



Town and Country Planning (Scotland) Act 1947

1947 CHAPTER 53

PART II

PLANNING AND CONTROL OF DEVELOPMENT, &C.

Development plans.

3 Surveys of planning districts and preparation of development plans.

- (1) As soon as may be after the appointed day, every local planning authority shall carry out a survey: of their district, and shall, not later than three years after the appointed day, or within such; extended period as the Secretary of State may in any particular case allow, submit to the Secretary of State a report of the survey together with a plan (hereinafter called a "development plan") indicating the manner in which they propose that land in that district should be used (whether by the carrying out thereon of development or otherwise) and the stages by which any such development should be carried out.
- (2) Subject to the provisions of any regulations made under this Act for regulating the form and content of development plans, any such plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals aforesaid with such degree of particularity as may be appropriate to different parts of the district; and any such plan may in particular—
 - (a) define the sites of proposed roads, public and other buildings and works, airfields, parks, pleasure grounds, nature reserves and other open spaces, or allocate areas of land for use for agricultural, residential, industrial or other purposes of any class specified in the plan;
 - (b) designate as land subject to compulsory acquisition by any Minister, local authority or statutory undertakers any land allocated by the plan for the purposes of any of their functions (including any land which that Minister

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- or authority or those under takers are or could be authorised to acquire compulsorily under any enactment other than this Act);
- (c) designate as land subject to compulsory acquisition by the appropriate local authority—
- (i) any land comprised in "fin area denned by the plan as an area of comprehensive development (including any land therein which is allocated by the plan for any such purpose as is mentioned in paragraph (b) of this subsection);
 - (ii) any other land which, in the opinion of the local planning authority, ought to be subject to compulsory acquisition for the purpose of securing its use in the manner proposed by the plan.
- (3) For the purposes of this section a development plan may define as an area of comprehensive development any area which in the opinion of the local planning authority should be developed or-redeveloped as a whole for any one or more of the following purposes, that is to say, for the purpose of dealing satisfactorily with extensive war damage or conditions of bad layout or obsolete development, or for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the development or redevelopment of any other area, or for any other purpose specified in the plan; and land may be included in any area so defined, and designated as subject to compulsory acquisition in accordance with the provisions of subsection (2) of this section, whether or not provision is made by the plan for the development or redevelopment of that particular land.
- (4) The Secretary of State may approve any development plan submitted to him under this section either without modification or subject to such modifications as he considers expedient:
- Provided that—
- (a) he shall not approve a development plan which designates any land as subject to compulsory acquisition as aforesaid if it appears to him that the acquisition is not likely to take place within ten years from the date on which the plan is approved, or in the case of agricultural land as defined in subsection (4) of section forty-nine of this Act within seven years from that date;
 - (b) he shall not, except with the consent of all persons interested, approve a development plan subject to a modification designating as subject to compulsory acquisition any land not so designated in the plan as submitted to him;
 - (c) where a development plan as submitted to the Secretary of State designates as subject to compulsory acquisition any such land as is mentioned in paragraph 9 of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (which relates to land of local authorities and statutory undertakers and inalienable land of the National Trust for Scotland) then, if objection to the proposed designation is duly made by the local authority or statutory undertakers or the National Trust for Scotland, as the case may be, and is not withdrawn, the land shall not be so designated except in pursuance of an order made by the Secretary of State (or, in the case of land being operational land of statutory undertakers, by the Secretary of State and the appropriate Minister) and any such order shall be subject to special parliamentary procedure.
- (5) At any time before a development plan with respect to the whole of the district of a local planning authority has been approved under this section, that authority may,

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with the consent of the Secretary of State, and shall if so required by directions of the Secretary of State, prepare and submit to him a development plan relating to any part of that district, and the foregoing provisions of this section shall apply in relation to any such plan as they apply in relation to a plan relating to the whole of that district.

4 Amendment of development plans.

- (1) At least once in every five years after the date on which a development plan for any district is approved by the Secretary of State, the local planning authority shall carry out a fresh survey of that district, and submit to the Secretary of State a report of the survey, together with proposals for any alterations or additions to the plan which appear to them to be required having regard thereto.
- (2) Without prejudice to the provisions of the foregoing subsection, a local planning authority may at any time, and shall if so required by directions of the Secretary of State, submit to the Secretary of State proposals for such alterations or additions to the development plan relating to their district as appear to them to be expedient or as may be required by those directions, as the case may be.
- (3) Where proposals for alterations or additions to a development plan are submitted to the Secretary of State under this section, he may amend that plan to such extent as he considers expedient having regard to those proposals and to any other material considerations:

Provided that the proviso to subsection (4) of the last foregoing section shall apply in relation to the amendment of a development plan by the Secretary of State as it applies in relation to the approval of such a plan by him, and for that purpose shall have effect—

- (a) as if for the reference in paragraph (a) to the date on which the plan is approved there were substituted a reference to the date on which the amendment is effected; and
 - (b) as if for the references in paragraphs (b) and (c) to the plan as submitted to the Secretary of State there were substituted references to the proposals submitted to him under this section.
- (4) Where, under subsection (5) of the last foregoing section, a development plan is approved with respect to a part of the district of a local planning authority, the periods of five years mentioned in subsection (1) of this section shall run from the date on which development plans in respect of the whole of the district of the local planning authority have been approved by the Secretary of State.
 - (5) Any proposal submitted to the Secretary of State under this section for any alteration or addition to a development plan and any amendment made by the Secretary of State under this section to a development plan may provide for securing that any land previously designated by the plan as subject to compulsory acquisition shall cease to be so designated, or that any land not previously so designated shall be so designated.

5 Additional powers of the Secretary of State with respect to development plans.

- (1) Where, by virtue of any of the foregoing provisions of this Part of this Act, or of any directions of the Secretary of State thereunder, any development plan, or any report or proposals for alterations or additions to a development plan, are required to be submitted to the Secretary of State, then—

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- (a) if within the period prescribed in that behalf by those provisions or directions no such plan or report or proposals, or no such plan or proposals satisfactory to the Secretary of State, have been so submitted; or
- (b) if at any time it appears to the Secretary of State that the local planning Authority are not taking the Steps necessary to enable them to submit such a plan or report or proposals within that period,

the Secretary of State may, after carrying out any survey which appears to him to be expedient for the purpose, make such a development plan, or, as the case may be amend the development plan to such extent, as he considers expedient.

- (2) Where, under the foregoing provisions of this section, the Secretary of State has power to make or amend a development plan, he may, if he thinks fit, authorise the local planning authority for any neighbouring district or any other local planning authority who appear to the Secretary of State to have an interest in the proper planning of the district concerned to submit such a plan to him for his approval, or, as the case may be, to submit to him proposals for the amendment of the plan, and to carry out any survey of the land which appears to him to be expedient for the purpose, and may approve any plan so submitted either without modification or subject to such modifications as he considers expedient, or, as the case may be, may amend the plan to such extent as he considers expedient having regard to the proposals so submitted and to any other material considerations.
- (3) The foregoing provisions of this Part of this Act shall, so far as applicable, apply to the making, approval or amendment of development plans under this section, and to such plans so made, approved or amended, as they apply to the approval or amendment of development plans under those provisions, and to plans approved or amended thereunder.
- (4) Any expenses incurred by the Secretary of State under this section in connection with the making or amendment of a development plan with respect to the district, or any part of the district, of a local planning authority shall be paid in the first instance out of moneys provided by Parliament, but so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by that authority to the Secretary of State.
- (5) Where, under this section, a development plan, or proposals for the amendment of such a plan are authorised to be submitted to the Secretary of State by the local planning authority for any district other than the district in which the land is situated, any expenses reasonably incurred in that behalf by the said authority, as certified by the Secretary of State, shall be repaid to that authority by the local planning authority for the district in which the land is situated.

6 Incorporation in development plans of orders relating to trunk roads and new towns.

- (1) Where an order is made by the Minister of Transport in accordance with the Second Schedule to the Trunk Roads Act, 1946, directing that any road proposed to be constructed by him shall become a trunk road, or authorising him to construct or improve an road under section four of that Act, any development plan which relates to land on which a road is to be constructed or improved in accordance with that order shall have effect as if the provisions of that order were included in the plan.
- (2) Where an order is made by the Secretary of State under section one of the New Towns Act, 1946, designating any area as the site of a new town under that Act, any

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development plan which relates to land in that area shall have effect as if the provisions of that order were included in the plan.

- (3) Nothing in this section shall be construed as prohibiting the inclusion in a development plan of provisions defining the line of roads proposed to be constructed by the Minister of Transport in accordance with any such order as is mentioned in subsection (1) of this section, or areas designated as the sites of new towns by any such order as is mentioned in subsection (2) of this section, or of provisions defining land as likely to be made the subject of any such order as aforesaid.
- (4) Provision may be made by regulations under this Act for enabling any, proceedings preliminary to the making of any such order as is mentioned in subsection (1) or subsection (2) of this section to be taken concurrently with proceedings required under this Act to be taken in connection with the approval or making of a development plan relating to land to which any such order applies or in connection with any amendment of a development plan rendered necessary or desirable in consequence of any such order.

7 Modification of development plans in relation to land designated as subject to compulsory acquisition.

- (1) Where any land is designated by a development plan as subject to compulsory acquisition, then if at the expiration of twelve years from the date on which the plan, or the amendment of the plan, by virtue of which the land was first so designated came into operation, any of that land has not been acquired by a Minister, local authority or statutory undertakers who could be authorised to acquire it compulsorily under the provisions of this Act, any owner of the land may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority a notice requiring his interest in the land to be so acquired.
- (2) Where any such notice is served as aforesaid, then unless within six months after the service of the notice either—
 - (a) notice to treat in respect of the interest to which the notice relates has been served by any such Minister, authority or undertakers as aforesaid; or
 - (b) an offer has been made to the owner of the said interest by any such Minister, local authority or undertakers to acquire it on terms that the price payable therefor shall be equal to (and shall be determined, in default of agreement, in like manner as) the compensation which would be payable in respect of that interest if it were acquired compulsorily,the development plan shall have effect, after the expiration of the said six months, as if the land were not designated as subject to compulsory acquisition.
- (3) The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is served as mentioned in paragraph (a) of the last foregoing subsection.
- (4) Where any land is designated by a development plan as subject to compulsory acquisition by the appropriate local authority (not being land comprised in an area defined by the plan as an area of comprehensive development) then if planning permission is granted for any development of the land so designated, or any part thereof, and that development is carried out in accordance with the permission so granted, the development plan shall have effect as if the land to which the permission relates were not designated as subject to compulsory acquisition:

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Provided that where any such permission as aforesaid is granted for a limited period only, the provisions of this subsection shall cease to have effect in relation to the land at the expiration of that period.

- (5) In relation to land being agricultural land as defined in subsection (4) of section forty-nine of this Act subsection (1) of this section shall have effect as if for the words "twelve years "there were substituted the words " eight years. "

8 Supplementary provisions as to development plans.

- (1) Before preparing a development plan which relates to any land comprised in a small burgh in their district, or proposals for alterations or additions to any such plan, the local planning authority shall consult with the town council of that burgh, and shall, before submitting any such plan or proposal to the Secretary of State, give to such town council an opportunity to make representations with respect thereto and consider any representations so made.
- (2) Provision may be made by regulations under this Act with respect to the form and content of development plans, and with respect to the procedure to be followed in connection with the preparation, submission, approval, making and amendment of such plans, and such regulations shall in particular make provision for securing—
- (a) that before preparing a development plan or proposals for alterations or additions to any such plan the local planning authority shall consult with such bodies or persons as may be prescribed by the regulations, and in particular, but without prejudice to the generality of this provision, with the appropriate agricultural executive committee;
 - (b) that notice shall be given by advertisement in one or more newspapers circulating in the area concerned of the submission to the Secretary of State of any such plan or of proposals for the amendment of any such plan, and of any proposal by the Secretary of State to make or amend such a plan and of the place or places where copies of the plan or proposals as so submitted, or of any such proposal of the Secretary of State, may be inspected;
 - (c) that objections and representations duly made in accordance with the regulations shall be considered, and that such local inquiries or other hearings as may be prescribed by the regulations shall be held, before such a plan is approved, made or amended by the Secretary of State; and
 - (d) that copies of any such plan as approved or made by the Secretary of State, including any amendments thereof, shall be available for inspection by the public, and that copies thereof (including reproductions on such scale as may be appropriate of any relevant maps) shall be available on sale to the public at a reasonable cost.
- (3) If as the result of any objections or representations considered, or of any local inquiry or other hearing held, in connection with a development plan or proposals for amendment of such a plan submitted to or prepared by the Secretary of State under this Part of this Act, the Secretary of State is of opinion that the local planning authority or any other authority or person ought to be consulted before he decides whether to approve or make the plan either with or without modifications, or to amend the plan, as the case may be, he shall consult that authority or person, but shall not be under any obligation to consult any other authority or person, or to afford any opportunity for further objections or representations or to cause any further local inquiry or other hearing to be held.

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- (4) Subject to the foregoing provisions of this section, the Secretary of State may give directions to any local planning authority, or to local planning authorities generally—
 - (a) for formulating the procedure for the carrying out of their functions under the foregoing provisions of this Part of this Act;
 - (b) for requiring them to furnish to him such information as he may require for the purpose of the exercise of any of his functions under those provisions.
- (5) The provisions of the Statutory Orders (Special Procedure) Act, 1945, with regard to the publication of notices in the Edinburgh Gazette and in a newspaper, shall, notwithstanding anything in that Act contained, not apply to any order made in pursuance of paragraph (c) of the proviso to subsection (4) of section three of this Act if the requirements imposed by regulations under this section with respect to the publication of notices in relation to the development plan have been complied with.

9 Validity and date of operation of development plans.

- (1) Immediately after a development plan has been approved or made or amended by the Secretary of State under this Part of this Act, the local planning authority shall publish in such manner as may be prescribed by regulations under this Act a notice stating that the plan has been approved, made, or amended, as the case may be, and naming a place where a copy of the plan or of the plan, as amended, may be seen at all reasonable hours, and shall serve a like notice on any person by whom an objection or representation was duly made to the proposed plan or amendment, and who has sent to the authority a request in writing to serve him with the notice required by this subsection, specifying an address for service, and on such other persons, if any, as may be required by general or special directions given by the Secretary of State.
- (2) If any person aggrieved by the plan or by the amendment, as the case may be, desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act, or on the ground that any requirement of this Act or any regulation made thereunder has not been complied with in relation to the approval or making of the plan, or, as the case may be, in relation to the making of the amendment, he may, within six weeks from the date on which the notice required by the last foregoing subsection is first published, make an application to the Court of Session, and on any such application the Court—
 - (a) may by interim order suspend the operation of the plan or amendment, as the case may be, or of any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
 - (b) if satisfied that the plan or amendment, or any provision contained therein, is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may quash the plan or amendment or any provision contained therein either generally or in so far as it affects any property of the applicant.
- (3) Subject to the provisions of the last foregoing subsection, a development plan or an amendment of a development plan shall not, either before or after it has been approved or made, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which the notice required by this section is first published.

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- (4) Except by leave of the Court of Session, no appeal shall lie to the House of Lords from a decision of the Court of Session under this section.
- (5) Where under paragraph (c) of the proviso to subsection (4) of section three of this Act any land to which a development plan relates is designated as subject to compulsory acquisition in pursuance of an order to which the Statutory Orders (Special Procedure) Act, 1945, applies, then—
- (a) if the order is confirmed by Act of Parliament under subsection (4) of section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, subsections (2) and (3) of this section shall not apply to the plan so far as it designates that land; and
 - (b) in any other case this section shall have effect in relation to the plan so far as it so designates that land, as if in subsection (2) for the reference to the date on which the notice required by subsection (1) is first published there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in subsection (3) the words from " and shall become operative "to the end of the subsection were omitted.