

SCHEDULES

SCHEDULE 23

Section 118.

LAND : MISCELLANEOUS AMENDMENTS

PART I

AMENDMENTS OF ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT 1946

- 1 In Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946—
- (a) in paragraph 3(1)(6), omit the words from " except " to " case ";
 - (b) in paragraph 3(1) omit head (c) and the proviso ;
 - (c) in paragraph 7A omit " the confirming authority and to " and " or affixing of notices " ; and
 - (d) in paragraph 19(4)—
 - (i) for " having jurisdiction to confirm or " substitute " or authority having jurisdiction to " ; and
 - (ii) add the following proviso at the end: —

“Provided that this sub-paragraph shall not have effect in relation to an owner, lessee or occupier being a local authority or statutory undertakers or the National Trust.”.

PART II

AMENDMENTS OF NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT 1949

- 2 (1) Subsection (4) of section 77 of the National Parks and Access to the Countryside Act 1949 (under which the power to acquire land for public access to the open country in a National Park is in certain circumstances exercisable by the Minister of Agriculture, Fisheries and Food) shall cease to have effect.
- (2) Accordingly, in subsection (5) of that section, for the words from the beginning to "be" there shall be substituted the words " The Secretary of State ".

PART III

AMENDMENTS OF TOWN AND COUNTRY PLANNING ACT 1959

- 3 The following subsection shall be substituted for section 23(2) of the Town and Country Planning Act 1959: —
- “(2) Before exercising any power of appropriation in relation to land which consists or forms part of an open space, not being land which consists or

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forms part of a common or of a fuel or field garden allotment, an authority to whom this Part of this Act applies—

- (a) shall publish a notice of their intention to do so for at least two consecutive weeks in a newspaper circulating in their area ; and
- (b) shall consider any objections to the proposed appropriation which may be made to them.”.

4 In section 23(3) of that Act the words following paragraph (ii) shall cease to have effect.

5 The following subsection shall be substituted for subsection (2) of section 26 of that Act (disposal): —

“(2) Before disposing of any land which consists or forms part of an open space, not being land which consists or forms part of a common or of a fuel or field garden allotment, an authority to whom this Part of this Act applies—

- (a) shall publish notice of their intention to do so for at least two consecutive weeks in a newspaper circulating in their area; and
- (b) shall consider any objections to the proposed disposal which may be made to them.”.

6 In the said section 26—

- (a) subsection (3); and
- (b) in subsection (5), the words following paragraph (ii)

shall cease to have effect.

7 Section 30(5) (supplementary) of that Act shall cease to have effect

PART IV

AMENDMENTS OF TOWN AND COUNTRY PLANNING ACT 1971

8 In section 119 of the Town and Country Planning Act 1971 (acquisition of land by agreement) subsection (2) (Secretary of State's consent) shall cease to have effect.

9 In section 121(1) of that Act (appropriation of commons etc.) the words " open space " shall be omitted.

10 The following subsections shall be substituted for subsections (2) and (3) of section 122 of that Act (appropriation of land for planning purposes): —

“(2) The consent of the Secretary of State shall be requisite to any appropriation under this section of land which, immediately before the appropriation, is land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act.

(2A) Any such consent may be given either in respect of a particular appropriation or in respect of appropriations of any class, and may be given either subject to or free from any conditions or limitations.

(2B) Before appropriating under this section any land which consists of or forms part of an open space, a local authority—

- (a) shall publish a notice of their intention to do so for at least two consecutive weeks in a newspaper circulating in their area ; and

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- (b) shall consider any objections to the proposed appropriation which may be made to them.”.
- 11 The following subsections shall be substituted for subsections (2) to (6) of section 123 of that Act (disposal of land held for planning purposes): —
- “(2) The consent of the Secretary of State shall be requisite to any disposal under this section—
- (a) of land which, immediately before the disposal, is land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act; or
- (b) where the disposal is to be for a consideration less than the best that can reasonably be obtained and is not—
- (i) the grant of a term of seven years or less ; or
- (ii) the assignment of a term of years of which seven years or less are unexpired at the date of the assignment.
- (2A) Before disposing under this section of any land which consists of or forms part of an open space, a local authority—
- (a) shall publish a notice of their intention to do so for at least two consecutive weeks in a newspaper circulating in their area ; and
- (b) shall consider any objections to the proposed disposal which may be made to them.”.

PART V

AMENDMENTS OF LOCAL GOVERNMENT ACT 1972

- 12 (1) In section 122 of the Local Government Act 1972 (appropriation of land by principal councils) the words in subsection (2) following paragraph (b) shall cease to have effect.
- (2) The following subsections shall be inserted after that subsection : —
- “(2A) A principal council may not appropriate under subsection (1) above any land consisting or forming part of an open space unless before appropriating the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed appropriation which may be made to them.
- (2B) Where land appropriated by virtue of subsection (2A) above is held—
- (a) for the purposes of section 164 of the Public Health Act 1875 (pleasure grounds); or
- (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),
- the land shall by virtue of the appropriation be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said section 164 or, as the case may be, the said section 10.”.
- 13 Subsections (3) and (5) of that section shall cease to have effect.

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- 14 The following subsections shall be inserted after subsection (2) of section 123 of that Act (disposal of land by principal councils): —
- “(2A) A principal council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.
- (2B) Where by virtue of subsection (2A) above a council dispose of land which is held—
- (a) for the purposes of section 164 of the Public Health Act 1875 (pleasure grounds) ; or
 - (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),
- the land shall by virtue of the disposal be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said section 164 or, as the case may be, the said section 10.”.
- 15 Subsections (3), (4) and (5) of that section shall cease to have effect.
- 16 Section 123A of that Act (consent for disposals of land by principal councils) shall cease to have effect.
- 17 (1) In section 126 of that Act (appropriation of land by parish and community councils and by parish meetings) the words in subsection (4) following paragraph (b) shall cease to have effect.
- (2) The following subsections shall be inserted after that subsection:—
- “(4A) Neither a parish or community council nor a parish meeting may appropriate by virtue of this section any land consisting or forming part of an open space unless before appropriating! the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed appropriation which may be made to them.
- (4B) Where land appropriated by virtue of subsection (4A) above is held—
- (a) for the purposes of section 164 of the Public Health Act 1875 (pleasure grounds); or
 - (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),
- the land shall by virtue of the appropriation be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said section 164 or, as the case may be, the said section 10.”.
- 18 Subsection (5) of that section shall cease to have effect.
- 19 The following subsection shall be substituted for section 127(3) of that Act (which applies certain provisions of section 123 to disposals of land held by parishes and communities): —

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“(3) Subsections (2A) and (2B) of section 123 above shall apply in relation to the disposal of land under this section as they apply in relation to the disposal of land under that section, with the substitution of a reference to a parish or community council or the parish trustees of a parish for the reference to a principal council in the said subsection (2A).”.

20 The following definition shall be inserted in section 270(1) of that Act after the definition of " 1963 Act " : —

“" open space " has the meaning assigned to it by section 290(1) of the Town and Country Planning Act 1971 ;”.

PART VI

AMENDMENT OF LOCAL GOVERNMENT (SCOTLAND) ACT 1973

21 Section 74A of the Local Government (Scotland) Act 1973 (no local authority in Scotland to dispose of certain interests in land without Secretary of State's consent) shall cease to have effect.