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SCHEDULES.

TENTH SCHEDULE

Section 109.

TRANSITORY PROVISIONS AND PROVISIONS CONSEQUENTIAL ON REPEALS.

- 1 Any application for permission to develop land made to the interim development authority before the appointed day under section ten of the Act of 1932, and any application for permission to develop land made to the responsible authority under a planning scheme, being in either case an application which has not been determined by that authority before that day, shall be treated for the purposes of this Act as an application made thereunder to the local planning authority for planning permission for the like development, and shall be treated as having been so made on the appointed day.
- 2 Where an application for any such permission as aforesaid, made to the interim development authority or the responsible authority before the appointed day, has been determined by that authority before that day and no appeal has been brought against the decision, then if the period during which such an appeal could have been brought before the appointed day has not expired, the decision of the interim development authority or the responsible authority, as the case may be, shall be treated for the purposes of section fourteen of this Act- as the decision of the local planning authority on an application for planning permission.
- 3 Any appeal to the Secretary of State from the decision of the interim development authority, or the responsible authority on any such application as aforesaid which is pending on the appointed day shall be treated as an appeal to the Secretary of State under section fourteen of this Act:

Provided that where under subsection (5) of section ten of the Act of 1932, any such hearing as is required by that subsection has been held before the appointed day, the proviso to subsection (2) of section thirteen of this Act shall not apply in relation to the appeal.
- 4 Any direction given before the appointed day under section six of the Town and Country Planning (Interim Development) (Scotland) Act, 1943, requiring any such application as aforesaid to be referred to the Secretary of State shall be treated as a direction given by the Secretary of State to the local planning authority under section thirteen of this Act:

Provided that where, under subsection (1) of section six of the Town and Country Planning (Interim Development) (Scotland) Act, 1943, any such hearing as is required by that subsection has been held before the appointed day, the proviso to subsection (2) of section thirteen of this Act shall not apply in relation to the application.
- 5 Any order made before the appointed day by an authority empowered in that behalf by an interim development order in pursuance of subsection (8) of section ten of the Act of 1932 and any order made before that day by the Secretary of State under subsection (2) of section thirty-eight of the Act of 1945, shall continue in force after

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that day and have effect as if it were included in a development order in pursuance of subsection (4) of section eleven of this Act.

6 Notwithstanding the repeal by this Act of the Act of 1932 any scheme made under that Act and any such scheme as is mentioned in section fifty-three of that Act, being a scheme which is in force immediately before the appointed day, shall, so far as it relates to the following matters, that is to say—

- (a) the designation of responsible authorities ;
- (b) the preservation of trees and the protection of woodlands ;
- (c) the execution of street works, and the recovery of charges in respect thereof, by the responsible authority; and
- (d) the suspension of any enactment contained in a local Act or of any byelaws, orders or regulations ;

continue in force until it is determined, in relation to any such matter as aforesaid, by an order made by the Secretary of State, and the provisions of that Act, or of the Town Planning (Scotland) Act, 1925, as the case may be, shall have effect in relation to any such scheme accordingly.

7 Any order made by the Secretary of State under the last foregoing paragraph may make such provision as the Secretary of State considers expedient for winding up the scheme.

8 Any order made under subsection (2) of section two of the Act of 1932, transferring powers and duties to the town council of a small burgh, being an order which is in force immediately before the appointed day, shall continue in force and have effect notwithstanding the repeal by this Act of the Act of 1932.

9 Notwithstanding the repeal by this Act of section seventeen of the Act of 1932 and sections forty-one and forty-two of the Act of 1945—

- (a) any order made by a local authority under the said section seventeen which is in force immediately before the appointed day shall, so far as is consistent with the provisions of section twenty-seven of this Act, continue in force and have effect as if it had been made, by the local planning authority under that section ; and any such order may be amended or revoked under this Act accordingly ;
- (b) any list compiled or approved by the Secretary of State under the said section forty-one before the appointed day shall continue in force and have effect as if it had been compiled or approved by him under section twenty-eight of this Act, and may be amended under that section accordingly, and subsection (5) of the said section twenty-eight shall apply to any copy of any such list or of amendments thereto deposited before the appointed day with the clerk of the local planning authority.

10 Subject as hereinafter provided, any agreement for restricting the development or use of land made under section thirty-three of the Act of 1932 with any such authority as is mentioned in subsection (2) of that section, or made or having effect as if made under any provision of a planning scheme with the responsible authority for the purposes of the scheme, shall, if in force on the appointed day, continue in force in accordance with the terms thereof and may be enforced under the said section thirty-three or under the scheme as the case may be :

Provided that—

- (a) nothing in any such agreement shall be construed as restricting the exercise, in relation to land to which any such agreement applies, of any powers

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- 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 under section thirty-three of this Act or as requiring the exercise of any such powers otherwise than as aforesaid ;
- (b) 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;
- (c) without prejudice to the provisions of sub-paragraph (b) of this proviso, 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 anything done thereunder, 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.
- 11 Where any such agreement as is mentioned in the last foregoing paragraph is modified or rescinded (whether by agreement or by virtue of the exercise of any powers conferred by sub-paragraph (b) or (c) of the proviso to that paragraph) at any time within three years after the appointed day, then if it appears to the Secretary of State that it is reasonable so to do having regard to the terms on which the agreement was made and to any loss or damage sustained by any person having an interest in land affected by the agreement by reason of the provisions of this Act or of anything done thereunder, he may direct that the development value of that interest in the land, or in any part thereof, shall be calculated for the purposes of Part V of this Act as if the agreement had been so modified or rescinded immediately before the appointed day.
- 12 The repeal of section fifty of the Act of 1932 shall not affect the rights of any person arising under that section in consequence of any event occurring before the appointed day.
- 13 Provision may be made by regulations under this Act for securing—
- (a) that any application to a highway authority under the Restriction of Ribbon Development Act, 1935, for any consent which that authority have power to give under section one or section two of that Act, being an application which has not been determined by that authority before the appointed day, shall be treated for the purposes of this Act as an application made thereunder to the local planning authority for planning permission, and shall be treated as having been so made on the appointed day ;
- (b) that any decision of a highway authority on an application for such a consent under the Restriction of Ribbon Development Act, 1935, shall, unless the applicant has appealed against that decision under section seven of that Act before the appointed day, be treated for the purposes of section fourteen of this Act as if it were the decision of a local planning authority on an application for planning permission, and as if notification of it had been received by the applicant on the appointed day ; and

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- (c) that any appeal taken to the Minister of Transport under section seven of that Act which is pending on the appointed day shall be treated as an appeal to the Secretary of State under section fourteen of this Act:

Provided that where under the said section seven any such local inquiry as is required by that section has been held before the appointed day, the proviso to subsection (2) of section thirteen of this Act shall not apply in relation to the appeal.

- 14 Notwithstanding the repeal by this Act of the Restriction of Ribbon Development (Temporary Development) Act, 1943, an Order in Council may be made under subsection (6) of section one of that Act for appointing the date on which the present war period within the meaning of that Act is to end.

- 15 Notwithstanding the repeal by this Act of section eight of the Town and Country Planning (Interim Development) (Scotland) Act, 1943, any order made by an interim development authority under that section for the preservation of trees and woodlands pending the coming into operation of a scheme under the Act of 1932, being an order which is in force immediately before the appointed day, shall, so far as is consistent with the provisions of section twenty-six of this Act, continue in force and have effect as if it had been made by the local planning authority under that section, and as if for references therein to the interim development authority there were substituted references to the local planning authority; and any such order may be amended or revoked under this Act accordingly.

- 16 Where, at any time before the appointed day, application has been made to the Secretary of State for an order under section one of the Act of 1945 declaring any land to be subject to compulsory purchase under Part I of that Act, the Secretary of State may, if he thinks fit, direct that proceedings on the application shall be continued under that Act after that day; and where any such direction is given, section one of the Act of 1945 and section thirteen of that Act and the First Schedule to that Act so far as they relate to an order under the said section one shall continue to apply in relation to the application and an order may be made thereon accordingly.

- 17 Where any order has been made before the appointed day under section one of the Act of 1945 declaring any land to be subject to compulsory purchase under Part I of that Act, or where any such order has been made after the appointed day by virtue of the last foregoing paragraph, the provisions of Part III of this Act shall apply as if the land were comprised in an area defined by the development plan as an area of comprehensive development, and were designated in the said plan as subject to compulsory acquisition under this Act, and section fifteen of the Act of 1945 (which relates to the validity and date of operation of such orders) shall, notwithstanding the repeal of that section, apply in relation to any such, order :

Provided that—

- (a) this paragraph shall not apply to any operational land of statutory undertakers unless an order made under paragraph (b) of subsection (5) of section thirteen of the Act of 1945 declaring that it is expedient that the land should be subject to compulsory acquisition has taken effect;
- (b) nothing in this paragraph shall be construed as restricting the power of the Minister of Works or the Postmaster General . to acquire any land to which this paragraph applies under subsection (2) of section thirty-four of this Act.

- 18 Any compulsory purchase order made or prepared in draft under Part I of the Act of 1945 before the appointed day may be confirmed or made in accordance with the provisions of that Part after that day, and any such order, and any compulsory

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purchase order confirmed or made under that Part before the appointed day, shall continue in force and have effect as if it had been made under the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, as applied by Part III of this Act.

- 19 For the purposes of the Act of 1945 as amended by this Act—
- (a) any land acquired by a Minister in pursuance of any such order as is mentioned in the last foregoing paragraph shall be deemed to have been acquired under section thirty-four of this Act ;
 - (b) any land acquired by a local planning authority in pursuance of any such order as aforesaid shall be deemed to have been acquired under section thirty-five of this Act;
 - (c) any land acquired by a local planning authority by agreement under the Act of 1945 shall be deemed to have been acquired under section thirty-seven of this Act.

- 20 Any question relating to the development of land referred to the Secretary of State before the appointed day in pursuance of directions given under section thirty-one of the Act of 1945 which has not been decided before that day shall be treated as an application made to him for planning permission for such development in pursuance of regulations made under section thirty-two of this Act :

Provided that, where any such hearing as is required by subsection (1) of the said Section thirty-one has been held before the appointed day, any provision of Part II of this Act, as applied by the said regulations, requiring a hearing shall not apply in relation to that question.