



Town and Country Planning (Scotland) Act 1972

1972 CHAPTER 52

PART XV

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

260 Default powers of Secretary of State

- (1) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that any order to which this subsection applies should be made, he may give directions to the local planning authority requiring them to submit to him such an order for his confirmation, or may himself make such an order; and any order so made by the Secretary of State shall have the like effect as if it had been made by the local planning authority and confirmed by the Secretary of State under Part III or IV of this Act.
- (2) Subsection (1) of this section applies to the following orders, that is to say—
 - (a) orders under section 42 of this Act, or under the provisions of that section as applied by any order or regulations made under Part IV of this Act;
 - (b) orders under section 49 of this Act;
 - (c) tree preservation orders and orders amending or revoking them.
- (3) The provisions of Part III or Part IV of this Act, and of any regulations made thereunder, with respect to the procedure to be followed in connection with the submission by the local planning authority of any order to which subsection (1) of this section applies, with respect to the confirmation of such an order by the Secretary of State, and with respect to the service of copies thereof as so confirmed, shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order by virtue of subsection (1) of this section, in relation to the making thereof by the Secretary of State, and in relation to the service of copies thereof as so made.

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(4) Without prejudice to subsection (3) of this section, where the Secretary of State proposes under subsection (1) of this section to make any such order as is mentioned in subsection (2) (a) or (b) of this section he 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 being less than twenty-eight days from the date of service) the authority so require, the Secretary of State 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.

(5) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that—

- (a) a completion notice under section 41 of this Act; or
- (b) a notice under section 63 of this Act; or
- (c) an enforcement notice under section 84 of this Act, or under the provisions of that section as applied by regulations under section 61 of this Act; or
- (d) a stop notice under section 87 of this Act; or
- (e) a listed building enforcement notice,

should be served in respect of any land, he may give directions to the local planning authority requiring them to serve such a notice, or may himself serve such a notice; and any notice so served by the Secretary of State shall have the like effect as a notice served by the local planning authority:

Provided that, in relation to an enforcement notice under section 84 of this Act or a listed building enforcement notice which is served by the Secretary of State, the provisions of sections 86, 88 and 89, or, as the case may be, of sections 94 and 95 of this Act shall apply as if for any reference therein to the local planning authority there were substituted a reference to the Secretary of State.

(6) If the Secretary of State is satisfied, after holding a local inquiry—

- (a) that the council of a county or a burgh have failed to take steps for the acquisition of any land which, in the opinion of the Secretary of State, ought to be acquired by that council under section 102 of this Act for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated; or
- (b) that a local planning authority have failed to carry out, on land acquired by them under section 35 of the Act of 1947 or section 102 of this Act or appropriated by them under section 111 of this Act, any development which, in the opinion of the Secretary of State, ought to be carried out,

the Secretary of State may by order require the council or authority to take such steps as may be specified in the order for acquiring the land, or carrying out the development, as the case may be.

(7) Any order under subsection (6) of this section shall be enforceable, on the application of the Secretary of State, by proceedings under section 91 of the Court of Session Act 1868.

261 Power to transfer planning functions of town councils of small burghs to county councils

(1) If at any time the Secretary of State considers it expedient in the public interest that the functions under this Act of a local planning authority being the town council of a small burgh should be transferred to the county council of the county within which

that burgh is situated, he may by order transfer those functions to the county council, and where any such functions are so transferred any reference in this Act to the local planning authority shall in relation to the district of the small burgh be construed as a reference to the county council.

- (2) An order under the foregoing subsection may make provision for such incidental and consequential matters as the Secretary of State may think fit, including the transfer to the county council of officers, property, rights and liabilities of the town council and the compensation of officers.

262 Designation of conservation areas

- (1) Every local planning authority shall from time to time determine which parts of their district are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and shall designate such areas as conservation areas.
- (2) The Secretary of State may, after consultation with a local planning authority, give to that authority such directions as he thinks necessary with respect to the exercise of their functions under subsection (1) of this section; and it shall be the duty of the authority to comply with any such directions.
- (3) Before making a determination under this section, a local planning authority shall consult with the local planning authority of each district of which any part is included in the area to which the proposed determination relates.
- (4) The local planning authority shall give notice to the Secretary of State of the designation of any conservation area, and of any variation or cancellation of any such designation, with sufficient particulars to identify the area affected, and shall cause the like notice to be published in the Edinburgh Gazette and in at least one newspaper circulating in the district of the local planning authority.
- (5) Where any area is for the time being designated as a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance in the exercise, with respect to any buildings or other land in that area, of any powers under this Act, Part I of the Historic Buildings and Ancient Monuments Act 1953 or the Local Authorities (Historic Buildings) Act 1962.

263 Assumptions as to planning permission in determining value of interests in land

- (1) In any case where the value or depreciation in value of an interest in land falls to be determined on the assumption that planning permission would be granted for development of any class specified in Schedule 6 to this Act, it shall be further assumed, as regards development of any class specified in paragraph 1 or 3 of that Schedule, that such permission would be granted subject to the condition set out in Schedule 16 to this Act.
- (2) In the application of the said Schedule 6 for the purposes of any determination to which subsection (1) of this section applies—
 - (a) paragraph 3 of that Schedule shall be construed as not extending to works involving any increase in the cubic content of a building erected after the appointed day (including any building resulting from the carrying out of such works as are described in paragraph 1 of that Schedule); and
 - (b) paragraph 8 of that Schedule shall not apply to any such building.

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- (3) For the purposes of subsections (1) and (2) of this section, so far as applicable to any determination of existing use value as defined in section 176(5) of this Act, references to Schedule 6 to this Act, and to paragraphs 1, 3 and 8 of that Schedule, shall be construed as references to Schedule 3 to the Act of 1947 and to the corresponding paragraphs of that Schedule; and that Schedule shall have effect as if it contained a paragraph corresponding to paragraph 14 of Schedule 6 to this Act.
- (4) Except as provided in section 157(4) of this Act, nothing in the preceding provisions of this section or in paragraph 14 of Schedule 6 affects the meaning of " new development" in this Act or any determination to be made for the purpose of Part VII of this Act.
- (5) For the avoidance of doubt it is hereby declared that where, under any provision of this Act, the value of an interest in land is required to be assessed on the assumption that planning permission would be granted for development of any class specified in Schedule 6 to this Act, that assumption is to be made on the footing that any such development must comply with the provisions of any enactment, other than this Act, which would be applicable to it.

264 Recovery, on subsequent development, of payments in respect of war-damaged land

- (1) In relation to notices recorded under section 58 of the Act of 1954 (which provided for the recording of notices of payments made under section 56 of the Act of 1947) the provisions of sections 148 and 149 of this Act shall have effect (subject to the following provisions of this section) as they have effect in relation to notices recorded under section 147 of this Act.
- (2) The said provisions shall have effect as mentioned in subsection (1) of this section, but as if—
 - (a) any reference therein to the compensation specified in a notice were a reference to the payment so specified; and
 - (b) section 148 of this Act applied to every description of new development.
- (3) No amount shall be recoverable by the Secretary of State by virtue of this section in respect of any land in relation to which an amount has become recoverable under section 245 of this Act.
- (4) Subsection (5) of section 245 of this Act shall apply for the purposes of this section as it applies for the purposes of that section.

265 Rights of entry

- (1) Any person duly authorised in writing by the Secretary of State or by a local planning authority may at any reasonable time enter upon any land for the purpose of surveying it in connection with—
 - (a) the preparation, approval, adoption, making or amendment of a structure plan or local plan relating to the land under Part II of this Act, including the carrying out of any survey under that Part;
 - (b) any application under Part III or section 60 or 63 of this Act, or under any order or regulations made thereunder, for any permission, consent or determination to be given or made in connection with that land or any other land under Part III or either of those sections of this Act or under any such order or regulations;

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- (c) any proposal by the local planning authority or by the Secretary of State to make or serve any order or notice under Part III (other than section 44), Part IV or Part V of this Act, or under any order or regulations made thereunder or any notice under section 105 of this Act
- (2) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter upon any land for the purpose of surveying any building thereon in connection with a proposal to include the building in, or exclude it from, a list compiled or approved under section 52 of this Act.
- (3) Any person duly authorised in writing by the Secretary of State or a local planning authority may at any reasonable time enter upon any land for the purpose of ascertaining whether, with respect to any building on the land, an offence has been, or is being, committed under section 53 or 94 of, or Schedule 10 to, this Act, or whether the building is being maintained in a proper state of repair.
- (4) Any person duly authorised in writing by the Secretary of State, a local planning authority or a local authority may at any reasonable time enter upon any land for the purpose of ascertaining whether—
 - (a) an offence appears to have been committed under section 55 of this Act; or
 - (b) any of the functions conferred by section 97 or 99 of this Act should or may be exercised in connection with the land,or for the purpose of exercising any of those functions in connection with the land.
- (5) Any person, being an officer of the Valuation Office or a person duly authorised in writing by the Secretary of State, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation under Part VII of this Act in respect of that land or any other land.
- (6) Any person, being an officer of the Valuation Office or a person duly authorised in writing by a local planning authority, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of that land or any other land, being compensation payable by the local planning authority under Part VIII of this Act (other than section 164), under section 201(5) of this Act or under Part XI of this Act (other than section 226(2) or 227(1)(c)).
- (7) Any person, being an officer of the Valuation Office or a person duly authorised in writing by a local authority or Minister authorised to acquire land under section 102 or 103 of this Act, and any person duly authorised in writing by a local authority having power to acquire land under Part VI of this Act, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land, or in connection with any claim for compensation in respect of any such acquisition.
- (8) Subject to the provisions of section 266 of this Act, any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein.

266 Supplementary provisions as to rights of entry

- (1) A person authorised, under section 265 of this Act to enter upon any land shall, if so required, produce evidence of his authority before so entering, and shall not demand

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admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

- (2) Any person who wilfully obstructs a person acting in the exercise of his powers under section 265 of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20.
- (3) If any person who, in compliance with the provisions of section 265 of this Act, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or a fine, or both.
- (4) Where any land is damaged in the exercise of a right of entry conferred under section 265 of this Act, or in the making of any survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from the Secretary of State or authority on whose behalf the entry was effected.
- (5) The provisions of section 168 of this Act shall apply in relation to compensation under subsection (4) of this section as they apply in relation to compensation under Part VIII of this Act.
- (6) Where under section 265 of this Act a person proposes to carry out any works authorised by virtue of subsection (8) of that section—
 - (a) he shall not carry out those works unless notice of his intention to do so was included in the notice required by subsection (1) of this section; and
 - (b) if the land in question is held by statutory undertakers, and those undertakers object to the proposed works on the grounds that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the appropriate Minister.

267 Local inquiries

- (1) Subject to the provisions of this section, the Minister may cause a local inquiry to be held for the purposes of the exercise of any of his functions under any of the provisions of this Act.
- (2) The Minister shall appoint a person to hold the inquiry and to report thereon to him.
- (3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has lodged and has not withdrawn objections in relation to any matter in question at the inquiry, and shall be published in such newspaper or newspapers as the Minister may direct.
- (4) The person appointed to hold the inquiry may, on the motion of any party thereto or of his own motion, serve a notice in writing on any person requiring him to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry:

Provided that—

- (i) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him; and
 - (ii) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.
- (5) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.
- (6) Any person who refuses or wilfully neglects to attend in obedience to a notice under subsection (4) of this section or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which he may be required to produce by any such notice shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months.
- (7) The Minister may make orders as to the expenses incurred by the Minister in relation to the inquiry (including such reasonable sum as the Minister may determine for the services of the person appointed to hold the inquiry) and as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.
- (8) Any order of the Minister under subsection (7) of this section requiring any party to pay expenses may be enforced in like manner as a recorded decree arbitral.
- (9) In this section the expression "Minister" means the Secretary of State, or any other Minister authorised under this Act to hold a local inquiry.

268 Inquiries under Private Legislation Procedure (Scotland) Act 1936

- (1) Where the Ministers concerned so direct—
- (a) any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure, and
 - (b) any hearing in connection with—
 - (i) an appeal against the refusal, or the grant, subject to conditions, of an application by statutory undertakers for planning permission to develop operational land, or
 - (ii) such an application made by statutory undertakers and referred to the Secretary of State, or
 - (iii) the revocation or modification of planning permission to develop operational land granted to statutory undertakers,
- shall be held by Commissioners under the Private Legislation Procedure (Scotland) Act 1936.
- (2) Any such direction shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945.
- (3) Subsections (5) and (6) of section 225 of this Act shall not apply to an order such as is mentioned in subsection (1)(a) above.

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- (4) Nothing in subsections (2) to (9) of section 267 of this Act shall apply to any inquiry to which subsection (1)(a) above applies.
- (5) The provisions of the said Act of 1945 in relation to the publication of notices in the Edinburgh Gazette and in a newspaper shall, notwithstanding anything contained in that Act, not apply to any order under this Act which is subject to special parliamentary procedure.

269 Service of notices

- (1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under this Act may be served or given either—
 - (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
 - (b) by leaving it at the usual or last known place of abode of that person, or, in a case where an address for service has been given by that person, at that address; or
 - (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode, or, in a case where an address for service has been given by that person, at that address ; or
 - (d) in the case of a person on whom the notice is required to be served as being a person appearing from the valuation roll to have an interest in land, by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his address as entered in the valuation roll; or
 - (e) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.
- (2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if—
 - (a) being addressed to him either by name or by the description of "the owner", "the lessee" or "the occupier", as the case may be, of the premises (describing them) it is delivered or sent in the manner specified in subsection (1)(a), (b) or (c) of this section; or
 - (b) being so addressed, and marked in such manner as may be prescribed by regulations under this Act for securing that it shall be plainly identifiable as a communication of importance, it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.
- (3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears to the authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice or document shall be taken to be duly served on all persons having interests in. and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed

to " the owners and any lessees and occupiers " of that part of the land (describing it) and is affixed conspicuously to some object on the land.

270 Power to require information as to interests in land

- (1) For the purpose of enabling the Secretary of State or a local authority to make an order or serve any notice or other document which, by any of the provisions of this Act, he or they are authorised or required to make or serve, the Secretary of State or the local authority may require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to state in writing the nature of his interest therein, and the name and address of any other person known to him as having an interest therein, whether as superior, owner, heritable creditor, lessee or otherwise.
- (2) Any person who, having been required in pursuance of this section to give any information, fails to give that information shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (3) Any person who, having been so required to give any information, knowingly makes any misstatement in respect thereof shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.

271 Offences by corporations

- (1) Where an offence under this Act (other than section 55) 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) of this section 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.

272 Combined applications

- (1) Regulations made under this Act may provide for the combination in a single document, made in such form and transmitted to such authority as may be prescribed by the regulations, of—
 - (a) an application for planning permission in respect of any development; and
 - (b) an application required, under any enactment specified in the regulations, to be made to a local authority in respect of that development.
- (2) Before making any regulations under this section, the Secretary of State shall consult with such local authorities or associations of local authorities as appear to him to be concerned.
- (3) Different provision may be made by any such regulations in relation to areas in which different enactments are in force.

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- (4) An application required to be made to a local authority under an enactment specified in any such regulations shall, if made in accordance with the provisions of the regulations, be valid notwithstanding anything in that enactment prescribing, or enabling any authority to prescribe, the form in which, or the manner in which, such an application is to be made.
- (5) Subsection (4) of this section shall have effect without prejudice to—
 - (a) the validity of any application made in accordance with the enactment in question; or
 - (b) any provision of that enactment enabling a local authority to require further particulars of the matters to which the application relates.
- (6) In this section " application " includes a submission.

273 Regulations and orders

- (1) The Secretary of State may make regulations under this Act—
 - (a) for prescribing the form of any notice, order or other document authorised or required by any of the provisions of this Act to be served, made or issued by any local authority;
 - (b) for any purpose for which regulations are authorised or required to be made under this Act, not being a purpose for which regulations are authorised or required to be made by another Minister.
- (2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument; and any statutory instrument containing regulations made under this Act (except regulations which, by virtue of any provision of this Act, are of no effect unless approved by a resolution of each House of Parliament) shall be subject to annulment in pursuance of a resolution of either House of Parliament
- (3) Any power conferred by any of the provisions of this Act to make an order shall include power to vary or revoke any such order by a subsequent order.
- (4) The power to make orders under sections 1(3), 18, 19(2)(f), 21, 53(3), 67, 71(6), 72(4), 73(8), 181(4)(a), 261 and 279 of this Act shall be exercisable by statutory instrument.
- (5) Any statutory instrument which contains a development order or an order under section 1(3), 67, 71(6), 73(8) or 18(4)(a) of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Without prejudice to subsection (5) of this section, where a development order makes provision for excluding or modifying any enactment contained in a public general Act (other than any of the enactments specified in Schedule 20 to this Act) the order shall not have effect until that provision is approved by a resolution of each House of Parliament.
- (7) Any order under this Act which designates an area for the purposes of section 72(4) of this Act shall cease to have effect at the end of the period of twenty-eight days beginning with the day on which the order is made (but without prejudice to anything previously done under the order or to the making of a new order) unless before the end of that period the order is approved by a resolution of each House of Parliament.

- (8) In reckoning any period for the purposes of subsection (7) of this section, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (9) Any order under section 67, 71(6), 72(4) or 73(8) of this Act may contain such supplementary and incidental provisions as may appear to the Secretary of State to be appropriate.
- (10) Any power (exercisable in accordance with section 280(2) of this Act) to make regulations or orders under this Act before the date of the commencement of this Act shall include power, by any regulations or order so made, to revoke any regulations or order made under any of the enactments which, as from that date, are repealed by this Act or having effect by virtue of any of those enactments as if made thereunder.

274 Act not excluded by special enactments

For the avoidance of doubt it is hereby declared that the provisions of this Act, and any restrictions or powers thereby imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the passing of the Act of 1947, or by any local Act passed at any time during the Session of Parliament held during the regnal years 10 & 11 Geo. 6. for authorising or regulating any development of the land.

275 Interpretation

- (1) In this Act, except in so far as the context otherwise requires and subject to the transitional provisions herein after contained, the following expressions have the meanings hereby assigned to them respectively, that is to say:—
 - " acquiring authority ", in relation to the acquisition of an interest in land (whether compulsorily or by agreement) or to a proposal so to acquire such an interest, means the government department, local authority or other body by whom the interest is, or is proposed to be, acquired;
 - " the Act of 1945 " means the Town and Country Planning (Scotland) Act 1945 ;
 - " the Act of 1947 " means the Town and Country Planning (Scotland) Act 1947;
 - " the Act of 1954 " means the Town and Country Planning (Scotland) Act 1954;
 - " the Act of 1959 " means the Town and Country Planning (Scotland) Act 1959 ;
 - " the Act of 1969 " means the Town and Country Planning (Scotland) Act 1969;
 - " advertisement " means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the foregoing provisions of this definition), includes any hoarding or similar structure used, or adapted for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;
 - " agriculture " includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept

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for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for wood lands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

"the appointed day" means 1st July 1948 ;

"the appropriate Minister" has the meaning assigned to it by section 213 of this Act;

"area of extensive war damage" and "area of bad lay-out or obsolete development" mean respectively an area consisting of land shown to the satisfaction of the Secretary of State to have sustained war damage or, as the case may be, to be badly laid out or of obsolete development or consisting of such land together with other land contiguous or adjacent thereto, being in each case land comprised in an area which is defined by a development plan as an area of comprehensive development;

"authority possessing compulsory purchase powers", in relation to the compulsory acquisition of an interest in land, means the person or body of persons effecting the acquisition, and, in relation to any other transaction relating to an interest in land, means any person or body of persons who could be or have been authorised to acquire that interest compulsorily for the purposes for which the transaction is or was effected:

Provided that in relation to any such transaction to which an executive council or a joint committee constituted by virtue of section 32 of the National Health Service (Scotland) Act 1947 are a party in the exercise of their statutory functions, the said expression shall be construed as including that council or joint committee.

"authority to whom Part II of the Act of 1959 applies" means a body of any of the descriptions specified in Schedule 4 to the Act of 1959 ;

"bridleway" has the same meaning as in section 47 of the Countryside (Scotland) Act 1967;

"building", except in sections 71 to 83 of this Act, includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

"building or works" includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly;

"building operations" includes rebuilding operations, structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder;

"caravan site" has the meaning assigned to it by section 1 (4) of the Caravan Sites and Control of Development Act 1960;

"clearing", in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of such other operations in relation thereto as may be prescribed;

"common" includes any town or village green ;

"compulsory acquisition" does not include the vesting in a person by an Act of Parliament of property previously vested in some other person ;

"conservation area" means an area designated under section 262 of this Act; "development" has the meaning assigned to it by section 19 of this Act, and "develop" shall be construed accordingly;

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" development order " has the meaning assigned to it by section 21 of this Act;

" development plan " (subject to section 18 of, and paragraph 7 of Schedule 4 to, this Act) shall be construed in accordance with section 17 of this Act;

" disposal ", except in section 113(7) of this Act, means disposal by way of sale, excambion or lease, or by way of the creation of any servitude, right or privilege, or in any other manner, except by way of appropriation, gift or the creation of a heritable security, and " dispose of " shall be construed accordingly;

" enactment " includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, bye-law or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;

" enforcement notice " means a notice under section 84 of this Act;

" engineering operations " includes the formation or laying out of means of access to highways;

" erection ", in relation to buildings as defined in this subsection, includes extension, alteration and re-erection;

" established use certificate " has the meaning assigned to it by section 90 of this Act;

" feu charter " includes a feu contract and any other instrument by which land is feued;

" footpath " has the same meaning as in section 47 of the Countryside (Scotland) Act 1967 ;

" functions " includes powers and duties;

" government department " includes any Minister of the Crown;

" heritable security " means—

(a) a heritable security within the meaning of the Conveyancing (Scotland) Act 1924 exclusive of a security by way of ground annual and a real burden ad factum praestandum but inclusive of a security constituted by way of ex facie absolute disposition; or

(b) an assignation in security of a lease recorded under the Registration of Leases (Scotland) Act 1857;

and the expression "heritable creditor" shall be construed accordingly;

" improvement ", in relation to a highway, has the same meaning as the expression " improvement of roads " has in Part II of the Development and Road Improvement Funds Act. 1909;

" industrial development certificate " has the meaning assigned to it by section 65 of this Act;

" joint planning committee " has the meaning assigned to it by Schedule 1 to this Act;

" land " includes land covered with water and any building as defined by this section, and, in relation to the acquisition of land under Part VI of this Act, includes any interest in land and any servitude or right in or over land;

" Lands Tribunal " means Lands Tribunal for Scotland;

" large burgh " has the meaning assigned to it in the Local Government (Scotland) Act 1947 ;

" lease " includes a sub-lease, but does not include an option to take a lease;

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" listed building " has the meaning assigned to it by section 52(7) of this Act;

" listed building consent" has the meaning assigned to it by section 53(2) of this Act;

" listed building enforcement notice " has the meaning assigned to it by section 92 of this Act;

" listed building purchase notice " has the meaning assigned to it by section 179 of this Act;

" local authority " (except in section 204 of this Act) means a county council, town council or district council, and includes any joint board or joint committee of which all the constituent authorities are such local authorities as aforesaid;

" local highway authority " means a highway authority other than the Secretary of State;

" local planning authority " has the meaning assigned to it by section 1 of this Act;

" means of access " includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street;

" minerals " includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working;

" Minister " means any Minister of the Crown or other government department;

" new development " has the meaning assigned to it by section 19(5) of this Act;

" open space " means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground ;

" operational land " has the meaning assigned to it by section 211 of this Act;

" owner ", in relation to any land, includes (except in sections 24 and 26 of this Act) any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking, and includes also a lessee under a lease of agreement, the unexpired period of which exceeds three years;

" planning decision " means a decision made on an application under Part III of this Act;

" planning permission " means permission under Part III of this Act, and in construing references to planning permission to develop land or to carry out any development of land, or to applications for such permission, regard shall be had to section 29(2) of this Act;

" planning permission granted for a limited period " has the meaning assigned to it by section 27(2) of this Act;

" prescribed " (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act;

" previous apportionment ", in relation to an apportionment for any of the purposes of the relevant provisions, means an apportionment made before the apportionment in question, being—

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- (a) an apportionment for any of the purposes of the relevant provisions as made, confirmed or varied by the Lands Tribunal on a reference to that Tribunal ; or
- (b) an apportionment for any of those purposes which might have been referred to the Lands Tribunal by virtue of any of the relevant provisions, where the time for such a reference has expired without its being required to be so referred, or where, after it had been so referred, the reference was withdrawn before the Tribunal gave their decision thereon; or
- (c) an apportionment made by or with the approval of the Central Land Board in connection with the approval by the Board, under section 2(2) of the Town and Country Planning Act 1953 of an assignation of part of the benefit of an established claim (as defined by section 124(4) of this Act, and in this definition " the relevant provisions " means any of the provisions of Part VII of this Act, any of those provisions as applied by any other provision of this Act, and any of the provisions of the Act of 1954;

" purchase notice " has the meaning assigned to it by section 169 of this Act;

" relocation of population or industry ". in relation to any area, means the rendering available elsewhere than in that area (whether in an existing community or a community to be newly established) of accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and other requirements, being accommodation to be rendered available for persons or undertakings who are living or carrying on business or other activities in that area or who were doing so but by reason of war circumstances are no longer for the time being doing so, and whose continued or resumed location in that area would be inconsistent with the proper planning thereof;

" replacement of open space ", in relation to any area, means the rendering of land available for use as an open space, or otherwise in an undeveloped state, in substitution for land in that area which is so used;

" small burgh " has the meaning assigned to it in the Local Government (Scotland) Act 1947;

" statutory undertakers " means persons authorised by any enactment, to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and "statutory undertaking " shall be construed accordingly;

" stop notice " has the meaning assigned to it by section 87 of this Act;

" tree preservation order " has the meaning assigned to it by section 58 of this Act;

" use ", in relation to land, does not include the use of land for the carrying out of any building or other operations thereon;

" Valuation Office " means the Valuation Office of the Inland Revenue Department;

" war damage " has the same meaning as in the War Damage Act 1943.

- (2) If, in relation to anything required or authorised to be done under this Act, any question arises as to which Minister is or was the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury; and if any question so arises whether land of statutory undertakers is operational land, that

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question shall be determined by the Minister who is the appropriate Minister in relation to those undertakers.

- (3) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.
- (4) With respect to references in this Act to planning decisions—
 - (a) in relation to a decision altered on appeal by the reversal or variation of the whole or part thereof, such references shall be construed as references to the decision as so altered ;
 - (b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the local planning authority and not to the decision of the Secretary of State on the appeal;
 - (c) in relation to a decision given on an appeal in the circumstances mentioned in section 34 of this Act, such references shall be construed as references to the decision so given;
 - (d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the local planning authority (whether or not that decision is or was altered on that appeal) or, in the case of a decision given on an appeal in the circumstances mentioned in section 34 of this Act, the time when in accordance with that section notification of a decision of the local planning authority is deemed to have been received.
- (5) Subject to section 40(1) of this Act. for the purposes of this Act development of land shall be taken to be initiated—
 - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
 - (b) if the development consists of a change in use, at the time when the new use is instituted;
 - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.
- (6) Any reference in this Act to an assignation in security shall be construed as including a reference to an ex facie absolute assignation qualified as a security by a collateral agreement
- (7) In this Act any reference to a sale or purchase includes a reference to a sale or purchase by way of feu, and any reference to the price in relation to a sale or purchase includes a reference to grassum, feu-duty and ground annual.
- (8) Any reference in this Act to the dominium utile in relation to land which is not held on feudal tenure shall be construed as a reference to the interest in the land of the owner thereof.
- (9) References in this Act to any of the provisions in Part III or IV of Schedule 19 to this Act include, except where the context otherwise requires, references to those provisions as modified under section 256 or 257 of this Act
- (10) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act

276 Consequential amendments

- (1) Subject to section 18 of this Act, the enactments specified in Schedule 21 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.
- (2) References in any Act to the acquisition of land under Part III of the Act of 1947 or to land acquired thereunder (including references which, by Schedule 12 to that Act, are to be construed as such) shall be respectively construed as, or as including (according as the context requires) references to the acquisition of land under Part VI of this Act and to land acquired thereunder.

277 Transitional provisions, savings and repeals

- (1) The transitional provisions and savings contained in Schedule 22 to this Act shall have effect.
- (2) Subject to the provisions of that Schedule, the enactments specified in Schedule 23 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The inclusion in this Act of any express savings, transitional provision or amendment shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

278 General vesting declarations

- (1) Schedule 24 to this Act shall have effect for the purpose of enabling any authority to whom this section applies to vest in themselves by a declaration land which they are authorised by a compulsory purchase order to acquire and, with respect to the effect of such a declaration, the payment and recovery of sums in respect of compensation for the acquisition of land so vested and other matters connected therewith.
- (2) This section applies to any Minister or local or other public authority authorised to acquire land by means of a compulsory purchase order, and any such authority is in the said Schedule 24 referred to as an acquiring authority.
- (3) This section shall not apply to the compulsory acquisition of land with respect to which a compulsory purchase order was in force before 8th December 1969.

279 Commencement of certain provisions

- (1) The provisions of this Act referred to in subsection (2) of this section shall come into operation on a day appointed by an order made by the Secretary of State.
- (2) The provisions of this Act referred to in this subsection are sections 58(5) and 59(1) to (3) of this Act and Schedule 7 to this Act.
- (3) Different days may be appointed under this section for different purposes and, in particular, different days may be so appointed for the coming into operation or repeal of the same provisions in different areas.
- (4) No order under this section relating to Schedule 7 to this Act shall be made unless a draft of the order has been approved by both Houses of Parliament.
- (5) Any reference in this Act to the commencement of any provision referred to in subsection (2) of this section shall be construed as a reference to the day appointed

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for the coming into operation of that provision or, in the case of a provision which comes into operation on different days in different areas, shall, in relation to any area be construed as a reference to the day appointed for the coming into operation of that provision in that area.

- (6) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation or repealed, including such adaptation of those provisions or of any other provisions of this Act then in force as appears to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).
- (7) The Secretary of State shall maintain and keep up to date a register showing the effect of orders made under this section in such a way as enables members of the public to inform themselves—
 - (a) as to the provisions which have come, or are to be brought into operation or have been, or are to be, repealed, and on which date and in relation to which areas; and
 - (b) as to whether, in the case of a particular area, any transitional provision has been made by such an order.
- (8) The register maintained under this section by the Secretary of State shall be kept at his principal offices in Edinburgh and shall be available for inspection by the public at reasonable hours.

280 Commencement

- (1) Except as provided in sections 18 and 279 of this Act and subject to the following provisions of this section, this Act shall come into operation on the expiry of the period of one month beginning with the date on which it is passed; and the date of coming into operation of this Act as aforesaid is in this section referred to as " the commencement date ".
- (2) The following provisions of this Act, that is to say—
 - (a) sections 71 to 83 and 174, this section and paragraphs 24 and 25 of Schedule 22,
 - (b) sections 253(1)(b), 269, 271, 273 and 275 so far as they relate to any of the provisions of sections 71 to 83 and 174 or anything done or to be done under any such provision,
 - (c) Schedule 23 so far as it relates to the repeal of Part I of the Control of Office and Industrial Development Act 1965,
 - (d) any provisions which confer any power to make regulations or orders, or which (whether expressly or as construed in accordance with section 32(3) of the Interpretation Act 1889) confer any power to revoke or vary any regulations or orders, and
 - (e) any provisions relating to the exercise of any such power,
 shall come into operation on the passing of this Act; but no regulations or order shall be made under this Act so as to come into operation before the commencement date other than any regulations or order made under any of the provisions of sections 71 to 83 of this Act.
- (3) In subsection (2) of this section the reference to provisions of this Act relating to the exercise of any such power as is therein mentioned includes a reference to any

provisions of this Act whereby statutory instruments containing regulations or an order are subject to annulment in pursuance of a resolution of either House of Parliament, or whereby any regulations or order or any provisions thereof require the approval of each of those Houses.

- (4) Any reference in this Act to the commencement of this Act is a reference to the coming into operation of so much of this Act as comes into operation on the commencement date, and any reference to the date of the commencement of this Act is a reference to that date ; and if any Act passed after the passing of this Act refers to the commencement of this Act, subsections (2) and (3) of this section and section 18 of this Act shall be disregarded for the purpose of construing that reference in accordance with section 36 of the Interpretation Act 1889 (which relates to the meaning of " commencement" with reference to an Act).
- (5) The preceding provisions of this section shall have effect without prejudice to the generality of section 37 of the Interpretation Act 1889 (which relates to the exercise of statutory powers between the passing and the commencement of an Act).

281 Citations and extent

- (1) This Act may be cited as the Town and Country Planning (Scotland) Act 1972.
- (2) The Town and Country Planning (Amendment) Act 1972 and this Act may be cited together as the Town and Country Planning (Scotland) Acts 1972.
- (3) This Act, except so far as it provides for Joint Planning Inquiry Commissions and relates to the House of Commons Disqualification Act 1957, extends to Scotland only.