparing a development plan or proposals for alterations or additions to any such plan the local planning authority shall consult with such bodies or persons as may be prescribed by the regulations, and in particular, but without prejudice to the generality of this provision, with the appropriate agricultural executive committee;
 - (b) that notice shall be given by advertisement in one or more newspapers circulating in the area concerned of the submission to the Secretary of State of any such plan or of proposals for the amendment of any such plan, and of any proposal by the Secretary of State to make or amend such a plan and of the place or places where copies of the plan or proposals as so submitted, or of any such proposal of the Secretary of State, may be inspected;
 - (c) that objections and representations duly made in accordance with the regulations shall be considered, and that such local inquiries or other hearings as may be prescribed by the regulations shall be held, before such a plan is approved, made or amended by the Secretary of State; and
 - (d) that copies of any such plan as approved or made by the Secretary of State, including any amendments thereof, shall be available for inspection by the public, and that copies thereof (including reproductions on such scale as may be appropriate of any relevant maps) shall be available on sale to the public at a reasonable cost.
- (3) If as the result of any objections or representations considered, or of any local inquiry or other hearing held, in connection with a development plan or proposals for amendment of such a plan submitted to or prepared by the Secretary of State under this Part of this Act, the Secretary of State is of opinion that the local planning authority or any other authority or person ought to be consulted before he decides whether to approve or make the plan either with or without modifications, or to amend the plan, as the case may be, he shall consult that authority or person, but shall not be under any obligation to consult any other authority or person, or to afford any opportunity for further objections or representations or to cause any further local inquiry or other hearing to be held.

- (4) Subject to the foregoing provisions of this section, the Secretary of State may give directions to any local planning authority, or to local planning authorities generally—
 - (a) for formulating the procedure for the carrying out of their functions under the foregoing provisions of this Part of this Act;
 - (b) for requiring them to furnish to him such information as he may require for the purpose of the exercise of any of his functions under those provisions.
- (5) The provisions of the Statutory Orders (Special Procedure) Act, 1945, with regard to the publication of notices in the Edinburgh Gazette and in a newspaper, shall, notwithstanding anything in that Act contained, not apply to any order made in pursuance of paragraph (c) of the proviso to subsection (4) of section three of this Act if the requirements imposed by regulations under this section with respect to the publication of notices in relation to the development plan have been complied with.

9 Validity and date of operation of development plans.

- (1) Immediately after a development plan has been approved or made or amended by the Secretary of State under this Part of this Act, the local planning authority shall publish in such manner as may be prescribed by regulations under this Act a notice stating that the plan has been approved, made, or amended, as the case may be, and naming a place where a copy of the plan or of the plan, as amended, may be seen at all reasonable hours, and shall serve a like notice on any person by whom an objection or representation was duly made to the proposed plan or amendment, and who has sent to the authority a request in writing to serve him with the notice required by this subsection, specifying an address for service, and on such other persons, if any, as may be required by general or special directions given by the Secretary of State.
- (2) If any person aggrieved by the plan or by the amendment, as the case may be, desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act, or on the ground that any requirement of this Act or any regulation made thereunder has not been complied with in relation to the approval or making of the plan, or, as the case may be, in relation to the making of the amendment, he may, within six weeks from the date on which the notice required by the last foregoing subsection is first published, make an application to the Court of Session, and on any such application the Court—
 - (a) may by interim order suspend the operation of the plan or amendment, as the case may be, or of any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
 - (b) if satisfied that the plan or amendment, or any provision contained therein, is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may quash the plan or amendment or any provision contained therein either generally or in so far as it affects any property of the applicant.
- (3) Subject to the provisions of the last foregoing subsection, a development plan or an amendment of a development plan shall not, either before or after it has been approved or made, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which the notice required by this section is first published.

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- (4) Except by leave of the Court of Session, no appeal shall lie to the House of Lords from a decision of the Court of Session under this section.
- (5) Where under paragraph (c) of the proviso to subsection (4) of section three of this Act any land to which a development plan relates is designated as subject to compulsory acquisition in pursuance of an order to which the Statutory Orders (Special Procedure) Act, 1945, applies, then—
- (a) if the order is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, subsections (2) and (3) of this section shall not apply to the plan so far as it designates that land; and
 - (b) in any other case this section shall have effect in relation to the plan so far as it so designates that land, as if in subsection (2) for the reference to the date on which the notice required by subsection (1) is first published there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in subsection (3) the words from " and shall become operative "to the end of the subsection were omitted.

Permission to develop land.

10 Obligation to obtain permission for development.

- (1) Subject to the provisions of this section and to the following provisions of this Act, permission shall be required under this Part of this Act in respect of any development of land which is carried out after the appointed day.
- (2) In this Act, except where the context otherwise requires, the expression " development " means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land:

Provided that the following operations or uses of land shall not be deemed for the purposes of this Act to involve development of the land, that is to say—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
- (b) the carrying out by a local highway authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;
- (c) the carrying out by any local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
- (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
- (e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

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- (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use thereof for any other purpose of the same class.
- (3) For the avoidance of doubt it is hereby declared that for the purposes of this section—
- (a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used;
 - (b) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if the superficial area or the height of the deposit is thereby extended:

Provided that nothing in paragraph (b) of this subsection shall be deemed to require permission in respect of the deposit of refuse or waste materials on a site already used for that purpose if the height of the deposit does not exceed the level of the land adjoining such site, and the superficial area of the deposit is not thereby extended.

- (4) Without prejudice to the provisions of any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.
- (5) Notwithstanding anything in this section, planning permission shall not be required—
- (a) in the case of land which, on the appointed day, is being used temporarily for a purpose other than the purpose for which it is normally used, in respect of the resumption of the use of the land for the last-mentioned purpose;
 - (b) in the case of land which, on the appointed day, is normally used for one purpose and is also used on occasions, whether at regular intervals or not, for any other purpose, in respect of the use of the land for that other purpose on similar occasions after the appointed day;
 - (c) in the case of land which on the appointed day is unoccupied, in respect of the use of the land for : the purpose for which it was last used:

Provided that—

- (i) in determining for the purposes of paragraph (a) of this subsection the purposes for which land was normally used and in determining for the purposes of paragraph (c) of this subsection the purposes for which land was last used, no account shall be taken of any use of the land begun in contravention of previous planning control within the meaning of section seventy-two of this Act;
- (ii) paragraph (c) of this subsection shall not apply to land which was unoccupied on the seventh day of January, nineteen hundred and thirty-seven, and has not been occupied since that date.

11 Development orders.

- (1) The Secretary of State shall by order provide for the grant of planning permission, and such permission may be granted—
- (a) in the case of any development specified in any such order, or in the case of development of any class so specified, by that order itself;

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- (b) in any other case, by the local planning authority (or, in the cases hereinafter provided, by the Secretary of State) on an application in that behalf made to the local planning authority in accordance with the provisions of the order.
- (2) An order under subsection (1) of this section (hereinafter called a "development order") may be made either as a general order applicable (subject to such exceptions as may be specified therein) to all land, or as a special order applicable only to such land as may be so specified, and the permission granted by any such order may be granted either unconditionally or subject to such conditions or limitations as may be so specified.
 - (3) Without prejudice to the generality of the last foregoing subsection, a development order which grants permission for any development may—
 - (a) where permission is thereby granted for the erection, extension or alteration of any buildings, require the approval of the local planning authority to be obtained with respect to the design or external appearance thereof;
 - (b) where permission is thereby granted for development of any specified class, enable the Secretary of State or the local planning authority to direct that that permission shall not apply either in relation to development in any particular area or in relation to any particular development.
 - (4) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any enactment passed before the passing of this Act, or any regulations, orders or bye-laws made (whether before or after the passing of this Act) under any such enactment shall not apply to any development specified in the order or shall apply thereto subject to any such modifications as may be so specified.
 - (5) Every development order shall be laid before Parliament immediately after it is made, and if either House within the period of forty days after the order is so laid before it resolves that the order be annulled, the order shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of a new order:

Provided that, without prejudice to the foregoing provision, where any such order makes provision for excluding or modifying any enactment contained in a public general Act (other than any of the excepted enactments specified in the Second Schedule to this Act) the order shall be of no effect until that provision is approved by resolution of each House of Parliament.
 - (6) In reckoning for the purpose of the last foregoing subsection any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

12 Applications to local planning authorities for planning permission.

- (1) Subject to the provisions of this and the next following section, where application is made to the local planning authority for planning permission, that authority may grant permission either unconditionally or subject to such conditions as they think fit, or may refuse permission; and in dealing with any such application the local planning authority shall have regard to the provisions of the development plan, so far as material thereto, and to any other material considerations.

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(2) Without prejudice to the generality of the foregoing subsection, conditions may be imposed on the grant of planning permission thereunder—

- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of, or in connection with, the development authorised ' by the permission; .
- (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance : of any use of land so authorised, at the expiration of a specified period, and the carrying out of any works required for the re-instatement of land at the expiration of that period;

and any planning permission granted subject to any such condition as is mentioned in paragraph (b) of this subsection is in this Act referred to as planning permission granted for a limited period only:

Provided that conditions may not be imposed by a local planning authority under paragraph (a) of this subsection for regulating the development or use of any land within the area of another local planning authority except with the consent of that authority.

(3) Provision may be made by a development order for regulating the manner in which applications for planning permission are to be dealt with by local planning authorities and in particular—

- (a) for enabling the Secretary of State (or, in the case of development affecting trunk roads, the Minister of Transport) to give directions restricting the grant of planning permission by the local planning authority, during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
- (b) for authorising the local planning authority, in such cases and subject to such conditions as may be prescribed by the order or by directions given by the Secretary of State thereunder, to grant planning permission for development which does not accord with the provisions of the development plan ;
- (c) for requiring the local planning authority, before granting or refusing planning permission, to consult with such authorities or persons as may be prescribed by the order or by directions given by the Secretary of State thereunder;
- (d) for requiring the local planning authority to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
- (e) for requiring the local planning authority to furnish to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to them, including information as to the manner in which any such application has been dealt with.

(4) Without prejudice to any provisions included in the development order by virtue of the last foregoing subsection for restricting the grant of planning permission by local planning authorities, an application to the local planning authority for permission to develop land by the erection thereon of an industrial building of any class prescribed by regulations made for the purposes of this subsection by the Board of Trade shall be of no effect unless it is certified by the Board that the development in question can

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be carried out consistently with the proper distribution of industry, and a copy of the certificate is furnished to the local planning authority together with the application:

Provided that—

- (a) no such certificate as aforesaid shall be required in respect of the erection of any industrial building if the building does not cover an area of more than five thousand square feet; and
 - (b) the regulations made by the Board for the purposes of this subsection may direct that no such certificate as aforesaid shall be required in respect of the erection, in any area prescribed by or under the regulations, of industrial buildings of any such class as may be so prescribed. ,
- (5) Every local planning authority shall keep, in such manner as. may be prescribed by the development order, a register containing such information as may be so prescribed with respect to applications for planning permission made to that authority, including information as to the manner in which such applications have been dealt with; and every such register shall be available for inspection by the public at all reasonable hours.

13 Reference of applications to Secretary of State.

- (1) The Secretary of State may give directions to any local planning authority, or to local planning authorities generally, requiring that any application for planning permission, or all such applications of any class specified in the directions, shall be referred to the Secretary of State instead of being dealt with by the local planning authority, and any such application shall be so referred accordingly.
- (2) Where an application for planning permission is referred to the Secretary of State under this section, the provisions of subsection (1) and of subsection (2) other than the proviso thereto of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of the application by the Secretary of State as they apply in relation to the determination of such an application by the local planning authority:

Provided that before determining any such application the Secretary of State shall, if either the applicant or the local planning authority so desire, afford to them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

- (3) The decision of the Secretary of State on any application referred to him under this section shall be final.

14 Appeals to the Secretary of State.

- (1) Where application is made to a local planning authority for planning permission, or for any approval of that authority required under a development order, and that permission or approval is refused by that authority, or is granted by them subject to conditions, then, if the applicant is aggrieved by their decision, he may, by notice served within the time (not being less than twenty-eight days from the receipt of notification of their decision) and in the manner prescribed by the development order, appeal to the Secretary of State:

Provided that the Secretary of State shall not be required to entertain an appeal under this subsection in respect of the determination of an application for planning

permission if it appears to him that that planning permission could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the provisions of section twelve of this Act and of the development order, and to any directions given under that order.

- (2) Where an appeal is brought under this section from a decision of the local planning authority the Secretary of State may allow or dismiss the appeal or may reverse or vary any part of the decision of the local planning authority, whether or not the appeal relates to that part, and deal with the application as if it had been made to him in the first instance; and the provisions of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of an application by the Secretary of State on appeal under this section as they apply in relation to the determination by the Secretary of State of an application referred to him under that section:

Provided that where the Secretary of State proposes to reverse or vary any part of the decision of the local planning authority to which the appeal does not relate, he shall give notice of his intention to the local planning authority and to the applicant and shall afford to them an opportunity to make representations in regard thereto.

- (3) Unless within such period as may be prescribed by the development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority, the local planning authority either—
- (a) give notice to the applicant of their decision on any application made to them for planning permission, or for any approval required under a development order, or
 - (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given by him under the last foregoing section,

the provisions of subsection (1) of this section shall apply in relation to the application as if the permission or approval to which it relates had been refused by the local planning authority, and as if notification of their decision had been received by the applicant at the expiration of the period prescribed by the development order or the extended period agreed upon as aforesaid, as the case may be.

- (4) Provision may be made by a development order for securing that in the case of decisions by a local planning authority of such classes as may be prescribed by the order (being decisions relating to the design or external appearance of buildings or other similar matters) any appeal under this section shall lie to an independent tribunal established in accordance with the provisions of that order instead of to the Secretary of State; and in relation to any such appeal the foregoing provisions of this section shall apply, subject to such adaptations and modifications as may be specified in the order, as they apply in relation to appeals to the Secretary of State thereunder.

15 Applications to determine whether planning permission required.

- (1) If any person who proposes to carry out any operations on land or make any change in the use of land wishes to have it determined whether those operations or the making of that change in the use of land would constitute or involve development of the land within the meaning of this Act, he may either as part of an application for permission to carry out those operations or to institute that use, or without any such application, apply to the local planning authority to determine that question.

- (2) The foregoing provisions of this Part of this Act shall, subject to any necessary modifications, apply in relation to any application under this section and to the determination thereof as they apply in relation to applications for planning permission and to the determination of such applications:

Provided that where it is decided by the Secretary of State under any of the said provisions that any operations or use to which an application under this section relates would constitute or involve development, that decision shall not be final for the purposes of any appeal to the sheriff under the provisions of this Part of this Act relating to the enforcement of planning control, in relation to those Operations or that use.

16 Supplementary provisions as to grant of planning permission.

- (1) The power to grant planning permission shall include power to grant permission for the retention on land of any buildings or works constructed, or carried out thereon before the date of the application, or for the continuance of any use of land instituted before that date (whether without planning permission or in accordance with such permission granted for a limited period only); and references in this Part of this Act to planning permission and to applications for such permission shall be construed accordingly.
- (2) Any such permission as is mentioned in the foregoing subsection may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or from the expiration of the said period, as the case may be.
- (3) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.
- (4) Where planning permission is granted for any development, then, except as may be otherwise provided by the permission, the grant of permission shall enure for the benefit of the land to which the permission relates and of all persons for the time being interested therein, but without prejudice to the provisions of this Part of this Act with respect to the revocation and modification of planning permission.
- (5) Where planning permission is granted for a limited period only, nothing in this Part of this Act shall be construed as requiring planning permission to be obtained for the resumption, at the expiration of that period, of the use of the land for the purpose for which it was normally used before the permission was granted:

Provided that in determining for the purposes of this subsection the purposes for which land was normally used before the grant of permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part of this Act, or begun before the appointed day in contravention of previous planning control within the meaning of section seventy-two of this Act.

17 Obligation to purchase land on refusal of planning permission in certain cases.

- (1) Where planning permission is refused, whether by the local planning authority or by the Secretary of State, or is granted by that authority or by the Secretary of State subject to conditions, then if any owner or lessee of the land concerned claims—

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- (a) that the land has become incapable of reasonably beneficial use in its existing state; and
 - (b) in a case where planning permission was granted as aforesaid subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions;
 - (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been or is deemed to be granted or for which the local planning authority or the Secretary of State have undertaken to grant such permission,
- he may, within the time and in the manner prescribed by regulations made under this Act, serve on the local planning authority in whose district the land is situated a notice (hereinafter referred to as a "purchase notice") requiring that authority to purchase his interest in the land in accordance with the provisions of this section.
- (2) Where a purchase notice is served on any local planning authority under this section that authority shall forthwith transmit a copy of the notice to the Secretary of State, and subject to the following provisions of this section the Secretary of State shall, if he is satisfied that the conditions specified in the foregoing subsection are fulfilled, confirm the notice, and thereupon the authority shall be deemed to be authorised to acquire the interest of that person compulsorily in accordance with the provisions of Part III of this Act, and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct;

Provided that—

- (a) if it appears to the Secretary of State to be expedient so to do, he may, in lieu of confirming the purchase notice, grant planning permission for the development in respect of which the application was made or, where planning permission for that development was granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development;
 - (b) if it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which permission ought to be granted, he may, in lieu of confirming the notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that such permission shall be so granted in the event of an application being made in that behalf;
 - (c) if it appears to the Secretary of State to be expedient that another local authority should acquire the interest for the purpose of any of their functions, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land to which it relates by substituting that other authority for the local planning authority on whom the notice is served, and in any such case the foregoing provisions of this subsection shall have effect accordingly.
- (3) If within the period of six months from the date on which a purchase notice is served under this section the Secretary of State has neither confirmed the notice nor taken any such other action as is mentioned in paragraph (a) or paragraph (b) of the proviso to the last foregoing subsection, nor notified the owner or lessee, as the case may be, by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the expiration of that period, and the authority on

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whom the notice was served shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the provisions of Part III of this Act, and to have served notice to treat in respect thereof at the expiration of the said period.

- (4) The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of this section.
- (5) Before confirming a purchase notice, or taking any other action in lieu thereof, under this section, the Secretary of State shall give notice of his proposed action—
 - (a) to the person by whom the notice was served;
 - (b) to the local planning authority, on whom the notice was served; and
 - (c) to any other local authority whom the Secretary of State proposes, under subsection (2) of this section, to substitute for the said local planning authority;

and if within the period prescribed by the notice under this subsection (not being less than twenty-eight days from the service thereof) any person or authority on whom that notice is served so requires, the Secretary of State shall, before confirming the purchase notice or taking any such other action as aforesaid, afford to those persons and authorities an opportunity of appearing before and being heard by a person appointed by him for the purpose.

18 Compensation for refusal of planning permission in certain cases.

- (1) Where, on application for planning permission to carry out development of any class specified in Part II of the Third Schedule to this Act, permission for that development is refused by the Secretary of State, either on appeal or on the reference of the application to him for determination, or is so granted by the Secretary of State subject to conditions, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if the permission had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation (to be assessed in accordance with the provisions of the Fourth Schedule to this Act) equal to the difference.
- (2) In determining for the purposes of the foregoing subsection whether and to what extent the value of any interest in land is less than it would have been if the permission had been granted or had been granted unconditionally, as the case may be, it shall be assumed that any subsequent application for the like permission would be determined in the same way:

Provided that if, on the refusal of planning permission for the development in respect of which the application is made, the Secretary of State undertakes to grant planning permission for any other development of the land in the event of an application being made in that behalf, regard shall be had to that undertaking in determining the matters aforesaid.

- (3) Where a purchase notice served under the last foregoing section in respect of any interest in land does not take effect, or does not take effect in relation to any part of the land, by reason of any such direction as is mentioned in paragraph (b) of the proviso to subsection (2) of that section, then if it is shown, on a claim made to the local planning authority, within the time and in the manner prescribed by regulations

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under this Act that the permitted development value of that interest or, as the case may be, of that interest so far as it relates to that part of the land, is less than its compulsory purchase value, the local planning authority shall pay to the person entitled to that interest compensation (to be assessed in accordance with the provisions of the Fourth Schedule to this Act) equal to the difference.

- (4) For the purposes of the last foregoing subsection the expression "permitted development value," in relation to an interest in land in respect of which any such direction as is mentioned in that subsection has been given, means the value of that interest calculated with regard to the direction and to any determination of the Central Land Board under subsection (4) of section sixty-seven of this Act, but on the assumption that no permission would be granted under this Part of this Act otherwise than in accordance with the direction; and the expression "compulsory purchase value," in relation to any such interest means the value of that interest as it would be assessed in accordance with the provisions of section forty-eight of this Act for the purpose of ascertaining the compensation payable on a purchase thereof in pursuance of the purchase notice.
- (5) Where any such permission as is mentioned in subsection (1) of this section is granted by the Secretary of State subject to conditions, or where any permission required to be granted by any such direction as is mentioned in subsection (3) of this section would be so granted subject to conditions, being in either case conditions for regulating the design or external appearance of buildings, or the size or height of buildings, or, in the case of permission to be granted in accordance with any such direction as aforesaid, for regulating the number of buildings to be erected on the land, then if it appears to the Secretary of State that it is reasonable, having regard to the local circumstances, so to do, he may direct that those conditions shall be disregarded, either altogether, or to such extent as may be specified in the direction, in assessing the compensation (if any) payable under the said subsection (1) or under the said subsection (3), as the case may be.
- (6) Except as provided by subsection (3) of this section, no compensation shall be payable under this section in respect of any interest in land in respect of which a purchase notice is served under section seventeen of this Act.

19 Revocation and modification of planning permission.

- (1) Subject to the provisions of this section, if it appears to the local planning authority that it is expedient, having regard to the development plan and to any other material considerations, that any planning permission granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the permission to such extent as appears to them to be expedient as aforesaid:

Provided that no such order shall take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

- (2) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, that authority shall serve notice on the owner, on the lessee and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within such period as may be prescribed in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State

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

- (3) The power conferred by this section to revoke or modify planning permission may be exercised—
- (a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed ;
 - (b) where the permission relates to a change of the use of any land, at any time before the change has taken place:

Provided that the revocation or modification of permission for 'the carrying out of building or other operations shall not 'affect so much of those operations as has been carried out before the date on which the order was confirmed as aforesaid.

20 Supplementary provisions as to revocation and modification of planning permission.

- (1) Where planning permission is revoked or modified by an order made under the last foregoing section, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person interested in the land concerned has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, that authority shall pay to that person compensation in respect of that expenditure, loss or damage:

Provided that unless either—

- (a) any sum has been paid under Part VI of this Act by way of development charge in respect of the development to which the permission relates; or
- (b) no such charge is payable in respect of that development by virtue of any of the provisions of Part VII of this Act;

no compensation shall be payable under this subsection in respect of loss or damage consisting of the depreciation in value of any interest in the land by virtue of the revocation or modification.

- (2) For the purposes of this section any expenditure incurred in the preparation of plans for the purposes of any work or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this section in respect of any work carried out before the grant of the planning permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.
- (3) Where planning permission granted by a development order has been withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order, then if, on an application made in that behalf, planning permission is refused or is granted subject to conditions other than those previously imposed by the development order, the foregoing provisions of this section shall apply as if the planning permission granted by the development order had been granted by the local planning authority and had been revoked or modified by an order under the last foregoing section.

- (4) The provisions of section seventeen of this Act shall apply in relation to an order made under the last foregoing section revoking planning permission or modifying any such permission by the imposition of conditions, as they apply in relation to the refusal of an application for such permission or the grant of such an application subject to conditions, and in any such case the said section seventeen shall have effect subject to the following modifications:—
- (a) in paragraph (b) of subsection (1), for the words "in a case where planning permission was granted as aforesaid subject to conditions " there shall be substituted the words " in a case where the planning permission was modified by the imposition of conditions "; and
 - (b) for paragraph (a) of the, proviso to subsection (2) there shall be substituted the following paragraph:—
 - “(a) if it appears to the Secretary of State to be expedient so to do he may, in lieu of confirming the purchase notice, cancel the order revoking the planning permission or, where the order modified the permission by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the development in respect of which the permission was granted”;
- (5) Where the planning permission which is revoked or modified by an order under the last foregoing section is permission of any such class as is mentioned in subsection (1) of section eighteen of this Act, the provisions of that section shall apply as if for references therein to the refusal of the permission or the imposition of conditions on the grant thereof there were substituted references to the revocation of permission or the modification thereof by the imposition of conditions, and subsection (1) of that section shall have effect as if for the words " if the permission had been granted or had been granted unconditionally " there were substituted the words " if the permission had not been revoked or had not been modified. "
- (6) Where, by virtue of the foregoing provisions of this section, compensation is payable in respect of expenditure incurred in carrying out any work on land, then if a purchase notice is served under section seventeen of this Act in respect of any interest in that land, or a claim for compensation is made in respect of any such interest under subsection (1) of section eighteen of this Act, any compensation payable in respect of the acquisition of that interest under the said section seventeen or, as the case may be, any compensation payable in respect of that interest under the said section eighteen, shall be reduced by an amount equal to the value of the works in respect of which compensation is payable under this section.
- (7) Any compensation payable under this section in respect of loss or damage consisting of depreciation in value of an interest in land shall be assessed in accordance with the provisions of the Fourth Schedule to this Act; and in calculating the amount of any such depreciation it shall be assumed that permission would be granted under this Part of this Act for development of the land of any class specified in the Third Schedule to this Act.

21 Enforcement of planning control.

- (1) If it appears to the local planning authority that any development of land has been carried out after the appointed day without the grant of planning permission in that behalf, or that any conditions subject to which such permission was granted in respect of any development have not been complied with, then, subject to any directions given by the Secretary of State, the local planning authority may, within two years after it has come to their knowledge that such development has been so carried out or that such conditions have not been complied with, if they consider it expedient so to do having regard to the provisions of the development plan and to any other material considerations, serve on the owner, on the lessee and on the occupier of the land a notice under this section.
- (2) Any notice served under this section (hereinafter called an "enforcement notice") shall specify the development which is alleged to have been carried out without the grant of planning permission or, as the case may be, the matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken within such period after the date on which the notice takes effect as may be so specified for restoring the land to its condition before the development took place, or for securing compliance with the conditions, as the case may be; and in particular any such notice may, for the purpose aforesaid, require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.
- (3) Subject to the provisions of the next following subsection, an enforcement notice shall take effect at the expiration of such period (not being less than twenty-eight days after the service thereof) as may be specified therein:

Provided that if within the period aforesaid an application is made to the local planning authority under this Part of this Act for permission for the retention on the land of any buildings or works, or for the continuance of any use of the land, to which the enforcement notice relates, the notice shall not take effect until the expiry of the like period after the final determination of that application, and if such permission as aforesaid is granted on that application, the notice shall not take effect.

- (4) If any person on whom an enforcement notice is served under this section is aggrieved by the notice, he may, at any time within the period specified in the notice as the period at the expiration of which the notice will take effect or, where an application has been made under the proviso to the last foregoing subsection, within the like period after the final determination of that application, appeal against the notice to the sheriff; and on any such appeal the sheriff—
 - (a) if satisfied that planning permission was granted for the development to which the notice relates, or that no such, permission was required in respect thereof, or, as the case may be, that the conditions subject to which such permission was granted have been complied with, shall quash the notice to which the appeal relates;
 - (b) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for restoring the land to its condition before the development took place, or for securing compliance with the conditions, as the case may be, shall vary the notice accordingly;
 - (c) in any other case shall dismiss the appeal:

Provided that—

- (i) at any stage of the proceedings on such an appeal to him the sheriff may, and shall if so directed by the Court of Session, state a case for the opinion of the Court of Session on any question of law arising in connection with the appeal; and
- (ii) where the enforcement notice is varied or the appeal is dismissed, then, without prejudice to the provisions of the proviso to subsection (3) of this section, the; 'sheriff may, if he thinks fit, direct that the enforcement notice shall not come into force until such date (not being later than twenty-eight days from the determination of the appeal) as he thinks fit.

22 Supplementary provisions as to enforcement.

- (1) If within the period specified in an enforcement notice, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of any use of land) have not been taken, the local planning authority may enter on the land and take those steps, and may recover as a civil debt from the person who is then the owner or the lessee of the land any expenses reasonably incurred by them in that behalf; and if that person, having been entitled to appeal to the sheriff under the last foregoing section, failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken in accordance with the notice by the local planning authority.
- (2) Any expenses incurred by the owner, the lessee or the occupier of any land for the purpose of complying with an enforcement notice served under the last foregoing section in respect of any development, and any sums paid by the owner or by the lessee of any land under the foregoing subsection in respect of the expenses of the local planning authority in taking steps required to be taken by such a notice, shall be recoverable as a civil debt from the person by whom the development was carried out.
- (3) Where, by virtue of an enforcement notice, any use of land is required to be discontinued, or any conditions are required to be complied with in respect of any use of land or in respect of the carrying out of any operations thereon, then if any person, without the grant of planning permission, uses the land or causes or permits the land to be used, or carries out or causes or permits to be carried out those operations, in contravention of the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds; and if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.
- (4) Nothing in this Part of this Act shall be construed as requiring planning permission to be obtained for the use of any land for the purpose for which it could lawfully have been used under this Part of this Act if the development in respect of which an enforcement notice is served under the last foregoing section had not been carried out.
- (5) Provision may be made by regulations under this Act for applying in relation to steps required to be taken by an enforcement notice under the last foregoing section either or both of the following provisions of the Water (Scotland) Act, 1946, that is to say—
 - (a) section fifty-seven (which limits the liability of persons holding premises as agents or trustees in respect of the expenses recoverable under Part III of that Act); and
 - (b) section sixty-eight (which confers power to require the occupier of premises to permit works to be executed by the owner of the premises);subject to such adaptations and modifications as may be specified in the regulations.

23 Agreements regulating development or use of land.

- (1) A local planning authority may, with the approval of the Secretary of State, enter into an agreement with any person interested in land in their area (in so far as the interest of that person enables him to bind the land) for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement, and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the local planning authority to be necessary or expedient for the purposes of the agreement.
- (2) An agreement made under this section with any person interested in land, may, if the agreement shall have been recorded in the appropriate Register of Sasines, be enforceable at the instance of the authority against persons deriving title to the land from the person with whom the agreement was entered into:

Provided that no such agreement shall at any time be enforceable against a third party who shall have in bona fide onerously acquired right (whether completed by infestment or not) to the land prior to the agreement being recorded as aforesaid or against any person deriving title from such third party.

- (3) Nothing in this section or in any agreement made thereunder shall be construed as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by any Minister or authority under this Act, so long as those powers are exercised in accordance with the provisions of the development plan or in accordance with any directions which may have been given by the Secretary of State under section thirty-three of this Act, or as requiring the exercise of any such powers otherwise than as aforesaid.

Additional powers of control.

24 Powers relating to authorised uses.

- (1) Without prejudice to the provisions of this Part of this Act with respect to the service of enforcement notices, if it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity), regard being had to the development plan and to any other material considerations—
- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance thereof, or
 - (b) that any buildings or works should be altered or removed,

they may by order require the discontinuance of that use, or impose such conditions as may be specified in the order on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be;

Provided that no such order shall take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

- (2) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, that authority shall serve notice on the owner, on the lessee and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within the period specified in that

behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State shall, before confirming the order, afford to that person, and to the local planning authority, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

- (3) Where an order under this section has been confirmed by the Secretary of State, a copy of the order shall be served by the local planning authority on the owner, on the lessee and on the occupier of the land to which the order relates.
- (4) Where, by virtue of an order made under this section, the use of any land for any purpose is required to be discontinued, or any conditions are imposed on the continuance thereof, then if any person, without the grant of permission in that behalf under this Part of this Act, uses the land for that purpose or, as the case may be, uses the land for that purpose in contravention of those conditions, or causes or permits the land to be so used, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds; and if the use is continued after conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.
- (5) If within the period prescribed in that behalf by an order under this section any steps required by that order to be taken for the alteration or removal of any buildings or works have not been taken, the local planning authority may, and shall if so required by directions of the Secretary of State, enter on the land and take those steps.
- (6) An order under this section may grant permission for any development of the land to which the order relates subject to such conditions as may be specified in the order; and the provisions of this Part of this Act shall apply in relation to any permission so granted as they apply in relation to permission granted by the local planning authority on an application in that behalf made thereunder.
- (7) Where the requirements of any order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the local planning authority, in so far as there is not other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.

25 Provisions supplementary to s. 24.

- (1) Where an order is made under the last foregoing section requiring any use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person has suffered damage in consequence of the order by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, that authority shall pay to that person compensation in respect of that damage; and any compensation payable under this subsection in respect of the depreciation in the value of an interest in the land shall be assessed in accordance with the provisions of the Fourth Schedule to this Act.
- (2) Without prejudice to the foregoing provisions of this section and subject to the provisions of paragraph 4 of the Fourth Schedule to this Act, any person who carries out any works in compliance with an order under the last foregoing section shall be entitled, on a claim made as aforesaid, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.

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- (3) If any person entitled to an interest in land in respect of which an order is made under the last foregoing section claims that by reason of the order the land is incapable of reasonably beneficial use in its existing state, and that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which planning permission has been granted, whether by that order or otherwise, he may serve a purchase notice in respect of his interest in accordance with the provisions of subsection (1) of section seventeen of this Act; and in relation to a purchase notice so served the provisions of the said section seventeen shall apply as they apply in relation to a notice served under subsection (1) of that section, subject to the following modifications :—
- (a) in subsection (2), for the words " the conditions specified in the foregoing subsection " there shall be substituted the words " the conditions specified in subsection (3) of section twenty-five of this Act ";
 - (b) for paragraph (a) of the.; proviso to the said subsection (2) there shall be substituted the following paragraph:—
 - “(a) if it appears to the Secretary of State to be expedient so to do he may, in lieu of confirming the purchase notice, revoke the order under section twenty-four of this Act or, as the case may be, amend that order so far as appears to him to be required in order to prevent the land from being rendered incapable of reasonably beneficial use by the order.”
- (4) Where a purchase notice in respect of any interest in land is served under the said section seventeen in consequence of an order made in relation to the land under the last foregoing section, then if that interest is purchased in accordance with the said section seventeen, or if compensation is payable in respect thereof under subsection (3) of section eighteen of this Act, no compensation shall be payable under this section in respect of that order.
- (5) Except as provided by this section, no purchase notice shall be served under the said section seventeen in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of an order made under the last foregoing section.

26 Orders for preservation of and woodlands.

- (1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their district, they may for that purpose make an order (in this Act referred to as a " tree preservation order ") with respect to such trees, groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order—
- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;
 - (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
 - (c) for applying, in relation to any consent under the order, and to applications therefor, any of the provisions of this Part of this Act relating to planning permission, and to applications for such permission, subject to such adaptations and modifications as may be specified in the order.

- (2) An order made under the last- foregoing subsection may provide for the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of damage or expenditure caused or incurred in consequence of the refusal of any consent required under the order, or of the grant of any such consent subject to conditions.
- (3) A tree preservation order shall not be made in respect of woodlands which are the subject of a forestry dedication agreement under the Forestry Act, 1947, or in respect of which advances have been made by the Forestry Commissioners under the Forestry Acts, 1919 to 1947.
- (4) A tree preservation order shall not take effect until it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order either without modification or subject to such modifications as he considers expedient. As soon as may be after a tree preservation order is so confirmed, it shall be recorded in the appropriate Register of Sasines by the local planning authority.
- (5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders and the procedure to be followed in connection with the submission and confirmation of such orders, and such regulations shall, in particular, make provision for securing—
 - (a) that notice shall be given to the owners, lessees and occupiers of land affected by any such order of the submission to the Secretary, of State of the order;
 - (b) that objections and representations with respect to the proposed order duly made in accordance with the regulations shall be considered before the order is confirmed by the Secretary of State; and
 - (c) that copies of the order when confirmed by the Secretary of State shall be served on the owners, lessees and occupiers of the land to which it relates:

Provided that where it appears to the Secretary of State that any such order should take effect immediately, he may confirm the order provisionally without complying with the requirements of any such regulations with respect to the consideration of objections and representations, but any order so confirmed shall cease to have effect upon the expiration of two months from the date on which it is so confirmed unless within that period it has again been confirmed, with or without modifications, after compliance with those requirements.

- (6) If any person contravenes the provisions of a tree preservation order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds; and if, in the case of a continuing offence, the contravention is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued:

Provided that nothing in a tree preservation order shall prohibit the felling or lopping of any tree if such felling or lopping is urgently necessary in the interests of safety, or is necessary for the prevention or abatement of a nuisance, so long as notice in writing of the proposed operations is given to the local planning authority as soon as may be after the necessity for the operations arises, or if such felling or lopping is carried out in compliance with any obligation imposed by or under any Act of Parliament.

27 Orders for the preservation of buildings of special architectural or historic interest.

- (1) If it appears to a local planning authority that it is expedient to make provision for the preservation of any building of special architectural or historic interest in their district, they may for that purpose make an order (in this Act referred to as a "building preservation order") restricting the demolition, alteration or extension of the building:

Provided that no such order shall be made in relation to a building being—

- (a) an ecclesiastical building which is for the time being used for ecclesiastical purposes;
- (b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments; or
- (c) a building for the time being included in a list of monuments published by the Minister of Works under any such enactment as aforesaid;

and no such order shall be made so as to affect the powers of the Minister of Works under any such enactment as aforesaid.

- (2) Provision may be made by a building preservation order for requiring the consent of the local planning authority to be obtained for the execution of works of any description specified in the order, and for applying, in relation to such consent and to applications therefor, any of the provisions of this Part of this Act relating to planning permission and to applications for such permission, subject to such adaptations and modifications as may be specified in the order; and provision may be made by such an order for the payment by that authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of damage or expenditure caused or incurred in consequence of the refusal of any consent required under the order, or the grant of any such consent subject to conditions.

- (3) A building preservation order shall not take effect until it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order either without modification or subject to such modifications as he considers expedient:

Provided that such an order requiring the consent of the local planning authority to be obtained for the execution of any works shall not be made by the authority or confirmed by the Secretary of State, unless the authority or the Secretary of State is satisfied that the execution of the works would seriously affect the character of the building.

As soon as may be after a building preservation order is so confirmed, it shall be recorded in the appropriate Register of Sasines by the local planning authority.

- (4) Provision may be made by regulations under this Act with respect to the form of building preservation orders and the procedure to be followed in connection with the submission and confirmation of such orders, and such regulations shall, in particular, make provision for securing—
- (a) that notice shall be given to the owner, to the lessee and to any occupier of the building affected by any such order of the submission to the Secretary of State of the order;
 - (b) that objections and representations with respect to the proposed order duly made in accordance with the regulations shall be considered before the order is confirmed by the Secretary of State; and

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- (c) that a copy of the order when confirmed by the Secretary of State shall be served on the owner, on the lessee and on any occupier of the building to which it relates:

Provided that where it appears to the Secretary of State that any such order should take effect immediately, he may confirm the order provisionally without complying with the requirements of any such regulations with respect to the consideration of objections and representations, but any order so confirmed shall cease to have effect upon the expiration of two months from the date on which it is so confirmed unless within that period it has again been confirmed, with or without modifications, after compliance with those requirements.

- (5) If any person, being the owner of a building in relation to which a building preservation order is in force or a person upon whom a copy of such an order has been served, executes or causes or permits to be executed any works in contravention of the order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds; and the court by whom he is convicted may require him within such period as they think proper to take such steps as they may specify for restoring the building, so far as may be, to its former state; and if within that period such steps have not been taken the court may authorise the local planning authority to enter on the land and take those steps, and to recover from him as a civil debt any expenses reasonably incurred by them in that behalf:

Provided that nothing in this subsection shall render unlawful the execution of any such works as aforesaid which are urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing of the proposed execution of the works is given to the local planning authority as soon as may be after the necessity for the works arises.

28 Lists of buildings of special architectural or historic interest.

- (1) With a view to the guidance of local planning authorities in the performance of their functions under this Act in relation to buildings of special architectural or historic interest, the Secretary of State shall compile lists of such buildings, or approve, either with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list so compiled or approved.
- (2) Before compiling or approving, either with or without modifications, any list under this section, or amending any list thereunder, the Secretary of State shall consult with such persons or bodies of persons as appear to him appropriate as having special knowledge of or interest in buildings of architectural or historic interest.
- (3) As soon as may be after any list has been compiled or approved under this section, or any amendments of such a list have been made, a copy of so much of the list as relates to the district of any local authority being the local planning authority or the local authority for the purposes of the Housing (Scotland) Acts, 1925 to 1946, or of so much of the amendments as relate thereto, as the case may be, certified by or on behalf of the Secretary of State to be a true copy thereof, shall be deposited with the clerk of that authority.
- (4) As soon as may be after the inclusion of any building in a list under this section, whether on the compilation or approval of the list or by the amendment thereof, or as soon as may be after any such list has been amended by the exclusion of any building therefrom, the Secretary of State shall serve a notice on every owner, lessee

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and occupier of the building stating that the building has been included in, or excluded from, the list, as the case may be.

- (5) Any list compiled by the Secretary of State, and any instrument of the Secretary of State approving or amending any list under this section, shall, as soon as may be after such list or instrument is compiled or made, be recorded by him in the appropriate Register of Sasines.
- (6) So long as any building (not being a building to which an order under the last foregoing section applies or a building of any description specified in the proviso to subsection (1) of that section) is included in any list compiled or approved under this section no person shall execute or cause or permit to be executed any works for the demolition of the building or for its alteration or extension in any manner which would seriously affect its character, unless at least two months before the works are executed notice in writing of the proposed works has been given to the local planning authority:

 Provided that nothing in this subsection shall render unlawful the execution of any such works as aforesaid which are urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice is given as aforesaid as soon as may be after the necessity for the works arises.
- (7) Where a local planning authority- receive notice of any proposed works under the last foregoing subsection, they shall as soon as may be send a copy of the notice to the Secretary of State and to such other persons or bodies of persons as may be specified by directions of the Secretary of State either generally or as respects the building in question.
- (8) If any person contravenes the provisions of subsection (6) of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and the court by whom he is convicted may require him, within such period as they may fix, to take such steps as they think fit for so restoring the building. If, within such period or within such extended period as the court may allow, any steps required by them to be taken for restoring the building, so far as may be, to its former state, have not been taken by him, the local planning authority may enter on the land and take those steps, and may recover from him as a civil debt any expenses reasonably incurred by them in that behalf.

29 Control of advertisements.

- (1) Subject to the provisions of this section, provision may be made by regulations under this Act for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety, and, without prejudice to the generality of the foregoing provision, any such regulations may provide—
 - (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which such advertisements may be displayed, and the manner in which, they are to be affixed to land;
 - (b) for requiring the consent of the local planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations;
 - (c) for applying, in relation to any such consent and to applications therefor, any of the provisions of this Part of this Act relating to planning permission and to applications for such permission, subject to such adaptations and modifications as may be specified in the regulations;

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- (d) for enabling the local planning authority to require the removal of any advertisement which is being displayed in contravention of the regulations or the discontinuance of the use for the display of advertisements of any site which is being used for that purpose in contravention of the regulations, and for that purpose for applying any of the provisions of this Part of this Act with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations;
 - (e) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.
- (2) Without prejudice to the generality of the powers conferred by paragraph (c) of the foregoing subsection, regulations made for the purposes of this section may provide that any appeal from the decision of the local planning authority on an application for their consent under the regulations shall lie to an independent tribunal constituted in accordance with the regulations instead of to the Secretary of State.
- (3) Regulations made for the purposes of this section may make different provision with respect to different areas, and in particular may make special provision with respect to areas defined for the purposes of the regulations as areas of special control (being either rural areas or areas other than rural areas which appear to the Secretary of State to require special protection on grounds of amenity); and without prejudice to the generality of the foregoing provision may prohibit the display in any such area of all advertisements, except advertisements of such classes, if any, as may be specified in the regulations.
- (4) Areas of special control for the purposes of regulations under this section may be defined either by reference to provisions included in that behalf in development plans or by means of orders made or approved by the Secretary of State in accordance with the provisions of the regulations:
- Provided that where the Secretary of State is authorised by the regulations to make or approve any such order as aforesaid, the regulations shall provide for the publication of notice of the proposed order in such manner as may be prescribed by the regulations, for the consideration of objections duly made thereto, and for the holding of such inquiries or other hearings as may be so prescribed, before the order is made or approved.
- (5) Subject as hereinafter provided, regulations made under this section may be made so as to apply to advertisements which are being displayed on the date on which the regulations come into force, or to the use for the display of advertisements of any site which was being used for that purpose on that date:
- Provided that any such regulations shall provide for exempting therefrom—
- (a) the continued display of any such advertisement as aforesaid, and
 - (b) the continued use for the display of advertisements of any such site as aforesaid,
- during such period as may be prescribed in that behalf by the regulations, and different periods may be so prescribed for the purposes of different provisions of the regulations.
- (6) Nothing in this section or in any regulations made thereunder shall be construed as authorising the restriction, or regulation of the display of any advertisement by reason only of the subject matter or wording thereof.

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

30 Provisions supplementary to s. 29.

- (1) Where the display of advertisements in accordance with regulations made under the last foregoing section involves the development of land within the meaning of this Act, planning permission for that development shall be deemed to be granted by virtue of this section, and no application shall be necessary in that behalf under the foregoing provisions of this Part of this Act.
- (2) Where for the purpose of complying with any such regulations as aforesaid, works are carried out by any person for the removal of advertisements being displayed on the date on which the regulations come into force or the discontinuance of the use for the display of advertisements of any site used for that purpose on that date, that person shall be entitled, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, to recover from that authority compensation in respect of any expenses reasonably incurred by him in that behalf:

Provided that no compensation shall be payable under this subsection in respect of the removal of any advertisement which was not being displayed on the seventh day of January, nineteen hundred and forty-seven.

- (3) Without prejudice to any provisions included in regulations made under the last foregoing section by virtue of paragraph (d) of subsection (1) of that section, if any person displays an advertisement in contravention of the provisions of the regulations, he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed by the regulations, not exceeding fifty pounds and, in the case of a continuing offence, forty shillings for each day during which the offence continues after conviction.
- (4) For the purposes of the last foregoing subsection and without prejudice to the generality thereof a person shall be deemed to display an advertisement if—
 - (a) the advertisement is displayed on land of which he is the owner or occupier; or
 - (b) the advertisement gives publicity to his goods, trade, business or other concerns:

Provided that a person shall not be guilty of an offence under the said subsection by reason only that an advertisement is displayed on land of which he is the owner or occupier, or that his goods, trade, business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

31 Powers relating to ruinous or dilapidated buildings, waste land, etc.

- (1) Where it appears to the local planning authority that the amenity of any land is seriously injured by reason of the ruinous or dilapidated condition of any building in their district or by the condition of any derelict, waste, neglected or other land in their district, then, subject to any directions given by the Secretary of State, the authority may serve on the owner, on the lessee and on the occupier of the building or land a notice requiring such steps for abating the injury as may be specified in the notice to be taken within such period as may be so specified:

Provided that no such notice may be served with reference to any building which is—

- (a) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments, or
- (b) a building for the time being included in a list of monuments published by the Minister of Works under any such enactment as aforesaid.

- (2) In relation to any notice served under this section the provisions of subsections (3) and (4) of section twenty-one of this Act, and of subsections (1), (2) and (5) of section twenty-two of this Act shall, subject to any necessary modifications, apply as those provisions apply in relation to an enforcement notice served under the said section twenty-one.

Supplemental.

32 Application to local authorities and statutory undertakers.

- (1) Where the sanction of a government department other than the Secretary of State is required by virtue of any enactment in respect of development to be carried out by any local authority or by any statutory undertakers not being a local authority, that department may, upon granting that sanction, direct that planning permission for that development shall be deemed to be granted subject to such conditions (if any) as may be specified in the directions: and the provisions of this Part of this Act shall apply in relation to any permission deemed to be granted by virtue of such directions as if the application for that permission had been granted by the Secretary of State on an application referred to him under section thirteen of this Act.

- (2) Without prejudice to the provisions of the foregoing subsection, the provisions set out in the Fifth Schedule to this Act (being provisions re-enacting with additions and modifications sections thirty-four and thirty-five of the Act of 1945) shall have effect for the purposes of the application of this Part of this Act to land of statutory undertakers being operational land as defined by this Act, and to the development of such land by such undertakers:

Provided that the provisions of the said Schedule shall not apply in relation to the display of advertisements on. operational land.

- (3) In relation to land of local planning authorities and to the development by local authorities of land in respect of which they are the local planning authority, the provisions of this Part of this Act (including, in the case of a local planning authority who carry on a statutory undertaking, the last foregoing subsection and the Fifth Schedule to this Act) shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act, and in particular such regulations may (subject to the provisions of subsection (1) of this section) provide for securing—

- (a) that any application by such an authority for planning permission to develop such land, or for any other consent required in relation to such land under this Part of this Act, shall be made to the Secretary of State instead of to the local planning authority;
- (b) that any notice or order authorised to be served or made under this Part of this Act in relation to such land shall be served or made by the Secretary of State instead of by that authority.

- (4) For the purposes of this section and of the Fifth Schedule to this Act development by a local authority or by statutory undertakers shall be deemed to be sanctioned by a government department if—

- (a) any consent, authority or approval to or for the development is granted by the department in pursuance of any enactment;

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- (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;
- (c) consent is granted by the department to the appropriation of land for the purpose of the development, or the acquisition of land by agreement for that purpose;
- (d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable; or
- (e) any undertaking is given by the department to pay a grant in respect of the development in accordance with any enactment authorising the payment of such grants,

and references in this section and in the said Fifth Schedule to the sanction of a government department shall be construed accordingly.

33 Temporary provisions pending approval of plans.

Where, under the foregoing provisions of this Part of this Act, a local planning authority are required to have regard to the provisions of the development plan in relation to the exercise of any of their functions, then, in relation to the exercise of those functions during any period "before such a plan has become operative with respect to the district of that authority, that authority shall have regard to any directions which may be given to them by the Secretary of State as to the provisions to be included in such a plan, and subject to any such directions shall have regard to the provisions which in their opinion will be required to be so included for securing the proper planning of the said district.