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SCHEDULES

THIRD SCHEDULE

ENFORCEMENT OF NOTICES UNDER SECTIONS 30 AND 33 OF ACT OF 1947

PART II

NOTICES RELATING TO WASTE LAND, ETC.

Preliminary

- 8 In this Part of this Schedule the expression " notice " means a notice under section thirty-three of the Act of 1947.
- 9 Subject to the provisions of this Part of this Schedule, a notice shall take effect at the expiration of such period (not being less than twenty-eight days after the service thereof) as may be specified therein.

Right of appeal

- 10 (1) A person on whom a notice is served, or any other person having an interest in the land to which the notice relates, may at any time within the period specified in the notice as the period at the expiration of which it is to take effect, appeal to a magistrates' court acting for the petty sessions area in which the land is situated against the notice on any of the following grounds, that is to say—
- (a) that the condition of the land to which the notice relates does not seriously injure the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area, or
 - (b) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III of the Act of 1947, or
 - (c) that the land to which the notice relates does not constitute a garden, vacant site or other open land in the area of the local planning authority who served the notice, or
 - (d) that the requirements of the notice exceed what is necessary for preventing the condition of the land from seriously injuring the amenity of any part of the area of the said local planning authority, or of any adjoining area, or
 - (e) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.
- (2) If an appeal is brought under this paragraph the notice shall be of no effect pending the final determination or withdrawal of the appeal.

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- (3) On an appeal under this paragraph the magistrates' court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not a material one.
 - (4) On the determination of an appeal under this paragraph the magistrates' court shall give directions for giving effect to their determination, including where appropriate directions for quashing the notice or for varying the terms of the notice in favour of the appellant.
 - (5) Subject to the provisions of paragraph 14 of this Schedule, the validity of a notice which has been served under the said section thirty-three on the owner and occupier of the land shall not be questioned in any proceedings whatsoever on any of the grounds specified in paragraph (a), (b) or (c) of sub-paragraph (1) of this paragraph except by way of an appeal under this paragraph.
- 11 An appeal against the decision of a magistrates' court under this Part of this Schedule may be brought to a court of quarter sessions by the appellant or the local planning authority.
- 12 Where any person has appealed against a notice under this Part of this Schedule neither that person nor any other shall be entitled to claim in any proceedings, being proceedings instituted after the making of the appeal, that the notice was not served in accordance with the provisions of section one hundred and five of the Act of 1947 on the person who appealed.

Power of local planning authority to act under notice in case of default

- 13 (1) If within the period specified in a notice, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken have not been taken, the local planning authority may enter the land and take those steps, and may recover as a simple contract debt in any court of competent jurisdiction from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf.
- (2) Any expenses incurred by the owner or occupier of any land for the purpose of complying with a notice, and any sums paid by the owner of any land under the foregoing sub-paragraph in respect of expenses of the local planning authority in taking steps required to be taken by a notice, shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land to come to be in the condition in which it was when the notice was served.

Criminal liability for failure to comply with notice

- 14 (1) If, at any time after the expiration of the period within which the steps required by the notice are to be taken any of those steps have not been taken, and any person does anything which has the effect of continuing or aggravating the injury caused by the condition of the land to which the notice relates, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.
- (2) Sub-paragraph (5) of paragraph 10 of this Schedule shall not apply to proceedings brought under this paragraph against a person on whom the notice was not served, but who has held an interest in the land since before the notice was served on the owner and occupier of the land, if he did not appeal against the notice under this Part of this Schedule.

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Supplemental regulations

- 15 Subsection (5) of section twenty-four of the Act of 1947 as amended by this Act shall apply as if any reference in that subsection, or in the provisions of this Act amending that subsection, to an enforcement notice included a reference to a notice as defined in this Part of this Schedule.