

SCHEDULES.

FIRST SCHEDULE

Section 2.

LOCAL ADMINISTRATION.

PART I

Voluntary Combination of Authorities.

- 1 An agreement entered into under subsection (2) of section two Of this Act shall provide for the appointment of a joint planning committee, which shall consist of representatives of the local planning authorities concerned, and for the delegation to the joint planning committee of all or some of the functions (other than the power to borrow money or to levy a rate) relating to the purposes for which the combination has effect, and the agreement may make provision; for the transfer of property and liabilities, the adjustment of liabilities between the authorities, the transfer and compensation of officers, the settlement of differences and for such other matters as appear to be necessary or expedient for the purpose of carrying the combination into effect.
- 2 The expenses of the joint planning committee shall be defrayed by the constituent authorities in the proportions specified or provided for in the agreement, and the proportion of expenses falling to be defrayed by a local planning authority shall be defrayed by that authority in like manner as if the expenses had been incurred by that authority for the purposes for which the combination has effect.
- 3 The Secretary of State may, on the application of the local planning authorities concerned, make an order for the purpose of giving effect to any of the foregoing provisions of this Part of this Schedule.
- 4 The Secretary of State may by order constitute the joint planning committee a body corporate.
- 5 The Secretary of State may, if it appears to him expedient so to do, make an order withdrawing the consent given by him to the combination under subsection (2) of section two of this Act of any two or more local planning authorities and dissolving the combination; and any such order may contain provisions regulating the rights and liabilities of the authorities concerned and such other provisions (including provision for the transfer and compensation of officers), as appear to the Secretary of State to be necessary or proper in the circumstances:

Provided that the Secretary of State shall not make such an order except after holding a local inquiry unless all the authorities concerned have consented to the making of the order.

PART II

Combination of Authorities by Order.

- 1 An order made under subsection (3) of section two of this Act shall provide for the constitution of a joint planning committee consisting of such number of members as may be determined by the order to be appointed- by the constituent authorities and for the delegation to the committee of such of the functions (other than the power to borrow money or to levy a rate) of the constituent authorities as may be specified in the order.
- 2 An order made under the said subsection (3)—
- (a) may provide for regulating the appointment, tenure of office and vacation of office, of members of the committee, for regulating the meetings and proceedings of the committee and for the payment of the expenses of the committee by the constituent authorities;
 - (b) may provide that a committee constituted thereby shall be a body corporate;
 - (c) may provide for the transfer and compensation of officers, the transfer of property and liabilities and the adjustment of accounts and apportionment of liabilities; and
 - (d) may contain such other provisions as appear to the Secretary of State to be necessary or expedient for enabling the committee to exercise their functions.
- 3 The Secretary of State may, if it appears to him expedient so to do, make an order dissolving, or altering the constitution of, such a joint planning committee or varying the delegation to the committee; and any such order may contain provisions regulating the rights and liabilities of the authorities concerned and such other provisions (including provisions for the transfer and compensation of officers) as appear to the Secretary of State to be necessary or proper in the circumstances.

PART III

Joint Advisory Committees.

- 1 Any two or more local planning authorities may, with the approval of the Secretary of State, concur in establishing a joint advisory committee for the purpose of advising those authorities as to the preparation of development plans and generally as to the planning of development in their districts; and any such committee shall be constituted in such manner as may be determined by the authorities by whom it is established:
- Provided that a majority of the members of any such committee shall be members of one or other of those authorities.
- 2 If it appears to the Secretary of State to be expedient that a joint advisory committee of any two or more local planning authorities should be established in accordance with the last foregoing paragraph he may, after consultation with those authorities, by order establish such a committee, and any such order may—
- (a) provide for the reference to the committee of such matters as may be specified in the order;
 - (b) make such incidental and consequential provisions (including provision for the payment of expenses of the committee and the transfer and

compensation of officers), as appear to the Secretary of State to be expedient.

- 3 Any power conferred by this Part of this Schedule to establish and constitute a joint advisory committee shall include power to dissolve or alter the constitution of such committee and to vary the reference to the committee.

PART IV

Planning Committees.

- 1 A local planning authority shall establish a planning committee for the discharge of their functions under this Act.
- 2 Every such planning committee shall be constituted in such manner as the local-planning authority may determine, but not less than three-fourths of the members of the committee shall be members of the local planning authority.
- 3 A planning committee established as aforesaid may be required by the local planning authority to advise that authority or to report +0 that authority in respect of the exercise by that authority of any of their functions under this Act, or to exercise on behalf of that authority any of those functions, except the power to borrow money or levy a rate.
- 4 The minutes of proceedings of a planning committee established as aforesaid shall be open to the inspection of any local government elector for the district on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or extract therefrom.
- 5 Any power conferred by this Part of this Schedule to establish and, constitute a planning committee shall include power to alter the constitution of the committee and to vary any functions of the committee.

PART V

Sub-Committees.

- 1 The planning committee of a local planning authority may, subject to any restrictions imposed by that authority, and shall if so required by that authority—
- (a) establish such sub-committees as the committee or the local, planning authority may determine; and
 - (b) authorise any such sub-committee to exercise on their behalf' any functions of the planning committee,
- and any such sub-committee shall be constituted in such manner as may be determined (subject to any such restrictions as aforesaid) by the planning committee or by the local planning: authority but not less than three-fourths of the members of any such sub-committee which- consists of more than three persons, shall be members of the local planning authority or of a local authority for any area forming part of the district of the local planning authority.
- 2 The power conferred by the last foregoing paragraph to establish and constitute sub-committees or to authorise such sub-committees to exercise any functions shall

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include power to dissolve or alter the constitution of such sub-committees and to vary, any such authorisation.

- 3 The provisions of this Part of this Schedule shall, with any necessary modifications, apply' in relation to a joint planning committee appointed in pursuance of a combination of local planning authorities under subsection (2) or subsection (3) of section two of this Act or a joint advisory committee as they apply in relation to a planning committee established under Part IV of this Schedule." s.

SECOND SCHEDULE

Section 11.

EXCEPTED ENACTMENTS FOR THE PURPOSES OF S. 11.

Subsection (1) of section thirty-two of the Public Health (Scotland) Act, 1897;
 Section one hundred and fifty-eight of the Burgh Police (Scotland) Act, 1892, as extended by subsection (2) (h) of section one hundred and four of the Burgh Police (Scotland) Act, 1903;
 Section five of the Roads Improvement Act, 1925, as applied to Scotland by section twelve of that Act;
 Any enactment making such provision as might by virtue of any Act of Parliament have been made in relation to the area to which the order applies by means of a bye-law, order or regulation not requiring confirmation by Parliament;
 Any enactment which has been previously excluded or modified by any development order, and any enactment having substantially the same effect as any such enactment.

THIRD SCHEDULE

Sections 18, 20, 48, 51, 66, 78, 85 and
107.

EXCEPTED CLASSES OF DEVELOPMENT.

PART I

Development Included in Existing Use for Purposes other than Compensation under s.18.

- 1 The rebuilding, as often as the person having the right to rebuild may desire, of any building which was in existence on the appointed day and of any building which was in existence before-that day but has been destroyed or demolished since the seventh day of January, nineteen hundred and thirty-seven (including the making good of war damage which has been sustained by any such building), so long as, the cubic content of the original building is not exceeded, in the case of a dwellinghouse, by more than one-tenth or seventeen hundred and fifty cubic feet, whichever is the greater, and in any other case by more than one-tenth.
- 2 The use as two or more separate dwellinghouses of any building which on the appointed day was used as a single dwellinghouse.

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PART II

Development Included in Existing Use for All Purposes.

- 1 The enlargement, improvement or other alteration, as often as the person having the right to carry out such operations may desire, of any such building as is mentioned in paragraph 1 of Part I of this Schedule, or any building substituted therefor by the carrying out of any such operations as are mentioned in that paragraph, so long as the cubic content of the original building is not increased or exceeded, in the case of a dwellinghouse, by more than one-tenth or seventeen hundred and fifty cubic feet, whichever is the greater, and in any other case by more than one-tenth.
- 2 The carrying out, on land which was used for the purposes of agriculture or forestry on the appointed day, of any building or other operations required for the purposes of that use, other than operations for the erection, enlargement, improvement or alteration of dwelling-houses or of buildings used for the purposes of market gardens, nursery grounds or timber yards or for other purposes not connected with general farming operations, or with the cultivation or felling of trees.
- 3 The winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for the purposes aforesaid.
- 4 The winning and working of peat by any person for the domestic requirements of that person.
- 5 In the case of a building or other land which, on the appointed day, was used for a purpose falling within any general class specified in an order made by the Secretary of State for the purposes of this paragraph, or which, being unoccupied on the appointed day, was last used (otherwise than before the seventh day of January, nineteen hundred and thirty-seven) for any such purpose, the use of that building or land for any other purpose falling within the same general class.
- 6 In the case of any building or other land which, on the appointed day, was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building used for that purpose on the appointed day or, as the case may be, one-tenth of the area of the land so used on that day.
- 7 The deposit of waste materials or refuse in connection with the working of minerals on any land comprised, in a site which, on the appointed day, was being used for that purpose, so far as may be reasonably required in connection with the working of those minerals.

FOURTH SCHEDULE

Sections 18, 20 and 25.

PROVISIONS RELATING TO COMPENSATION UNDER PART II.

- 1 For the purpose of assessing any compensation payable under section eighteen, section twenty or section twenty-five of this Act, being compensation in respect of the depreciation in value of any interest in land, section two of the Acquisition

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of Land (Assessment of Compensation) Act, 1919, (which prescribes rules for the assessment of compensation by an official arbiter) shall, so far as applicable and subject to any necessary modifications, have effect as it has effect for the purpose of assessing compensation for the compulsory acquisition of land.

- 2 Where any compensation is payable as aforesaid by virtue of any decision or order given or made before the expiration of two years from the end of the war period as defined for the purposes of section forty of the Requisitioned Land and War Works Act, 1945, Part VIII of that Act (which provides for adjustments of compensation for the purpose of eliminating changes in value due to the exercise of emergency powers) shall apply in relation to any such compensation as aforesaid as it applies in relation to compensation payable on the acquisition of a servitude over land by virtue of Part II of the said Act:

Provided that for the purposes of this paragraph subsection (5) of section forty-one of the said Act shall have effect as if paragraph (a) thereof were omitted.

- 3 Where any interest in land is subject to a heritable security—
- (a) any compensation as aforesaid which is payable in respect of the depreciation in the value of that interest shall be assessed as if the interest were not subject to the security;
 - (b) a claim for any such compensation may be made by any person having a heritable security over the interest, but without prejudice to the making of a claim by the person entitled to the interest;
 - (c) a heritable creditor shall not be entitled to claim any such compensation in respect of his interest as such; and
 - (d) the compensation payable in respect of the interest subject to the security shall be paid by the local planning authority to the heritable creditor, or where there is more than one heritable creditor to the heritable creditor whose security ranks first, and shall in either case be applied by him as if it were the proceeds of a sale by him under the powers competent to heritable creditors.
- 4 Any compensation payable to any person, by virtue of any order made under section twenty-four of this Act, shall be reduced by the value to him of any timber, apparatus or other materials removed for the purposes of complying with that order.

FIFTH SCHEDULE

Section 32.

SPECIAL PROVISIONS RELATING TO DEVELOPMENT BY STATUTORY UNDERTAKERS.

Applications for planning permission.

- 1 (1) Subject to the provisions of this Schedule, where an application for planning permission to develop operational land, made by the person carrying on a statutory undertaking, is referred to the Secretary of State under Part II of this Act in pursuance of directions given by him, or where an appeal is made to him under that Part from the decision of the local planning authority on such an application, the application or appeal shall be dealt with by the Secretary of State and the appropriate Minister.
- (2) Where, upon any such application or appeal, the Secretary of State and the appropriate Minister propose to refuse permission or to grant permission subject to

conditions, they shall notify to the person carrying on the undertaking the decision which they propose to give, and if within twenty-eight days from the date on which he receives the notification that person makes application to the appropriate Minister in that behalf, the decision shall be embodied- in an order made by the Secretary of State and the appropriate Minister, and any such order shall be subject to special parliamentary procedure.

- (3) In respect of any decision given under this paragraph refusing planning permission to develop operational land, or granting such permission subject to conditions, the person carrying on the statutory undertaking shall be entitled to recover compensation from the local planning authority in accordance with the Fourth Schedule to the Act of 1945:

Provided that if the Secretary of State and the appropriate Minister -are satisfied, in the case of land acquired by the undertakers after the seventh day of January, nineteen hundred and forty-seven, that it is unreasonable,- having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that compensation should be so recovered in respect of the decision, they may include therein a direction that the foregoing provisions of this sub-paragraph shall not apply in relation to that decision.

- (4) Notwithstanding anything in Part II of this Act, planning permission to, develop operational land shall not except with the consent of the undertakers be granted subject to conditions requiring that any buildings or works authorised by the permission shall be removed, or that any use of the land so authorised shall be discontinued, at the expiration of a specified period.
- (5) The provisions of this Act shall apply to an application which is dealt with under this paragraph by the Secretary of State and the appropriate Minister as if it had been dealt with by the Secretary of State.

Special provisions as to development requiring government sanction.

- 2 (1) Where, under the enactments regulating the carrying on of a statutory undertaking, the sanction of any government department other than the Secretary of State is required in respect of any development of operational land, then—
- (a) if that department decides to refuse that sanction on the ground only that planning permission ought not to be granted for' the development, or to grant that sanction and direct that such permission shall be deemed to be granted subject to conditions other than conditions imposed as part of the sanction, sub-paragraphs (2) and (3) of paragraph r of this Schedule shall apply, subject to any necessary modifications, in relation to that decision and to any proposal by the department to give that decision as they apply in relation to a decision, or a proposed decision, of the Secretary of State and the appropriate Minister under that paragraph;
- (b) except where that sanction has been granted without any direction as to the grant of planning permission, the Secretary of State and the appropriate Minister shall not be required to deal with an application for such permission under sub-paragraph (1) of the said paragraph 1.
- (2) Notwithstanding anything in the proviso to sub-paragraph (3) of the said paragraph r, no direction shall be given thereunder for the exclusion of the payment of compensation in respect of a decision relating to the development of land of any statutory undertakers if the land was acquired by those undertakers for the purposes

of that development (whether by agreement or compulsorily) with the consent or authority of a government department.

Revocation and modification of planning permission.

- 3 (1) The provisions of Part II of this Act with respect to the revocation and modification of planning permission shall have effect, in relation to any permission granted, on an application made by the person carrying on a statutory undertaking, for the development of operational land, as if for any reference therein to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.
- (2) Where the Secretary of State and the appropriate Minister propose to confirm or make an order under section nineteen of this Act, as modified by this paragraph, they shall notify to the person carrying on the statutory undertaking the fact that they so propose, and shall afford him an opportunity of objecting to the proposal; and if any objection is so made by that person and is not withdrawn, the order shall be subject to special parliamentary procedure.
- (3) In relation to any order made by the Secretary of State and the appropriate Minister under the said section nineteen as modified by this paragraph, sub-paragraph (3) of paragraph 1 of this Schedule shall apply as it applies to a decision given under that paragraph refusing permission to develop operational land, or granting such permission subject to conditions, and references in the said sub-paragraph (3) to a decision under that paragraph shall accordingly include references to any such order as aforesaid.

Orders relating to authorised uses.

- 4 (1) The provisions of Part II of this Act with respect to the making of orders requiring the discontinuance of any use of land or imposing conditions on the continuance thereof, or requiring buildings or works on land to be altered or removed, shall have effect, in relation to operational land of the person carrying on any statutory undertaking, as if for any reference therein to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.
- (2) Where the Secretary of State and the appropriate Minister propose to confirm or make an order under section twenty-four of this Act as modified by this paragraph, they shall notify to the person carrying on the statutory undertaking the fact that they so propose, and shall afford him an opportunity of objecting to the proposal; and if any objection is so made by that person and is not withdrawn, the order shall be subject to special parliamentary procedure.
- (3) Any compensation payable under section twenty-five of this Act in consequence of an order made under the said section twenty-four as modified by this paragraph shall be assessed in accordance with the provisions of the Fourth Schedule to the Act of 1945.

Provisions as to orders subject to special parliamentary procedure.

- 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 under

paragraphs 1, 3 or 4 of this Schedule, which is subject to special parliamentary procedure.

SIXTH SCHEDULE

Section 46.

PROCEDURE FOR MAKING ORDERS UNDER S. 46.

- 1 Before making an order under section forty-six of this Act the Minister of Transport shall publish in at least one local newspaper circulating in the area in which any highway to which the order relates is situated and in the Edinburgh Gazette a notice—
 - (a) stating the general effect of the order;
 - (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of three months from the date of the publication of the notice; and
 - (c) stating that, within the said period, any person may by notice to that Minister object to the making of the order.
- 2 Not later than the date on which the said notice is published as aforesaid, the Minister of Transport shall serve a copy thereof (together with a copy of the draft order and of any relevant map or plan)—
 - (a) on every local authority in whose area any highway to which the order relates is situated;
 - (b) on any water, hydraulic power, gas or electricity undertakers, having any cables, mains, pipes or wires laid along, across, under or over any highway to be stopped up or diverted under the order.
- 3 Not later than the date on which the said notice is published as aforesaid, the Minister of Transport shall cause a copy thereof to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order.
- 4 If before the expiration of the said period of three -months an objection is received by the Minister of Transport from any local authority or undertakers on whom a notice is required to be served under this Schedule, or from any other person appearing to him to be affected by the order, and the objection is not withdrawn, the Minister shall cause a local inquiry to be held:

Provided that except where the objection is made by any such authority or undertakers as aforesaid, the Minister may dispense with such an inquiry if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.
- 5 After considering any objections to the order which are not withdrawn, and, where a local inquiry is held, the report of the person who held the inquiry, the Minister may make the order either without modification or subject to such modifications as he thinks fit.
- 6 Immediately after the order has been made, the Minister of Transport shall publish in the manner prescribed by paragraph 1 of this Schedule a notice stating that the order has been made, and naming a place where a copy of the order may be seen at

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all reasonable hours, and paragraphs 2 and 3 of this Schedule shall apply to any such notice as they apply to the notice required to be published by the said paragraph I.

- 7 Subsections (2) to (4) of section nine of this Act shall apply to any order under section forty-six of this Act as they apply to a development plan approved or made under Part II of this Act, and as if for references therein to the notice required by subsection (1) of that section there were substituted references to the notice required by the last foregoing paragraph:

Provided that where any such order is subject to special parliamentary procedure, 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 the said section nine shall not apply;
- (b) in any other case the said subsections shall have effect as if in subsection (2) for the reference to the date on which the notice required by the last foregoing paragraph 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.

- 8 In this Schedule the expression " local authority " means a County council, town council or district council.

SEVENTH SCHEDULE

Section 47.

MODIFICATIONS OF PART II OF TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945.

Elimination of overlap between owner-occupier supplement and increase of converted value payment.

- 1 (1) Where an interest in land the value of which falls to be ascertained in accordance with the provisions of Part II of the Act of 1945 for the purposes of the compensation payable on a compulsory acquisition thereof is an interest in a hereditament or part of a hereditament which has sustained war damage, then if—
- (a) by virtue of section fourteen of the War Damage Act, 1943, or of any direction given by the Treasury under paragraph (b) of subsection (2) of section twenty of that Act, a value payment falls to be made in respect of the damage so far , as not made good before the date of the acquisition; and
 - (b) the amount of that payment falls to be increased by virtue of the War Damage (Increase of Value Payments) Order, 1947, or any subsequent order made by the Treasury under section eleven of the said Act; and
 - (c) the person entitled to the compensation payable in respect of the compulsory acquisition of the interest in question is also entitled by virtue of section fifty-four of the Act of 1945 either as originally enacted or as amended by the Acquisition of Land (Increase of Supplement) (Scotland) Order, 1946, or any subsequent order made by the Treasury under section fifty-six of that Act, to receive a supplement to that compensation,
- the amount of the compensation payable in respect of the compulsory acquisition shall be reduced in the manner provided by this paragraph by such sum as may be

appropriate, not exceeding the amount by which the value payment is increased as aforesaid, or the amount of the supplement payable as aforesaid, whichever is the less.

- (2) Any reduction required by virtue of this paragraph to be made in the compensation payable in respect of the compulsory acquisition of an interest in land shall be effected as follows, that is to say, the War Damage Commission shall, on a claim made to the Commission in that behalf within the time and in the manner prescribed by regulations made by the Treasury under this Act, pay to the Minister or authority by whom that interest is compulsorily acquired a sum equal to the amount of the reduction, together with interest thereon at the rate of two and a half per cent. per annum from the date of the acquisition, and shall deduct that amount (including interest thereon as aforesaid) from the amount of any value payment or share of the value payment (including interest on any such payment or share) payable by the Commission under the War Damage Act, 1943, to the person from whom that interest is acquired.
- (3) Any sum payable by the War Damage Commission to a Minister or authority by virtue of the provisions of this paragraph in respect of the compulsory acquisition of any interest in land shall be paid at the time when the value payment or share of a value payment payable to the owner of that interest under the War Damage Act, 1943, is discharged.
- (4) Any question arising under this paragraph as to what reduction is appropriate in the compensation payable in respect of the compulsory acquisition of an interest in land shall, in default of agreement, be referred to and determined by the War Damage Commission, whose decision shall be final; and paragraph 6 of the First Schedule to the War Damage Act, 1943 (which enables the Commission to regulate the procedure for the determination of questions subject to determination by them under that Act), shall have effect as if any question falling to be determined by the Commission under this paragraph were a question subject to determination by them under that Act.
- (5) Where an interest in land which has been acquired by agreement before the commencement of this Act by a person authorised by virtue of any enactment to acquire it compulsorily is an interest in a hereditament or part of a hereditament which has sustained war damage then if—
 - (a) the conditions specified in sub-paragraphs (1) (a) and (1) (b) of this paragraph are satisfied in relation thereto ; and
 - (b) the person to whom the purchase price is payable in respect of the acquisition of the interest in question would, if the interest had been acquired compulsorily, have been entitled to any such supplement as is mentioned in sub-paragraph (1) (c) of this paragraph ;

the amount of the purchase price payable in respect of the acquisition shall be reduced by such sum as may be appropriate, not exceeding the amount by which the value payment is increased as is mentioned in sub-paragraph (1) (b) of this paragraph, or the amount of the supplement which would have been payable as aforesaid, whichever is the less ; and sub-paragraphs (2), (3) and (4) of this paragraph shall apply in relation to the reduction required by virtue of this sub-paragraph to be made in the purchase price as if for any reference in those sub-paragraphs to the compulsory acquisition of an interest in land or to the amount of the compensation payable in respect of that acquisition there were substituted respectively a reference to the acquisition of an interest in land by agreement, and to the purchase price payable in respect of that acquisition.

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- (6) The reference in sub-paragraph (2) of this paragraph to the date of acquisition of an interest in land shall be construed as a reference to the date of the completion of the acquisition or, if interest on the compensation, or on the purchase price, as the case may be, becomes payable before that date (whether by virtue of entry on the land or otherwise), as a reference to the date from which the interest becomes payable.

Assessment of compensation in case of certain agricultural land.

- 2 In subsection (2) of section fifty-three of the Act of 1945, and paragraph 4 of the Seventh Schedule to that Act, references to agricultural holdings and to holdings as defined for the purposes of the Agricultural Holdings (Scotland) Act, 1923, shall be construed as including references to any land which, if it were held by a tenant, would be a holding as so defined.

Assessment of compensation by reference to after-damage value.

- 3 (1) Where under section fifty-seven of the Act of 1945, the value of any land in a hereditament which has sustained war damage is for the purpose of a compulsory acquisition required to be ascertained, in accordance with the provisions of the Eighth Schedule to that Act, by reference to the certified after-damage value of the hereditament, then if—
- (a) the hereditament consists of premises in respect of which a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903, was in force or in suspense at the time when the war damage occurred; and
 - (b) between that time and the time when the notice to treat was served there had been any change in the circumstances of the certificate, whether by extinction, removal or suspension by virtue of section ten of the Finance Act, 1942, or section thirteen of the Finance Act, 1946,
- sub-paragraph (3) of paragraph (1) of the said Eighth Schedule shall have effect as if the change constituted a material difference in the state of the premises, and the change shall be taken into account under the said sub-paragraph in determining the value of the premises under the War Damage Act, 1943, by reference to the state of the premises at the time when the notice to treat is served.
- (2) The right to receive payment of stipend or of the standard charge in lieu of stipend constituted under the Church of Scotland (Property and Endowments) Act, 1925, in respect of any land shall not be taken into account as an interest in land under paragraph 2 of the Eighth Schedule to the Act of 1945, but such adjustments of the certified after-damage value of the hereditament shall be made for the purposes of that Schedule as are necessary to produce for those purposes the result which would have been produced therefor if liability to pay stipend or such charge as aforesaid had been included among the burdens referred to in paragraph 1 (1) (c) of the Second Schedule to the War Damage Act, 1943.

Extension of Owner-occupier Supplement to Certain Subsidiary Companies.

- 4 (1) Where an interest in land the value of which falls to be ascertained in accordance with the provisions of Part II of the Act of 1945 for the purposes of the compensation payable on a compulsory acquisition thereof is an interest held by a company having among its objects the holding of land, and being related (as hereinafter defined) to another company which carries on business on land so held, then, without prejudice to the provisions of paragraph (a) of subsection (6) of section fifty-four of the said

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Act, or of any regulation made thereunder, subsection (5) of that section shall have effect in relation to that interest as if references in paragraphs (a) to (d) of that subsection to the person entitled to compensation for the purchase of that interest included references to the last mentioned company

- (2) For the purposes of this paragraph a company shall be deemed to be related to another company if either of those companies is a subsidiary of the other (as defined by the Companies Act, 1947) or if both of them are subsidiaries (as so defined) of a third company.

EIGHTH SCHEDULE

Sections 41, 100 and 109.

ENACTMENTS AMENDED.

<i>Enactments amended.</i>	<i>Amendments.</i>
The Electricity (Supply) Act, 1919, 9 & to Geo. 5. c. 100.	In section twenty-one, after the words " local authority " in the second place Where those words occur, there shall be inserted the words " and the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1947 " and after the words " county council ", in the second place where those words occur, there shall be inserted the words " not being the local planning authority ".
The Betting and Lotteries Act, 1934, 24 & 25 Geo. 5. c. 58.	<p>In section seven, in subsection (1) the words from " where the track or any part thereof " to the words " no such scheme is in force " shall be omitted; and for the words " their consent in writing to the licensing authority, " there shall be substituted the words " the licensing authority, that any planning permission required as aforesaid has been so granted or is deemed to be so granted. "</p> <p>In section twenty the definition of " planning scheme " shall be omitted.</p> <p>In section thirty-one, in paragraph (2) the words from " and for references " to the end of the paragraph shall be omitted; in paragraph (3) for the words " the responsible authority under a planning scheme in force in any area " there shall be substituted the words " the planning authority for any area " ; after paragraph (4) there shall be inserted the following paragraph—</p> <p>“(4A) In section seven, in subsection (1) for the words from ' satisfied that,' in the second place where</p>

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

[The Housing \(Scotland\) Act, 1935, 25 & 26 Geo. 5. c. 41.](#)

[The Restriction of Ribbon Development Act, 1935, 25 & 26 Geo. 5. c. 47.](#)

those words occur to ' or shall grant,' there shall be substituted the words ' satisfied that any planning permission required under the Town and Country Planning (Scotland) Act, 1947, for the establishment of the track, or for the continuance of the track during the period for which the licence would be in force, has been granted thereunder or is deemed to be so granted, or shall grant ”; and after paragraph (8) there shall be added the following paragraph—

“(9) In subsection (1) of section twenty for the definition of 'planning authority' there shall be substituted the following definition—

“" planning authority " means the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1947.””

In section fourteen, in subsection (2) for the words " any planning scheme or proposed planning scheme " there shall be substituted the words " any development plan within the meaning of the Town and Country Planning (Scotland) Act, 1947 ".

In section four, the words "Where restrictions are in force under the foregoing provisions of this Act " and the words " except at such places as may be permitted by them " shall be omitted.

In section twenty-five, in paragraph (2) for the words from the beginning of the paragraph to " Lands Clauses (Consolidation) (Scotland) Act, 1845 " there shall be substituted the words " for references to the Local Government Act, 1929, there shall be substituted references to the Local Government (Scotland) Act, 1929 "; for paragraph (4) there shall be substituted the following paragraph—

“(4) Section four shall have effect as if in the proviso for the words from ' any means of access ' to the end of the proviso there were substituted

Status: This is the original version (as it was originally enacted).

Enactments amended.

[The Trunk Roads Act, 1936, 1 Edw. 8 and 1 Geo. 6. c. 5.](#)

Amendments.

the words ' any means of access for the construction, formation or laying out of which planning permission has been granted under the Town and Country Planning (Scotland) Act, 1947, or which was constructed, formed or laid out before the appointed day within the meaning of the said Act, unless it was constructed, formed or laid out in contravention of restrictions in force under the foregoing provisions of this Act ”;

in paragraph (5) the words " subsection (1) of section eleven and" shall be omitted ; paragraph (6) shall be omitted ; in paragraph (11) for the words " subsections (1) and (2)" there shall be substituted the words " subsection (1) " ; and paragraphs (13) and (14) shall be omitted.

In section twelve, for subsection (4) there shall be substituted the following subsection :—

“(4) In the proviso directed by the Second Schedule to this Act to be substituted for provisos (a) and (b) to subsection (1) of section five of the Roads Improvement Act, 1925, for the words from ' the local authority ' to the words ' interim development of that land' there shall be substituted the words ' the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1947 ”

In section twelve, for subsection (9) there shall be substituted the following subsection :—

“(9) For subsection (1) of section four of this Act the following subsection shall be substituted :—

“(1) In this section and in the Fourth Schedule to this Act, the expression ' the authority ' means, in relation to a trunk road, the council of the county or large burgh in which the road

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

is situated : Provided that where the road is situated within a small burgh, and immediately before the road became a trunk road it was an unclassified road, the said expression means:—

- (a) in any case where the council of the small burgh was charged with the maintenance and management of the road, that council; and
- (b) in any other case, the county council.””””

The Camps Act, 1939, 2 & 3 Geo.: 6. c. 22.

In the Fourth Schedule, in paragraphs 6 and 7 for-the words "sections thirteen to fifteen " there shall be substituted the words " sections thirteen and fourteen ".

In section two, in subsection (1) the words " by means of a compulsory purchase order made by the company and confirmed " shall be omitted.

In section seven, for paragraphs (b) and (c) there shall be substituted the following paragraph—

- “(b) section two of this Act shall have effect as if for subsections (2) and (3) thereof the following subsection were substituted :
—

- “(2) The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall have effect as if any reference therein to a local authority (except the references thereto in subsection (2) of section one, in section two and in paragraph 9 of the First Schedule)

Status: This is the original version (as it was originally enacted).

Enactments amended.

[The Town and Country Planning \(Scotland\) Act, 1945, 8 & 9 Geo. 6. c. 33.](#)

Amendments.

included a reference to a recognised company.””

In section eighteen, in subsection (1) for the words from " or appropriated," to the end of the subsection there shall be substituted the words " under section thirty-five or section thirty-seven of the Town and Country Planning (Scotland) Act, 1947, or appropriated for purposes for which land can be acquired under those sections, and is for the time being held by the authority for the purposes for which it was acquired or appropriated " ; in subsection (3) for the words " this Part of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " ; in subsection (5) after the word " shall" there shall be inserted the words " in the case of land comprised in an area defined by a development plan as an area of comprehensive development " ; for the words " land which the authority have acquired for the purposes of this Part of this Act " there shall be substituted the words " any such land which the authority have acquired as mentioned in subsection (1) of this section " ; and for the words " accommodation thereon " there shall be substituted the words " thereon accommodation suitable to their reasonable requirements " ; in subsection (8) for the words "section forty-one of this Act" there shall be substituted the words " section twenty-eight of the Town and Country Planning (Scotland) Act, 1947 " ; and in subsection (10) for the words from " land which " to " this Part of this Act ", where those words first occur, there shall be substituted the words " any such land as is mentioned in subsection (1) of this section " ; for the words " this Part of this Act", in the second place where those words occur, there shall be substituted " Part III of the Town and Country Planning (Scotland) Act, 1947. "

In section nineteen, in subsection (1) for the words from " land which," to " purposes of this Part of this Act," there shall be substituted the words " any such land as is mentioned in subsection (1) of section eighteen of this Act " ; and for the words

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

" this Part of this Act," in the second and third places where those words occur, there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " ; and in subsection (4) for the words " the two last preceding subsections " there shall be substituted the words " subsection (2) of this section " .

In section twenty-one, in subsection (1) for the words from " or a local highway," to " authorised by this Part of this Act," there shall be substituted the words " as mentioned in subsection (1) of section eighteen of this Act or which has been acquired by the Central Land Board under section forty of the Town and Country Planning (Scotland) Act, 1947, whether done by the local planning authority or by any person deriving title from the local planning authority or from the Board, as the case may be, shall be deemed to be authorised by this section, " ; for the words " by such an authority " , in both places where those words occur, there shall be substituted the words " under those Acts " ; in subsection (2), for the words " other than the local planning or highway authority," there shall be substituted the words " deriving title from the local planning authority " , after the word " appropriated" there shall be inserted the words " or from the Central Land Board " , after the word " authority," in the second place where that word occurs, there shall be inserted the words " or against the Board, as the case may be " , and after the word " authority," in the third and fourth places where that word occurs, there shall be inserted the words " or Board " ; in subsection (3) for the words from " the terms of an interim development order " to the end of the subsection there shall be substituted the words " planning permission granted under the Town and Country Planning (Scotland) Act, 1947, and not otherwise " ; and in subsection (4) the words " or local highway authority " shall be omitted.

In section twenty-two, in subsection (1) for the words from " land which has " to the end of the subsection there shall be substituted the words " any such land as is mentioned

Enactments amended.

Amendments.

in subsection (1) of section eighteen of this Act if he is satisfied that a suitable alternative right of way has been or will be provided or that the provision thereof is not required " ; for subsections (2) and (3) there shall be substituted the following subsections :—

“(2) The Sixth Schedule to the Town and Country Planning (Scotland) Act, 1947, shall apply to an order under this section as it applies to an order under section forty-six of that Act, and the said Schedule shall, in its application to an order under this section have effect as if for any reference therein to the Minister of Transport there were substituted a reference to the Secretary of State.

(3) The Minister of Transport or a local highway authority may be "authorised to acquire land compulsorily for the purpose of providing any public right of way which is to be provided as an alternative to a right of way extinguished under this section ; and the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this subsection, and accordingly shall have effect—

(a) as if this subsection had been in force immediately before the commencement of that Act;

(b) as if this subsection were-included among the enactments specified in paragraph (b) of subsection (1) of section one of that Act:

Provided that section two of the said Act shall not apply to the compulsory acquisition of land under this subsection.”;

in subsection (4) the words " or local highway authority", wherever those words occur, shall be omitted, and for the words " subsection (2) of this section " there shall be substituted the words " paragraph r of

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

the Sixth Schedule to the Town and Country Planning (Scotland) Act, 1947 " ; and at the end of the section there shall be added the following subsection :—

“(5) Regulations made under the Town and Country Planning (Scotland) Act, 1947, may provide for securing that any proceedings required to be taken for the purposes of an order under this section may be taken concurrently with any proceedings required to be taken for the purposes of the acquisition of the land over which the right of way is to be extinguished, or for securing that any proceedings required to be taken for the purpose of the acquisition of any other land under subsection (3) of this section may be taken concurrently with either or both of the said proceedings.”

In section twenty-three, in subsection (1) for the words "this Part of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " , and in subsection (3) after the word " Minister " there shall be inserted the words " or the Central Land Board " .

In section twenty-four, in subsection (1) for the words from " or appropriated " to " acquired the land " there shall be substituted the words " by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act," and for the words " the authority or the Minister " there shall be substituted the words " the purchasing or appropriating authority " ; in subsections (2) and (3) for the words " authority or the Minister", in both places where those words occur, there shall be substituted the words " purchasing or appropriating authority " ; in subsection (4) the words "or a local highway authority" shall be omitted; for the words " the authority " there shall be substituted the words " or on statutory undertakers, the authority or undertakers " , and after " undertaking " there shall be inserted the

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

words " on whom the notice was served under subsection (1) of this section " ; in subsection (5), after the words " a Minister", where they first occur, there shall be inserted the words " or the Central Land Board " , after the word "he" in both places where it occurs there shall be inserted the words " or they " , and after the words " a Minister and the appropriate Minister " there shall be inserted the words " or the Central Land Board and the appropriate Minister "; in subsection (8), for the words " authority or Minister " there shall be substituted the words " purchasing or appropriating authority " ; and in subsection (9), after the word " Minister" there shall be inserted the words " or the Central Land Board " .

In section twenty-five, for the words " this Part of this Act " , wherever those words occur, there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " ; in subsection (1), in paragraph (a) after the words " local planning authority " there shall be inserted the words " or a Minister " , and for the words from " an interim development application " to the end of paragraph (b) there shall be substituted the words " an application made under the Town and Country Planning (Scotland) Act, 1947, by a person carrying on the undertaking for permission to develop any such land, or by the revocation or modification of permission granted on such an application, or by the making of an order under section twenty-four of that Act in relation to any such land " ; in subsection (2) after the words " local planning authority" in paragraph (c) there shall be inserted the words " or the Minister " ; and in subsection (5) after the words " local planning authority " , in both places where those words occur, and after the words " the authority " , there shall be inserted the words " or Minister " .

In section twenty-six, in subsection (1), after the word " that," in the second place where that word occurs there shall be inserted " (a) " ; for the words " this Part of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 " , and for the words " or the

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

extinguishment thereunder," there shall be substituted the words:—

- “(b) a decision on an application under Part II of the said Act by a person carrying on the undertaking for permission to develop any such land or the revocation or modification of planning permission granted on such an application or the making of an order under section twenty-four of that Act in relation to any such lands ;
or
- (c) the extinguishment under Part III of that Act;”

and for subsection (5) there shall be substituted the following subsection :—

“(5) In relation to an order made under this section, subsections (1) to (4) of section nine of the Town and Country Planning (Scotland) Act, 1947, shall apply, subject to any necessary modifications, as they apply in relation to a development plan approved by the Secretary of State under that Act, and accordingly the said subsection (1) shall have effect as if for the reference therein to the local planning authority there were substituted a reference to the appropriate Minister:

Provided that where any such order is subject to special parliamentary procedure, 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 the said section nine shall not apply;
- (b) in any other case those subsections shall have effect in relation to the order as if in subsection (2) for the

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

reference to the date on which the notice required by subsection (1) of the said section nine 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.”

In section twenty-seven, in subsection (1) for the words from " or appropriated," to " Minister thereunder," there shall be substituted the words " by a purchasing authority, under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act, " and for paragraph (a) there shall be substituted the following paragraph :—

- “(a) in the case of land acquired by a purchasing authority other than a Minister, or of land appropriated by a local planning authority as aforesaid by that authority or by any other person if that use conforms with planning control,”;

in subsection (2), after the words " a Minister" there shall be inserted the words " or the Central Land Board " ; and in subsection (5) the words " or local highway authority" shall be omitted.

In Section twenty-eight, in subsection (1) for the words from " or appropriated " to the words " Minister thereunder" there shall be substituted the words " by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act " and for paragraph (a) there shall be substituted the following paragraph :—

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

- “(a) in the case of land acquired by a purchasing authority other than a Minister or of land appropriated by a local planning authority as aforesaid by that authority or by any other person, if that use conforms with planning control.”;

in subsection (2), for the words " have the meanings assigned to them respectively by section fourteen of this Act " there shall be substituted the words " have the same meanings as in the Town and Country Planning (Scotland) Act, 1947 " , and in subsection (3) the words " or local highway authority," shall be omitted."

In section twenty-nine, in subsection (1) for the words from " land acquired," to " this Part of this Act " there shall be substituted the words " any such land as is mentioned in subsection (1) of section eighteen of this Act, " and after the word " accommodation ", in the first place where that word occurs, there shall be inserted the words " suitable to the reasonable requirements of those persons, " ; in subsection (2) for the words " under this Part of. this Act " there shall be substituted the words " by a local planning authority under section thirty-five of the Town and Country Planning (Scotland) Act, 1947 " ; in subsection (3) for the words from " or a local highway " to 'this Part of this Act " there shall be substituted the words " as is mentioned in subsection (1) of section eighteen of this Act " ; in subsection (4) for the words from " which has been acquired by" to " Minister thereunder," there shall be substituted the words " on land which has been acquired or appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act or which has been acquired by the Central Land Board or a Minister under Part III of the Town and Country Planning (Scotland) Act, 1947," and for the words " or the Minister " there shall be substituted the words " Board or Minister " ; and in subsection (5) the words "or a local highway authority " shall be omitted, for the words " or a Minister " there shall be substituted the

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

words " the Central Land Board or a Minister " , and for the words from " or appropriated " to " this Part of this Act," there shall be substituted the words " by the local planning authority, Board or Minister under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by the local planning authority as mentioned in subsection (1) of section eighteen of this Act. "

In section forty-six, the words "or a local highway authority " shall be omitted, and for the words " this Part of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 ".

In section forty-eight, for the words " this "Act", in both places in which those words occur, there shall be substituted the words " the Town and Country Planning (Scotland) Act, 1947 ".

In section fifty, for the words " this Act " , wherever they occur, there shall be substituted the words " the Town and Country Planning (Scotland) Act, 1947 " ; for subsection (3) there shall be substituted the following subsection :—

“(3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has lodged and has not, withdrawn objections in relation to any matter in question at the inquiry, and shall be published in such newspaper or newspapers as the Minister may direct”;

and in subsection (7) after the word " orders " there shall be inserted the words " as to the expenses incurred by the Minister in relation to the inquiry (including such reasonable sum as the Minister may determine for the services of the person appointed to hold the inquiry) and " .

In section sixty-two, in subsection (1) for the definition of " appropriate Minister " there shall be substituted the following definition :

—
“‘ appropriate Minister ’, in relation to a statutory undertaking,

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

has the same meaning as in the Town and Country Planning (Scotland) Act, 1947;”

for the definition of " local planning authority " there shall be substituted the following definition :—

“ local planning authority ' means the local planning authority for the purposes of the Town and Country Planning (Scotland). Act, 1947 ;”

for the definition of " purchasing authority " there shall be substituted the following definition :—

“ purchasing authority ', means a Minister, the Central Land Board, a local planning authority or any statutory undertakers purchasing under Part III of the Town and Country Planning (Scotland) Act; 1947 ;”

for the definition of " statutory undertaking " there shall be substituted the following definition :—

“ statutory undertaking ' has the same meaning as in the Town and Country Planning (Scotland) Act, 1947;”

and the following definition shall be added :

—

“ Central Land Board ' mean's the Central Land Board established under the Town and Country Planning Act, 1947.”

and after subsection (3) there shall be added the following subsection :—

“(4) Any reference in this Act to the Town and Country Planning (Scotland) Act, 1947, or to Part III of that Act shall be construed as including a reference to any provisions of this Act incorporated with the said Part III.”

In the First Schedule, in sub-paragraph (c) of paragraph 1 for the word " thereof " there shall be substituted the words " of this Act. "

In the Fourth Schedule, for sub-paragraphs (a), (b) and (c).of paragraph 1, there shall be substituted the following sub-paragraphs :—

Enactments amended.

Amendments.

- “(a) in respect of any decision given under paragraph 1 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1947, refusing permission to develop operational land or granting such permission subject to conditions ;
- (b) in respect of any decision given by a government department under paragraph 2 of that Schedule refusing the sanction of that department in respect of any development of such land, or directing that permission to develop such land shall be deemed to be granted subject to conditions ;
- (c) in respect of any order made under paragraph 3 of that Schedule revoking or modifying permission to develop such land ;
- (d) in respect of any order made under paragraph 4 of that Schedule in relation to such land ;
- (e) in respect of the extinguishment of any right, or the imposition of any requirement, under section twenty-four of this Act as applied for the purposes of Part III of the said Act ;
- (f) in respect of any such compulsory purchase as is mentioned in subsection (5) of section forty-two of the said Act”;

in sub-paragraph (4) of paragraph 2 after the words " modification of permission " there shall be , inserted the words " or order under paragraph 4 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1947 " ; and in sub-paragraph (3) of paragraph 3 for the words " authority or Minister " there shall be substituted the word " person. "

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

In the Fifth Schedule, in paragraph 8, for heads (a) and (b) of sub-paragraph (1) there shall be substituted the words—

“in land designated by a development plan under the Town and Country Planning (Scotland) Act, 1947, as subject to compulsory acquisition or land which is proposed to be acquired compulsorily under subsection (2) of section thirty-four or subsection (2) of section thirty-five of that Act”;

for the words "by an order under any enactment in Part I of this Act confirmed or made" there shall be substituted the words "under Part III of the Town and Country Planning (Scotland) Act, 1947 "; and for the words " Part I of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 "; and in sub-paragraph (4) for the words " Part I of this Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 ".

In the Sixth Schedule, in sub-paragraph (2) of paragraph 1, and in sub-paragraph (2) of paragraph 3, for the words " section sixteen of this Act " there shall be substituted the words " subsection (2) of section thirty-six of the Town and Country Planning (Scotland) Act, 1947 "; and in sub-paragraph (4) of paragraph 1, after the word " modified " there shall be inserted the words " by the Second . Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 " ; in paragraph 2, and in sub-paragraph (6) of paragraph 3, for the words " this Act " there shall be substituted the words " the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 " ; and in sub-paragraph (2) of the said paragraph 3 the words " or the draft of the order or the application therefor as the case may be " shall be omitted; in paragraph 8, for the words " Part I of this Act " there shall be substituted the words " the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 " ; and in paragraph 12, the words from " and references to the confirmation " to the end of the paragraph shall be omitted.

<i>Enactments amended.</i>	<i>Amendments.</i>
The Distribution of Industry Act, 1945, 8 & 9 Geo. 6. c. 36.	<p>In the Second Schedule, for sub-paragraph (e) of paragraph 18 of Part V there shall be substituted the following paragraph :—</p> <p>“(e) in paragraph 8 for the words from " a list compiled or approved ' to the end of the paragraph, there shall be substituted the words ' a list compiled or approved under the provisions of section twenty-eight of the Town and Country Planning (Scotland) Act, 1947;”</p> <p>and in sub-paragraph (g) of the said paragraph for the words " paragraph 14 " there shall be substituted the words " paragraph 15 ".</p>
The Requisitioned Land and War Works Act, 1945, 8 & 9 Geo. 6. c. 43.	<p>In section sixty, in subsection (3) for the words from " for any reference to the Town and Country Planning (Interim Development) Act, 1943," to the words " Town and Country Planning (Interim Development) (Scotland) Act, 1943 " there shall be substituted the words " for references to the Town and Country Planning Act, 1944, there shall be substituted references to the Town and Country Planning (Scotland) Act, 1945 " , and in subsection (12) after the words " county or town council" there shall , be inserted the words " and for the definition of ' local planning authority ' there shall be substituted the following definition :—</p> <p>“ ' local planning authority ' means the local planning authority within the meaning of the Town and Country Planning (Scotland) Act, 1947.”</p>
The Trunk Roads Act, 1946, 9 & 10 Geo. 6. c. 30.	<p>In section five, in subsection (1), for the words " by whom functions are exercisable under section one and section two of the said Act " there shall be substituted the words " within the meaning of section four of the principal Act ".</p>
The Building Restrictions (War-Time Contraventions) Act, 1946, 9 & 10 Geo. 6. c. 35.	<p>In section eight, in subsection (2), the words from " for references to the Town and Country Planning Act, 1932," to the end of the subsection shall be omitted ; and in</p>

Status: This is the original version (as it was originally enacted).

Enactments amended.

Amendments.

The New Towns Act, 1946, 9 & 10 Geo. 6.
 c. 68.

subsection (5) after paragraph (b) there shall be inserted the following paragraphs:—

- “(c) for the definition of ' authority responsible for enforcing planning control ' there were substituted the following definition :—
 “' authority responsible for enforcing planning control " means, in relation to any works on land or use of land, the authority empowered by virtue of section seventy-two of the Town and Country Planning (Scotland) Act, 1947, to serve an enforcement notice in respect thereof under Part II of that Act, or the authority who would be so empowered if the works had been carried out or the use begun otherwise than in compliance with planning control”;
- (d) in subsection (5) for the words from ' conferred by ' to the end of the subsection there were substituted the words ' conferred by section seventy-two of the Town and Country Planning (Scotland) Act, 1947 '.”

In section twenty-five, in subsection (5) for paragraph (a) there shall be substituted the following paragraph :—

- “(a) in subsection (2) for the words from ' conferred by ' to ' development order ' there shall be substituted the . words ' conferred by section eleven of the Town and Country Planning (Scotland) Act, 1947, a special development order ' ;”

Enactments amended.

Amendments.

and paragraphs (b) and (d) shall be omitted; and in subsection (8), for paragraph (c) there shall be substituted the following paragraph :

—
“(c) in subsection (3) for the words from ' compiled or approved ' to ' which relates ' there shall be substituted the words ' compiled or approved under section twenty-eight of the Town and Country Planning (Scotland) Act, 1947, which relates ”.

In the Fifth Schedule, at the end of the modification of section twenty-one of the said Act there shall be added the words " and in subsection (3) for the words ' the terms of an interim development order ' to the end of the subsection there shall be substituted the words ' planning permission granted under the Town and Country Planning (Scotland) Act, 1947 ; and in the modification of ' section sixty-two of the said Act for the words " and 'loan charges' shall not apply" there shall be substituted the words " 'interim development application,' ' interim development authority,' ' loan charges,' and ' planning scheme,' shall not apply, " and for the definition of " local planning authority" there shall be substituted the following definition " ' local planning authority ' means the local planning authority for the purposes of the Town and Country Planning (Scotland) Act, 1947. "

[The Civil Aviation Act, 1946, 9 & 10 Geo. 6. c. 70.](#)

In section fifty-two, in paragraph (e) for the words from " for the reference" to " 1945 " there shall be substituted the words " for the words from the beginning of the subsection to ' effect ' there shall be substituted the words ' section twenty-seven of the Town and Country Planning (Scotland) Act, 1945 (which relates to consecrated land and burial grounds) shall, as amended by the Town and Country Planning (Scotland) Act, 1947, have effect ' and for the words ' Part I of that Act' there shall be substituted the words ' Part III of the last mentioned Act'. "

Status: This is the original version (as it was originally enacted).

<i>Enactments amended.</i>	<i>Amendments.</i>
<p>The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, 10 & 11 Geo. 6. c. 42.</p>	<p>In section two, in subsection (6) for the words " that Act " there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act, 1947 ".</p> <p>In section three, in subsection (2) for the words " 1945, for the area " there shall be substituted the words " '1947, for the district ".</p>

NINTH SCHEDULE

Section 109.

ENACTMENTS REPEALED.

PART I

ENACTMENTS REPEALED AS FROM PASSING OF THIS ACT.

Session and Chapter.	Enactment repealed.	Extent of Repeal.
<p>8 & 9 Geo. 6. c. 33.</p>	<p>The Town and Country Planning (Scotland) Act, 1945.</p>	<p>In section twenty-three, in subsection (2) the words from and section fifty-three " to the end of the subsection ; in section twenty-five, in paragraph (b) of subsection (2), the words from "including," to the end of the paragraph; sections fifty-three to fifty-eight; in section sixty-one, the words " except in so far as is otherwise provided by this Act " ; in the Sixth Schedule, in sub-paragraph (4) of paragraph 1, the words " (and as amended by Part II of this Act)", and in sub-paragraph (1) of paragraph 5 the words " or the amount of any sum payable as a supplement thereto " and the words " together, if any sum is payable as a supplement thereto, with the amount of that sum " ; and the Seventh and Eighth Schedules.</p>

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of Repeal.
8 & 9 Geo. 6. c. 43.	The Requisitioned Land and War Works Act, 1945.	In section forty-one, subsection (7), and paragraph (c) of subsection (8).
9 & 10 Geo. 6. c. 68.	The New Towns Act, 1946.	In section four, in subsection (7) the words from " and that Part II " to the end of the subsection, and in section twenty-five, paragraph (d) of subsection (6).
9 & 10 Geo. 6. c. 70.	The Civil Aviation Act, 1946.	In the Third Schedule, paragraph 10, and subparagraph (c) of paragraph 14 ; in the Fourth Schedule, paragraphs 4 and 5, paragraph (b) of the proviso to paragraph 6, and subparagraphs (b) to (d) of paragraph 14 ; and in the Sixth Schedule, paragraphs 2 and 3, paragraph (b) of the proviso to paragraph 4, and subparagraphs (a) to (c) of paragraph 8.

PART II

ENACTMENTS REPEALED AS FROM APPOINTED DAY.

Session and Chapter.	Enactment repealed.	Extent of repeal.
53 & 53 Vict. c. 27.	The Advertising Stations (Rating) Act, 1889.	Section five.
3 Edw. 7. c. 33	The Burgh Police (Scotland) Act, 1903.	Sections seventy-six, seventy-seven and seventy-eight, and paragraph (b) of section ninety-three.
7 Edw. 7. c. 27	The Advertisements Regulation Act, 1907.	The whole Act.
15 & 16 Geo. 5. c. 52.	The Advertisements Regulation Act, 1925.	The whole Act.
15 & 16 Geo. 5. c. 68.	The Roads Improvement Act, 1925.	In section five, the proviso to subsection (7), and in section twelve, in paragraph (a) the words from "and a reference " to the end of the paragraph.

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of repeal.
18 & 19 Geo. 5. c. 32.	The Petroleum (Consolidation) Act, 1928.	Section eleven and paragraph (2) of section twenty-four.
20 & 21 Geo. 5. c. 40.	The Housing (Scotland) Act, 1930.	<p>In section twelve, in subsection (2), the words " and of any planning scheme in operation in the area."</p> <p>In section eighteen, in subsection (2), and in section twenty-one, in subsection (3), the words " and of any town planning scheme in operation in the area."</p> <p>In section forty-nine, in subsection (1), the definition of " town planning scheme ".</p>
21 & 22 Geo. 5. c. 16.	The Ancient Monuments Act, 1931.	Section two and in section sixteen, in subsection (1), the words from " the Town Planning (Scotland) Act, 1925 " to the words " the Town Planning Act, 1925 ", and subsection (4).
22 & 23 Geo. 5. c. 49.	The Town and Country Planning (Scotland) Act, 1932.	The whole Act.
25 & 26 Geo. 5. c. 41.	The Housing (Scotland) Act, 1935.	<p>In section seventeen, in subsection (3), the words " and of any planning scheme in operation in the area."</p> <p>In the Fifth Schedule, in Part I, in the subsection substituted for subsection (2) of section twelve of the Housing (Scotland) Act, 1930, the words " and of any planning scheme in operation in the area. "</p> <p>Part II of the Fifth Schedule so Act, far as relating to section forty-nine of the Housing (Scotland) Act, 1930.</p>
25 & 26 Geo. 5. c. 47.	The Restriction of Ribbon Development Act, 1935.	Sections one to three; sections five to twelve; in paragraph (a) of subsection (3) of section

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of repeal.
1 Edw. 8 & 1 Geo. 6. c. 5.	The Trunk Roads Act, 1936.	thirteen the words from " or which is for the time being " to the end of that paragraph, section fifteen ; subsection (2) of section nineteen, subsection (1) of section twenty-three ; subsection (1) of section twenty-four except the definitions of " building", " chief officer of police", " land ", "middle of the road ", " Minister ", " owner ", " place of public resort ", " proposed road ", " road ", and " statutory undertakers," . and subsection (2) of that section, and the First, Second and Third Schedules.
2 & 3 Geo. 6. c. 22.	The Camps Act, 1939.	Subsections (2) to (5) of section four, and in the Fourth Schedule, paragraphs 1 to 4, and in paragraph 5, the words from " subject to restrictions in force " to the words " expenses incurred in so doing ", and the proviso to that paragraph
2 & 3 Geo. 6. c. 31.	The Civil Defence Act, 1939.	Subsection (2) of section three; in section seven, in paragraph (a), the words from " for references to the Town and Country Planning Act, 1925," to the words " Town and Country Planning (Scotland) Act, 1932."
6 & 7 Geo. 6. c. 34.	The Restriction of Ribbon Development (Temporary Development) Act, 1943.	Section seventy, and in section ninety-one, in subsection (17), the words from "and for any reference to the Town and Country Planning Act, 1932," to the words " the Town and Country Planning (Scotland) Act, 1932."
		The whole Act.

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of repeal.
6 & 7 Geo. 6. c. 43.	The Town and Country Planning (Interim Development) (Scotland) Act, 1943.	The whole Act except section thirteen.
9 & 10 Geo. 6. c. 18.	The Statutory Orders (Special Procedure) Act, 1945.	The Second Schedule so far as relating to sections thirteen to fifteen, thirty-four and thirty-five of, and the Second and Third Schedules to, the Town and Country Planning (Scotland) Act, 1945.
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act, 1945.	Sections one to seventeen; subsections (3) and (7) of section nineteen; section twenty; sections thirty to forty-five ; section forty-seven; section forty-nine; section fifty A. . except subsection (4); sections fifty-one and fifty-two; section sixty; in subsection (1) of section sixty-two the definitions of " clearing " first local advertisement ", " interim development application ", " interim development authority ", " loan charges ", " local highway authority ", " planning scheme ", " purchase order providing for expedited completion ", " Valuation Office ", " valuation roll "and "war damage "; sub-paragraphs (1) (a), (1) (6) and (1) (d) of paragraph 1 and the word " or," at the end of sub-paragraph (a) and sub-paragraph (b) of paragraph 3 of , the First Schedule; the Second and Third Schedules; the Fifth Schedule except paragraph 8, and in paragraph 12 of the Sixth Schedule the words from " and references to the confirmation," to the end of the paragraph.

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Enactment repealed.	Extent of repeal.
8 & 9 Geo. 6. c. 36.	The Distribution of Industry Act, 1945.	Sections six, nine and ten.
9 & 10 Geo. 6. c. 30.	The Trunk Roads Act, 1946.	In section three, the proviso to subsection (2), and subsection (3) ; in section four, in subsection (2), the words from " and without prejudice " to the end of the subsection ; in section eight, subsection (5) ; in section twelve subsection (2); in section fourteen, subsection (2) ; and in the Third Schedule, in the amendment of section four of the Trunk Roads Act, 1936, the words from the beginning to " as the case may be."
9 & 10 Geo. 6. c. 35.	The Building Restrictions (War-Time Contraventions) Act, 1946.	Subsection (2) of section four.
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act, 1946.	The Fourth Schedule so far as relating to the Town and Country Planning (Scotland) Act, 1932.
9 & 10 Geo. 6. c. 68.	The New Towns Act, 1946.	Subsections (3) and (4) of section three, and" the Third Schedule.
10 & 11 Geo. 6. c. 42.	The Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.	Paragraph (f) of subsection (4) of section one ; in section two in subsection (1), the words "or of the Town and. Country Planning (Scotland) Act, 1945 " ; and in subsection (4) the words " the Town and Country Planning (Scotland) Act, 1945 " ; and in the Second Schedule, in paragraph 8, the words "or fn subsection (4) of section seventeen of the Town and Country Planning (Scotland) Act, 1945 " .

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 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 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

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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
- (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 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 ;

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- (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.

ELEVENTH SCHEDULE

Section 109.

UNREPEALED PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945, REPRINTED AS AMENDED BY THIS ACT.

“18 Disposal or appropriation by local planning authority of land held by them for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) The following provisions of this section shall have effect with respect to the disposal or appropriation by a local planning authority of land which has been acquired under section thirty-five or thirty-seven of the Town and Country Planning (Scotland) Act, 1947, or appropriated for purposes for which land can be acquired under those sections, and is for the time being held by the authority for the purposes for which it was acquired or appropriated.
- (2) Subject to the provisions of subsection (4) of this section, the authority may dispose of any such land to such person, in such manner and subject to such conditions as may appear to them to be expedient in order to secure the best use of that or other land and airy buildings or works which have been, or are to be, erected, constructed or carried out thereon, whether by themselves or by any other person, or to secure the erection, construction or carrying out thereon of any buildings or works appearing to them to be needed for the proper planning of the area of the authority; and subject to the provisions of subsection (5) of this section any land so disposed of shall not, except with the consent of the Secretary of State, be disposed of otherwise than at the best price or on the best terms that can reasonably be obtained. '
- (3) Subject to the provisions of subsection (4) of, this section, the authority may appropriate any such land for any purpose for which they are or may be authorised in any capacity to acquire land by virtue of or under any enactment other than Part III of the Town and Country Planning (Scotland) Act, 1947.
- (4) The consent of the Secretary of State shall be requisite to any disposal or appropriation of land by a local planning authority under this section, and may be given as respects

either a particular disposal or appropriation or disposals or appropriations of any class; and either subject to or free from any conditions or limitations.

- (5) The powers conferred by this section on a local planning authority in respect of the disposal of land thereunder, and on the Secretary of State in respect of, consent to such disposal, shall in the case of land comprised in an area defined by a development plan as an area of comprehensive development be so exercised as "to secure so far as may be practicable to persons who were living, or carrying on business or other activities, on any such land which the authority have acquired as mentioned in subsection (1) of this section, who desire to obtain accommodation on such land, and who are willing to comply with any requirements of the authority as to the development and use of such land, an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them.
- (6) Where land is disposed of Under this section by a local planning authority to any person for the erection of a church, or other building for religious worship or buildings ancillary thereto, then, unless the parties otherwise agree, such disposal shall be by way of feu.
- (7) Where representations are made to the Secretary of State—
- (a) that a local planning authority have refused to dispose of any land under this section to any person or to agree with him as to the manner in which, or the terms or conditions on or subject to which, it is to be disposed of to him; and
 - (b) that the refusal constitutes unfair discrimination against that person or is otherwise oppressive,

the Secretary of State may cause the representations to be intimated to the authority; and after considering any statement in writing made to him by the authority, the Secretary of State may, if he thinks fit, cause a public local inquiry to be held and after considering the report of the person appointed to hold the inquiry (if any), may, if it appears to him that the representations are well founded and that it is expedient as mentioned in subsection (2) of this section that the authority should dispose of the land under this section to that person, require the authority to offer to dispose of it to him, and give directions as to the manner of the disposal and as to all or any of the terms or conditions on or subject to which it is to be offered to him.

- (8) In the exercise of the powers conferred by this section, a local planning authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular buildings included in any list compiled or approved under the provisions of section twenty-eight of the Town and Country Planning (Scotland) Act, 1947, and the Secretary of State shall not give his consent to the disposal or appropriation under this section of any land comprising a building included in such a list unless either—
- (a) the consent is given subject to such conditions or limitations as in the opinion of the Secretary of State will secure the preservation of the building; or
 - (b) the Secretary of State is satisfied, after causing such particulars as appear to him requisite of the disposal or appropriation for which his consent is sought to be published by Gazette and local advertisement not less than twenty-eight days before he gives his decision on the application for his consent, that the purpose which the local planning authority seek to ' achieve by the proposed exercise of their powers under this section is one which ought in the public interest to be carried out, and either that the preservation of the building would prevent the carrying out of that purpose, whether by the use of the land in question or otherwise, or that the effect of preserving the building on the

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carrying out as aforesaid of the said purpose would be such that notwithstanding the desirability of preserving the building it is inexpedient so to do.

In this subsection the expression " preservation, " in relation to a building, means the preservation thereof either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character.

- (9) In this section (except in subsection (6)) references to disposal of land shall be construed as references to disposal thereof in any manner (otherwise than by appropriation) whether by way of sale, feu, excambion or lease, by the creation of any servitude, right or privilege, or in any other manner, except disposal by way of gift or in security.
- (10) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of the provisions of any enactment, other than Part III of the Town and Country Planning (Scotland) Act, 1947, by virtue of or under which the authority are or may be authorised to dispose of or appropriate land held by them.

19 Power of local planning authority to carry out development of land held by them for purposes of Part III of the Town and Country (Scotland) Act, 1947.

- (1) The functions of a local planning authority shall include power for the authority, notwithstanding any limitation imposed by law on the capacity of such a body by virtue of its constitution, to erect, construct or carry out on any such land as is mentioned in subsection (1) of section eighteen of the Act any building or work not being a building or work for the erection, construction or carrying out of which, whether by them or by any other person, statutory power already exists by virtue of or under an enactment other than Part III of the Town and Country Planning (Scotland) Act, 1947, or could be conferred under an enactment other than Part III of the Town and Country Planning (Scotland) Act, 1947.
- (2) The consent of the Secretary of State shall be requisite to any exercise by a local planning authority of the power conferred on them by the preceding subsection, and may be given as respects either a particular operation or operations of any class, and either subject to or free from any conditions or limitations.
- (4) Where a local planning authority propose to carry out any operation "which they would have power to carry out by virtue only of subsection (1) of this section, they shall notify the Secretary of State of their proposal, and the Secretary of State may direct such advertisement by the authority as appears to him to be requisite for the purposes of subsection (2) of this section.
- (5) The functions of a local planning authority shall include power for the authority, notwithstanding any such limitation as is mentioned in subsection (1) of this section, to 'repair, -maintain and insure any buildings or works on such land as is mentioned in the said subsection (1), and generally to deal therewith in a proper course of management.
- (6) Subsection (8) of the last preceding section shall apply to the power conferred on a local planning authority by subsection (1) of this section as it applies to the powers conferred by that section, with the substitution for references to the disposal or appropriation of land of references to the carrying out of any such operation as is mentioned in subsection (1) of this section.
- (8) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning authority which is actionable at the instance of any person on any ground other than such limitation as is mentioned, in subsection (1) of this section."

“21 Authorisation of development on land acquired for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947, notwithstanding interference with servitudes, etc.

- (1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired or appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act or which has been acquired by the Central Land Board under section forty of the Town and Country Planning (Scotland) Act, 1947, whether done by the local planning authority or by any person deriving title from the local planning authority or from the Board, as the case may be, shall be deemed to be authorised by this section if it conforms with planning control notwithstanding that it involves interference with any servitude or any right over land or any breach of any restriction as to the use of land arising by virtue of any deed or contract, but subject to payment of compensation under section sixty-one of the Lands Clauses Consolidation (Scotland) Act, 1845, or under section six of the Railways Clauses Consolidation (Scotland) Act, 1845, to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with a purchase under those Acts or the injury arises from the execution of works on land acquired under those Acts:

Provided that nothing in this subsection shall authorise interference with any such right as is mentioned in section twenty-four of this Act.

- (2) Any liability of a person deriving title from the local planning authority by whom the land in question was acquired or appropriated or from the Central Land Board to pay such compensation as aforesaid which that person fails to discharge shall be enforceable against that authority or against the Board, as the case may be:

Provided that nothing in this subsection shall be construed as affecting any agreement between the authority or Board and any other person for indemnifying the authority or Board against any liability under this subsection.

- (3) For the purposes of subsection (1) of this section, the erection, construction or carrying out, or maintenance, of any building or work shall be treated as conforming with planning control if it is done in accordance with planning permission granted under the Town and Country Planning (Scotland) Act, 1947, and not otherwise.
- (4) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning authority, or of any body corporate, in contravention of any limitation imposed by law on the capacity of such a body by virtue of its constitution, or as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than such interference or breach as is mentioned in subsection (1) of this section.
- (5) In this section the expression " right over land " means any liberty, privilege, right or advantage annexed to land and adversely affecting other land, and includes a natural right of support.

22 Power to extinguish highways over land acquired for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) The Secretary of State may by order extinguish any public right of way over any such land as is mentioned in subsection (1) of section eighteen of this Act, if he is satisfied that a suitable alternative right of way has been or will be provided or that the provision thereof is not required.

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- (2) The Sixth Schedule to the Town and Country Planning (Scotland) Act, 1947, shall apply to an order under this section as it applies to an order under section forty-six of that Act, and the said Schedule shall, in its application to an order under this section, have effect as if for any reference therein to the Minister of Transport there were substituted, a reference to the Secretary of State.
- (3) The Minister of Transport or a local highway authority may be authorised to acquire land compulsorily for the purpose of providing any public right of way which is to be provided as an alternative to a right of way extinguished under this section; and the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, shall apply to the compulsory acquisition of land under this subsection, and accordingly shall have effect—
- (a) as if this subsection had been in force immediately 'before the commencement of that Act;
 - (b) as if this subsection were included among the enactments specified in paragraph (b) of subsection (1) of section one of that Act:

Provided that section two of the said Act shall not apply to. the compulsory acquisition of land under this subsection.

- (4) Where on the application of a local planning authority an order is made under this section extinguishing a public right of Way, and at the time of publication of the notice required by paragraph 1 of the Sixth Schedule to the Town and Country Planning (Scotland) Act, 1947, there was under, in, upon, over, along or across the land over which the right of way subsisted any telegraphic line belonging to or used by the Postmaster-General.—
- (a) the power of the Postmaster General to remove the line shall be exercisable notwithstanding the making of the order, so, however, that the said power shall not be exercisable, as respects the whole or any part of the line, after the expiration of a period of three months from the date on which the right of way is extinguished unless before the expiration of that period the Postmaster General has given notice to the local planning authority of his intention to remove the line or that part thereof, as the case may be;
 - (b) the Postmaster-General may by notice to the local planning authority in that behalf abandon the said line or any part thereof, and shall be deemed, as respects the line or any part thereof, to have abandoned it at the expiration of the said: period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;
 - (c) the Postmaster-General shall be entitled to recover from the local planning authority the expense of providing, in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line, a telegraphic line in such other place as the Postmaster-General may require;
 - (d) where under paragraph (b) of this subsection the Postmaster General has abandoned the whole or any part of a telegraphic line, it shall vest in the local planning authority, and the provisions of the Telegraph Acts, 1863 to 1943, shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

In this subsection the expression " telegraphic line " has the same meaning as in the Telegraph Act, 1878.

- (5) Regulations made under the Town and Country Planning (Scotland) Act, 1947, may provide for securing that any proceedings required to be taken for the purposes of an order under this section may; be taken concurrently with any proceedings required to be taken for the purposes of the acquisition of the land over which the right of way is to be extinguished,- or for securing that any proceedings required to be taken for the purpose of the acquisition of any other land under subsection (3) of this section may be taken concurrently with either or both of the said proceedings.

23 Extinguishment of private ways, servitudes, and rights as to apparatus, over or in land purchased for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) Upon the completion by the purchasing authority of a compulsory purchase under Part III of the Town and Country Planning (Scotland) Act, 1947, of any land, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land and all other rights or servitudes in or relating to that land shall be extinguished-and any such apparatus shall vest in the purchasing authority:

Provided that this section shall not apply to any right vested in, or any apparatus belonging to, the person carrying on a statutory undertaking for the purpose, of the carrying, on thereof, and shall have effect as respects other matters subject to any direction given by the purchasing authority before the completion of the purchase that this section shall not apply to any right or apparatus specified in the direction and subject to any agreement which may be made (whether before or after the completion, of the purchase) between the purchasing authority and the person in or to whom the right or apparatus in question is vested or belongs.

- (2) Any person who suffers loss by the extinguishment of any right or servitude or the vesting of any apparatus under this section shall be entitled to be paid by the purchasing authority compensation, to be determined under and in accordance with the Acquisition of Land (Assessment of '(Compensation) Act, 1919.
- (3) Expenses incurred by-a Minister or the Central Land Board in the payment of compensation under the last preceding subsection shall be defrayed out of moneys provided by Parliament.

24 Extinguishment of rights of way, and rights as to apparatus of statutory undertakers.

- (1) Where there subsists over land which has been acquired by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act any right of way or any right of laying down, erecting, continuing or maintaining any apparatus oh: under or over the land, or there is on under or over any such land any apparatus, vested in or belonging to the person carrying on a statutory undertaking for the purpose of the carrying on thereof, the purchasing or appropriating authority may serve on the said person a notice that at the, expiration of such period as may be specified in the notice the right will be extinguished, or requiring that before the expiration of such period as may be so specified the apparatus shall be removed.
- (2) A person on whom a notice is served under the preceding subsection may before the expiration of twenty-eight days from the service of the notice serve a counter-notice

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on the purchasing or approbating authority stating that he objects to all or any of the provisions of the notice and specifying the grounds of his objection.

- (3) If no counter-notice is served, under the last preceding subsection, any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice, and if at the end of the period so specified in relation to any apparatus any requirement of the notice as to the removal of the apparatus has not been complied with, the purchasing or appropriating authority may remove the apparatus and dispose thereof in any way they or he may think fit.
- (4) If a counter-notice is Served under subsection (2) of this section on a local planning authority, or on statutory undertakers, the authority or undertakers may either withdraw the notice (without prejudice, however, to the service of a further notice) or apply to the Secretary of State and the appropriate Minister for an order embodying, either with or without modification, the provisions of the notice, and the Secretary of State and the appropriate Minister may if they think fit, after affording to the person carrying on the undertaking on whom the notice was served under subsection (1) of this section an opportunity of objecting to the application and, if any objection is made, after causing an inquiry to be held, make an order in accordance with the application, either with or without modification.
- (5) If a counter-notice is served under subsection (2) of this section on a 'Minister or the Central Land Board, either he or they may withdraw the notice, (without prejudice, however, to the service of a further notice) or he or they and the appropriate Minister may make an order embodying, either with or without modification, the provisions of the notice.

Where a Minister and the appropriate Minister or the Central Land Board and the appropriate Minister propose to make an order under this subsection, they shall prepare a draft of the order and shall afford to the person carrying on the undertaking an opportunity of objecting to the proposal and, if any objection is made, shall cause an inquiry to be held, and may then make an order in accordance with the draft, either with or without modification.

- (6) Subsection (3) of this section shall apply to an order made under either of the two last preceding subsections as it applies to a notice in respect of which no counter-notice is served, but with the substitution for references to a notice of references to an order.
- (7) Where an objection to an order under subsection (4) or (5) of this section is duly made and is not withdrawn before the making of the order, the order shall be subject to special parliamentary procedure.
- (8) In respect of the extinguishment of any right, or the imposition of any requirement, under this section, the person carrying on a statutory undertaking shall be entitled to recover from the purchasing or appropriating authority at whose instance the right was extinguished or the requirement was imposed compensation in accordance with Part I of the Fourth Schedule to this Act.
- (9) Expenses incurred by a Minister or the Central Land Board in the payment of compensation under the last preceding subsection shall be defrayed out of moneys provided by Parliament.

25 Extension and modification of powers and duties of statutory undertakers.

- (1) Where it appears to the Secretary of State and the appropriate Minister, on a representation made by the person carrying on a statutory undertaking, that—
- (a) in order to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for any purpose in connection with which a local planning authority or a Minister may be authorised under Part III of the Town and Country Planning (Scotland) Act, 1947, to acquire land, or
 - (b) in order to facilitate any adjustment of the carrying on of the undertaking necessitated by the acquisition under Part III of the Town and Country Planning (Scotland) Act, 1947, of any land an interest in which was held, or which was used, for the purpose of the carrying on of the undertaking, or necessitated by the extinguishment of any right, or the imposition of any requirement, under the last preceding section, or necessitated by a decision on an application made under the Town and Country Planning (Scotland) Act, 1947, by a person carrying on the undertaking for permission to develop any such land, or by the revocation or modification of permission granted on such an application, or by the making of an order under section twenty-four of that Act in relation to any such land,

it is expedient that the powers and duties of the said person in relation to the carrying on of the undertaking should be extended or modified, the Secretary of State and the appropriate Minister may by order provide for such extension or modification of the said powers and duties as appears to them to be requisite in order to secure the provision of services as mentioned in paragraph (a) of this subsection, or to facilitate the adjustment of the undertaking as mentioned in paragraph (b) of this subsection, as the case may be.

- (2) Without prejudice to the generality of the provisions of the preceding subsection, an order under the preceding subsection may provide—
- (a) for empowering the person carrying on the undertaking to acquire, whether compulsorily or by agreement, any land specified in the order and to erect or construct any buildings or works so specified;
 - (b) for applying in relation to the acquisition of such land and the construction of such works enactments relating to the acquisition of land and the construction of works;
 - (c) for giving effect, where it has been represented that the making of the order is expedient for the purposes of paragraph (a) of the preceding subsection, to such financial arrangements between the local planning authority or the Minister and the person carrying on the undertaking as they may agree or, in default of agreement, as may be determined to be equitable in such manner and by such tribunal as may be specified in the order;

and for such incidental and supplemental matters (including the amendment or repeal of any provision in any local enactment) as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.

- (3) As soon as may be after making a representation under subsection (1) of this section, the person carrying on the undertaking in question shall publish, in such form and manner as may be directed by the Secretary of State and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which the representation relates and specifying the time (not being less than twenty-eight days) within which, and the manner in which, objection to the making of an order on the representation may be made, and shall serve a like notice on any persons appearing from the valuation roll to have an interest in any land to which the representation relates, and if it is so directed

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by the Secretary of State and the appropriate Minister, shall also serve a like notice on such other persons, or persons of such classes, as may be so directed.

- (4) The provisions of the First Schedule to this Act shall have effect in relation to the making of an order on the representation if any objection thereto is duly made, and, subject to those provisions in a case in which they have effect, the Secretary of State and the appropriate Minister may, if they think fit, make an order,
- (5) A local planning authority or Minister may represent to the Secretary of State and the appropriate Minister that the making of an order under subsection (1) of this section as respects any statutory undertaking is expedient for the purpose of securing the provision of new services, or the extension of existing services, for any purpose in connection with which the authority or Minister may be authorised under Part III of the Town and Country Planning (Scotland) Act, 1947, to acquire land, and where such a representation is made the preceding provisions of this section shall have effect as if the representation had been made by the person carrying on the undertaking in question, but with the substitution in subsection (3) for the reference to the person carrying on the undertaking of a reference to the local planning authority or Minister,
- (6) An order under this section shall be subject to special parliamentary procedure.

26 Relief of statutory undertakers from obligations rendered impracticable by exercise of powers of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) Where on a representation in that behalf made by the person carrying on a statutory undertaking the appropriate Minister is satisfied that—
 - (a) the compulsory purchase under Part III of the Town and Country Planning (Scotland) Act, 1947, of any land an interest in which was held, or which was used, for the purpose of the carrying on of the undertaking;
 - (b) a decision on an application under Part II of the said Act by a person carrying on the undertaking for permission to develop any such land or the revocation or modification of planning permission granted on such an application or the making of an order under section twenty-four of that Act in relation to any such lands; or
 - (c) the extinguishment under Part III of that Act of any right, or the imposition of any requirement as to the removal of apparatus, vested in or belonging to the said person,

has rendered impracticable the fulfilment of any obligation of the said person incurred in connection with the carrying on of the undertaking, the appropriate Minister may by order direct that the said person shall be relieved of the fulfilment of the obligation either absolutely or to such extent as may be specified in the order.

- (2) As soon as may be after making a representation to the appropriate Minister under the preceding subsection, the person carrying on the undertaking in question shall, as may be so directed by the appropriate Minister, either publish in such form and manner as may be so directed a notice giving such particulars as may be directed of the matters to which the representation relates and specifying the time (not being less than twenty-eight days) within which and the manner in which objections to the making of an order on the representation may be made, or serve such a notice on such persons, or persons of such classes, as may be so directed, or both publish and serve such notices.
- (3) The provisions of the First Schedule to this Act shall have effect in relation to the making of an order on the representation if any objection thereto is duly made, and, subject to

those provisions in a case in which they have effect, the appropriate Minister may, if he thinks fit, make an order.

- (4) If any objection to the making of an order under this section is made and is not withdrawn before the making of the order, the order shall be subject to special parliamentary procedure.
- (5) In relation to an order made under this section, subsections (1) to (4) of section nine of the Town and Country Planning (Scotland) Act, 1947, shall apply, subject to any necessary modifications, as they apply in relation to a development plan approved by the Secretary of State under that Act, and accordingly the said subsection (1) shall have effect as if for the reference therein to the local planning authority there were substituted a reference to the appropriate Minister :

Provided that where any such order is subject to special parliamentary procedure, 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 the said section nine shall not apply;
- (b) in any other case those subsections shall have effect in relation to the order as if in subsection (2) for the reference to the date on which the notice required by subsection (1) of the said section nine 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.

27 Provisions as to churches and burial grounds.

- (1) Any land consisting of a church or other building used or formerly used for religious worship, or the site thereof, or a burial ground or part of a burial ground, which has been acquired by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act, may be used in any manner whether or not involving the erection, construction or carrying out, or maintenance, of any building or work,—
- (a) in the case of land acquired by a purchasing authority other than a Minister, or of land appropriated by a local planning authority as aforesaid, by that authority or by any other person if that use conforms with planning control; or
- (b) in the case of land acquired by a Minister, by him or on his behalf for any purpose for which he acquired the land,

notwithstanding anything in any enactment relating to churches or such other buildings as aforesaid or to burial grounds or any obligation or restriction imposed under any deed or agreement or otherwise as respects that church or other building or burial ground or part thereof:

Provided that this subsection shall not have effect as respects any such land as aforesaid until the prescribed requirements with respect to the removal and re-interment of human remains and the disposal of tombstones, monuments or other memorials, and fixtures and furnishings in or upon the land have been complied with.

- (2) Provision shall be made by any regulations made for the purposes of the proviso to the preceding subsection—

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- (a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any tombstones, monuments or other memorials, or fixtures or furnishings;
- (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and re-interment of the remains of the deceased and the disposal of any tombstone, monument or other memorial commemorating the deceased;
- (c) for requiring the persons in whom the land is vested to defray the expenses of such removal, re-interment and disposal not exceeding such amount as may be prescribed;
- (d) for requiring compliance with any directions given in any case by the Secretary of State, after consultation with the church authorities in the case of a church or churchyard, with respect to the manner" of removal and the place and manner of reinterment of any human remains and the disposal of any tombstones, monuments or other memorials, and fixtures and furnishings; and
- (e) with regard to such incidental and consequential matters (including the closing of registers) as may appear to the Secretary of State to be expedient for the purposes of the regulations.

Any expense incurred by a Minister or the Central Land Board under paragraph (c) of this subsection shall be defrayed out of moneys provided by Parliament.

- (3) Subject to the provisions of any such regulations as aforesaid, no authority shall be required for the removal and re-interment in accordance with the regulations of any human remains, or for the removal and disposal of any tombstones, monuments or other memorials, or fixtures or furnishings.
- (4) In this section—
 - (a) the expression " burial ground " includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purpose of interment;
 - (b) the reference to conformity with planning control shall be construed in accordance with subsection (3) of section twenty-one of this Act, with the substitution for references therein to anything done as therein mentioned of references to any use of land, whether or not involving the doing of any such thing.
- (5) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning authority or of any body corporate, in contravention of any limitation imposed by law on the capacity of such a body by virtue of its constitution, or as authorising any act or omission on the part of any person that is actionable at the instance of any person on any ground other than contravention of any such enactment, obligation or restriction as is mentioned in subsection (1) of this section.

28 Authorisation of use and development of open spaces, etc., notwithstanding restrictions.

- (1) Any land being, or, forming part of, a common or open space, which has been acquired by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act, may be used in any manner, whether or

not involving the erection, construction or carrying out, or maintenance, of any building or work.—

- (a) in the case of land acquired by a purchasing authority other than a Minister or of land appropriated by a local planning authority as aforesaid, by that authority or by any other person, if that use conforms with planning control, or
- (b) in the case of land acquired by a Minister, by him or on his behalf for any purpose for which he acquired the land,

notwithstanding anything in any enactment relating to land of that kind, including any public general or local enactment, by which any such land is specially regulated.

(2) In this section—

- (a) the expressions " common " and " open space " have the same meanings as in the Town and Country Planning (Scotland) Act, 1947;
- (b) the reference to conformity with planning control shall be construed in accordance with , subsection (3) of section twenty-one of this Act, with the substitution for references therein to anything done as therein mentioned of references to any use of land, whether or not involving the doing of any such thing

(3) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning authority, or of any body corporate, in contravention of any limitation imposed by law on the capacity of such a body by virtue of its constitution, or as authorising any act or omission on the part of any person that is actionable at the instance of any person on any ground other than contravention of any such enactment as is mentioned in subsection (1) of this section.

29 Provisions as to displacements from land acquired for purposes of Part III of the Town and Country Planning (Scotland) Act, 1947.

- (1) Where the carrying out of redevelopment on any such land as is mentioned in subsection (1) of section eighteen of this Act will involve the displacement of persons residing in premises thereon, it shall be the duty of the authority, in so far as there is not other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacements from time to time becoming necessary as the redevelopment proceeds.
- (2) Section seventy-nine of the Housing (Scotland) Act, 1925 (which imposes obligations as to the provision of housing accommodation where land is acquired under statutory powers) shall not have effect in relation to an acquisition by a local planning authority under section thirty-five of the Town and Country Planning (Scotland) Act, 1947.
- (3) If the Secretary of State certifies that possession of any house which has been acquired or appropriated and is for the time being held by a local planning authority as is mentioned in subsection (1) of section eighteen of this Act, is immediately required for the purposes for which it was acquired or appropriated, nothing in the Rent and Mortgage Interest, Restrictions Acts, 1920 to 1939, shall prevent the acquiring or appropriating authority from obtaining possession of the house.
- (4) Where possession of any building, or any part of a building, on land, which has been acquired or appropriated by a local planning authority as mentioned in subsection (1) of section eighteen of this Act or which has been acquired by the Central Land Board or a Minister under Part III of the Town and Country Planning (Scotland) Act, 1947, is required by them or him for the purposes for which it was acquired or appropriated,

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then, at any time after the tenancy of the occupier has expired or has been determined, the authority, Board or Minister may serve a notice on the occupier of the building or part of the building requiring him to remove therefrom within a period of twenty-one days; and on the expiry of that period a certified copy of the notice to remove shall be sufficient warrant for ejection against the occupier or any party in his right in the event of non-compliance with the notice.

- (5) A local planning authority, the Central Land Board or a Minister may pay to any person who is displaced in the carrying out of redevelopment on land which has been acquired by the local planning authority, Board, or Minister under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by the local planning authority as mentioned in subsection (1) of Section eighteen of this Act, such reasonable allowance as they think fit towards his expenses in removing, and to a person carrying on any business in a building from which he is so displaced they may pay also such reasonable allowance as they think fit towards the loss which, in their opinion, he will sustain by reason of the disturbance to his business consequent on his having to quit the building, and in estimating that loss they shall have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his business and the availability of other premises suitable for that purpose.”

“46 Provision as to loans by the Public Works Loan Commissioners.

The power of the Public Works Loan Commissioners to make loans under section nine of the Public Works Loans Act, 1875, shall include power to make loans to a local planning authority for the purpose of the discharge by them of any of their functions under Part III of the Town and Country Planning (Scotland) Act, 1947.”

“48 Works below high-water mark.

Nothing in the Town and Country Planning (Scotland) Act, 1947, shall authorise the execution of any works whether of construction, demolition or alteration on, over or under tidal lands below high-water mark of ordinary spring tides, except with the consent of any persons whose consent would have been required if the Town and Country Planning (Scotland) Act, 1947, had not been passed, and except in accordance with such plans and sections and subject to such restrictions and conditions as, previous to such works being commenced, have been approved by the Minister of Transport.”

“50 Provisions as to local inquiries.

- (1) For the purposes of the execution of his powers and duties under the Town and Country Planning (Scotland) Act, 1947; a Minister may cause to be held such local inquiries as are directed by the Town and Country Planning (Scotland) Act, 1947, and such other local inquiries as he may think fit; and the provisions of this section shall apply to any inquiry so held.
- (2) The Minister shall appoint a person to hold the inquiry and to report thereon to him.
- (3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has lodged and has not withdrawn objections in relation to any matter in question at the inquiry, and shall be published in such newspaper or newspapers as the Minister may direct.
- (4) The person appointed to hold the inquiry may, on the motion-of any party thereto or of his own motion, serve a notice in writing on any person requiring him to attend at

the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry:

Provided that—

- (i) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him; and
 - (ii) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.
- (5) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.
 - (6) Any person who refuses or wilfully neglects to attend in obedience to a notice under subsection (4) of this section or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which he may be required to produce by any such notice shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months.
 - (7) The Minister may make orders as to the expenses incurred by the Minister in relation to the inquiry (including such reasonable sum as the Minister may determine for the services of the person appointed to hold the inquiry) and as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid,
 - (8) Any order of the Minister under subsection (7) of this section requiring any party to pay expenses may be enforced in like manner as a recorded decree arbitral.
 - (9) In this section the expression " Minister " means the Secretary of State, or any other Minister authorised under this Act to hold a local inquiry.”
- “~~50A~~4) 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 under this Act which is subject to special parliamentary procedure.”

“59 Regulations.

- (1) In this Act, except where the context otherwise requires, the expression " prescribed " means prescribed by regulations made by the Secretary of State.
- (2) Any regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the period of forty days beginning with the day on which the regulations are laid before that House resolves that; the regulations be annulled the regulations shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.”

Status: This is the original version (as it was originally enacted).

“61 Powers of official arbiter on references to him.

An official arbiter appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, to whose determination any matter is referred under this Act shall have the like powers with respect to procedure, costs and the statement of special cases as he has under that Act.

62 Interpretation.

- (1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—
- " appropriate Minister, " in relation to a statutory undertaking, has the same meaning as in the Town and Country Planning (Scotland) Act, 1947;
 - " Central Land Board " means the Central Land Board established under the Town and Country Planning Act, 1947;
 - " development " includes re-development;
 - " Gazette and local advertisement " means, in relation to an application, order or certificate relating to any land, publication in the Edinburgh Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality; in which the land is situated;
 - " land " includes land covered with water and any interest in land and any servitude or right in or over land;
 - " local enactment " means an enactment in any local or private Act of Parliament and a provision in a statutory order;
 - " local planning authority " means the local planning authority for the purposes of the Town and Country Planning (Scotland) Act, 1947;
 - " owner, " in relation to any building or land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the building or land to the promoters of an undertaking, and includes also a lessee under a lease or agreement, the unexpired period of which exceeds three years;
 - " purchasing authority " means a Minister, the Central Land Board, a local planning authority or any statutory undertakers, purchasing under Part III of the Town and Country Planning (Scotland) Act, 1947;
 - " statutory order " means an order or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;
 - " statutory undertaking " has the same meaning as in the Town and Country Planning (Scotland) Act, 1947.
- (2) References in this Act to any other enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by this Act or by or under any other enactment.
- (3) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of the Sixth Schedule to this Act or of any other enactment, is to be deemed to be served.
- (4) Any reference in this Act to the Town and Country Planning (Scotland) Act, 1947, or to Part III of that Act shall be construed as including a reference to any provisions of this Act incorporated with the said Part III.

63 Short title and extent.

- (1) This Act may be cited as the Town and Country Planning (Scotland) Act, 1945.
- (2) This Act shall extend to Scotland only.”

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945.

“FIRST SCHEDULE

PROCEDURE FOR DEALING WITH OBJECTIONS.

- 1 (1) The following provisions of this Schedule shall have effect where an objection is duly made to the making of an order under section twenty-five or twenty-six of this Act and is not withdrawn.
- (2) An objection shall not be deemed for the purposes of any of the said enactments or of this Schedule to be duly made unless—
 - (a) it is made within the time and in the manner specified in the notice required by the relevant enactment referred to in the preceding sub-paragraph, and
 - (b) the objection comprises, or there is submitted therewith, a statement in writing of the grounds thereof.
- (3) In this Schedule, the expression " the Minister " means the Minister or Ministers having jurisdiction to make or confirm the order in question.
- 2 Unless the Minister decides apart from the objection not to make or confirm the order, or decides to make a modification agreed to by the person making the objection as meeting the objection, the Minister shall, before deciding whether to make or confirm the order, or what modification if any ought to be made, consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the person making the objection to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.
- 3 In so far as the Minister is satisfied, after considering the grounds of the objection as set out in the original statement and any such further statement, that the objection relates to a matter which can be dealt with by an arbiter by whom compensation is to be assessed, the Minister may treat the objection as irrelevant for the purpose of his deciding as aforesaid.
- 4 If after considering the grounds of the objection as set out in the original statement and any such further statement, the Minister is satisfied that he is sufficiently informed, for the purpose of his' deciding as aforesaid, as to the matters to which the objection relates, or if where a further statement has been required it is not submitted within the specified period, the Minister may -decide as aforesaid without further investigation as to those matters.
- 5 Subject as mentioned in the two last preceding paragraphs, the Minister shall, before deciding as aforesaid, afford to the person making the objection an opportunity of appearing before and being heard by a person appointed for the purpose by the Minister, and if he avails himself thereof the Minister shall afford an opportunity of appearing and being heard on the same occasion to the authority or other person (if any) making the application or representation or submitting the order in question and to any other persons to whom it appears to the Minister to be expedient to afford it.

Status: This is the original version (as it was originally enacted).

- 6 Notwithstanding anything in paragraphs 2 to 5 of this Schedule, if it appears to the Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he decides as aforesaid, he shall cause such an inquiry to be held, and where he determines to cause such an inquiry to be held, any of the requirements of those paragraphs to which effect has not been given at the time when he so determines shall be dispensed with.”

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945.

“FOURTH SCHEDULE

ASSESSMENT OF COMPENSATION TO STATUTORY UNDERTAKERS.

PART I

Amount of Compensation.

- 1 The compensation to be paid—
- (a) in respect of any decision given under paragraph 1 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1947, refusing permission to develop operational land or granting such permission subject to conditions;
 - (b) in respect of any decision given by a government department under paragraph 2 of that Schedule refusing the sanction of that department in respect of any development of such - land, or directing that permission to develop such land shall be deemed to be granted subject to conditions;
 - (c) in respect Of any order made under paragraph 3 of that Schedule revoking or modifying permission to develop such land;
 - (d) in respect of any order made under paragraph 4 of that Schedule in relation to such land;
 - (e) in respect of the extinguishment of any right or the imposition of any requirement under section twenty-four of this Act as applied for the purposes of Part III of the said Act;
 - (f) in respect of any such compulsory purchase as is mentioned in subsection (5) of section forty-two of the said Act;

shall in default of agreement be assessed -by the arbitration of the tribunal constituted in accordance with the provisions of Part II of this Schedule, and the amount of the compensation shall be an amount calculated in" accordance with the provisions of the next following paragraph:

Provided that, as respects compensation in respect of a compulsory purchase, if, before the expiration of two months from the date on which notice to treat is served in respect of the interest of the person by whom the statutory undertaking is carried oh, that person gives notice in writing to the purchasing authority that he elects that as respects all or any of the land comprised in the purchase the compensation shall be, ascertained in accordance with the enactments, other than rule (5) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, which would be applicable apart from the provisions of this Schedule, the compensation shall be so ascertained.

- 2 (1) The amount of the said compensation shall, subject to the provisions of this paragraph, be the aggregate of the following amounts, that is to say.—

- (a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation, and
 - (b) when any such adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the said proceeding together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment; or
 - (c) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation; and
 - (d) in the case of compensation in respect of the imposition of a requirement under section twenty-four of this Act to remove any apparatus, any expense reasonably incurred by the person carrying on the undertaking in complying with the requirements reduced by the value after removal of the apparatus removed.
- (2) The amount of any compensation assessed in accordance with the preceding sub-paragraph shall be reduced by such amount (if any) as appears to the tribunal to be appropriate to offset—
- (a) the estimated value of any property (whether moveable or heritable) belonging to the person carrying on the statutory undertaking in question and used for the carrying on thereof which as the result of any such adjustment as is mentioned in the preceding sub-paragraph cease to be so used, in so far as the value of the property has not been taken into account under head (d) of the preceding sub-paragraph; and
 - (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after any such adjustment has been completed, in so far as that amount has not been taken into account under head (b) of the preceding sub-paragraph and is directly attributable to the adjustment,
- and by any further amount which appears to the tribunal to be appropriate having regard to any increase in the capital value of heritable property belonging to the person carrying on the statutory undertaking in question which is directly attributable to any such adjustment as aforesaid, allowance being made for any reduction made under head (b) of this sub-paragraph.
- (3) References in this paragraph to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or of expenditure over receipts is increased, or, where a -balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances; and references to an increase in net receipts shall be construed accordingly.
- (4) In this paragraph the expression " proceeding giving rise to compensation " means the particular action (that is to say, purchase, extinguishment of a right, imposition of a requirement, refusal of permission, grant of permission subject to conditions, or revocation or modification of permission or order under paragraph 4 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1947) in respect

of which compensation falls to be assessed, as distinct from any development or project in connection with which the action in question may have been taken.

PART II

Tribunal for assessment of compensation to statutory undertakers.

- 3 (1) The Tribunal for the assessment of compensation referred to in Part I of this Schedule shall consist; of four persons, namely—
- (a) an advocate or solicitor of not less than seven years' standing, appointed by the Lord President of the Court of Session to act as chairman;
 - (b) two persons appointed by the Secretary of State as persons having special knowledge and experience of the valuation of land and of civil engineering respectively; and
 - (c) for each claim coming before the tribunal, a person selected by the appropriate Minister, as a person having special knowledge and experience of statutory undertakings of the kind carried on by the claimant, from the members. of a panel appointed by-appropriate Ministers of persons appearing to them to have such knowledge and experience of statutory undertakings.
- (2) The Treasury may pay out of moneys provided by Parliament to the members of the tribunal such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine.
- (3) The provisions of sections three, five and six of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in relation to the tribunal and proceedings before the tribunal as they apply in relation to an official arbiter and proceedings before an official arbiter, with the substitution for references in the said section five to the acquiring authority of references to the person from whom compensation is claimed.”

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945

“FIFTH SCHEDULE

MODIFICATIONS OF ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919.

- 8 (1) As respects any dwelling-house in the district of a local authority for the purposes of the Housing (Scotland) Acts, 1925 to 1944, which in their opinion is unfit for human habitation and not capable at reasonable expense of being rendered so fit, and which is comprised in land designated by a development plan under the Town and Country Planning (Scotland) Act, 1947, as subject to compulsory acquisition or land which is proposed to be acquired compulsorily under subsection (2) of section thirty-four or subsection (2) of section thirty-five of that Act, the local authority for the purposes of the said Acts may make and submit to the Secretary of State an order in such form as may be prescribed by regulations made by him under section forty-four of the Housing (Scotland) Act, 1930, declaring the house to be in that state, and, if the order is confirmed by him, the compensation to be paid for the house on a compulsory purchase thereof pursuant to any authorisation given under Part III of the Town and Country Planning (Scotland) Act, 1947, by the Minister having jurisdiction to give such authorisation either before or within two years after the confirmation by the Secretary of State of the order submitted

under this paragraph, shall be assessed in like manner as if it had been a dwelling-house specified in a compulsory purchase order as unfit for human habitation and purchased compulsorily under Part I of the Housing (Scotland) Act, 1930, and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall accordingly have effect, in its application for the purposes of Part III of the Town and Country Planning (Scotland) Act, 1947, subject to this provision.

- (2) Before submitting an order under this paragraph to the Secretary of State, the local authority shall serve on the owner of arid, so far as it is reasonably practicable to ascertain such persons, on the superior of, and on every holder of a heritable security over, the dwelling-house or of any part thereof, a notice in such form as may be prescribed as mentioned in the preceding sub-paragraph, stating the effect of the order and that it is about to be submitted to the Secretary of State for confirmation, and specifying the time within which and the manner in which objection thereto can be made.
- (3) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Secretary of State may, if he thinks fit, confirm the order, but in any other case he shall before confirming the order consider any objection not being withdrawn and shall, if either the person by whom the objection was made or the local authority so desire, afford that person and the authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and may then, if he thinks fit, confirm the order.
- (4) Where the provisions of sub-paragraph (1) of this paragraph have effect as to the compensation to be paid for a dwelling-house on a compulsory purchase thereof under any enactment in Part III of the Town and Country Planning (Scotland) Act, 1947, the provisions of section fifty-eight of the Housing (Scotland) Act, 1935 (which relate to payments in respect of well-maintained houses) shall have effect, as they have effect where a dwelling-house is made the subject of a compulsory purchase order under Part I of the Housing (Scotland) Act, 1930, as being unfit for human habitation, if the Secretary of State is satisfied as mentioned in that section on a representation made to him by a person who would be entitled to any payment under that section or to a share thereof within three months from his first becoming aware that a notice to treat for the purchase of any interest in the house has been served:

Provided that, in the application of that section for the purposes of this sub-paragraph, there shall be substituted, for references therein to the local authority therein mentioned and to the order therein mentioned, references, respectively to the purchasing authority and to the order by which the purchase of the house is authorised.
- (5) In this paragraph the expression " dwelling-house " has the same meaning as in the Housing (Scotland) Act, 1925; and in determining for the purposes of this paragraph whether a dwelling-house is fit for human habitation regard shall be had to the matters to which regard is required by section forty-nine of the Housing (Scotland) Act, 1930, to be had in determining that question for the purposes of that Act, and sections one hundred and four and one hundred and nine of the Housing (Scotland) Act, 1925 (which relate to the surveying and examination of land) shall have effect as if the powers conferred by this paragraph were powers under that Act."

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945

“SIXTH SCHEDULE

PROCEDURE FOR COMPLETION OF COMPULSORY PURCHASE UNDER ORDERS PROVIDING FOR EXPEDITED COMPLETION.

PART I

Procedure for expedited completion.

- 1 (1) Except as provided by sub-paragraph (3) of this paragraph, when a purchase order providing for expedited completion has come into operation" the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect as if a notice to treat (that is to say, such a notice as is mentioned in section seventeen of the Lands Clauses Consolidation (Scotland) Act, 1845) had been served on all the parties interested in the land as respects which this Schedule applies by virtue of the order or the parties enabled by the said Act of 1845 to sell and convey the same or their rights and interests therein.
- (2) The date on which a notice to treat is to be deemed by virtue of the preceding sub-paragraph to have been served: on any party shall be the date on which the order is recorded in the appropriate Register of Sasines in pursuance of subsection (a) of section thirty-six of the Town and Country Planning (Scotland) Act, 1947.
- (3) Notwithstanding anything in sub-paragraph (1) of this paragraph, no notice to treat shall be deemed to be served on any person in respect of an interest being either—
- (a) a short tenancy (that is to say a tenancy for a year or from year to year or any less interest); or
 - (b) a long tenancy which is about to expire (that is to say, a tenancy granted for a period longer than a year or from year, to year which at the date when apart from this provision notice to treat would be deemed by virtue of the said sub-paragraph (1) to be served on the owner of the tenancy, has still to run only such period longer than a year as may be specified in the order for the purposes of the operation of this provision in relation to the land in which the tenancy subsists, the period which the tenancy has then still to run being ascertained on the assumption that the tenant will exercise any option to renew the tenancy and will not exercise any option to determine the tenancy, then or thereafter available to him and that the landlord will exercise any option to determine the tenancy then or thereafter available to him).
- (4) The reference in sub-paragraph (1) of this paragraph to the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, is to those enactments as modified by the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, by the Fifth Schedule to this Act, and by paragraph 3 and Part IF of this Schedule.
- 2 The notice of the confirmation of an order authorising compulsory purchase required by the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, to be published shall, in the case of a purchase order providing for expedited completion, include; a notification to the effect that every person entitled to claim compensation in respect of any of the land as respects which this Schedule applies by virtue of the order, or in respect of any interest in any such land, is invited to

give information to the purchasing authority in such form as may be prescribed of his name and address and of the land and interest in question.

- 3 (1) At any time or from time to time after the coming into operation of a purchase order providing for expedited completion but not earlier than such time as is mentioned in sub-paragraph (2) of this paragraph, the purchasing authority may execute, as respects an area consisting either of the whole or a part of the land as respects which this Schedule applies by virtue of the order, a declaration designating that area and stating—
- (a) their intention to enter on the land in the designated area and take possession thereof at the expiration of such period (not being less than twenty-eight days) as may be specified therein from the date on which the service of notices on occupiers required by sub-paragraph (3) of this paragraph is completed; and
 - (b) that at the expiration of that period the purchasing authority will expedite a notice of title which, on being recorded in the appropriate Register Of Sasines, will vest the land in the designated area in the authority.
- (2) The earliest time at which such a declaration may be executed shall be the expiration of two months from the date of the recording of the order in pursuance of subsection (2) of section thirty-six of the Town and Country Planning (Scotland) Act, 1947:
- Provided that the order may provide for the substitution of a period shorter than two months for the purposes of the operation of this sub-paragraph as respects any land, so however that provision for the substitution of a shorter period shall not be so made in relation to any land unless the order as submitted made such provision in relation thereto.
- (3) As soon as may be after executing such a declaration, the purchasing authority shall serve upon every occupier of any of the land in the area designated thereby (other than any of the land therein in which a short tenancy, or a long tenancy which is about to expire, is subsisting), and on every other person who has given information to the authority in relation to any of the land therein pursuant to such invitation as is mentioned in paragraph 2 of this Schedule, a notice describing that area and stating the effect of the declaration.
- (4) At the expiration of the period specified in such a declaration from the date on which the service of notices on occupiers required by the last preceding sub-paragraph is complete (as to which date a certificate given by the purchasing authority shall be conclusive)—
- (a) the purchasing authority shall be entitled to enter on and take possession of the land in the area designated by the declaration or any of it without previous consent or compliance with sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845; and
 - (b) the purchasing authority shall expedite a notice of title containing a description of the land in the area designated by the declaration and narrating the circumstances under which the land has been purchased, and on such notice of title being recorded in the appropriate Register of Sasines in accordance with section eighty. of the Lands Clauses Consolidation (Scotland) Act, 1845, the land shall vest in the purchasing authority absolutely and free of any heritable security or charge as if the circumstances in which under that Act the promoters of an undertaking have powers to expedite a notarial instrument for vesting in them lands or

Status: This is the original version (as it was originally enacted).

any estate or interest in lands (including the estate, right and interest of any holder of a heritable security), or for the extinguishment of, or of a portion of, any charge, had arisen as regards all the said land and, subject to the next succeeding sub-paragraph, as regards all interests therein, and the authority had duly exercised those powers accordingly at the expiration of the said period;

but the purchasing authority shall be liable to pay the like compensation, and interest on the compensation agreed or awarded, as they would have been required to pay if the provisions of sections eighty-three to eighty-eight of the said Act, and the provisions thereof compliance with which would have been requisite in order to render the said powers exercisable by them, had been complied with.

- (5) Notwithstanding anything in sub-paragraph (1) or (4) of this paragraph, the following provisions, shall have effect as respects land in an area designated by a declaration executed under sub-paragraph (1) of this paragraph in which a short tenancy, or -a long tenancy which is about to expire, is subsisting, that is to say—
- (a) in the case of a short tenancy, the right of entry conferred by sub-paragraph (4) of this paragraph shall not be exercisable, and the vesting of the land in the purchasing authority shall be subject to the tenancy during its subsistence, but without prejudice to any power to require a tenant to give up possession exercisable by the purchasing authority by virtue of the Lands Clauses Acts;
 - (b) in the case of a long tenancy which is about to expire, the right of entry conferred by sub-paragraph (4) of this paragraph shall not be exercisable unless or until the purchasing authority have served notice to treat in respect of the tenancy and they have thereafter served a notice upon every occupier of any of the land in which the tenancy subsists describing the land to which the notice relates and stating their intention to enter on and to take possession thereof at the expiration of such period (not being less than twenty-eight days) from the date on which the notice is served as may be therein specified, and that period has expired, and the vesting of the land in the authority shall be subject to the tenancy until the expiration of that period or the expiration of the tenancy whichever first occurs.
- (6) Every notice of the confirmation of a purchase order providing for expedited completion required by the Acquisition of Land Authorisation Procedure) (Scotland) Act, 1947, to be published, shall refer to the provisions as to entry and vesting contained in sub-paragraph (4) of this paragraph.

4 Where the land as respects which this Schedule applies by virtue of a purchase order providing for expedited completion comprises part only of any house, building or manufactory, or of a park or garden belonging to a house, then, if at any time after the coming into operation of the order and before the execution of a declaration under the last preceding paragraph as respects the said part, the owner of any interest therein gives notice to the purchasing authority in that behalf, no notice to treat shall be deemed by virtue of this Schedule to have been served in respect of any interest in the said part, and as from the giving of the notice the order shall have effect in relation to the said part as if this Schedule had not been applied thereto.

5 (1) Where the compensation payable in respect of the interests in land in respect of which a purchasing authority have expedite a notice of title under sub-paragraph (4) of paragraph 3 of this Schedule is not finally ascertained at the time when such notice of title is presented for recording, then, if the notice of title is accompanied by a certificate by the purchasing authority to that effect, it may lawfully be recorded

in the appropriate Register of Sasines notwithstanding that it is not stamped; and section twelve of the Finance Act, 1895 which provides for the collection of stamp duty, where property is vested by way of sale by virtue of an Act, within three months of the date of vesting) shall have effect as respects the vesting of those interests with the substitution for the reference therein to the date of vesting of a reference to the date on which the compensation has been finally ascertained.

- (2) Where after vesting of any land in a purchasing authority under paragraph 3 of this Schedule a person retains possession of any writ relating to the land, he shall be deemed to have given to the authority an undertaking to produce that writ to the authority on all necessary occasions.

PART II

Adjustments where provision for expedited completion made.

- 6 (1) The time within which a question of disputed compensation arising out of an acquisition of an interest in land in respect of which a notice to treat is deemed to have been served by virtue of this Schedule may be referred to arbitration shall be the period of six years from the date at which the person claiming compensation or a person from whom he derives title first knew, or could reasonably be expected to have known, of the vesting of the interest under paragraph 3 of this Schedule.
- (2) In reckoning the period of six years referred to in sub-paragraph (1) of this paragraph, no account shall be taken of any period during which the person claiming compensation or the person from whom he derives title was in minority or less age or was under legal disability.
- 7 The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, or that subsection as applied by paragraph 3 of the Fourth Schedule to this Act to withdraw a notice to treat shall not be exercisable, in the case of a notice to treat which is deemed to have been served by virtue of this Schedule in respect of the interest of an occupier, at any time after the service on that occupier of the notice referred to in sub-paragraph (3) of paragraph 3 of this Schedule, and, in the case of a notice to treat so deemed to have been served in respect of any other interest, at any time after the vesting of that interest in the purchasing authority under paragraph 3 of this Schedule.
- 8 In relation to a compulsory purchase authorised by a purchase order providing for expedited completion, being a purchase of an interest in respect of which a notice to treat is deemed to have been served by virtue of this Schedule, the following sections of the Lands Clauses Consolidation (Scotland) Act, 1845, shall be excepted from the incorporation of that Act with the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947: that is to say, sections fifty-six to sixty and sixty-three to sixty-six (which relate to the mode of ascertaining compensation to absent parties), section ninety (which relates to sales of parts of buildings) and sections one hundred and seventeen to one hundred and nineteen (which relate to interests which have by mistake been omitted to be purchased).
- 9 (1) Where any of the land as respects which this Schedule applies by virtue of a purchase order providing for expedited completion constitutes a part only of land burdened with a charge, the following provisions of this paragraph shall have effect.

Status: This is the original version (as it was originally enacted).

- (2) Any question as to the apportionment mentioned in section one hundred and nine of the Lands Clauses Consolidation (Scotland) Act, 1845, shall be referred and determined as mentioned in section one of the Acquisition of Land (Assessment of Compensation) Act, 1919.
- (3) Such portion of the charge as may be apportioned under the said section one hundred and nine to the land as respects which this Schedule applies by virtue of the order shall be treated as having been extinguished on the vesting of that land in the purchasing authority under paragraph 3 of this Schedule, and sections one hundred and eight to one hundred and eleven of the Lands Clauses Consolidation (Scotland) Act, 1845, shall have effect as if the extinguishment had taken place under section one hundred and ten thereof:

Provided that if the person entitled to the charge and the owner of the land subject thereto enter into an agreement to that effect, the said sections one hundred and eight to one hundred and eleven shall have effect as if the person entitled to the charge had discharged therefrom the land as respects which this Schedule applies by virtue of the order, on the condition mentioned in the said section one hundred and nine, at the time of the vesting of that land in the purchasing authority under paragraph 3 of this Schedule, and in that case none of the charge shall be treated as having been extinguished by virtue of that paragraph so far as regards the remaining part of the land charged therewith.

- 10 Where any land as respects which this Schedule applies by virtue of a purchase order providing for expedited completion constitutes a part only of land comprised in a lease for a term of years unexpired, section one hundred and twelve of the Lands Clauses Consolidation (Scotland) Act, 1845, shall have effect subject to the modification that, for references therein to the time of the apportionment of rent therein mentioned, there shall be substituted references to the time of the vesting of the first-mentioned land in the purchasing authority under paragraph 3 of this Schedule.
- 11 Any person who in consequence of the vesting of any land in the purchasing authority under paragraph 3 of this Schedule is relieved from any liability, whether in respect of a charge, rent under a lease, interest due on' any heritable security or any other matter, and who makes any payment as in satisfaction or part satisfaction of that liability shall, if he shows that when he made the payment he did not know of the facts which constitute the cause of his being so relieved or of some one or more of them, be entitled to recover the sum paid from the person to whom it was paid.

PART III

Interpretation.

- 12 In this Schedule—
- references to a heritable security include references to any such security as is mentioned in the words introductory to sections ninety-nine to one hundred and six of the Lands Clauses Consolidation (Scotland) Act, 1845;
- references to a charge include references to any such feu duty, ground annual, or rent or other payment or incumbrance as is mentioned in the words introductory to sections one hundred and seven to one hundred and eleven of the last mentioned Act.”