

## SCHEDULES

### SCHEDULE 22

Section 277.

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### PART I

###### GENERAL PROVISIONS

- 1 (1) In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision in this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.
  - (2) Sub-paragraph (1) of this paragraph applies, in particular, to any order, regulation, rule, development plan or amendment or alteration of a development plan, application, objection, representation, determination, decision, reference, appeal, declaration, agreement, arrangement, claim or apportionment made, payment made or recovered, report or proposal submitted, list or amendment of a list compiled or made, permission granted, consent, approval or authorisation given, certificate, permit, information or direction issued or given, enforcement or other notice or copy served, published or registered, inquiry held, delegation effected, register kept and requirement imposed.
  - (3) In relation to any permission which (whether by virtue of an enactment repealed by this Act or otherwise) was deemed to be granted under an enactment repealed by this Act, sub-paragraph (1) of this paragraph shall apply as it applies to permission granted under such an enactment.
  - (4) Sub-paragraph (1) of this paragraph shall not apply to any regulations or order revoked as from the commencement of this Act in the exercise of the powers conferred by section 28 of this Act.
- 2 Without prejudice to section 276 of, and Schedule 2: to, this Act, where any Act (whether passed before, or in the same Session as this Act) or any document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.
  - 3 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been, in force when that period began to run.
  - 4 Without prejudice to paragraph 1 of this Schedule, any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to an event which has occurred, under or for the purposes of or by reference to or in contravention of any provisions of this Act shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes

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of or by reference to or in contravention of the corresponding provisions of the enactments repealed by this Act.

- 5 (1) Nothing in this Act shall affect the enactments repealed thereby in their operation in relation to offences committed before the commencement of this Act.
- (2) Where an offence, for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence had been committed under the corresponding provision of this Act.
- 6 (1) Any reference in this Act to an order or scheme made or confirmed under an enactment which is not repealed by, and re-enacted (with or without modifications) in, this Act, shall be construed as a reference to any order or scheme so made or confirmed whether before or after the commencement of this Act.
- (2) Without prejudice to sub-paragraph (1) of this paragraph, any reference in this Act to an order or scheme made or confirmed under an enactment contained in the New Towns (Scotland) Act 1968, or under any other such enactment as is mentioned in that sub-paragraph, shall be construed as including a reference to any order or scheme made or confirmed under any corresponding provisions of an enactment repealed by the said Act of 1968, or repealed by the enactment in question, as the case may be.

## PART II

### CENTRAL AND LOCAL ADMINISTRATION

#### *Transfer of property and officers to local planning authorities*

- 7 Nothing in this Act shall affect, or be treated as having affected, the operation of any regulations made by virtue of section 97 of the Act of 1947 (provisions for transfer of property and officers to local planning authorities and for other matters consequential upon or supplementary to section 2 of that Act) in so far as any such regulations do not have effect in accordance with paragraph 1 of this Schedule.

## PART III

### DEVELOPMENT PLANS

#### *Effect of existing commencement orders*

- 8 (1) In relation to so much of any order made under section 104 of the Act of 1969 (commencement) as brings into operation any of the provisions of that Act specified in the Table below, paragraphs 1 and 2 of this Schedule shall have effect subject to this paragraph.
- (2) So far as the order brings any of the said provisions into operation it shall have effect as if it were an order made under section 18(2) of this Act repealing the provisions of this Act set out opposite to the first-mentioned provisions in the said Table.
- (3) Any transitional provision made by the order in connection with any of the said provisions of the Act of 1969 which it brings into operation shall be construed so

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as to produce a corresponding effect in connection with the provisions of this Act which by virtue of this paragraph it is treated as repealing.

#### TABLE

Provision of Act of 1969 brought into operation	Provision of this Act treated as repealed
In Schedule 9, paragraph 4.	In Schedule 4, paragraphs 2, 3, 4 and 6.
In Schedule 9, paragraph 34.	In Schedule 4, paragraph 8.
In Schedule 11, the repeal of sections 3 to 9 of the Act of 1947.	In Schedule 4, paragraph 9, and in Schedule 3, the corresponding provision.
In Schedule 11, the repeal of section 33 of the Act of 1947.	In Schedule 4, paragraph 5.
In Schedule 11, the repeal of the definition of "development plan" in section 113(1) of the Act of 1947.	In Schedule 4, paragraph 7.

#### PART IV

##### GENERAL PLANNING CONTROL

###### *Planning permission: general*

- 9 Subsection (1) of section 20 of this Act applies (subject to the provisions of that section) to the carrying out of development whether before or after the commencement of this Act, except that it does not apply to development carried out on or before the appointed day.
- 10 In sections 23 and 24 of this Act references to an application for planning permission do not include references to any application made before 16th August 1959.
- 11 Subsection (2)(b) of section 23, and the other provisions of that section relating to subsection (2)(b), do not apply to any application made before 18th May 1970.
- 12 Where by virtue of the proviso to subsection (3) of section 3 of the Town and Country Planning (Amendment) Act 1951 (works for making good war damage which were begun between the appointed day and 13th December 1950) any works were, immediately before the commencement of this Act, treated for the purposes of that Act as if planning permission had been granted unconditionally in respect thereof, those works shall be so treated for the purposes of this Act also.

###### *Review of planning decisions and orders under Part V of Act of 1954*

- 13 For the purposes of paragraph 1 of this Schedule, any direction given under section 47(3) or (4) of the Act of 1954, whether before or (by virtue of paragraph 66 of this Schedule) after the commencement of this Act, as well as any direction given under section 23 of that Act, shall be treated as a direction which could have been given under section 35 of this Act.

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*Duration of planning permission*

- 14 Sections 38 and 39 of this Act do not apply to planning permissions granted or deemed to have been granted before 8th December 1969.
- 15 (1) Subject to sub-paragraph (2) of this paragraph, every planning permission granted or deemed to have been granted before 8th December 1969 shall, if the development to which it relates had not been begun before the beginning of 1969, be deemed to have been granted subject to a condition that the development must be begun not later than the expiration of five years beginning with 8th December 1969.
- (2) Sub-paragraph (1) of this paragraph does not apply—
- (a) to any planning permission which was granted or deemed to be granted before 8th December 1969 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 ; or
- (b) to any such planning permission as is mentioned in section 38(3) of this Act.
- 16 (1) Subject to sub-paragraph (2) of this paragraph, where before 8th December 1969 outline planning permission (as defined by section 39 of this Act) 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 1969, 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 (as defined in that section), application for approval must be made not later than the expiration of three years beginning with 8th December 1969 ; 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 8th December 1969 ; 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.
- (2) Sub-paragraph (1) of this paragraph does not apply to any planning permission granted before 8th December 1969 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.
- 17 (1) In sections 27(3), 40(1), (5), (6) and (7), 41 and 43(6) of this Act references to sections 38 and 39 of this Act shall respectively include references to paragraphs 15 and 16 of this Schedule.
- (2) In sections 136(3), 158(7), 169(4) and 226(5) of this Act references to the conditions referred to in sections 38 and 39 of this Act shall include references to the conditions referred to in paragraphs 15 and 16 of this Schedule.
- 18 Until the coming into operation of the first regulations to be made for the purposes of paragraph (c) of section 40(3) of this Act (or the corresponding enactment previously in force), regulations made for the purposes of section 99(2) of the Land Commission Act 1967 shall have effect as if made also for the purposes of that paragraph.

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## PART V

### ADDITIONAL CONTROL IN SPECIAL CIRCUMSTANCES

#### *Buildings of architectural or historic interest*

- 19 Section 53(1) of this Act does not apply to any works executed or caused to be executed before 3rd August 1970.
- 20 (1) Where, before 3rd August 1970, consent under a building preservation order was given, either by the local planning authority or by the Secretary of State on appeal, for the execution of any works, the consent shall operate in respect of those works as listed building consent, subject to the same conditions (if any) as were attached to the consent under the building preservation order.
- (2) In the case of demolition works for which consent was given under a building preservation order compliance with section 53(2)(6) of this Act shall not be required.

#### *Replacement of trees*

- 21 Section 57 of this Act does not apply in relation to planning permission granted before 28th August 1967.

#### *Industrial development*

- 22 (1) So much of sections 64 to 70 of this Act as corresponds to provisions of the Industrial Development Act 1966 does not apply in relation to any application for planning permission made, or any industrial development certificate issued, before 19th August 1966; and so much of those sections as corresponds to provisions of the Local Employment Act 1960 does not apply in relation to any application for planning permission made before 1st April 1960.
- (2) Section 68(3)(b) of this Act does not apply to any industrial development certificate issued before 1st April 1969.
- (3) In relation to an application for planning permission made before 1st April 1960, " industrial building " has the meaning assigned to it in section 15 of the Distribution of Industry Act 1945.
- (4) In relation to a relevant application (as defined in subsection (4) of section 66 of this Act) on which a planning decision was made before 5th August 1965, that section shall have effect as if it contained provisions corresponding to those of section 19 of the Local Employment Act 1960 without the amendments made by section 21 of the Control of Office and Industrial Development Act 1965.
- 23 Without prejudice to Part I of this Schedule, any order in force at the commencement of this Act under section 19 of the Control of Office and Industrial Development Act 1965 shall have effect as an order under section 67 of this Act, and section 66 of this Act shall accordingly have effect subject to the provisions of that order.

#### *Office development*

- 24 (1) Sections 72 and 73 of this Act do not apply to any application for planning permission made before 5th August 1965.

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- (2) Section 76 of this Act does not apply to any planning permission granted before 5th August 1965 and, in relation to any planning permission granted on or after 5th August 1965 and before 8th December 1969, shall have effect as if it contained provisions corresponding to section 7 of the Control of Office and Industrial Development Act 1965 (so far as applicable to such a permission) without the amendments made by section 85 of the Act of 1969.
- (3) Section 74(2) of this Act does not apply to any application for planning permission made before 8th December 1969 and sections 77 and 78 of this Act do not apply to any planning permission granted before 8th December 1969.
- 25 Without prejudice to Part I of this Schedule, any order in force at the passing of this Act under section 2(7) of the Control of Office and Industrial Development Act 1965 shall have effect as an order under subsection (8) of section 73 of this Act, and subsection (7) of that section shall accordingly have effect subject to the provisions of that order.

## PART VI

### ENFORCEMENT OF CONTROL

#### *Enforcement notices under enactments in force before 8th December 1969*

- 26 (1) This paragraph applies to any enforcement notice which was served before 8th December 1969 on the owner, lessee and occupier of the land to which it related under section 21 of the Act of 1947 or to which paragraph 27 or 28 of this Schedule applies.
- (2) In relation to any such notice—
- (a) the provisions of this Act (other than this Schedule) shall not apply ;
  - (b) notwithstanding their repeal or amendment by the Act of 1969, the provisions of the Act of 1947 and of any other Act passed before the Act of 1969 shall, subject to the subsequent provisions of this Schedule, have effect as they would have had effect in relation to the notice if the Act of 1969 and this Act had not been passed.
- (3) Nothing in this paragraph shall prevent the withdrawal, on or after 8th December 1969, of an enforcement notice so served or the service thereafter of an enforcement notice under Part V of this Act.

#### *Enforcement notices served by virtue of section 72 of Act of 1947*

- 27 (1) This paragraph applies to any enforcement notice served before the commencement of this Act by virtue of section 72 of the Act of 1947 (which related to development contravening planning control under the enactments repealed by that Act), being a notice which had not ceased for all purposes to have effect before the commencement of this Act.
- (2) The repeal by this Act of the said section 72 shall not invalidate any enforcement notice to which this paragraph applies.
- 28 In so far as an enforcement notice could, if this Act had not been passed, have been served by virtue of section 72 of the Act of 1947 at a time on or after the

date of the commencement of this Act, in respect of any works or use of land of a description to which that section applied, there shall subsist by virtue of this paragraph a corresponding power in the like circumstances to serve an enforcement notice (to the like effect as that which could have been so served) in respect of those works or that use of land.

- 29 (1) Where an enforcement notice served by virtue of paragraph 28 of this Schedule, was or is served in respect of any works being government war works within the meaning of the Requisitioned Land and War Works Act 1945, then, subject to the following provisions of this paragraph—
- (a) if the steps required by the notice have been taken by the owner, lessee or occupier of the land, any expenses reasonably incurred in that behalf shall be recoverable from the authority by whom the notice was served ;
  - (b) where the steps required by the notice have been taken by that authority, the authority shall not be entitled, under section 22 of the Act of 1947, to recover the expenses incurred by them in that behalf.
- (2) Where under section 2(1)(b) of the Compensation (Defence) Act 1939 compensation has been paid equal to the full cost (as estimated for the purposes of that compensation) of taking the steps required by the enforcement notice, sub-paragraph (1) of this paragraph shall not apply.
- (3) Where compensation has been paid in respect of the land, being either compensation under the said section 2(1)(b) but not equal to the full cost (as so estimated) of taking those steps, or being compensation under section 3(4) of that Act, the amount which by virtue of sub-paragraph (1) of this paragraph is recoverable from the authority by whom the enforcement notice was served, or, as the case may be, is not recoverable by that authority, shall be reduced so far as may be just having regard to the compensation so paid.
- 30 (1) The power of a local planning authority under Part III of this Act to grant planning permission for the retention on land of buildings or works constructed or carried out before the date of application, or for the continuance of a use of land instituted before that date, shall include power to grant such permission in respect of any buildings or other works, or use of land, in respect of which that authority are empowered to serve an enforcement notice by virtue of paragraph 28 of this Schedule.
- (2) Where permission is so granted, paragraphs 27 to 29 of this Schedule shall cease to apply to the works or use to which the permission relates, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.
- 31 Where in pursuance of paragraph 76(3) of this Schedule permission is granted for the retention on land of works, or the continuance of a use, authorised as mentioned in the said paragraph 76(3), such of the provisions of paragraphs 27 to 30 of this Schedule as (apart from this paragraph) would be applicable thereto shall cease to apply to those works or that use, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.
- 32 The repeal by this Act of section 72 of the Act of 1947 shall not affect the operation of any regulations made under subsection (8) of that section (which enabled provision to be made by regulations for applying the provisions of that section to contraventions, committed before the appointed day, of restrictions under

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enactments other than those relating to town and country planning) or of the provisions of that section as applied by any such regulations.

*Enforcement of building preservation orders*

- 33 The repeal by the Act of 1969 of section 27 of the Act of 1947 shall not prevent a local planning authority from taking such proceedings as could have been taken but for the repeal to enforce any building preservation order made under that section and for securing the restoration of a building to its former state ; and in relation to any such proceedings the provisions of the order, and of any provisions of the Act of 1947 incorporated therein, shall continue to have the same effect as if the Act of 1969 had not been passed.

*Enforcement of duties as to trees*

- 34 Subsection (3) of section 99 of this Act shall not have effect in relation to a notice served under that section before 8th December 1969, but in relation to such a notice subsection (5)(b) of section 14 of the Civic Amenities Act 1967 shall apply in the form in which it was originally enacted.

**PART VII**

ACQUISITION OF LAND ETC.

*Consent of Minister to acquisition, appropriation or disposal of land*

- 35 Nothing in Part I of this Schedule shall be construed as validating any transaction whereby a local authority purported, in the exercise of a power conferred by an enactment repealed by this Act, but without the consent of the Minister then required by that enactment—
- (a) to acquire land by agreement in pursuance of a contract made before 16th August 1959 ; or
  - (b) to appropriate or dispose of land before that date,
- notwithstanding that the transaction could have been validly effected without that consent under the corresponding provisions of Part VI of this Act.

*Existing compulsory purchase orders*

- 36 (1) Sections 102 and 103 of this Act shall not apply, and (notwithstanding their repeal by the Act of 1969) sections 34 and 35 of the Act of 1947 shall continue to apply to any land the acquisition of which was, immediately before 8th December 1969, authorised by a compulsory purchase order made by a local authority or statutory undertakers or by a Minister, or was then proposed to be authorised by such an order which had not been confirmed by a Minister or, as the case may be, had been prepared in draft by a Minister, but with respect to which a notice had then been published in accordance with paragraph 3(a) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.
- (2) The validity of a compulsory purchase order made under section 34 ,35 or 38 of the Act of 1947 shall not be affected by the repeal by the Act of 1969 of the section under which the order was made; and a compulsory purchase order made (but not



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confirmed), or made in draft, before the repeal of that section took effect may be confirmed or made thereunder as if the Act of 1969 had not been passed.

- 37 The repeals effected by this Act shall not affect the validity of any order authorising the compulsory acquisition of any land—
- (a) under section 34(2) of the Act of 1947 (which enabled the Minister of Works or the Postmaster-General, during the period before a development plan had become operative with respect to any area, to be authorised in certain circumstances to acquire land compulsorily);
  - (b) under section 35(2) of that Act (which enabled certain local authorities, during any such period, to be authorised in certain circumstances to acquire land compulsorily); or
  - (c) under subsection (3) of section 35 of that Act in a case where the power conferred by that subsection was exercisable in lieu of the exercise of the power conferred by subsection (2) thereof,

or of any notice served or other thing done in pursuance of any such order.

- 38 Any compulsory purchase order made or confirmed under Part I of the Act of 1945 (whether before or after the appointed day) shall, if in force immediately before the commencement of this Act, continue in force and shall have effect as if it had been made under the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as applied by Part VI of this Act.

*Application of Part VI to land acquired or  
authorised to be acquired under previous enactments*

- 39 The provisions of Part VI of this Act shall have effect in relation to land acquired, or authorised to be acquired, in pursuance of any such order as is mentioned in paragraph 37 of this Schedule as if—
- (a) in the case of land acquired, or authorised to be acquired, by a local authority, the land had been acquired, or authorised to be acquired, by that local authority under section 102 of this Act;
  - (b) in the case of land acquired, or authorised to be acquired, by a Minister, the land had been acquired, or authorised to be acquired, by that Minister under section 103 of this Act.
- 40 For the purposes of Part VI of this Act—
- (a) any land acquired by a local authority in pursuance of a compulsory purchase order under Part I of the Act of 1945 shall be deemed to have been acquired under section 102 of this Act;
  - (b) any land acquired by a Minister in pursuance of any such order shall be deemed to have been acquired by him under section 103 of this Act;
  - (c) any land acquired by a local authority by agreement under the Act of 1945 shall be deemed to have been acquired under section 109 of this Act.

- 41 The reference in subsection (1) of section 122 of this Act to the acquisition of land under section 102 or 109 of this Act shall include a reference to the acquisition of land under section 35 or 37 of the Act of 1947; and the reference in that subsection to the appropriation of land for purposes for which land can be or could have been acquired under the provisions there mentioned is a reference to the appropriation of land for those purposes whether before or after the commencement of this Act.

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*Provisions as to Central Land Board*

- 42 Section 117 of this Act shall have effect in relation to land acquired by the Central Land Board under section 40 of the Act of 1947 as it has effect in relation to land acquired by a local authority for planning purposes (as defined by section 122(1) of this Act).

**PART VIII**

COMPENSATION UNDER PART VII OF THIS ACT

*Compensation under Part V of Act of 1954*

- 43 (1) Subject to the following provisions of this paragraph, for the purposes of the construction of sections 147 to 150 of this Act in accordance with Part I of this Schedule, any compensation (whether by way of principal or interest) under Part V of the Act of 1954, and any claim for, or notice registered in respect of, any such compensation, as well as any compensation under Part II of that Act, or any claim for, or notice registered in respect of, compensation under the said Part II, shall be treated as compensation or, as the case may be, a claim for, or a notice registered in respect of compensation, under provisions of that Act corresponding to those of Part VII of this Act.
- (2) For the purposes of the construction of section 147 of this Act in accordance with sub-paragraph (1) of this paragraph in relation to Part V of the Act of 1954, any reference to a planning decision shall be construed as including a reference to an order under section 19 of the Act of 1947.
- (3) Where compensation under Part V of the Act of 1954 became or becomes payable in respect of an order modifying planning permission, then (notwithstanding anything in the preceding provisions of this paragraph) the provisions of sections 148 and 150 of this Act shall not apply to development in accordance with that permission as modified by the order.

*Provision excluding recovery of compensation*

- 44 For the purposes of the construction, in accordance with Part I of this Schedule, of section 149(4) of this Act—
- (a) the provisions of section 54(6) of the Act of 1954 as originally enacted ; and
  - (b) those provisions as applied by any regulations made under section 54(8) of that Act,
- as well as the provisions of the said section 54(6) as amended by section 49 of the Act of 1959, shall be treated as provisions corresponding to those of section 244 of this Act;

## PART IX

### COMPENSATION UNDER PART VIII OF THIS ACT

#### *Compensation to statutory undertakers*

- 45 Subsection (3) of section 154 of this Act shall not apply where the refusal or grant of planning permission referred to in subsection (1)(c) of that section was before 8th December 1969.

#### *Contribution by Secretary of State towards compensation*

- 46 For the purposes of the construction of section 156(1) of this Act in accordance with Part I of this Schedule, any compensation which could have been claimed and would have been payable under Part V of the Act of 1954, as well as any compensation which could have been claimed and would have been payable under Part II of that Act, shall be treated as compensation which could have been claimed and would have been payable under provisions of that Act corresponding to the provisions of Part VII of this Act.

#### *Recovery of compensation*

- 47 For the purposes of the construction of section 157(3) of this Act in accordance with Part I of this Schedule, any grant paid—
- (a) under the provisions of the section substituted by section 52 of the Act of 1954 for section 89 of the Act of 1947, but without the amendments made by the Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 or the Local Government (Scotland) Act 1966 ; or
  - (b) under the provisions of Part IX of the Act of 1947 as originally enacted, as well as any grant paid under the provisions of the said section 89 shall be treated as a grant paid under provisions corresponding to those of Part XIII of this Act.

## PART X

### BLIGHT NOTICES

#### *Notices served before 8th December 1969 or 18th May 1970*

- 48 In relation to a notice served under section 38 of the Act of 1959 before 8th December 1969 or (in the case of such a notice served by a heritable creditor) 18th May 1970, and to any hereditament or agricultural unit which is the subject of the notice, sections 183 to 196 of this Act shall, on and after that date, have effect as if they contained the provisions in Part IV of and Schedule 5 to the Act of 1959 without any of the amendments made by Part IV of the Act of 1969.

#### *Temporary inclusion of additional description of blighted land*

- 49 (1) For the purposes of the application of sections 181 to 196 of this Act to an area to which this paragraph applies—

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- (a) the description of land contained in section 38(1)(b) of the Act of 1959 shall be included among the specified descriptions as defined in section 181(6) of this Act; and
  - (b) in sections 182(3) and 195(2) of this Act references to paragraph (b) of section 181(1) of this Act shall include references to the said section 38(1)(b).
- (2) This paragraph applies to any area for which no local plan is in force under Part II of this Act—
- (a) allocating any land in the area for the purposes of such functions as are mentioned in section 181(1)(a) of this Act; or
  - (b) defining any land in the area as the site of proposed development for the purposes of any such functions.

## **PART XI**

### HIGHWAYS

#### *Provisions as to telegraphic lines*

- 50 (1) In relation to an order made under section 46 of the Act of 1947 before 1st October 1969 or, as the case may be, an order under section 22 of the Act of 1945 in respect of which the notice required by Schedule 6 to the Act of 1947 was published before that date, section 209(1), (2) and (3) of this Act shall have effect as if references to a telegraphic line belonging to or used by the Post Office were references to a telegraphic line belonging to or used by the Postmaster-General.
- (2) Where the period referred to in paragraph (a) of subsection (3) of section 209 of this Act began to run before, and was current on, the said date, that paragraph shall have effect as if the reference to notice having been given by the Post Office before the end of that period included a reference to notice having been so given by the Postmaster-General, and paragraph (c) of that subsection shall have effect as if the reference to the Post Office included a reference to the Postmaster-General.

## **PART XII**

### STATUTORY UNDERTAKERS

#### *Application of ss. 214 to 220 to matters arising before 8th December 1969*

- 51 (1) This paragraph shall have effect as respects the application, by virtue of Part I of this Schedule, of the provisions of this Act hereinafter specified in relation to matters arising before 8th December 1969 (in this paragraph referred to as "the relevant date").
- (2) In relation to any application for planning permission made before the relevant date or any appeal from the decision on an application so made, section 214 of this Act shall have effect as if it contained provisions corresponding to paragraph 1(1) of Schedule 5 to the Act of 1947 and as if subsection (2)(b) were omitted.

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- (3) In relation to any decision made before the relevant date, section 215 of this Act shall have effect as if it contained provisions corresponding to paragraph 2(1)(a) of the said Schedule 5.
- (4) In relation to any order of which notice has been given under paragraph 3(2) of the said Schedule 5 before the relevant date, section 216. of this Act shall have effect as if it contained provisions corresponding to the said paragraph 3(2).
- (5) In relation to any order of which notice has been given under paragraph 4(2) of the said Schedule 5 before the relevant date, section 217. of this Act shall have effect as if it contained provisions corresponding to the said paragraph 4(2).
- (6) In relation to a compulsory purchase order made or confirmed before the relevant date, section 218 of this Act shall have effect as if it contained provisions corresponding to section 42(4)(6) of the Act of 1947.
- (7) In relation to any order made before the relevant date under section 24 of the Act of 1945, section 220 of this Act shall have effect as if it contained provisions corresponding to section 24(7) of the Act of 1945.

*Extinguishment of rights: notices served before 8th December 1969*

- 52 In relation to a notice served before 8th December 1969, section 219(1) of this Act shall have effect with the omission—
- (a) of the words from " if satisfied " to " appropriated " ; and
  - (b) of the words from " of twenty-eight days " to " as may be " .

*Application of section 219 to land acquired by Central Land Board*

- 53 In section 219(1) of this Act, the reference to land acquired by a Minister, a local authority or statutory undertakers under Part VI of this Act shall be construed as including a reference to land acquired by the Central Land Board under Part IV of the Act of 1947, as well as to land acquired under the said Part IV by a Minister, a local authority or statutory undertakers.

*Right to compensation for decisions made before 8th December 1969*

- 54 In its application, by virtue of Part I of this Schedule, to a decision made before 8th December 1969, section 226 of this Act shall have effect as if for subsection (1) (a) there were substituted provisions corresponding to paragraph 1(a) or (b) of Schedule 4 to the Act of 1945 and as if subsection (5) contained a proviso corresponding to paragraph 2(2) of Schedule 5 to the Act of 1947.

*Enactments applying section 24 of Act of 1945*

- 55 (1) This paragraph shall have effect for .the purposes of any enactment which applies the provisions of section 24 of the Act of 1945 with adaptations consisting of or including adaptations of the references in that section to a purchasing authority or to the purchasing or appropriating authority.
- (2) Any such enactment shall be construed (in accordance with Part I of this Schedule or section 38 of the Interpretation Act 1889) as applying the provisions of section 219 and section 226(2) of this Act with corresponding adaptations of the references in

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those provisions to a Minister, a local planning authority or statutory undertakers, or to the acquiring or appropriating authority, as the case may require.

### **PART XIII**

#### VALIDITY OF PLANNING DECISIONS ETC.

##### *Orders made and action taken before 16th August 1959*

- 56 (1) Notwithstanding anything in Part I of this Schedule, the provisions of section 231 of this Act shall not have effect in relation to—
- (a) any order made before 16th August 1959 under any of the provisions of the Act of 1947 corresponding to the provisions of this Act under which the orders mentioned in subsection (2) of that section can be made; or
  - (b) any action on the part of the Secretary of State taken before the said 16th August under any of the provisions of that Act or of the Act of 1954 corresponding to the provisions of this Act under which action of the descriptions mentioned in subsection (3) of that section can be taken,
- and section 233 does not apply to any such order or action as is mentioned in this sub-paragraph.
- (2) In relation to any action which, in accordance with any provisions of the Act of 1947 corresponding to provisions of Part XI of this Act, was required to be taken by the Secretary of State and the appropriate Minister, the reference in sub-paragraph (1) of this paragraph to the Secretary of State shall be construed as a reference to the Secretary of State and the appropriate Minister.

- 57 Section 234 of this Act does not apply to any decision of the Secretary of State made before 16th August 1959 under any of the provisions of the Act of 1947 corresponding to the provisions of this Act mentioned in subsection (2) of that section.

##### *Directions under Part V of Act of 1954*

- 58 For the purposes of the construction, in accordance with Part I of this Schedule, of section 231(3)(c) of this Act (but without prejudice to paragraph 56(1) of this Schedule) any directions given on or after 16th August 1959 by the Secretary of State under section 47(3) or (4) of the Act of 1954, as well as any direction given by the Secretary of State on or after that day under section 23 of that Act, shall be treated as a direction given under provisions of that Act corresponding to the provisions of section 35 of this Act.

### **PART XIV**

#### FINANCIAL PROVISIONS

##### *Grants*

- 59 Nothing in this Act shall affect the payment (whether before or after the commencement of this Act) of any grant in respect of any period before the commencement of this Act.

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60 Section 237 of this Act does not apply to any year earlier than the year ending on a date in 1968.

*Recovery of sums from acquiring authorities*

61 (1) In relation to any acquisition or sale of an interest in land in pursuance of a notice to treat served, or contract made, before 30th October 1958—

- (a) section 244 of this Act shall not apply ;
- (b) the repeals effected by this Act shall not affect any right of recovering any sum in respect thereof under the provisions of section 54(6) of the Act of 1954 as originally enacted, or under those provisions as applied by regulations made under section 54(8) of that Act.

(2) Subject to sub-paragraph (1) of this paragraph, section 244 of this Act shall have effect in relation to interests in land acquired or sold as therein mentioned whether before or after the commencement of this Act; and for the purposes of the construction of that section in accordance with Part I of this Schedule, any notice recorded under the provisions of section 29 of the Act of 1954 as applied by Part V of that Act, as well as any notice recorded under those provisions as applied by Part IV of that Act, shall be treated as a notice recorded under provisions of that Act corresponding to the provisions of this Act referred to in section 244 of this Act, and references in that section to compensation specified in a notice shall be construed accordingly.

62 Section 245 of this Act shall have effect in relation to interests in land acquired or sold as therein mentioned whether before or after the commencement of this Act, except that it shall not have effect in relation to any acquisition or sale in pursuance of a notice to treat served, or contract made, before 13th August 1947.

*Treatment of sums received under section 248(4) before 1st April 1968*

63 Any sums received by the Secretary of State before 1st April 1968 by virtue of the provisions re-enacted in the provisions mentioned in section 248(4) of this Act shall be treated as paid in satisfaction, or part satisfaction, of such one or more of the instalments payable under subsections (2) and (3) of that section as the Treasury may determine.

**PART XV**

SPECIAL CASES

*Minerals*

64 In relation to any time before 10th April 1966, section 252 of this Act shall have effect as if for references to the Mines (Working Facilities and Support) Act 1966 there were substituted references to the Mines (Working Facilities and Support) Act 1923 ; and accordingly regulations made before that date which are in force at the commencement of this Act under section 78 of the Act of 1947, shall have effect as if made under the said section 252 and as if, in relation to any time on or after the said 10th April, references in them to the said Act of 1923 were references to the corresponding provisions of the said Act of 1966.

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*National Coal Board*

- 65 Until the coming into operation of the first regulations made under section 259 of this Act after 8th December 1969 the provisions of the Act of 1947 applied by regulations under section 86(1) of that Act in relation to the National Coal Board and land of that Board shall have effect as so applied as if Part XI of this Act contained provisions corresponding to the Act of 1947 without the amendments made by sections 70 to 72 of the Act of 1969.

**PART XVI**

MISCELLANEOUS AND SUPPLEMENTARY

*Rights and liabilities in respect of certain payments*

- 66 (1) The repeals effected by this Act shall not affect any right to, or claim for, or any liability in respect of, any payment under an enactment to which this paragraph applies ; and any such right, claim or liability shall have effect and may be enforced, and moneys in respect of any such payment shall be applicable or may be raised, in accordance with the provisions of the enactment in question (including the provisions of any other enactment which, immediately before the commencement of this Act, had effect for the purposes of that enactment) as if this Act had not been passed, and any direction or proceedings relating thereto may' be given, brought or continued accordingly.
- (2) This paragraph applies to the following enactments, that is to say—
- (a) Parts I and V of the Act of 1954 ;
  - (b) section 54(1) to (5) of that Act;
  - (c) the scheme made under section 56 of the Act of 1947 ;
  - (d) any other enactment which (if contained in an Act) was not repealed by, and re-enacted (with or without modifications) in this Act or (if not contained in an Act) has effect otherwise than by virtue of an enactment so repealed and re-enacted
- (3) Without prejudice to the preceding provisions of this paragraph, any proceedings relating to any such claim as is mentioned in section 124(1) of this Act may be brought or continued, and shall be determined in accordance with the relevant provisions (that is to say, the provisions of the Act of 1947 and of Schedule 1 to the Act of 1954 and any other enactment having effect for the purposes thereof) as if this Act had not been passed.
- (4) Sub-paragraph (1) of this paragraph shall have effect in relation to any such right, claim or liability as is therein mentioned notwithstanding that, immediately before the commencement of this Act, the right, claim or liability had not yet accrued or been made or become enforceable, as the case may be.

Provided that, in relation to any such claim which had not been made before the commencement of this Act, so much of that sub-paragraph as provides that the claim shall have effect in accordance with the provisions therein mentioned shall be construed as providing that the claim may be made in accordance with those provisions, and, when made, shall have effect accordingly.



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*Registration of payments under s. 58 of Act of 1954*

- 67 (1) The repeals effected by this Act shall not affect the operation of subsection (1) of section 58 of the Act of 1954, in so far as that subsection would have continued to have effect if this Act had not been passed.
- (2) In subsection (1) of the said section 58, the references to subsection (7) of section 54 of that Act and to paragraph (a) of the proviso to that subsection shall be construed as including references respectively to subsection (1) and to subsection (2) of section 245 of this Act.

*Entitlement to, and amount of, compensation etc. in cases arising before 25th February 1963*

- 68 Notwithstanding Part I of this Schedule, the following provisions of this Act, that is to say, sections 157(4), 158(3)(c) and (6), in section 169(2) the words "or which would contravene the condition set out in Schedule 16 to this Act", section 169(3), section 263(1) to (4), paragraph 14 of Schedule 6 and Schedule 16 do not affect—
- (a) any determination arising out of a notice to treat served before 25th February 1963, or served at any time in respect of a purchase notice or notice under section 38(2) of the Act of 1959 (or any corresponding enactment previously in force) which was served before that date;
  - (b) any other determination under the Act of 1947 in respect of or arising out of a purchase notice served before that date;
  - (c) any claim for compensation under section 18(1) or 20 of the Act of 1947 (or any corresponding enactment previously in force) which arose before that date.

*Definition of " local authority "*

- 69 For the purposes of the construction, in accordance with Part I of this Schedule, of any enactment which incorporates the definition of " local authority " in the Act of 1947, section 204 and the reference to it in section 275(1) of this Act shall be disregarded.

*Saving for powers of Post Office*

- 70 Except as provided by section 209 of this Act. nothing in the provisions of this Act specified in Part I of Schedule 19 to this Act or in any order or regulations made thereunder shall affect any powers or duties of the Post Office under the provisions of the Telegraph Acts 1863 to 1916 or apply to any telegraphic lines (within the meaning of the Telegraph Act 1878) placed or maintained by virtue of any of the provisions of those Acts.

*Saving in respect of works below high-water mark*

- 71 Nothing in the provisions of this Act specified in Part I of Schedule 19 to this Act shall authorise the execution of any works (whether of construction, demolition or alteration) on, over or under tidal lands below high-water of ordinary spring tides, except—
- (a) with the consent of any persons whose consent would have been required if this Act had not been passed ; and

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- (b) in accordance with such plans and sections, and subject to such restrictions and conditions as may be approved by the Board of Trade or the Secretary of State before the works are begun.

*Land Compensation (Scotland) Act 1963 s. 39*

- 72 Any reference in this Act to the power conferred by section 39 of the Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall, in relation to any notice to treat falling within section 48 of that Act, be construed as a reference to the corresponding power conferred by section 5(2) of the Acquisition of Land (Assessment of Compensation) Act 1919.

*References to Ministers: previous Transfer of Functions Orders*

- 73 (1) Where the functions of a Minister under any enactment re-enacted or referred to in this Act have at any time been exercisable by another Minister or other Ministers, references in the relevant provision of this Act shall, as respects any such time, be construed as references to the other Minister or Ministers.
- (2) In this paragraph " Minister " includes the Board of Trade and the Treasury.

*Schemes and agreements under enactments repealed by Act of 1947*

- 74 (1) The repeal effected by this Act shall not affect the operation of—
- (a) any such scheme as was mentioned in paragraph 6 of Schedule 10 to the Act of 1947 (which related to certain schemes made under the Town and Country Planning (Scotland) Act 1932 and the Town Planning (Scotland) Act 1925) in so far as, by virtue of that paragraph, the scheme continued to have effect immediately before the commencement of this Act; or
  - (b) any order made under that paragraph (which empowered the Minister to make provision by order for winding up any such scheme) in so far as the order continued to have effect immediately before the commencement of this Act.
- (2) Any power to make orders under paragraph 6 of that Schedule shall continue to be exercisable notwithstanding the said repeal.
- 75 (1) The repeal effected by this Act shall not affect the operation of any such agreement as was mentioned in paragraph 10 of Schedule 10 to the Act of 1947 (which related to certain agreements made before the appointed day for restricting the planning, development or use of land), or of any order discharging or modifying a restriction imposed by such an agreement, in so far as any such agreement or order was in force immediately before the commencement of this Act; and any such agreement may be enforced as if this Act had not been passed.
- (2) Nothing in any such agreement shall be construed as restricting the exercise, in relation to land to which the agreement applies, of any powers exercisable by any Minister or authority under this Act, so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Secretary of State by virtue of paragraph 5 of Schedule 4 to this Act, or as requiring the exercise of any such powers otherwise than in accordance with such provisions or directions.

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- (3) If the Secretary of State is satisfied, on application made to him by any person being a party to any such agreement, or a person entitled to land affected thereby, that any restriction on the development or use of the land imposed by the agreement is inconsistent with the proper planning or development of the area comprising the land, he may by order discharge or modify that restriction so far as appears to him to be expedient.
- (4) Without prejudice to sub-paragraph (3) of this paragraph, if any person being a party to any such agreement (whether as originally made or as modified under that sub-paragraph), or a person entitled to land affected thereby, claims that the agreement ought to be modified or rescinded, having regard to the provisions of this Act or to anything done under this Act or under the Act of 1947, he may refer to arbitration the question whether the agreement should be so modified or rescinded, and the arbiter may make such award as appears to him to be just having regard to all the circumstances.

*Development authorised under enactments repealed by Act of 1947*

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- (1) Where any works on land existing at the appointed day, or any use to which land was put on that day, had been authorised by a permission granted subject to conditions under a scheme under the Town and Country Planning (Scotland) Act 1932 (or under an enactment repealed by that Act) or under an order made under section 10(1) of that Act (in the subsequent provisions of this Schedule referred to as "a planning scheme" and "an interim development order ") the provisions of Parts III and V of this Act, the provisions of Part IX of this Act relating to purchase notices, and the provisions of sections 214 to 217 of this Act, shall apply in relation to those works or that use as if the conditions had been imposed on the grant of planning permission.
  - (2) Without prejudice to the generality of sub-paragraph (1) of this paragraph, where any such permission was granted subject to conditions (in whatever form) restricting the period for which the works or use might be continued on the land, then, if that period had not expired at the appointed day and the works were or are not removed, or the use discontinued, at the end of that period, the provisions of Part V of this Act relating to enforcement notices shall apply in relation thereto as if the works had been carried out, or the use begun, as the case may be, at the end of that period and without the grant of planning permission in that behalf.
  - (3) The power of a local planning authority under Part III of this Act to grant permission for the retention on land of buildings or works constructed or carried out before the date of the application, or the continuance of any use of land instituted before that date, shall include power to grant such permission in respect of any works or use authorised by a permission granted subject to any such conditions as are mentioned in sub-paragraph (2) of this paragraph.
  - (4) Where at any time before the appointed day it was determined under the Building Restrictions (War-Time Contraventions) Act 1946 that any works on land or any use of land should be deemed to comply with planning control (within the meaning of that Act) subject to any conditions specified in the determination, the provisions of this paragraph shall apply in relation to those works or that use as if those conditions had been imposed on the grant of permission under a planning scheme or an interim development order.
  - (5) Provision may be made by regulations under this Act for applying the preceding provisions of this paragraph, subject to such adaptations and modifications as may

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be specified in the regulations, to works on land carried out, or uses of land begun, at any time before the appointed day, in accordance with permission granted subject to conditions under any enactment repealed by the Act of 1947, other than the enactments relating to town and country planning; and for the purposes of this provision any works or use in respect of which a notice was served under subsection (1) of section 1 of the Restriction of Ribbon Development (Temporary Development) Act 1943 or was deemed by virtue of subsection (4) of that section to have been so served, shall be treated as carried out or begun in accordance with permission granted subject to a condition restricting the period for which the works or use might be continued on the land.

- 77 (1) Where permission for any development of land was granted, at any time after 10th November 1943 and before the appointed day, on an application in that behalf made under an interim development order, then, if and so far as that development was not carried out before the appointed day and the permission was in force immediately before that day, planning permission shall be deemed to have been granted in respect thereof subject to the like conditions (if any) as were imposed by the permission under the interim development order as it had effect immediately before the appointed day:

Provided that this sub-paragraph shall not apply in relation to any development for which permission was required before the appointed day under the Restriction of Ribbon Development Act 1935 unless that permission was also granted.

- (2) The provisions of section 42 of this Act shall apply in relation to planning permission which is deemed to have been granted by virtue of this paragraph as if it had been granted on an application under Part III of this Act; and, in relation to any order made under that section for the revocation or modification of any such permission, any reference in section 153(3) of this Act to the grant of permission shall be construed as a reference to the grant of the permission under the interim development order.
- (3) Where permission for any development of land was granted as mentioned in sub-paragraph (1) of this paragraph, and permission for that development was also granted under the Restriction of Ribbon Development Act 1935 then, if the permission so granted under the said Act of 1935 was granted subject to conditions, those conditions shall be treated for the purposes of this paragraph as conditions imposed by the permission granted under the interim development order.
- 78 (1) Where any works for the erection or alteration of a budding had been begun but not completed before the appointed day, then if—
- (a) immediately before that day those works could have been completed in conformity with the provisions of a planning scheme or of permission granted thereunder, or in accordance with permission granted by or under an interim development order; and
  - (b) where any permission was required under the Restriction of Ribbon Development Act 1935 for the carrying out of those works, that permission was granted,
- planning permission shall be deemed to have been granted in respect of the completion of those works.
- (2) The planning permission deemed to have been granted by virtue of this paragraph shall be deemed to have been so granted subject to any conditions applicable thereto under the scheme or the permission granted by or under the interim development order, as the case may be, and to any conditions imposed by the permission (if any)

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granted under the Restriction of Ribbon Development Act 1935 and shall include permission to use the building, when erected or altered—

- (a) where the purpose for which it could be so used was prescribed by or under the planning scheme, or by the permission granted by or under the interim development order, as the case may be, for that purpose ;
- (b) in any other case, for the purpose for which the building, or the building as altered, was designed.

(3) In relation to any such works as are mentioned in sub-paragraph (1) of this paragraph, being works in respect of which permission was granted after 10th November 1943, on an application in that behalf made under an interim development order, the provisions of this paragraph shall have effect in substitution for the provisions of paragraph 77 of this Schedule.

- 79 (1) Any reference in Part VII of this Act, or in Schedule 13 thereto, to a planning decision shall, where the context so admits, include a reference to any decision deemed to have been made by virtue of the provisions of paragraph 77 or paragraph 78 of this Schedule.
- (2) Sub-paragraph (1) of this paragraph shall have effect without prejudice to the provisions of Part I of this Schedule.

#### *Supplementary*

- 80 (1) Where in this Act (including this Schedule except Part I thereof) express provision is made in respect of any matter, the provisions of Part I of this Schedule, in so far as they are applicable to that matter, shall have effect subject to that express provision.
- (2) Except as provided by sub-paragraph (1) of this paragraph, the mention in any provisions of this Act (including this Schedule except Part I thereof) of any matter to which Part I of this Schedule is applicable shall not be construed as affecting the generality of the provisions of Part I of this Schedule.