



# Town and Country Planning Act 1968

## 1968 CHAPTER 72

### PART VI

#### MISCELLANEOUS CHANGES IN PLANNING LAW

##### *Planning Inquiry Commissions*

#### **61 Constitution of Planning Inquiry Commissions.**

- (1) The Minister may constitute a Planning Inquiry Commission to inquire into and report on any matter referred to them under section 62 below.
- (2) Any such commission shall consist of a chairman and not less than two nor more than four other members appointed by the Minister.
- (3) The Minister may pay to the members of any such commission such remuneration and allowances as he may with the consent of the Treasury determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to him expedient to provide for the purpose of assisting the commission in the discharge of their functions.
- (4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.
- (5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (commissions, tribunals and other bodies all members of which are disqualified under that Act), in its application to the House of Commons of the Parliament of the United Kingdom, the following entry shall be inserted at the appropriate place in alphabetical order:—

“A Planning Inquiry Commission constituted under Part VI of the Town and Country Planning Act 1968”.
- (6) The " Minister ", in relation to any matter affecting both England and Wales, means in subsections (1) and (2) above the Minister of Housing and Local Government and the

---

*Status: This is the original version (as it was originally enacted). This  
item of legislation is currently only available in its original format.*

---

Secretary of State for Wales acting jointly, and in subsection (3) above one of those Ministers authorised by the other to act on behalf of both of them for the purposes of that subsection.

## **62 References to a Planning Inquiry Commission.**

- (1) The following matters may, in the circumstances mentioned in subsection (2) below, be referred to a Planning Inquiry Commission, that is to say—
  - (a) an application for planning permission which the Minister has under section 22 of the principal Act directed to be referred to him instead of being dealt with by a local planning authority ;
  - (b) an appeal under section 23 of that Act (appeals to the Minister against planning decisions) as originally enacted or as applied by or under any other provision of that Act;
  - (c) a proposal that a government department should give a direction under section 41 of that Act that planning permission shall be deemed to be granted for development by a local authority or by statutory undertakers which is required by any enactment to be authorised by that department;
  - (d) a proposal that development should be carried out by or on behalf of a government department.
- (2) Any of the matters mentioned in subsection (1) above may be referred to any such commission under this section if it appears expedient to the responsible Minister or Ministers that the question whether the proposed development should be permitted to be carried out should be the subject of a special inquiry on either or both of the following grounds:—
  - (a) there are considerations of national or regional importance which are relevant to the determination of that question and require evaluation, but a proper evaluation thereof cannot be made unless there is a special inquiry for the purpose ;
  - (b) the technical or scientific aspects of the proposed development are of so unfamiliar a character as to jeopardise a proper determination of that question unless there is a special inquiry for the purpose.
- (3) Two or more of the matters mentioned in subsection (1) above may be referred to the same commission under this section if it appears to the responsible Minister or Ministers that they relate to proposals to carry out development for similar purposes on different sites.
- (4) Where a matter referred to a commission under this section relates to a proposal to carry out development for any purpose at a particular site, the responsible Minister or Ministers may also refer to the commission the question whether development for that purpose should instead be carried out at an alternative site.
- (5) The responsible Minister or Ministers shall, on referring a matter to a commission under this section, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to him or them to be relevant to their inquiry.
- (6) A commission inquiring into a matter referred to them under this section shall—
  - (a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- question whether the proposed development should be permitted to be carried out and assess the importance to be attached to those considerations or aspects;
- (b) thereafter, if the applicant, in the case of a matter mentioned in subsection (1) (a), (b) or (c) above, or the local planning authority in any case so desire, afford to each of them, and, in the case of an application or appeal mentioned in the said subsection (1)(a) or (b), to any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 17(2) or (3) of the principal Act, an opportunity of appearing before and being heard by one or more members of the commission ;
- (c) report to the responsible Minister or Ministers on the matter referred to them.
- (7) Any such commission may, with the approval of the Minister and at his expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to them to be relevant to a matter referred to them for inquiry and report.

In this subsection " the Minister ", in relation to any matter affecting both England and Wales, means the Minister of Housing and Local Government or the Secretary of State acting in either case, by arrangements between the two of them, on behalf of both.

- (8) Sections 22(5) and 23(5) of the principal Act (duty of Minister to afford parties a hearing in cases of called-in applications for planning permission and appeals), and sections 21(6) and 22(4) of this Act, shall not apply to an application for planning permission or an appeal referred to a commission under subsection (1) above.
- (9) Schedule 6 to this Act shall have effect for the construction of references in this section and section 63 below to " the responsible Minister or Ministers ".

### **63 Procedure on a reference to a Planning Inquiry Commission.**

- (1) A reference to a Planning Inquiry Commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time and a reference of any other matter mentioned in section 62 above may be made at any time before, but not after, the determination of the relevant application referred under section 22 of the principal Act or the relevant appeal under section 23 of that Act or, as the case may be, the giving of the relevant direction under section 41 of that Act, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.
- (2) Notice of the making of a reference to any such commission shall be published in the prescribed manner, and a copy of the notice shall be served on the local planning authority for the area in which it is proposed that the relevant development shall be carried out, and—
- (a) in the case of an application for planning permission referred under section 22 of the principal Act or an appeal under section 23 of that Act, on the applicant and any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 17(2) or (3) of the principal Act;
- (b) in the case of a proposal that a direction should be given under section 41 of that Act with respect to any development, on the local authority or statutory undertakers applying for authorisation to carry out that development.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (3) A Planning Inquiry Commission shall, for the purpose of complying with section 62(6) (b) above, hold a local inquiry; and they may hold such an inquiry, if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the local planning authority desire an opportunity of appearing and being heard.
- (4) Where a Planning Inquiry Commission are to hold a local inquiry under subsection (3) above in connection with a matter referred to them, and it appears to the responsible Minister or Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this section to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, he or, as the case may be, they may direct that the two inquiries be held concurrently or combined as one inquiry.
- (5) An inquiry held by such a commission under this section shall be treated for the purposes of the Tribunals and Inquiries Act 1958 as one held by a Minister in pursuance of a duty imposed by a statutory provision.
- (6) Subsections (2) to (5) of section 290 of the Local Government Act 1933 (evidence and costs at local inquiries) shall apply in relation to an inquiry held under subsection (3) above as they apply in relation to an inquiry caused to be held by a department under subsection (1) of that section with the substitution for references to a department (other than the first reference in subsection (4)) of references to the responsible Minister or Ministers.
- (7) Subject to the provisions of this section and to any directions given to them by the responsible Minister or Ministers, a Planning Inquiry Commission shall have power to regulate their own procedure.

#### *Delegation of planning functions*

### **64 Delegation of planning functions to officers of local authorities.**

- (1) A local planning authority may delegate to any officer of the authority the function of determining all or any, or a specified class, of the following applications, that is to say—
  - (a) an application for planning permission under Part III of the principal Act;
  - (b) an application for consent under an order under section 29 of that Act to the cutting down, topping, lopping or destruction of trees;
  - (c) an application for consent under regulations under section 34 of that Act to the display of advertisements ;
  - (d) an application for a determination under section 43 of that Act of the questions whether the carrying out of operations on land or the making of any change in the use of land constitutes or involves development of the land and, if so, whether an application for planning permission in respect thereof is required having regard to the provisions of the development order ;
  - (e) an application for an established use certificate under section 17 of this Act;
  - (f) an application for an approval required by a development order or by a condition imposed on the grant of planning permission.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (2) A local authority to whom the function of determining any such application as is referred to in subsection (1) above is delegated under section 3 of the principal Act may delegate either—
  - (a) to an officer of theirs ; or
  - (b) with the consent of the local planning authority, to an officer of that authority, the function of determining all or any, or a specified class, of those applications.
- (3) A delegation made by a local authority under this section to an officer of theirs or of another local authority—
  - (a) shall be made to the officer by name ;
  - (b) may be made with or without restrictions or conditions ;
  - (c) may be withdrawn at any time by the delegating authority (either generally or in respect of a particular application), without prejudice to anything previously done by the officer thereunder ; and
  - (d) shall, in the case of a delegation under subsection (2)(b) above, be treated as withdrawn if the consent of the local planning authority under that paragraph is withdrawn.
- (4) Where a local authority have under this section delegated to an officer of theirs or of another local authority the function of determining applications, and the officer so requests in the case of any application specified by him, the delegating authority shall themselves, instead of him, determine the application.
- (5) Where any functions have under this section been delegated to an officer of a local authority, any determination by him of such an application as is referred to in subsection (1) of this section shall, if it is notified in writing to the applicant, be treated for all purposes as a determination of the delegating authority.
- (6) Where an action has been brought against an officer of a local authority in respect of an act done by him in the discharge or purported discharge of functions delegated to him under this section and the circumstances are such that he is not legally entitled to require the delegating authority to indemnify him, that authority may nevertheless indemnify him against the whole or part of any damages and costs which he may have been ordered to pay or may have incurred, if they are satisfied that he honestly believed that the act complained of was done in the discharge of those functions and that his duty required or entitled him to do it.
- (7) In relation to any functions delegated under this section by a local authority to an officer of theirs or of another local authority, any reference to the local planning authority in any enactment relating to those functions shall (subject to the terms of the delegation and so far as the context does not otherwise require) be construed as including a reference to that officer.

#### *Duration of planning permission*

### **65 Limit of duration of planning permissions past and future.**

- (1) Subject to the provisions of this section, every planning permission granted or deemed to have been granted before the commencement of this section shall, if the development to which it relates has not been begun before the beginning of 1968, be deemed to have been granted subject to a condition that the development

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

must be begun not later than the expiration of five years beginning with the said commencement.

- (2) Subject to the provisions of this section, every planning permission granted or deemed to be granted after the commencement of this section shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—
  - (a) five years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted ; or
  - (b) such other period (whether longer or shorter) beginning with the said date as the authority concerned with the terms of the planning permission may direct, being a period which the authority consider appropriate having regard to the provisions of the development plan and to any other material considerations.
- (3) If after the commencement of this section planning permission is granted without the condition required by subsection (2) above, it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.
- (4) Nothing in this section applies—
  - (a) to any outline planning permission, as defined by section 66 below;
  - (b) to any planning permission granted by a development order;
  - (c) to any planning permission which was granted or deemed to be granted, before the commencement of this section, subject to an express condition that the development to which it relates should be begun, or be completed, not later than a specified date or within a specified period;
  - (d) to any planning permission granted for a limited period (within the meaning of section 18 of the principal Act); or
  - (e) to any planning permission granted under section 20 of the principal Act on an application relating to buildings or works completed, or a use of land instituted, before the date of the application.

## **66 Outline planning permissions.**

- (1) In this section and section 65 above, " outline planning permission " means planning permission granted, in accordance with the provisions of a development order, with the reservation for subsequent approval by the local planning authority or the Minister of matters (referred to in this section as " reserved matters ") not particularised in the application.
- (2) Subject to the provisions of this section, where before the commencement of this section outline planning permission has been granted for development consisting in or including the carrying out of building or other operations, and the development has not been begun before the beginning of 1968, that planning permission shall be deemed to have been granted subject to conditions to the following effect:—
  - (a) that, in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the commencement of this section ; and
  - (b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates,—
    - (i) the expiration of five years from the date of the commencement of this section ; or

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (3) Subsection (2) above shall not apply to a planning permission granted before the commencement of this section subject to an express condition that the development to which it relates should be begun, or be completed, or that application for approval of any reserved matter should be made, not later than a specified date or within a specified period.
- (4) Subject to the provisions of this section, where outline planning permission is granted after the commencement of this section for such development as is referred to in subsection (2) above, it shall be granted subject to conditions to the following effect:—
  - (a) that, in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission ; and
  - (b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates,—
    - (i) the expiration of five years from the date of the grant of outline planning permission ; or
    - (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- (5) If after the commencement of this section outline planning permission is granted without the conditions required by subsection (4) above, it shall be deemed to have been granted subject to those conditions.
- (6) The authority concerned with the terms of an outline planning permission may, in applying subsection (4) above, substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as they consider appropriate.
- (7) The said authority may, in applying the said subsection, specify, or direct that there be specified, separate periods under paragraph (a) of the subsection in relation to separate parts of the development to which the planning permission relates ; and, if they do so, the condition required by paragraph (b) of the subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.
- (8) In considering whether to exercise their powers under subsections (6) and (7) above, the said authority shall have regard to the provisions of the development plan and to any other material considerations.

## **67 Provisions supplementary to ss.65 and 66.**

- (1) For the purposes of sections 65 and 66 above, development shall be taken to be begun on the earliest date on which any specified operation (as defined in section 64(3) of the Land Commission Act 1967) comprised in the development begins to be carried out.
- (2) The authority referred to in section 65(2)(b) and section 66(6) above is the local planning authority or the Minister, in the case of planning permission granted by them, and—

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (a) in the case of planning permission granted by an order under section 28 of the principal Act (requirement of discontinuance of use of land or alteration or removal of buildings or works) is the local planning authority making the order or, where the Minister in confirming the order exercises his powers under section 28(5) of that Act, the Minister ;
  - (b) in the case of planning permission under section 41 of the principal Act (grant by direction of a government department) is the department on whose direction planning permission is deemed to be granted.
- (3) For the purposes of section 66(2) and (4) above, a reserved matter shall be treated as finally approved when an application for approval is granted or, in a case where the application is made to the local planning authority and there is an appeal to the Minister against the authority's decision on the application and the Minister grants the approval, on the date of the determination of the appeal.
- (4) Where after the commencement of sections 65 and 66 above a local planning authority grant planning permission, the fact that any of the conditions of the permission are required by this Act to be imposed, or are deemed by this Act to be imposed, shall not prevent the conditions being the subject of an appeal under section 23 of the principal Act against the decision of the authority.
- (5) Section 18(3) of the principal Act (planning permission not to be taken as authorising operations carried out after the time limited in that behalf by the permission) shall not have effect in relation to a planning permission having conditions attached to it by or under section 65(1), (2) or (3) or section 66(2), (4) or (5) above; but in the case of such a planning permission (whether outline or other),—
- (a) development carried out after the date by which the conditions of the permission require it to be carried out shall be treated as not authorised by the permission; and
  - (b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.
- (6) Compensation under Part VI of the principal Act shall not be payable in respect of the application to any planning permission of any of the conditions referred to in sections 65 and 66 of this Act.
- (7) The said conditions shall be disregarded for the purposes—
- (a) of section 123 of the principal Act (compensation for planning decisions restricting development);
  - (b) of section 129 of that Act (right of landowner to serve purchase notice, where he claims that the land has become incapable of reasonably beneficial use on account of the refusal of planning permission or the imposition of conditions); and
  - (c) of section 170 of that Act (compensation of statutory undertakers in respect of certain planning decisions).

## **68 Termination of planning permission by reference to time limit.**

- (1) The following provisions of this section shall have effect where, by virtue of section 65 or 66 above, a planning permission (whether granted before or after the commencement of those sections) is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

and that development has been begun within that period but the period has elapsed without the development having been completed.

- (2) If the local planning authority are of opinion that the development will not be completed within a reasonable period, they may serve a notice (hereafter in this section referred to as a " completion notice ") stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice, being a period of not less than twelve months after the notice takes effect.
- (3) A completion notice—
  - (a) shall be served on the owner and occupier of the land and on any other person who in the opinion of the local planning authority will be affected by the notice; and
  - (b) shall take effect only if and when it is confirmed by the Minister, who may in confirming it substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to to cease to have effect.
- (4) If, within such period as may be specified in a completion notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Minister before confirming the notice shall afford to that person and to the local planning authority an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.
- (5) If a completion notice takes effect, the planning permission therein referred to shall at the expiration of the period specified in the notice, whether the original period specified under subsection (2) above or a longer period substituted by the Minister under subsection (3) above, be invalid except so far as it authorises any development carried out thereunder up to the end of that period.
- (6) The local planning authority may withdraw a completion notice at any time before the expiration of the period specified therein as the period at the expiration of which the planning permission is to cease to have effect; and if they do so they shall forthwith give notice of the withdrawal to every person who was served with the completion notice.

#### *Statutory undertakers*

### **69 New provision as to what is " operational land " of statutory undertakers.**

- (1) Where an interest in land is held by statutory undertakers for the purpose of the carrying on of their undertaking and—
  - (a) the interest was acquired by them after the commencement of this section ; or
  - (b) it was held by them immediately before that commencement, but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the principal Act,then the following subsection shall have effect for the purpose of determining whether the land is to be so treated and shall so have effect notwithstanding the definition of " operational land " in section 221(1) of the principal Act.
- (2) The land shall not be treated as operational land for the purposes of the principal Act unless one or both of the following conditions are satisfied with respect to it, namely—

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (a) there is, or at some time has been, in force with respect to the land a specific planning permission for its development and that development, if carried out, would involve or have involved the use of the land for the purpose of the carrying on of the statutory undertakers' undertaking; or
  - (b) the undertakers' interest in the land was acquired by them as the result of a transfer under provisions of the Transport Act 1968 from other statutory undertakers and the land was, immediately before the transfer, operational land of those other undertakers.
- (3) A specific planning permission for the purpose of subsection (2)(a) above is a planning permission—
- (a) granted on an application in that behalf under Part III of the principal Act or the enactments previously in force and replaced by that Part of that Act; or
  - (b) granted by provisions of a development order granting planning permission generally for development which has received specific parliamentary approval; or
  - (c) granted by a special development order in respect of development specifically described in the order; or
  - (d) deemed to be granted by virtue of a direction of a government department under section 41 of the principal Act or section 35 of the Town and Country Planning Act 1947 ;

and the reference in paragraph (b) of this subsection to development which has received specific parliamentary approval shall be construed as referring to development authorised by a local or private Act of Parliament or by an order approved by both Houses of Parliament or by an order which has been brought into operation in accordance with the provisions of the Statutory Orders (Special Procedure) Act 1945, being an Act or order which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out.

## **70 Planning applications and appeals by statutory undertakers.**

- (1) In the circumstances mentioned in subsection (2) below, section 159(1) of the principal Act (statutory undertakers' planning applications and appeals, if in respect of operational land, to be dealt with by Ministers) shall apply to an application or appeal by statutory undertakers in respect of land which is not operational land as it applies to an application or appeal in respect of land which is.
- (2) The said circumstances are that—
- (a) an interest in the land in question is held by the undertakers with a view to its being used for the purpose of carrying on their undertaking ; or
  - (b) it is land in which they propose to acquire an interest with a view to its being so used,
- and (in either case) the planning permission, if granted on the application or appeal, would be for development involving the use of the land for that purpose.
- (3) The following provisions of the principal Act (being provisions which require certain planning decisions and orders affecting statutory undertakers to be subject to special parliamentary procedure) shall cease to have effect:—
- (a) section 159(2) (decision on planning application in respect of operational land or appeal thereon), except as respects an application for planning permission made before the commencement of this section or an appeal from the decision on an application so made ;

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (b) section 160(1) (decision of a government department refusing, or attaching conditions to, statutory authorisation for development), except as respects a decision made before that commencement;
- (c) section 161(2) (order revoking or modifying planning permission in respect of operational land), except as respects an order of which notice has been given under that subsection before that commencement;
- (d) section 162(2) (order requiring discontinuance of use etc. of operational land), except as respects an order of which notice has been given under that subsection before that commencement;
- (e) section 163(3)(b) (compulsory purchase order with respect to land acquired by statutory undertakers for the purpose of their undertaking), except as respects an order made or confirmed before that commencement; and
- (f) section 165(3) (order extinguishing a right of way or rights of statutory undertakers in respect of apparatus under certain land), except as respects an order made before that commencement.

**71 Restriction on entitlement of statutory undertakers to compensation for adverse planning decisions.**

- (1) Except as provided by subsection (2) below, statutory undertakers shall not be entitled to compensation in respect of a decision mentioned in section 170(1)(a) or (b) of the principal Act (right to compensation in respect of certain decisions and orders) where that decision is made after the commencement of this section.
- (2) Subsection (1) above shall not apply to compensation in respect of a decision made in accordance with section 159 of the principal Act refusing planning permission for the development of operational land, or granting such permission subject to conditions, where—
  - (a) planning permission for that development would have been granted by a development order but for a direction given under such an order that planning permission so granted should not apply to the development; and
  - (b) it is not development which has received specific parliamentary approval (within the meaning given to that expression by section 69(3) of this Act).
- (3) Section 119 of the principal Act (compensation on refusal of planning permission or its grant subject to conditions) shall not apply in relation to planning permission for the development of operational land of statutory undertakers.

**72 Modifications of s.164 of principal Act.**

- (1) Section 164 of the principal Act (power of Minister, local planning authority or statutory undertakers, on acquisition or appropriation of land for development, by service of notice to secure extinguishment of statutory undertakers' rights over the land or the removal of their apparatus) shall be amended in accordance with this section.
- (2) A notice under that section shall not be served by the acquiring or appropriating authority unless they are satisfied that the extinguishment of the statutory undertakers' right or, as the case may be, the removal of their apparatus, is necessary for the purpose of carrying out any development with a view to which the land was acquired or appropriated.
- (3) The period referred to in subsection (1) of the said section (that is to say the period to be specified in a notice under the section as the period at the end of which the statutory

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

undertakers' right will be extinguished or, as the case may be, before the end of which their apparatus shall be removed) shall be a period of not less than twenty-eight days from the date of service of the notice.

**73 Notice for same purposes as s. 164, but given by statutory undertakers to developing authority.**

- (1) Subject to the provisions of this section, where land has been acquired or appropriated as mentioned in section 164(1) of the principal Act, and—
- (a) there is on, under or over the land any apparatus vested in or belonging to statutory undertakers; and
  - (b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development,

the undertakers may serve on the acquiring or appropriating authority a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

- (2) Where, after the land has been acquired or appropriated as aforesaid, development of the land is begun to be carried out, no notice under this section shall be served later than twenty-one days after the beginning of the development.
- (3) Where a notice is served under this section, the authority on whom it is served may, before the end of the period of twenty-eight days from the date of service, serve on the statutory undertakers a counter-notice stating that they object to all or any of the provisions of the notice and specifying the grounds of their objection.
- (4) If no counter-notice is served under subsection (3) above, the statutory undertakers shall, after the end of the period of twenty-eight days therein mentioned, have the rights claimed in their notice.
- (5) If a counter-notice is served under subsection (3) above, the statutory undertakers who served the notice under this section may either withdraw it or may apply to the Minister and the appropriate Minister for an order under this section conferring on the undertakers the rights claimed in the notice or such modified rights as the Minister and the appropriate Minister think it expedient to confer on them.
- (6) Where, by virtue of this section or of an order of Ministers thereunder, statutory undertakers have the right to execute works for the removal or re-siting of apparatus, they may arrange with the acquiring or appropriating authority for the works to be carried out by that authority, under the superintendence of the undertakers, instead of by the undertakers themselves.
- (7) Where works are carried out for the removal or re-siting of statutory undertakers' apparatus, being works which the undertakers have the right to carry out by virtue of this section or an order of Ministers thereunder, the undertakers shall be entitled to compensation from the acquiring or appropriating authority ; and the amount of the compensation shall be an amount calculated in accordance with subsections (2) to (4) of section 171 of the principal Act but reduced, in a case where the authority carry out the works, by the actual cost to the authority of doing so.
- (8) In subsections (2) to (4) of section 171 of the principal Act, as they apply for the purposes of this section, any reference to " the proceeding giving rise to compensation

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

" shall, instead of being construed in accordance with subsection (5) of that section, be construed as a reference to the circumstances making it necessary for the apparatus in question to be removed or re-sited.

### *General planning control*

#### **74 Expansion of building below ground to constitute development.**

Notwithstanding anything in section 12 (2) (a) of the principal Act (carrying out of works for the maintenance, improvement or other alteration of a building not to constitute development if it is wholly internal or does not materially affect the building's external appearance) the carrying out of works for the alteration of any building by providing additional space therein below ground shall, if begun after the commencement of this section, be treated for the purposes of the principal Act as involving development.

#### **75 Modification of transitory exemptions based on pre-1948 use.**

- (1) Section 13(2) of the principal Act (exemption from requirement of planning permission for resumption of normal use before the original appointed day) and section 13(4) of that Act (the same as to resumption of use of land which on that day was unoccupied) shall not have effect as respects any use of land begun or resumed after the commencement of this section.
- (2) In the case of land which on the original appointed day was normally used for one purpose and was also used on occasions for another purpose, section 13(3) of the principal Act (exemption from requirement of planning permission for resumption of previous occasional use) shall, as respects any use of the land for the other purpose after the commencement of this section, apply only if the land has, since the original appointed day, been used for the other purpose on at least one similar occasion before the beginning of 1968.
- (3) In applying section 13(5), (6) and (8) of the principal Act (factors relevant for determining whether planning permission is required for resumption of use following the expiration of a limited planning permission), no account shall be taken of any contravention of previous planning control other than contravention of the provisions of Part III of the Town and Country Planning Act 1947 ; and accordingly—
  - (a) in both section 13(6) and 13(8), for the words " or in contravention of previous planning control " there shall be substituted the words " or in contravention of the provisions of Part III of the Act of 1947 "; and
  - (b) section 13(10) shall cease to have effect.
- (4) Section 13(9) of the principal Act (planning permission not required, where land has been developed without such permission, for a use of the land which would have been lawful apart from the development) shall not apply to any use of land which, by the operation of this section, has become unlawful without planning permission.
- (5) In this section " the original appointed day " means the appointed day for the purposes of the Town and Country Planning Act 1947, that is to say 1st July 1948.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

## **76 Posting of site notice prior to planning application.**

- (1) An application for planning permission for development of any class to which section 15 of the principal Act (certain classes of planning application, prescribed by development order, to be supported by evidence of prior publicity) applies shall not be entertained by the local planning authority unless it is accompanied by one or other of the following certificates, signed by or on behalf of the applicant, that is to say—
  - (a) a certificate stating that he has complied with subsection (2) of this section and when he did so; or
  - (b) a certificate stating that he has been unable to comply with it because he has not such rights of access or other rights in respect of the land as would enable him to do so, but that he has taken such reasonable steps as are open to him (specifying them) to acquire those rights and has been unable to acquire them.
- (2) In order to comply with this subsection a person must—
  - (a) post on the land a notice, in such form as may be prescribed by a development order, stating that the application for planning permission is to be made; and
  - (b) leave the notice in position for not less than seven days; in a period of not more than one month immediately preceding the making of the application to the local planning authority.
- (3) The said notice must be posted by affixing it firmly to some object on the land, and must be sited and displayed in such a way as to be easily visible and legible by members of the public without going on the land.
- (4) The applicant shall not be treated as unable to comply with subsection (2) of this section if the notice is, without any fault or intention of his, removed, obscured or defaced before the seven days referred to in subsection (2) (b) above have elapsed, so long as he has taken reasonable steps for its protection and, if need be, replacement; and, if he has cause to rely on this subsection, his certificate under subsection (1) above shall state the relevant circumstances.
- (5) The notice required by subsection (2) of this section shall (in addition to any other matters required to be contained therein) name a place within the locality where a copy of the application for planning permission, and of all plans and other documents submitted therewith, will be open to inspection by the public at all reasonable hours during such period as may be specified in the notice, not being a period of less than twenty-one days beginning with the date on which the notice is first posted.
- (6) If any person issues a certificate which purports to comply with the requirements of this section and which contains a statement which he knows to be false and misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (7) Any certificate issued for the purpose of this section shall be in such form as may be prescribed by a development order.

## **77 Extension of s.19 of principal Act with respect to development affecting trunk and special roads.**

In section 19(2) of the principal Act (power to provide by a development order for regulating the manner in which applications for planning permission are to be

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

dealt with by local planning authorities and, in particular, for enabling the Minister of Transport to restrict the grant of planning permission for development affecting roads) the reference in paragraph (a) to development falling within subsection (3) of the section shall include, and be deemed always to have included, a reference to development of or affecting land on which the Minister of Transport or, in relation to Wales, the Secretary of State proposes to provide a trunk road or a special road, being a road the route of which is shown as such in the development plan or in the case of which the Minister or Secretary of State (as the case may be) has given to the local planning authority written notice of his intention to provide the road, together with maps or plans sufficient to identify the proposed route of the road.

**78 Local register of planning applications.**

A development order may make provision for the register of planning applications kept by a local planning authority under section 19(4) of the principal Act to be kept in two or more parts, each part containing such information relating to applications for planning permission made to the authority as may be prescribed by the order, and may also make provision—

- (a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted therewith; and
- (b) for the entry relating to any application, and everything relating thereto, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of, without prejudice to the inclusion of any different entry relating thereto in another part of the register.

**79 Reference to Minister of application for approval under outline planning permission.**

The power of the Minister to give directions under section 22 of the principal Act, requiring applications for planning permission to be referred to him instead of being dealt with by the local planning authority, shall be exercisable also in relation to applications for any approval of an authority required under a development order, and references to applications in subsections (2), (3), (5) and (6) of that section shall be construed accordingly.

**80 Unopposed revocation or modification of planning permission.**

- (1) The following provisions shall have effect where the local planning authority have made an order under section 27 of the principal Act (revocation or modification of planning permission) but have not submitted the order to the Minister for confirmation by him, and—
  - (a) the owner and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order ; and
  - (b) it appears to the authority that no claim for compensation is likely to arise under section 118 of the principal Act on account of the order.
- (2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—
  - (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Minister that they wish for an opportunity of appearing

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

before, and being heard by, a person appointed by the Minister for the purpose ; and

- (b) the period (not less than fourteen days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Minister, the order may take effect by virtue of this section and without being confirmed by the Minister.
- (3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(a) above, and the notice shall include a statement of the effect of subsection (7) of this section.
  - (4) The authority shall send a copy of any advertisement published under subsection (2) above to the Minister, not more than three days after the publication.
  - (5) If within the period referred to in subsection (2)(a) above no person claiming to be affected by the order has given notice to the Minister as aforesaid, and the Minister has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in subsection (2) (b) of this section, take effect by virtue of this section and without being confirmed by the Minister as required by section 27(2) of the principal Act.
  - (6) This section does not apply to an order revoking or modifying a planning permission granted or deemed to have been granted by the Minister under Part III or Part IV of the principal Act or under Part II or Part V of this Act; nor does it apply to an order modifying any conditions to which a planning permission is subject by virtue of section 65 or 66 of this Act.
  - (7) No compensation shall be payable under section 118 of the principal Act in respect of an order under section 27 of that Act which takes effect by virtue of this section and without being confirmed by the Minister.

## **81 Procedure in connection with making and confirmation of tree preservation orders.**

- (1) The provisions which may by virtue of subsection (1)(c) of section 29 of the principal Act (tree preservation orders) be applied by such an order in relation to any consent thereunder shall include section 80 of this Act.
- (2) Regulations made by virtue of section 29(5) of the principal Act may (without prejudice to the generality of that subsection) make provision as follows :—
  - (a) that, before a tree preservation order is submitted to the Minister for confirmation, notice of the making of the order shall be given to the owners and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations ;
  - (b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the Minister;
  - (c) that, if no objections or representations are so made, or if any so made are withdrawn, the order, instead of requiring the confirmation of the Minister in accordance with section 29(4) of the principal Act, may be confirmed (but without any modification), as an unopposed order, by the authority who made it; and
  - (d) that copies of the order, when confirmed by the Minister or the authority, shall be served on such persons as may be specified in the regulations.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

## **82 Notice by Minister to planning authority when exercising default powers.**

- (1) The Minister, where he proposes under section 207 of the principal Act (default powers) to make an order—
  - (a) under section 27 of that Act (revocation or modification of planning permission), or under the provisions of that section as applied by any order or regulations made under Part III of that Act; or
  - (b) under section 28 of that Act (discontinuance of specified use of land or alteration or removal of buildings or works),shall serve a notice of the proposal on the local planning authority; and if within such period as may be specified in the notice (not less than twenty-eight days from the date of service) the authority so require, the Minister before making the order shall afford to the authority an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.
- (2) The obligation of the Minister to serve a notice under this section shall be without prejudice to any requirements of Part III of the principal Act, or' regulations made thereunder, having effect by virtue of section 207(3) of that Act (requirements as to notice etc., where Minister acts in place of local planning authority).

### *Control of office development*

## **83 Partial abrogation of dual control of office development.**

- (1) Without prejudice to section 23 of the Industrial Development Act 1966 (restrictions or conditions which may be attached to industrial development certificates issued by the Board of Trade under section 38 of the principal Act) the conditions which the Board of Trade may under that section attach to an industrial development certificate shall include conditions restricting the amount of office floor space to be contained in any building which is the subject of the development, or precluding it from containing any office floor space; and the conditions may be framed so as to apply (either or both) to the building as originally erected or as subsequently extended or altered.
- (2) Notwithstanding section 5(1) of the Control of Office and Industrial Development Act 1965 (of which the effect is that an industrial development certificate under section 38 of the principal Act as well as an office development permit under section 1(3) of the said Act of 1965 is required in support of an application for planning permission for development which is not only industrial but involves the provision of office premises), compliance with the said section 1(3) shall not be required in respect of an application for planning permission for industrial development to which this section applies, where there has been issued by the Board of Trade and furnished to the local planning authority with the application a copy of an industrial development certificate with conditions attached thereto by virtue of subsection (1) above.
- (3) The said Act of 1965 is hereafter in this Act referred to as " the Act of 1965
- (4) In this section, " industrial development " means the development of land in any manner specified in section 38(1) of the principal Act (requirement of Board of Trade industrial development certificate to support application for planning permission for development involving provision of industrial building or change in the use of premises so that a building becomes industrial); and this section applies to industrial development only if there will result therefrom no office premises except such as are comprised within the curtilage of an industrial building and are used or designed for

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

use for providing services or facilities ancillary to the use of other premises in the same building or curtilage.

- (5) Development in respect of which there has been issued by the Board of Trade an industrial development certificate with conditions attached thereto by virtue of subsection (1) of this section shall be treated as not included in any reference to " related development " in section 2 of the Act of 1965 (which makes an office development permit unnecessary if the amount of office floor space to be created is below the prescribed exemption limit, but for this purpose requires that space to be aggregated with office floor space created, or to be created, in the course of other development affecting the same building or site).

#### **84 Modifications of section 7 of 1965 Act.**

- (1) Section 7 of the Act of 1965 (attachment to certain planning permissions of conditions restricting office floor space, where the permission can be granted without an office development permit) shall not apply to a planning permission granted after the commencement of this section for the erection of a building on any land, unless it is in an area to which Part I of that Act applied at the time when the application for the planning permission was made.
- (2) Section 7 of the Act of 1965 shall not apply to a planning permission granted after the said commencement for the erection of a building with a floor space less than twice the prescribed exemption limit; nor shall it apply to a planning permission so granted for the erection of a building (of whatever floor space) which is wholly residential.
- (3) Section 7 of the Act of 1965 shall not apply to a planning permission which is subject to conditions by virtue of section 23(5) or (6) of the Industrial Development Act 1966 (attachment to planning permission of conditions subject to which an industrial development certificate was issued by the Board of Trade) and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.

#### **85 Restriction on creation of office premises in building altered or extended.**

- (1) The provisions of this section shall, subject to subsection (4) below, have effect with respect to a planning permission granted after the commencement of this section for the alteration or extension of a building in an area to which Part I of the Act of 1965 applies at the time of the grant and also applied when the application for planning permission was made, but shall have effect only in the case of a building erected under a planning permission granted after the said commencement.
- (2) If the case is the following, that is to say:—
- (a) either the erection of the building was not development to which Part I of the Act of 1965 applied or it was so but no office development permit was required therefor; and
  - (b) either the proposed alteration or extension is not development to which the said Part I applies or it is so but no office development permit is required therefor ; and
  - (c) there will result from the proposed alteration or extension a building with an aggregate floor space of twice, or more than twice, the prescribed exemption limit,

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

the planning permission for the alteration or extension shall be granted subject to the condition specified in subsection (3) of this section (in addition to any other conditions imposed by the authority granting the permission).

- (3) The said condition is that the use of the building as altered or extended, or as subsequently further altered or extended, shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate office floor space which exceeds the prescribed exemption limit.
- (4) In the following two cases this section shall not apply:—
  - (a) where the planning permission is in respect of a building which, after its alteration or extension, will be wholly residential; and
  - (b) where the planning permission is subject to conditions by virtue of section 23(5) or (6) of the Industrial Development Act 1966 and those conditions either restrict the office floor space which the building as extended or altered may contain or preclude it from containing any office floor space.

## **86 Corresponding restriction on planning permission for erection of several buildings.**

- (1) The provisions of this section shall have effect with respect to a planning permission granted after the commencement of this section for development involving the erection of two or more buildings in an area to which Part I of the Act of 1965 applies at the time of the grant and also applied when the application for planning permission was made, except in a case where all the buildings are exempt from this section.
- (2) Any one of the said buildings shall be exempt from this section if—
  - (a) it is wholly residential; or
  - (b) the planning permission is subject to conditions by virtue of section 23(5) or (6) of the Industrial Development Act 1966 and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.
- (3) If the aggregate floor space of the buildings proposed to be erected (leaving out of account any which are exempt from this section) is twice, or more than twice, the prescribed exemption limit and either the erection of the buildings is not development to which Part I of the Act of 1965 applies or it is so, but no office development permit is required therefor, the planning permission shall be granted subject to the condition specified in subsection (4) below (in addition to any other conditions imposed by the authority granting the permission).
- (4) The said condition is that the use of each one of the buildings (excluding any which are exempt from this section) shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate floor space which exceeds the limit for that building specified in the condition, which limit shall (subject to subsection (5) below) be a floor space bearing such proportion to the building's total floor space as the prescribed exemption limit bears to the aggregate floor space of all the buildings (excluding any which are exempt from this section) for whose erection the planning permission is granted.
- (5) The authority granting the planning permission may in doing so specify in the said condition, as it applies to any building, a limit different from the one provided by

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

subsection (4) above, but not so that the total of the limits for all the buildings to which the condition applies exceeds the prescribed exemption limit.

- (6) If after the grant of the planning permission a further application for planning permission is made in respect of all or any of the buildings to which the condition specified in subsection (4) of this section applies, and the further application involves a departure from the terms of the said condition as applying to any building, the application shall be subject to section 1(3) of the Act of 1965 (requirement of office development permit) notwithstanding any provision of that Act exempting development from the requirements of that section in particular cases.

## **87 Provisions supplementary to ss. 83 to 86.**

- (1) A planning permission with respect to which section 85 or 86 above has effect shall not be invalid by reason only that the requirements of section 85(2) or 86(3), as the case may be, are not complied with; but in that case the planning permission shall be deemed to have been granted subject to the condition specified in section 85(3) or 86(4), as the case may be, or (if any other conditions are imposed by the authority granting the permission) to have been granted subject to the condition so specified in addition to the other conditions ; and references in those sections to a condition imposed thereunder shall be construed accordingly as including references to a condition deemed to be imposed.
- (2) In sections 83 to 86 of this Act—
- (a) " industrial building " has the meaning given to it by section 21 of the Local Employment Act 1960, as amended by section 25 of the Industrial Development Act 1966;
  - (b) " office development permit ", " office premises " and " office floor space " have the same meanings as they have for the purposes of the Act of 1965 ;
  - (c) " the prescribed exemption limit ", in relation to a planning permission, has the meaning given to it by section 7(5) of the Act of 1965 in relation to planning permission granted as mentioned in subsection (1)(b) of that section (restrictions on office development to be attached to planning permission not requiring office development permit); and
  - (d) " wholly residential " in relation to a building, means for use exclusively as a dwelling-house or comprising only units of accommodation for such use.

## **88 Transfer of Minister's functions in relation to Location of Offices Bureau.**

- (1) The functions of the Minister under the Location of Offices Bureau Order 1963 (which was made under powers conferred by section 8 of the Minister of Town and Country Planning Act 1943 to set up commissions to assist the Minister in the exercise of his functions in relation to the use and development of land) are hereby transferred to the Board of Trade.
- (2) The Location of Offices Bureau shall, in discharging its functions, comply with such directions of a general character as may be given by the Board of Trade.
- (3) In the said Order of 1963—
- (a) Article 2(1) shall not have effect except so far as it provides for the Bureau to be a body corporate having perpetual succession and a common seal;
  - (b) Article 3(2) (duty to comply with the directions of the Minister) shall cease to have effect; and

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (c) for references to the Minister there shall be substituted references to the Board of Trade ;
- and the power conferred by section 10 of the Minister of Town and Country Planning Act 1943 to vary or revoke an Order in Council made under the Act shall, as respects the said Order of 1963, be exercisable as if references in section 8 of the Act to the purpose of assisting the Minister in the exercise of his functions in relation to the use and development of land in England and Wales were references to that of assisting the Board of Trade in connection with their functions under the Act of 1965, and other references in that section to the Minister were references to the Board.
- (4) This section shall not affect the validity of anything done by or in relation to the Minister before the coming into force of this section ; and—
- (a) anything which at the commencement of this section is in process of being done by or in relation to the Minister for the purposes of the said Order of 1963 may be continued by or in relation to the Board of Trade;
- (b) any appointment made, direction given or other thing done by the Minister under or for the purposes of that Order shall, if in force at the commencement of this section, continue in force and have effect as if similarly made, given or done by the Board.

*Stopping-up and diversion of highways*

**89 Transfer of Ministerial functions as to stopping-up etc. of footpaths and bridleways.**

- (1) Section 153 of the principal Act (power of Minister of Transport to make orders authorising the stopping-up or diversion of highways in order to enable development to be carried out) shall be amended in accordance with this section.
- (2) The power conferred on the Minister of Transport by section 153(1) of the principal Act to make an order authorising the stopping-up or diversion of a highway, where he is satisfied that it is necessary to do so in order to enable development to be carried out as mentioned in that subsection, shall, in the case of a footpath or bridleway, be exercisable also by the Minister of Housing and Local Government where that Minister is so satisfied; and the Minister of Transport shall not make an order under that subsection in the case of a footpath or bridleway unless, at the time when he first publishes notice of the order in accordance with section 154(1) of the principal Act, it appears to him to be necessary for the said purpose also to authorise the stopping-up or diversion of some other highway, not being a footpath or bridleway.
- (3) Subsection (2) of the said section 153 shall not apply to an order made thereunder by the Minister of Housing and Local Government; but an order so made may make such provision as appears to the Minister to be necessary or expedient for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped-up or diverted, or for the improvement of an existing highway for such use.
- (4) In relation to an order made by the Minister of Housing and Local Government under section 153 of the principal Act, subsection (3) of that section and section 154 of the Act (procedure and publicity for orders under section 153) shall apply with the substitution of references to that Minister for references to the Minister of Transport; and in subsections (4) and (5) of section 153 references to the latter shall be construed as including references to the former.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (5) In section 32 of the Mineral Workings Act 1951 (power of Minister of Transport to make temporary stopping-up or diversion order in connection with surface working of minerals),—
- (a) in subsection (1), after the words " Minister of Transport " there shall be inserted the words " or the Minister of Housing and Local Government "; and
  - (b) in subsection (2), after the words " Minister of Transport " there shall be inserted the words " or the Minister of Housing and Local Government, as the case may be ".
- (6) In this Act, " footpath " and " bridleway " have the same meanings as in the Highways Act 1959.
- (7) Nothing in this section applies to or affects an order made by the Minister of Transport before the commencement of this section, or an order with respect to which he has, before that commencement, published in the London Gazette the notice required by section 154(1) of the principal Act.
- (8) This section shall not apply to Wales.

## **90 Procedure for making orders for stopping-up and diverting highways.**

- (1) Where the responsible Minister would, if planning permission for any development had been granted under Part III of the principal Act, have power to make an order under section 153(1) of that Act authorising the stopping-up or diversion of a highway in order to enable that development to be carried out, then, notwithstanding that such permission has not been granted, that Minister may, in the circumstances specified in subsections (2) to (4) below, publish notice of the draft of such an order in accordance with section 154 of that Act (procedure in relation to orders under section 153).
- (2) The responsible Minister may publish such a notice as aforesaid where the relevant development is the subject of an application for planning permission and either—
  - (a) that application is made by a local authority or statutory undertakers or the National Coal Board; or
  - (b) that application stands referred to the Minister of Housing and Local Government or the Secretary of State in pursuance of a direction under section 22 of the principal Act; or
  - (c) the applicant has appealed to the Minister of Housing and Local Government or the Secretary of State under section 23 of that Act against a refusal of planning permission or of approval required under a development order, or against a condition of any such permission or approval.
- (3) The responsible Minister may publish such a notice as aforesaid where—
  - (a) the relevant development is to be carried out by a local authority, statutory undertakers or the National Coal Board and requires, by virtue of an enactment, the authorisation of a government department; and
  - (b) the developers have made application to the department for that authorisation and also requested a direction under section 41 of the principal Act or, in the case of the National Coal Board, under section 2 of the Opencast Coal Act 1958, that planning permission be deemed to be granted for that development.
- (4) The responsible Minister may publish such a notice as aforesaid where the council of a county or county borough, the Greater London Council, the council of a London borough, a joint planning board, or the Inner London Education Authority certify that

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

they have begun to take such steps, in accordance with regulations made by virtue of section 42 of the principal Act (application of planning control to local planning authorities), as are requisite in order to enable them to obtain planning permission for the relevant development.

- (5) Section 154(4) of that Act (power of responsible Minister to make an order under section 153 after considering any relevant objections and report) shall not be construed as authorising the responsible Minister to make an order under section 153(1) of that Act of which notice has been published by virtue of subsection (1) above until planning permission is granted for the development which occasions the making of the order.
- (6) In this section " the responsible Minister " means, except in relation to Wales,—
- (a) in relation to an order authorising the stopping-up or diversion of a footpath or bridleway only, the Minister of Housing and Local Government; and
  - (b) otherwise the Minister of Transport;
- and, in relation to Wales, means the Secretary of State.

## **91 New powers to authorise stopping-up and diversion of highways.**

- (1) If planning permission is granted under Part III of the principal Act for constructing or improving, or the responsible Minister proposes to construct or improve, a highway (hereafter in this section referred to as " the main highway "), that Minister may by order authorise the stopping-up or diversion of any other highway which crosses or enters the route of the main highway or which is, or will be, otherwise affected by the construction or improvement of the main highway, if it appears to that Minister expedient to do so—
- (a) in the interests of the safety of users of the main highway ; or
  - (b) to facilitate the movement of traffic on the main highway.
- (2) In this section, " the responsible Minister " means, except in relation to Wales, the Minister of Transport and, in relation to Wales, the Secretary of State.
- (3) Sections 153(2) to (5), 154, 156, 157 and 158 of the principal Act (ancillary provisions, provisions as to compulsory acquisition of land in connection with highways and provisions as to telegraphic lines) and section 90 above shall apply in relation to an order under this section as they apply in relation to an order made by the Minister of Transport under section 153(1) of that Act with the substitution in the said sections of the principal Act for references to that Minister and the said section 153(1) of references to the responsible Minister (as defined by subsection (2) above) and this section.
- (4) In section 32(3) of the Mineral Workings Act 1951 (rights of statutory undertakers in respect of their apparatus where order made under section 153 of principal Act), after the reference to the said section 153 there shall be inserted an alternative reference to this section.

## **92 Conversion of highway into footpath or bridleway.**

- (1) The provisions of this section shall have effect where a local planning authority by resolution adopt a proposal for improving the amenity of part of their area, being a proposal which involves a highway in that area (being a highway over which the public have a right of way with vehicles, but not a trunk road or a road classified as a principal

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

road for the purposes of advances under section 235 of the Highways Act 1959) being changed to a footpath or bridleway.

- (2) The responsible Minister may, on an application made by the local planning authority after consultation with the highway authority (if different), by order provide for the extinguishment of any right which persons may have to use vehicles on that highway.
- (3) An order made under subsection (2) of this section may include such provision as the responsible Minister (after consultation with the highway authority) thinks fit for permitting the use on the highway of vehicles (whether mechanically propelled or not) in such cases as may be specified in the order, notwithstanding the extinguishment of any such right as is mentioned in that subsection; and any such provision may be framed by reference to particular descriptions of vehicles, or to particular persons by whom, or on whose authority, vehicles may be used, or to the circumstances in which, or the times at which, vehicles may be used for particular purposes.
- (4) No statutory provision prohibiting or restricting the use of footpaths, footways or bridleways shall affect any use of a vehicle on a highway in relation to which an order made under subsection (2) above has effect, where the use is permitted in accordance with provisions of the order included by virtue of subsection (3) above.
- (5) Any person who, at the time of an order under subsection (2) of this section coming into force, has an interest in land having lawful access to a highway to which the order relates shall be entitled to be compensated by the local planning authority in respect of any depreciation in the value of his interest which is directly attributable to the order and of any other loss or damage which is so attributable.

In this subsection " lawful access " means access authorised by planning permission granted under the principal Act or the Town and Country Planning Act 1947, or access in respect of which no such permission is necessary.

- (6) A claim for compensation under subsection (5) above shall be made to the local planning authority within the time and in the manner prescribed by regulations under the principal Act.
- (7) Sections 153(2), (3) and (5), 154, 156, 157 and 158 of the principal Act (provisions ancillary to section 153(1), provisions as to compulsory acquisition of land in connection with highways, and provisions as to telegraphic lines) shall apply in relation to an order under this section, as they apply in relation to an order under section 153(1) of that Act, with the substitution for references to the Minister of Transport and that section of references to the responsible Minister and this section.
- (8) The responsible Minister may, on an application made by the local planning authority after consultation with the highway authority (if different) by order revoke an order made by him in relation to a highway under subsection (2) above ; and the effect of the order shall be to reinstate any right to use vehicles on the highway, being a right which was extinguished by virtue of the order under the said subsection.
- (9) Subsection (8) above shall not be taken as prejudicing any provision of the principal Act enabling orders to be varied or revoked.
- (10) In this section—
  - (a) " the responsible Minister " means, except in relation to Wales, the Minister of Transport and, in relation to Wales, the Secretary of State ; and
  - (b) " statutory provision " means a provision contained in, or having effect under, any enactment.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

### **93 Provision of amenity for highway reserved to pedestrians.**

- (1) Where in relation to a highway an order has been made under subsection (2) of section 92 of this Act, a competent authority may carry out and maintain any such works on or in the highway, or place on or in it any such objects or structures, as appear to them to be expedient for the purposes of giving effect to the order or of enhancing the amenity of the highway and its immediate surroundings or to be otherwise desirable for a purpose beneficial to the public.
- (2) The powers exercisable by a competent authority under this section shall extend to laying out any part of the highway with lawns, trees, shrubs and flower-beds and to providing facilities for recreation or refreshment.
- (3) A competent authority may so exercise their powers under this section as to restrict the access of the public to any part of the highway, but shall not so exercise them as—
  - (a) to prevent persons from entering the highway at any place where they could enter it before the order under section 92 was made ; or
  - (b) to prevent the passage of the public along the highway; or
  - (c) to prevent normal access by pedestrians to premises adjoining the highway ; or
  - (d) to prevent any use of vehicles which is permitted by an order made under the said section 92 and applying to the highway; or
  - (e) to prevent statutory undertakers from having access to any works of theirs under, in, on, over, along or across the highway.
- (4) An order under subsection (8) of the said section 92 may make provision requiring the removal of any obstruction of the highway resulting from the exercise by a competent authority of their powers under this section.
- (5) The competent authorities for the purposes of this section are—
  - (a) the councils of counties, county boroughs and county districts; and
  - (b) in Greater London, the Greater London Council and the councils of London boroughs ;but such an authority shall not exercise any powers conferred by this section unless they have obtained the consent of the local planning authority and the highway authority (in a case where they are themselves not that authority).

### **94 Powers for local authorities analogous to s.153 of principal Act.**

- (1) Subject to section 96 below, a competent authority may by order authorise the stopping-up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out—
  - (a) in accordance with planning permission granted under Part III of the principal Act or the enactments replaced by that Part of the Act; or
  - (b) by a government department.
- (2) The competent authorities for the purposes of this section are—
  - (a) the local planning authority ; and
  - (b) in relation to development for which planning permission was granted by another authority to whom had been delegated the power of granting it, that other authority.
- (3) An order under this section may, if the competent authority are satisfied that it should do so, provide—

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
  - (b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping-up or diversion, creation or improvement, provision is made by the order ;
  - (c) for the preservation of any rights of statutory undertakers in respect of apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway ;
  - (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.
- (4) The powers of a competent authority under this section shall include power to make an order authorising the stopping-up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.
- (5) Section 32(1) and (2) of the Mineral Workings Act 1951 (power of Ministers to make temporary order for stopping-up or diversion of highway in connection with working of surface minerals) shall apply to an order made by a competent authority under this section as it applies to an order made by a Minister under section 153 of the principal Act, with the substitution—
- (a) for references to Ministers, of references to a competent authority for the purposes of this section; and
  - (b) for the reference in subsection (2) to section 153(3) of the principal Act, of a reference to subsection (3) of this section.

## **95 Extinguishment of footpaths etc. over land held for planning purposes.**

- (1) Subject to section 96 below, where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, the authority may by order extinguish any public right of way over the land, being a footpath or bridleway, if they are satisfied that an alternative right of way has been or will be provided, or that the provision of an alternative right of way is not required.
- (2) Any reference in subsection (1) above to the acquisition of land for planning purposes is a reference to the acquisition thereof under section 68 or 71 of the principal Act or section 28 of this Act; and any reference to the appropriation of land for planning purposes is a reference to the appropriation thereof for purposes for which land can, or could have been, acquired under those sections.

## **96 Confirmation, validity, etc. of orders under ss.94 and 95.**

- (1) An order under section 94 or 95 of this Act shall not take effect unless confirmed by the Minister, or unless confirmed, as an unopposed order, by the authority who made it.
- (2) The Minister shall not confirm any such order unless satisfied as to every matter of which the authority making the order are required under section 94 or 95 (as the case may be) to be satisfied.
- (3) The time specified—
- (a) in an order under section 94 above as the time from which a footpath or bridleway is to be stopped up or diverted; or

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (b) in an order under section 95 above as the time from which a right of way is to be extinguished,  
shall not be earlier than confirmation of the order.
- (4) Schedule 7 to this Act shall have effect with respect to the confirmation of orders under section 94 or 95 of this Act and the publicity for such orders after they are confirmed.

**97 Miscellaneous amendments of Part IX of principal Act.**

- (1) It is hereby declared for the avoidance of doubt that the incidental and consequential provisions which may be included in an order under section 153 of the principal Act or section 91 or 92 above by virtue of section 153(3) of that Act shall include provisions providing for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the highway to which the order relates.
- (2) In section 154(1)(b) and (3) of the principal Act (periods for inspecting and objecting to a draft order under section 153) for the words " three months " there shall be substituted the words " twenty-eight days ".
- (3) Subsections (2) to (5) of section 290 of the Local Government Act 1933 (evidence and costs at local inquiries) shall apply in relation to an inquiry caused to be held by any Minister of the Crown under the said section 154(3) as they apply in relation to an inquiry caused to be held by a department under subsection (1) of the said section 290, with the substitution for the references to a department of references to that Minister.

*Exchequer and Treasury matters*

**98 Grants for research, etc.**

The Minister may, with the consent of the Treasury, make grants for assisting establishments engaged in promoting or assisting research relating to, and education with respect to, the planning and design of the physical environment.

**99 Exchequer contributions in connection with town development.**

In section 2(2) of the Town Development Act 1952 (Exchequer contributions towards specified expenses incurred by the council of a county district in connection with town development), after paragraph (c) there shall be inserted the following paragraph:—

“(cc) expenses of providing buildings and other works for social, cultural or recreational purposes”.

**100 Agreements of Crown Estate Commissioners.**

An agreement made by the Crown Estate Commissioners under section 200 of the principal Act (whereby a government department may agree with local planning authorities to secure the use of Crown land in conformity with the development plan) shall not require the approval of the Treasury; and accordingly in subsection (2) of that section the words " the Crown Estate Commissioners or by " shall cease to have effect.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

### *Punishment of offences*

#### **101 Increase of certain penalties under principal Act.**

In the sections of the principal Act specified in Schedule 8 to this Act the amendments shown in that Schedule shall be made (being amendments to increase the penalties to which persons may be subject under those sections and in certain cases to provide for punishment on indictment as well as summarily).

#### **102 Offences by corporations.**

- (1) Where an offence under the principal Act or this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.
- (2) In subsection (1) above the expression "director", in relation to any body corporate established by or under an enactment for the purpose of carrying on under national ownership an industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.