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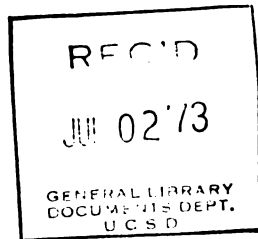


THE
PUBLIC GENERAL ACTS
AND GENERAL SYNOD MEASURES
1972

with
Lists of the Public General Acts
and Local Acts
and a Table of the Effect of Legislation
and an Index

[IN THREE PARTS]

PART II



LONDON
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1973

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**The Public General Acts
and General Synod Measures
which received the Royal Assent in 1972
in which year ended the TWENTIETH
and began the TWENTY-FIRST YEAR
of the Reign of HER MAJESTY
QUEEN ELIZABETH THE SECOND
and
ended the Second Session
and began the Third Session
of the Forty-Fifth Parliament of the
United Kingdom of Great Britain
and Northern Ireland**

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Housing Finance Act 1972

1972 CHAPTER 47

An Act to introduce a new system of housing subsidies for housing authorities, to provide for rent rebate and rent allowance schemes administered by housing authorities, to amend the law about rents of dwellings and in particular those subject to the Rent Act 1968 or provided by housing authorities, and to make other provision as to housing finance. [27th July 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

HOUSING SUBSIDIES

1.—(1) The eight subsidies set out in subsection (2) below shall be payable to local authorities in the circumstances, and subject to the conditions, set out in this Part of this Act.

(2) The said eight subsidies are—

Subsidy to be credited to Housing Revenue Account

1. The residual subsidy.

Subsidies to be credited to Housing Revenue Account, and subject to limitation by reference to state of the account

2. The transition subsidy.

3. The rising costs subsidy.

4. The operational deficit subsidy.

Subsidy to be credited to general rate fund, and subject to limitation by reference to state of Housing Revenue Account

5. The rent rebate subsidy.

PART I

Subsidies to be credited to general rate fund

6. The rent allowance subsidy.
7. The town development subsidy.
8. The slum clearance subsidy.

(3) The subsidies set out in this subsection shall be payable to new town corporations in the circumstances, and subject to the conditions, set out in this Part of this Act.

The said subsidies are—

Subsidy to be credited to housing account

1. The residual subsidy.

Subsidies to be credited to housing account, and subject to limitation by reference to state of the account

2. The transition subsidy.
3. The rising costs subsidy.

Subsidy to be credited to general revenue account, and subject to limitation by reference to state of the housing account

4. The rent rebate subsidy.

(4) None of the eight subsidies shall be payable, whether to a local authority or to a new town corporation, for the year 1971-72, or for an earlier year, except that, in the circumstances, and subject to the conditions, set out in this Part of this Act, the slum clearance subsidy shall be payable to a local authority for the year 1971-72.

(5) The subsidies so receivable by local authorities or new town corporations shall be paid by the Secretary of State out of money provided by Parliament.

The residual subsidy.

2.—(1) This section has effect as to the circumstances in which residual subsidy is payable to a local authority.

(2) A local authority shall be entitled to residual subsidy for any year if the authority's subsidies for the year 1971-72 exceed the sum specified for the year in column 2 of the following Table, and the amount of the residual subsidy shall be equal to the excess.

TABLE

1. Year	2. <i>Sum to be deducted from the authority's subsidies for the year 1971-72</i>
1972-73	The withdrawal factor.
1973-74	Twice the withdrawal factor.
1974-75	Two and a half times the withdrawal factor.
1975-76	Three times the withdrawal factor,

and so on, so that the amount of the residual subsidy for any subsequent year is the amount, if any, produced by deduct-

ing half the withdrawal factor from the amount of the residual subsidy for the immediately preceding year.

PART I

(3) In this section “the withdrawal factor”, in relation to a local authority, means the sum produced by multiplying £20 by the number of the local authority’s Housing Revenue Account dwellings at the end of the year 1971-72, excluding any temporary dwellings made available under the Housing (Temporary Accommodation) Act 1944. 1944 c. 36.

(4) In this section “the authority’s subsidies for the year 1971-72” means payments made or to be made to the authority for the year 1971-72 in respect of property within their Housing Revenue Account, being payments made under any of the enactments described in Part I or Part II of Schedule 7 to this Act:

Provided that the said expression shall not include—

- (a) any payment, as being one made to a local authority, if, whether or not under any enactment described in Part III of Schedule 7 to this Act, the local authority on receipt of the payment is to make a payment of the same or a greater amount to any other person, or
- (b) any payment under section 11 of the Housing Subsidies Act 1967 (advances on account of expensive site subsidies) made on or after 1st December 1971 which is the first payment as respects the site or part of a site in question. 1967 c. 29.

(5) For the purposes of this section, any question whether all or any part of any payment under any of the enactments described in Part I or Part II of Schedule 7 to this Act is to be regarded as made for the year 1971-72, or as made in respect of property within the authority’s Housing Revenue Account, shall be determined by the Secretary of State.

(6) The provisions of this section shall apply to a new town corporation as they apply to a local authority.

3.—(1) This section has effect as to the circumstances in which—

The transition subsidy, and associated rate fund contribution.

- (a) transition subsidy is payable to a local authority, and
- (b) the rate fund contribution associated with transition subsidy is to be made by the local authority.

(2) A local authority shall be entitled to transition subsidy if for the year 1972-73, or for any subsequent year, there is a shortfall in the local authority’s rent increases.

PART I

(3) If there is such a shortfall for any such year (in this Act called, in relation to the shortfall, "the base year") then for the base year and for each subsequent year—

- (a) transition subsidy shall be payable to the local authority of an amount equal to the percentage of the amount of the shortfall specified, in relation to the base year, in column 2 of the Table below, and
- (b) the local authority shall make an associated rate fund contribution of an amount equal to the percentage of that shortfall specified, in relation to that base year, in column 3 of the said Table,

and, accordingly, transition subsidy, and the associated rate fund contribution, for any year (later than 1972-73) may comprise elements by reference to shortfalls for two or more different base years.

TABLE

<i>Base year for which there is a shortfall in the local authority's rent increases</i>	<i>Amount of transition subsidy by reference to shortfall for the base year to be the following percentage of the amount of the shortfall</i>	<i>Amount of associated rate fund contribution by reference to shortfall for the base year to be the following percentage of the amount of the shortfall</i>
1.	2.	3.
1972-73	90 per cent.	10 per cent.
1973-74	85 per cent.	15 per cent.
1974-75	80 per cent.	20 per cent.
1975-76 to 1981-82 ...	75 per cent.	25 per cent.
1982-83 and subsequent years.	75 per cent., or such other percentage as may be substituted for 75 per cent. for the year in question by an order under subsection (4) below.	The percentage which, with the relevant percentage in column 2, adds up to 100 per cent.

(4) The Secretary of State may from time to time by order, for such years after 1981-82 as may be specified in the order, in column 2 of the Table above for 75 per cent. substitute such other percentage, not being less than 66 $\frac{2}{3}$ per cent., as may be specified in the order.

Section 16 of this Act shall apply to orders under this subsection.

(5) For the purposes of this section the amount of a local authority's "rent increases" for any year means the amount by which the income from rents (exclusive of any amounts included

in the rents in respect of rates or water rates or charges, and exclusive of any rent remitted by way of rebate) in respect of Housing Revenue Account dwellings for the year exceeds such income from rents for the immediately preceding year, and if there is no such excess the amount shall be taken as zero.

(6) For the purposes of this section there is a shortfall in a local authority's rent increases for any year if the amount of those increases is less than the local authority's standard amount for that year as defined below, and the amount of the shortfall shall be equal to the difference (or, if the amount of those increases is zero, of an amount equal to the local authority's standard amount for the year).

(7) For the purposes of this section a local authority's standard amount is—

- (a) for the year 1972-73, the withdrawal factor or the authority's subsidies for the year 1971-72 (as ascertained for the purposes of section 2 above) whichever is the less,
- (b) for the year 1973-74, the residual subsidy payable to the local authority for the year 1972-73, or the withdrawal factor, whichever is the less,
- (c) for the year 1974-75 and subsequent years, the amount of the residual subsidy payable to the local authority for the immediately preceding year, or half the withdrawal factor, whichever is the less.

(8) The preceding provisions of this section shall apply to a new town corporation as they apply to a local authority.

(9) The provisions of this section as to the circumstances in which any subsidy or rate fund contribution is to be paid or made, and as to the amount of the subsidy or contribution, have effect subject to Part III of Schedule 1, and to Schedule 2 to this Act.

4.—(1) This section has effect as to the circumstances in which—

- (a) rising costs subsidy is payable to a local authority, and
- (b) the rate fund contribution associated with rising costs subsidy is to be made by the local authority.

The rising costs subsidy, and associated rate fund contribution.

(2) Subject to the provisions of this section, a local authority shall be entitled to rising costs subsidy if for the year 1972-73 or any subsequent year there is any increase in the local authority's reckonable expenditure; and, subject to subsection (3) below, in this section "qualifying amount" means, in relation to any year, the increase for the year in the local authority's reckonable expenditure.

PART I

(3) The Secretary of State may by order direct that, for such years after 1981-82 as may be specified in the order, the qualifying amount shall be determined in accordance with a formula specified in the order, being a formula designed to reduce the amount of rising costs subsidy, so far as based on any year after 1981-82 specified in the order.

(4) If there is a qualifying amount for any year (in this Act called, in relation to the qualifying amount, "the base year") then for the base year and for each subsequent year—

(a) rising costs subsidy shall be payable to the local authority of an amount equal to the percentage of the qualifying amount specified, in relation to the base year, in column 2 of the Table below, and

(b) the local authority shall make an associated rate fund contribution of an amount equal to the percentage of the qualifying amount specified, in relation to that base year, in column 3 of the said Table,

and, accordingly, rising costs subsidy, and the associated rate fund contribution, for any year (later than 1972-73) may comprise elements by reference to qualifying amounts for two or more different base years.

TABLE

<i>Base year for which the local authority has a qualifying amount</i>	<i>Amount of rising costs subsidy by reference to base year to be the following percentage of the qualifying amount</i>	<i>Amount of associated rate fund contribution by reference to base year to be the following percentage of the qualifying amount</i>
1	2.	3.
1972-73	90 per cent.	10 per cent.
1973-74	85 per cent.	15 per cent.
1974-75	80 per cent.	20 per cent.
1975-76 to 1981-82 ...	75 per cent.	25 per cent.
1982-83 and subsequent years.	75 per cent., or such other percentage as may be substituted for 75 per cent. for the year in question by an order under subsection (5) below.	The percentage which, with the relevant percentage in column 2, adds up to 100 per cent.

(5) The Secretary of State may from time to time by order, for such years after 1981-82 as may be specified in the order, in column 2 of the Table above for 75 per cent. substitute such other percentage, not being less than 66 $\frac{2}{3}$ per cent., as may be specified in the order.

(6) Subject to the next following subsection—

PART I

(a) rising costs subsidy, so far as based on any of the years 1972-73 to 1976-77, shall not be payable for the year 1982-83 or any subsequent year,

(b) rising costs subsidy, so far as based on the year 1977-78 or on any subsequent year, shall not be payable for more than five years (including the base year).

(7) The Secretary of State may by order direct, as respects such base years as may be specified in the order, that the relevant limitation in subsection (6) above shall not apply, and may by order substitute such other limitation, less restrictive than the relevant limitation in subsection (6) above, as may be specified in the order.

(8) Where, under either of the two last preceding subsections, rising costs subsidy based on any year is not to be payable, the associated rate fund contribution based on that year shall not be made.

(9) Section 16 of this Act shall apply to orders under this section.

(10) For the purposes of this section there is an increase in a housing authority's reckonable expenditure for the year 1972-73 if the expenditure debited to the authority's Housing Revenue Account for the year exceeds the expenditure so debited for the year 1971-72.

(11) For the purposes of this section there is an increase in reckonable expenditure for the year 1973-74 or any later year if the authority's reckonable expenditure for the year exceeds their reckonable expenditure for the immediately preceding year, and for the purposes of this subsection "reckonable expenditure" for any year (beginning with 1972-73) means so much of the expenditure debited to the authority's Housing Revenue Account as the Secretary of State may from time to time determine as being reasonable and appropriate having regard to all the circumstances.

(12) Any such determination may be one applying generally to housing authorities, or any class or description of housing authorities or to a specified kind of expenditure, or may be a determination applying in a particular case, and the Secretary of State in exercising his powers under subsection (11) above shall follow such methods and principles, and take account of such matters, as he may from time to time decide after consultation with such associations of housing authorities as appear to him to be concerned, and with any housing authority with whom consultation appears to him to be desirable.

PART I

(13) The provisions of this section shall apply to a new town corporation as they apply to a local authority, but as if for any reference to the authority's Housing Revenue Account there were substituted a reference to the authority's housing account.

(14) The provisions of this section as to the circumstances in which any subsidy or rate fund contribution is to be paid or made, and as to the amount of the subsidy or contribution, have effect subject to Part III of Schedule 1, and to Schedule 2, to this Act.

The operational deficit subsidy, and associated rate fund contribution.

5.—(1) This section has effect as to the circumstances in which—

- (a) operational deficit subsidy is payable to a local authority, and
- (b) the rate fund contribution associated with operational deficit subsidy is to be made by the local authority.

(2) Subject to the provisions of this section, a local authority shall be entitled to operational deficit subsidy—

- (a) if for the year 1971-72 the local authority sustain an operational deficit, or
- (b) if both for the year 1970-71 and for the year 1971-72 the local authority made rate fund contributions to their Housing Revenue Account.

In this section “the qualifying amount” means the amount, if any, of the local authority's operational deficit for the year 1971-72, plus, where relevant, whichever is the smaller of the two following amounts, that is—

- (i) the local authority's rate fund contribution for the year 1970-71,
- (ii) the local authority's rate fund contribution for the year 1971-72,

and “rate fund contribution” means any sum carried to the credit of the Housing Revenue Account under sub-paragraph (5) or sub-paragraph (6) of paragraph 1 of Schedule 5 to the Housing (Financial Provisions) Act 1958 (contributions to meet a deficit, and voluntary contributions), so however that the Secretary of State may give directions as to the manner in which a sum so credited is to be taken into account for the purposes of this section.

(3) If, under subsection (2) above, a local authority are entitled to operational deficit subsidy, then, subject to the provisions of this section, for the year 1972-73 and each subsequent year—

- (a) operational deficit subsidy shall be payable to the local authority of an amount equal to 50 per cent. of the qualifying amount, and

1958 c. 42.

(b) the local authority shall make an associated rate fund contribution of the same amount.

(4) Operational deficit subsidy shall not be payable for the year 1982-83 or any subsequent year, unless the Secretary of State by order so directs, either as respects all such years, or as respects such number of years beginning with the year 1982-83 as may be specified in the order.

Where, under this subsection, operational deficit subsidy is not to be payable for any year, the associated rate fund contribution shall not be made for that year.

Section 16 of this Act shall apply to orders under this subsection.

(5) For the purposes of this section a local authority sustain an operational deficit for the year 1971-72 if—

(a) the local authority's reckonable expenditure for the year 1971-72 divided by the number of the local authority's Housing Revenue Account dwellings as at the end of that year exceeds the local authority's reckonable expenditure for the year 1970-71 divided by the number of such dwellings as at the end of that year, and

(b) the difference exceeds £15,

and the amount of the operational deficit shall be the said excess over £15 multiplied by the number of the said dwellings as at the end of the year 1971-72.

(6) In this section references to a local authority's reckonable expenditure for any year are references to the total expenditure required to be debited to the local authority's Housing Revenue Account for that year.

(7) For the purposes of subsection (2) above any contribution made to the local authority under section 4 or section 8 of the Town Development Act 1952 (contributions to councils of receiving districts) for the year 1970-71 or 1971-72, so far as the effect of the contribution is to relieve the local authority from making all or any part of a rate fund contribution, shall be treated as a rate fund contribution made by the local authority for the year. 1952 c. 54.

(8) The provisions of this section as to the circumstances in which any subsidy or rate fund contribution is to be paid or made, and as to the amount of the subsidy or contribution, have effect subject to Part III of Schedule 1 to this Act.

6.—(1) This section has effect as to the circumstances in which rent rebate subsidy is payable to a local authority (for the credit of their general rate fund). The rent rebate subsidy.

(2) The amount of rent rebate subsidy payable to a local authority for any year shall be a percentage of the amount

PART I of the model rent rebate contribution (as defined in section 7(2) below) made by the local authority for the year.

(3) The said percentage shall be that specified for the year in column 2 of the following Table.

1.	2.
<i>Year for which subsidy is payable</i>	<i>Percentage of local authority's model rent rebate contribution for the year</i>
1972-73	90 per cent.
1973-74	85 per cent.
1974-75	80 per cent.
1975-76 to 1981-82 ...	75 per cent.
1982-83 and subsequent years.	75 per cent., or such other percentage as may be substituted for 75 per cent. for the year in question by an order under subsection (4) below.

(4) The Secretary of State may from time to time by order, for such years after 1981-82 as may be specified in the order, in column 2 of the Table above for 75 per cent. substitute such other percentage, not being less than 66 $\frac{2}{3}$ per cent., as may be specified in the order.

Section 16 of this Act shall apply to orders under this subsection.

(5) The provisions of this section shall apply to a new town corporation as they apply to a local authority.

Rate fund contributions in respect of rent rebates.

7.—(1) This section has effect as to the rate fund contributions (to the Housing Revenue Account) to be made by a local authority in respect of rent rebates granted by the local authority for the year 1972-73 or any subsequent year.

(2) The amount of the contributions to be so made for any year shall be the total of—

- (a) the local authority's standard amount of rent rebates for the year, as defined by section 20(8) of this Act, and
- (b) the amount, if any, by which the rent rebates granted by the local authority for the year exceed the said standard amount, and
- (c) the local authority's costs of administering their rebate scheme under Part II of this Act for the year.

The contribution to be made under paragraph (a) above is referred to in this Act as "the model rent rebate contribution".

(3) Subsection (2) above has effect subject to Part III of Schedule 1, and to Schedule 2, to this Act.

(4) A local authority's costs of administering their rebate scheme under Part II of this Act for any year shall be arrived

at by the local authority in accordance with such formula as the Secretary of State may from time to time determine.

Before making any such determination the Secretary of State shall consult with such associations of housing authorities as appear to him to be concerned, and with any housing authority with whom consultation appears to him to be desirable.

(5) In arriving at the rate fund contributions to be made for the year 1972-73, this section shall have effect subject to the following modifications—

(a) the local authority's standard amount of rent rebates shall be that for the part of the year for which the local authority were operating their rebate scheme under Part II of this Act,

(b) if the local authority were, for any other period in the year, operating other arrangements for granting rent rebates—

(i) there shall be included in subsection (2)(a) above the local authority's standard amount of rent rebates for that period, or the rent rebates granted by them for that period, whichever is the less, and

(ii) if the amount of rent rebates granted by the local authority for that period exceeds the said standard amount for that period, the excess shall be included in subsection (2)(b) above.

(6) The provisions of this section shall apply to a new town corporation as they apply to a local authority.

8.—(1) This section has effect as to the circumstances in which rent allowance subsidy is payable to a local authority (for the credit of their general rate fund). The rent allowance subsidy.

(2) The amount of rent allowance subsidy payable to a local authority for any year shall be a percentage of the local authority's standard amount of rent allowances for the year, as defined by section 20(8) of this Act.

(3) The said percentage shall be that specified for the year in column 2 of the following Table.

TABLE	
1.	2.
<i>Year for which subsidy is payable</i>	<i>Percentage of standard amount in subsection (2) above for the year</i>
1972-73 to 1975-76 ...	100 per cent.
1976-77 to 1981-82 ...	80 per cent., or such other percentage as may be substituted for 80 per cent. for the year by an order under subsection (4)(a) below.
1982-83 and subsequent years.	80 per cent., or such other percentage as may be substituted for 80 per cent. for the year by an order under subsection (4)(b) below.

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(4) The Secretary of State may from time to time by order—

- (a) for all or any of the years 1976-77 to 1981-82, substitute in column 2 of the Table above for 80 per cent. such other percentage, greater than 80 per cent., as may be specified in the order,
- (b) for all or any of the years 1982-83 and subsequent years, substitute in column 2 of the Table above for 80 per cent. such other percentage, not less than 66 $\frac{2}{3}$ per cent., as may be specified in the order.

Section 16 of this Act shall apply to any order under this subsection.

(5) In arriving at the amount of rent allowance subsidy for the year 1972-73, this section shall have effect subject to the following modifications—

- (a) the local authority's standard amount of rent allowances shall be that for the part of the year for which the local authority were operating their allowance scheme under Part II of this Act ;
- (b) if the local authority were, for any other period in the year, operating a scheme under a local Act for granting rent allowances, there shall be added to the said standard amount in subsection (2) above the local authority's standard amount of rent allowances for that period, or the rent allowances granted by them for that period, whichever is the less.

The town development subsidy.

9.—(1) Town development subsidy shall be payable to a sending authority, as defined in subsection (1) of the next following section, and shall be so payable for the credit of their general rate fund where any sum becomes payable by the sending authority under subsection (2) or subsection (3) of the next following section, or under any agreement under subsection (4) of that section.

(2) The amount of town development subsidy shall be 25 per cent. of the sum so becoming payable by the sending authority, and the subsidy shall be payable for the year for which the sending authority pay that sum.

Town development: payments by sending authority to receiving authority.

10.—(1) This section has effect where a receiving authority have provided houses for letting in the course of a scheme of town development which in the opinion of the Secretary of State is on a substantial scale, and the Secretary of State has, in relation to that scheme, designated some other local authority as being a sending authority which has arranged or may arrange for some of its population to move into dwellings so provided (or into other dwellings becoming available because the new ones were provided).

(2) Subject to the provisions of this section, the sending authority shall, for each year, pay to the receiving authority an amount equal to the sum of the rate fund contributions made by the receiving authority for the year, being rate fund contributions associated with the transition subsidy or the rising costs subsidy, multiplied by the fraction $\frac{X}{Y}$, where—

X is the number of receiving authority dwellings available for tenants from the sending authority on the last day of the year immediately preceding the year for which the payments are made to the receiving authority (in this section called “the relevant date”),

Y is the total number of receiving authority dwellings on the relevant date,

but excluding from both numbers any dwelling which is vacant on the relevant date and has not been let before that date.

(3) Subject to the provisions of this section, the sending authority shall, for each year, pay to the receiving authority an amount equal to the excess of—

(a) the model rent rebate contribution made by the receiving authority for the year over

(b) the rent rebate subsidy payable to the receiving authority for the year,

multiplied by the fraction $\frac{X}{Y}$, where—

X is the amount of rent rebates granted for the year by the receiving authority to tenants from the sending authority who are occupying receiving authority dwellings available for such tenants in the rental period for which the rebate is granted; and

Y is the total amount of rent rebates granted by the receiving authority for that year.

(4) Where in the opinion of the receiving authority the trouble and expense of calculating and collecting amounts payable under this section to the receiving authority by a sending authority is disproportionately large, the receiving authority and the sending authority may enter into an agreement for the payment by the sending authority to the receiving authority of a lump sum in discharge of all or any of the obligations of the sending authority, or for the remission of any sum payable to the receiving authority.

(5) Where the sending authority are the council of a London borough or the Common Council of the City of London, any amount due under this section to a receiving authority shall be

PART I

payable, and any agreement with the receiving authority under subsection (4) above or subsection (11)(d) below shall be made, by the Greater London Council.

1952 c. 54.

(6) References in this section to receiving authority dwellings available for tenants from a sending authority shall be taken as references to receiving authority dwellings as respects which the sending authority have the right to nominate tenants by virtue of section 4 or section 8 of the Town Development Act 1952.

(7) If the sending authority have no right to nominate tenants of the receiving authority by virtue of section 4 or section 8 of the Town Development Act 1952, this section shall have effect subject to the modifications set out below.

(8) The number X in subsection (2) above shall be the number of receiving authority dwellings which, at any time in the period of ten years ending immediately before the relevant date, have been let to a tenant from the sending authority who had not before that time been a tenant of a receiving authority dwelling, but excluding—

- (a) any dwelling previously let to another tenant from the sending authority, or from any other sending authority, and
- (b) any dwelling which was let to a tenant from any sending authority at a time before the beginning of the said period of ten years.

(9) The number X in subsection (3) above shall be the amount of rent rebates granted for the year by the receiving authority to tenants from the sending authority who are occupying receiving authority dwellings, but excluding any rebate to a person who first occupied a receiving authority dwelling as a tenant from the sending authority more than ten years before the beginning of the rental period for which the rebate is granted.

(10) In this section—

“receiving authority” means the council of a receiving district,

“receiving authority dwelling” means a Housing Revenue Account dwelling of the receiving authority to whom sums are payable under this section,

“receiving district” has the meaning given by section 1(2) of the Town Development Act 1952 as extended by section 34(1) of the Housing Act 1961,

“sending authority” has the meaning given by subsection (1) of this section,

“town development” has the same meaning as in the Town Development Act 1952.

1961 c. 65.

(11) For the purposes of this section a person to whom a receiving authority dwelling is let is a tenant from a sending authority if that person—

(a) immediately before the dwelling was let to him by the receiving authority—

(i) occupied a dwelling within the sending authority's Housing Revenue Account, or

(ii) occupied a dwelling in an area which the sending authority have declared to be a clearance area or on any land which they have determined to purchase under section 43 of the Housing Act 1957 or any premises in respect of which they have made a demolition order or closing order under Part II of that Act, or

(iii) was on the sending authority's list of persons to be offered, when opportunity arose, tenancies of dwellings within their Housing Revenue Account, or

(b) was nominated by the sending authority in question as a person to be offered a tenancy in the area of the receiving authority, or

(c) was selected from a list maintained by the sending authority in question of persons available for employment in the area of the receiving authority, or

(d) is included in any class of persons defined by agreement between the sending authority and the receiving authority or, in default of such agreement, by the Secretary of State as being a class for whom dwellings in the area of the receiving authority may be provided as part of the development referred to in subsection (1) above.

(12) This section shall not have effect as respects the year 1971-72 or any earlier year.

(13) Subsection (1) of this section shall apply to schemes begun or completed before the passing of this Act or later, and any designation of a local authority as a sending authority under section 9(1)(b) of the Housing Subsidies Act 1967 shall have effect as if made under subsection (1) of this section.

11.—(1) Subject to the provisions of this section, slum clearance subsidy shall be payable to a local authority (for the credit of their general rate fund) for any year (beginning with the year 1971-72) for which the local authority incur a loss in or in connection with the exercise of their slum clearance functions. The slum clearance subsidy.

(2) Subject to the provisions of this section, where a local authority incur such a loss for any year, the amount of slum

PART I clearance subsidy payable to the local authority for the year shall be 75 per cent. of the amount of the loss.

(3) Subject to the provisions of this section, the method of determining whether a local authority has incurred such a loss, and of determining the amount of any such loss, shall be prescribed by regulations made under this section.

(4) The regulations may require expenditure or receipts to be treated, or not to be treated, as of a capital nature for the purposes of this section and of the regulations, and may, in the case of any item of a capital nature, determine the method for arriving at the appropriate equivalent annual amounts to be taken into account, and their number, or may specify classes of cases in which an item of a capital nature is to be taken into account for a single year.

(5) The number of equivalent annual amounts prescribed under subsection (4) above shall not in any case exceed 60, and the regulations may provide that, where the prescribed number of equivalent annual amounts in respect of any item of a capital nature exceeds 15, all equivalent annual amounts in respect of that item shall be left out of account from such year, not being less than 15 years after the year in which the item arises and not earlier than 1986-87, as may be specified in the regulations.

(6) Without prejudice to the generality of subsection (3) above, regulations under this section—

- (a) may direct that expenditure of any class or description shall not be taken into account unless, and except so far as, the Secretary of State has approved the expenditure,
- (b) may, in order to prevent subsidy or other payments out of money provided by Parliament being made in respect of the same loss or expenditure, or in respect of the same land, both under this section and under section 7 of the Local Government Act 1966 or section 250 of the Town and Country Planning Act 1971 (both of which sections relate to grants for development and re-development), or under any other enactment (including any other provision of this Act) provide for the exclusion of any item of expenditure, or the making of any other adjustment,
- (c) may contain such transitional and other supplemental or incidental provisions as appear to the Secretary of State to be necessary or expedient,
- (d) may make different provision for different classes of authorities, or special provision for particular local authorities.

1966 c. 42.

1971 c. 78.

(7) In this section "slum clearance functions" means functions under— PART I

- (a) sections 16 to 32 of the Housing Act 1957 (unfit 1957 c. 56. premises beyond repair at reasonable cost), and
- (b) the provisions of Part III of that Act (clearance and re-development), other than sections 53 and 54 (clearance orders made before 30th August 1954) and other than sections 68 to 70 (re-development and re-conditioning by owners),

but no account shall be taken under this section of any expenditure or receipt under section 18 or sections 30 to 32 of the Housing Act 1957 so far as those provisions relate to section 9, section 10 or section 12 of that Act (unfit premises), and no account shall be taken under this section of any expenditure under section 67 of the Housing Act 1957 (costs of opposing orders) in respect of expenses of any person other than the Secretary of State.

(8) Where in the period of six years beginning on 1st April 1965 and ending on 31st March 1971 the local authority have acquired any land for the purposes of their slum clearance functions, and continue to hold that land for those purposes until the end of that period, regulations under this section may take into account the equivalent annual amounts (for the year 1971-72 and later years) in respect of capital expenditure incurred, or capital receipts becoming due, in that period in connection with that land.

(9) Regulations under this section shall not take into account—

- (a) any expenditure or receipts (whether capital or not, and whether incurred or due before 1st April 1971 or later) in connection with land acquired by the local authority before 1st April 1965, or
- (b) subject to subsection (8) above, any expenditure or receipts incurred or due before 1st April 1971.

(10) Any regulations under this section—

- (a) shall be made by the Secretary of State with the concurrence of the Treasury, and
- (b) shall be contained in a statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament.

PART I

Housing Revenue Accounts

The Housing
Revenue
Account.

12.—(1) Every local authority shall keep an account (to be called the Housing Revenue Account) of the income and expenditure of the authority in respect of—

- 1957 c. 56.
- (a) all houses and other buildings which have been provided by a local authority under Part V of the Housing Act 1957,
- (b) all houses purchased by a local authority under section 12 of the Housing Act 1957 (unfit premises),
- (c) all dwellings in respect of which a local authority have received assistance under section 1 or section 4(2A) of the Housing (Rural Workers) Act 1926,
- 1926 c. 56.
- (d) all land which a local authority have acquired or appropriated for the purposes of the said Part V, including—
- (i) all land which a local authority were deemed to have acquired under the said Part V by virtue of section 57(6) of the Housing Act 1957, and
- (ii) any structures on such land which were made available to a local authority under section 1 of the Housing (Temporary Accommodation) Act 1944,
- 1944 c. 36.
- (e) such houses or other buildings, not comprised in the preceding paragraphs, as the local authority with the consent of the Secretary of State may from time to time determine.
- (2) Buildings, or parts of buildings, provided or converted for use as lodging-houses (that is to say houses not occupied as separate dwellings), or as hostels, shall not be included among the buildings to which the requirements in subsection (1) above relate except in the case of a building or part of a building which has ceased to be used as a lodging house or hostel.
- (3) A local authority not possessing any property falling within subsection (1) above shall, notwithstanding that, be required to keep a Housing Revenue Account if they are entitled to receive any income arising from an investment or other use of money borrowed by them for the purpose of—
- (a) the provision of housing accommodation under Part V of the Housing Act 1957, or
- (b) the purchase by them of, or carrying out of works on, any houses purchased under section 12 of the Housing Act 1957, or
- (c) the execution of works in respect of which a Minister has made a contribution under section 4(2A) of the

Housing (Rural Workers) Act 1926, or in respect of which the local authority for the purposes of that Act have given assistance thereunder, PART I
1926 c. 56

or if they are entitled to receive any income arising from an investment or other use of money derived from the sale or other disposal of houses or other property which have at any time been within their Housing Revenue Account.

(4) The provisions of Schedule 1 to this Act shall have effect as respects—

- (a) the keeping of the Housing Revenue Account,
- (b) the limitation of certain subsidies and rate fund contributions by reference to the state of the account, and
- (c) the disposal of any surplus in the account.

New town corporations

13.—(1) This Part of this Act has effect subject to Schedule 2 to this Act which— Application
of Part I of
this Act to
new town
corporations.

- (a) limits certain subsidies payable to new town corporations by reference to the state of their housing accounts, and
- (b) adapts the provisions of this Act to the Commission's system of separate accounting for each of their towns.

(2) In this Part of this Act, in relation to a new town corporation "general revenue account" means the general revenue account to be kept by them under section 46 of the New Towns Act 1965.

14.—(1) In section 42 of the New Towns Act 1965 (advances and grants for new town corporations) after subsection (3) there shall be inserted— Amendments
of New Towns
Act 1965.

"(3A) For the purpose of enabling the Commission to meet any housing expenditure the Secretary of State may, out of moneys provided by Parliament, make grants to the Commission of such amount as may be approved by the Treasury."

(2) After section 45 of the said Act there shall be inserted—

"Disposal of surplus funds of development corporations.

45A.—(1) Where it appears to the Secretary of State, after consultation with the Treasury and the development corporation, that a development corporation have a surplus, whether on capital or on revenue account, after making allowance by way of transfer to reserve or otherwise for their future requirements, the development corporation shall, if the Secretary

PART I

of State after such consultation as aforesaid so directs, pay to the Secretary of State such sum not exceeding the amount of that surplus as may be specified in the direction; and any sum received by the Secretary of State under this section shall, subject to subsection (3) of this section, be paid into the Consolidated Fund.

(2) The whole or part of any payment made to the Secretary of State by a development corporation under subsection (1) above shall, if the Secretary of State with the approval of the Treasury so determines, be treated as made by way of repayment of such part of the principal of advances under section 42(1) of this Act, and as made in respect of the repayments due at such times, as may be so determined.

(3) Any sum treated under subsection (2) above as a repayment of a loan shall be paid by the Secretary of State into the National Loans Fund."

(3) In section 46 of the said Act after subsection (1) there shall be inserted—

"(1A) Without prejudice to the generality of subsection (1) of this section, the Secretary of State may, with the approval of the Treasury, give directions to the Commission or a development corporation as to—

- (a) the kind or number of accounts which they are to keep,
- (b) the amounts which are or are not to be credited or debited to any account,
- (c) the manner of rectifying any account,
- (d) provision for working balances,

and any such direction may be a general direction or a direction for a particular case."

Supplemental

Payment of
subsidies, and
accounting
provisions.

15.—(1) Any subsidy to be paid by the Secretary of State under this Part of this Act shall be payable at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

(2) Without prejudice to the generality of subsection (1) above, the making of any such payment shall be subject to the making of a claim for the payment in such form, and containing such

particulars, as the Secretary of State may from time to time determine.

PART I

(3) Any provision of this Part of this Act requiring a deduction of one amount from another shall, if the amount to be deducted is greater than the other, be taken as a requirement that the other amount shall be reduced to zero.

(4) Any provision of this Part of this Act under which a sum is to be "whichever is the less" of two amounts shall, if they are of equal amount, be taken as referring to that amount.

(5) The amount of any one subsidy payable under this Part of this Act to a local authority or new town corporation for any year shall be calculated to the nearest pound, by disregarding an odd amount of 50 new pence, or less, and by treating an odd amount exceeding 50 new pence as a whole pound.

16.—(1) This section has effect as respects orders to which this section is applied by any provision of this Act. Provisions as to certain orders.

(2) An order under any such provision may be varied or revoked by a subsequent order made under that provision.

(3) An order made under any such provision—

(a) shall be made by the Secretary of State with the concurrence of the Treasury,

(b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any such order may be made to apply to any description of local authorities or new town corporations specified in the order, or to a specified local authority or new town corporation.

(5) Before making an order under any such provision the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned, and with any local authority with whom consultation appears to him to be desirable.

17.—(1) In this Part of this Act, unless the context otherwise requires:— Interpretation of Part I.

"associated rate fund contribution", in relation to transition subsidy, rising costs subsidy or operational deficit subsidy, has the meaning given by sections 3, 4 and 5 of this Act respectively,

"base year", in relation to transition subsidy or rising costs subsidy, has the meaning given by sections 3 and 4 of this Act respectively,

PART I

“ model rent rebate contribution ” has the meaning given by section 7 of this Act,

“ rate fund contribution ” means a contribution made by a local authority out of their general rate fund, or by a new town corporation out of their general revenue account,

“ withdrawal factor ” has the meaning given by section 2(3) of this Act.

(2) For the purposes of this Part of this Act, any rebate or allowance granted to a person who is not a tenant of a Housing Revenue Account dwelling of the authority granting the rebate or allowance shall be treated as a rent allowance, and not as a rent rebate.

PART II

RENT REBATES AND RENT ALLOWANCES

Rent rebates.

18.—(1) It shall be the duty of every housing authority to bring into operation not later than 1st October 1972 a scheme for granting to persons who occupy as their homes Housing Revenue Account dwellings let to them by the authority rebates from rent, calculated in accordance with the provisions of the scheme by reference to their needs and their resources.

(2) A scheme under this section is referred to in this Part of this Act as a “ rebate scheme ”.

(3) No rebate from the rent of a dwelling shall be granted by virtue of this section to any person—

(a) if there is attributable to the use of furniture a proportion of the rent which is substantial, having regard to the value of that use to the tenant, or

(b) if he occupies the dwelling in pursuance of a contract of service with the authority the terms of which require that he shall be provided with a dwelling at a rent specified in the contract or without payment of rent, or

1954 c. 56.

(c) if Part II of the Landlord and Tenant Act 1954 (security of business tenants) applies to his tenancy.

Rent allowances.

19.—(1) It shall be the duty of every local authority to bring into operation not later than 1st January 1973 a scheme for granting to private tenants who occupy as their homes dwellings in the authority's area allowances, calculated in accordance with the provisions of the scheme by reference to their needs and their resources, towards the rent payable under their tenancies.

(2) A scheme under subsection (1) of this section is referred to in this Part of this Act as an "allowance scheme". PART II

(3) No allowance towards the rent of a dwelling shall be granted by virtue of this section to any person who occupies a dwelling in pursuance of a contract of service the terms of which require that he shall be provided with a dwelling at a rent specified in the contract or without payment of rent.

(4) In this Part of this Act "private tenant" means, subject to subsection (7) below, a person who is a protected tenant or a statutory tenant for the purposes of the Rent Act 1968. 1968 c. 23.

(5) A person is also a private tenant if he occupies a dwelling let to him—

- (a) by a county council ;
- (b) by the Housing Corporation ;
- (c) by a housing association ;
- (d) by a housing trust within the meaning of section 5 of the Rent Act 1968,

and if his tenancy, being a tenancy to which paragraph (a), (b), (c) or (d) above applies, would be a protected tenancy but for that section.

(6) A person is also a private tenant if he occupies a dwelling let to him by the Crown Estate Commissioners and his tenancy would be a protected tenancy but for section 4 of the Rent Act 1968.

(7) A person is not a private tenant if—

- (a) section 9(3) of the Rent Act 1968 applies in his case, and
- (b) Part II of the Landlord and Tenant Act 1954 (security 1954 c. 55. of business tenants) would apply if the said section 9(3) did not apply.

(8) A local authority may treat as if he were a private tenant any person who occupies a dwelling let by them other than a Housing Revenue Account dwelling and who would be entitled to a rebate if he occupied a Housing Revenue Account dwelling, and accordingly may provide in their allowance scheme for the grant to any such person of a rebate from his rent equal in amount to the allowance which they would have granted if he had been a private tenant.

(9) Any rebate granted by virtue of subsection (8) above shall be treated for the purposes of this Part of this Act as if it had been an allowance granted by virtue of subsection (1) above.

(10) The Greater London Council may make a scheme for the granting to persons who occupy dwellings let by them other than Housing Revenue Account dwellings and who would be entitled

PART II to rebates if they occupied Housing Revenue Account dwellings of rebates from rent calculated as if they were rebates granted by virtue of section 18 above; but a scheme made under this subsection shall be treated as an allowance scheme for the purposes of this Part of this Act.

(11) In this section "local authority" does not include the Greater London Council.

The model schemes.

20.—(1) Subject to the provisions of this Act, every rebate scheme and every allowance scheme shall conform with the provisions of Schedule 3 and Schedule 4 to this Act.

(2) Regulations made by the Secretary of State with the consent of the Treasury may from time to time vary the provisions of Schedule 3 and Schedule 4 to this Act.

(3) Where the Secretary of State proposes to make regulations under subsection (2) above he shall refer the proposals to the Advisory Committee on Rent Rebates and Rent Allowances constituted under section 23 below in order that that Committee may consider them and advise on them.

(4) Regulations under subsection (2) above shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) If the Secretary of State considers—

- (a) that the general level of the rents of the Housing Revenue Account dwellings of any housing authority is exceptionally high by comparison with the general level of the rents of the Housing Revenue Account dwellings of other housing authorities,
- (b) that the general level of the rents paid by private tenants in the area of a local authority is exceptionally high by comparison with the general level of the rents paid by private tenants elsewhere, or
- (c) that the general level of the rents of a class of Housing Revenue Account dwellings of a housing authority, or of the rents paid by private tenants for a class of dwellings in the area of a local authority, is exceptionally high by comparison with the general level of the rents of the Housing Revenue Account dwellings of other housing authorities or, as the case may be, with the general level of the rents paid by private tenants elsewhere,

he may, on the application of the authority made before or after the passing of this Act, authorise them to treat Schedule 3 to

this Act, as it applies in relation to their rebate scheme or their allowance scheme, but in a case under paragraph (c) above only as it applies to the relevant class of dwellings, as providing, during such period as may be specified in the direction, for such lower minimum rent or higher maximum rebate or allowance as he may direct.

(6) The Secretary of State may make an authorisation under subsection (5) above conditional upon compliance by the authority with such terms as he may specify in granting it.

(7) In this Act, the "model scheme" of an authority means a rebate scheme, or as the case may be an allowance scheme, containing such provisions, and only such provisions, as the authority are for the time being required by this section to include in their scheme:

Provided that if and so long as the authority's scheme contains any provision included in pursuance of subsection (5) above, section 19(8) of this Act or paragraph 16 of Schedule 3 to this Act, the model scheme shall also be assumed to include that provision.

(8) In this Act an authority's "standard amount of rent rebates" or "standard amount of rent allowances" means for any period—

(a) if the authority have been operating the model scheme for that period, the amount of rebates, or, as the case may be, allowances which they have granted for that period otherwise than under subsection (1) or subsection (2) of section 21 below;

(b) if the authority have not been operating the model scheme for that period, the amount of rebates, or, as the case may be, allowances, which they would have granted for that period otherwise than under subsection (1) or subsection (2) of section 21 below if they had been operating it;

and in this subsection "period" includes a period in the year 1972-73.

(9) The said standard amount shall be calculated or estimated by reference to the rebates or allowances actually granted by following such methods and principles as the Secretary of State may direct, either generally or in any particular case.

21.—(1) A housing authority may grant to a person to whom their rebate scheme applies a rebate of a greater amount than they would otherwise grant if they consider that his personal or domestic circumstances are exceptional.

(2) A local authority may grant to a person to whom their allowance scheme applies an allowance of a greater amount than they would otherwise grant if they consider that his personal or domestic circumstances are exceptional.

Extent to which authorities may depart from model schemes.

PART II

(3) A housing authority may vary the provisions of Schedule 3 to this Act as they apply in relation to their rebate scheme, but no variation under this subsection shall be such that a person to whom the scheme applies receives less rebate than he would have received under the model scheme, and if a variation is made in a rebate scheme by a local authority the authority making it shall make a variation in their allowance scheme which appears to them to correspond to it.

(4) A local authority may vary the provisions of Schedule 3 to this Act as they apply in relation to their allowance scheme, but no variation under this subsection shall be such that a person to whom the scheme applies receives a smaller allowance than he would have received under the model scheme, and if a variation is made in an allowance scheme the authority making it shall make a variation in their rebate scheme which appears to them to correspond to it.

(5) The powers conferred by this section shall not be exercised by any authority in such a way that, on the best estimate which they can make, they are likely as a result to grant a greater amount of rebates or allowances than the amount which is for the time being the permitted total for the authority.

The permitted totals of rebates and allowances.

22.—(1) For any authority the permitted total of rebates or allowances for any year or part of a year is 110 per cent. of the authority's standard amount of rent rebates or, as the case may be, standard amount of rent allowances.

(2) The chief financial officer of every housing authority shall send to the Secretary of State as soon as possible after the end of each year a certificate stating whether the amount of rebates granted by the authority for that year did or did not exceed the sum which was the permitted total of rebates for the authority for that year and, together with the certificate, a copy of the authority's rebate scheme for that year.

(3) The chief financial officer of every local authority shall also send to the Secretary of State as soon as possible after the end of each year a certificate stating whether the amount of allowances granted by the authority for that year did or did not exceed the sum which was the permitted total of allowances for the authority for that year and, together with the certificate, a copy of the authority's allowance scheme for that year.

(4) If the amount of rebates or allowances granted for a year by an authority exceeds the amount which was the permitted total for that authority for that year, it shall be the duty of the authority, subject to subsections (9) and (10) below, to send to the Secretary of State, together with their certificate under subsection (2) or, as the case may be, subsection (3) above, proposals that their rebate scheme, or, as the case may be, their

allowance scheme, shall have effect from a specified date with such variations as will in the opinion of the authority make it probable that the amount of rebates or, as the case may be, allowances, granted by the authority for the year in which the proposals are made will be not greater than the amount which is the permitted total for the authority for that year.

(5) If in the opinion of the Secretary of State an authority's proposals will make it probable that the amount of rebates or allowances granted by the authority for the year in which it is proposed that the scheme shall be varied will be not greater than the amount which is the permitted total for that authority for that year, he shall approve the proposals.

(6) If in the opinion of the Secretary of State an authority's proposals will not make it probable that the amount of rebates or allowances granted by the authority for the year in which it is proposed that the scheme shall be varied will be not greater than the amount which is the permitted total for that authority for that year, he shall direct the authority to make such further or other variations in the scheme, to have effect from such date as he may specify, as will in his opinion have that result.

(7) It shall be the duty of an authority to make any variations in a scheme which are approved by the Secretary of State under subsection (5) above or directed by him under subsection (6) above and to operate the scheme as varied for any period which the Secretary of State may specify.

(8) If a variation under subsection (7) above is made in one of a local authority's schemes the authority shall make a variation in their other scheme which appears to them to correspond to it.

(9) If the amount of rebates or allowances granted for a year by an authority exceeds the amount which was the permitted total for that authority for that year, but the authority satisfy the Secretary of State during the following year that it is improbable that the amount of rebates or, as the case may be, allowances granted by the authority for that year will exceed the amount which is the permitted total for the authority for that year, he may direct that subsections (4) to (8) above shall not apply to that authority for that year.

(10) If the amount of rebates or allowances granted for the year 1972-73 by a local authority exceeds the amount which was the permitted total for that authority for that year, but the authority satisfy the Secretary of State that, because of the changes in local authorities or local government areas made by any Act of the present Session to make provision with respect to local government and the functions of local authorities in England and Wales, it is undesirable that the provisions of their

PART II

rebate scheme, or as the case may be their allowance scheme, should be varied in accordance with subsections (4) to (8) above, he may direct that the said subsections shall not apply to that authority for the year 1973-74.

(11) Where an authority are under a duty to vary a scheme in accordance with this section the Secretary of State may direct that they shall exercise the discretion conferred on them by subsection (1) or, as the case may be, subsection (2), of section 21 above in such manner and subject to such limitations as may be specified in the direction.

The Advisory
Committee
on Rent
Rebates
and Rent
Allowances.

23.—(1) There shall be a committee, which shall be called the Advisory Committee on Rent Rebates and Rent Allowances and shall have the function of advising the Secretary of State on any question relating to the operation of rebate schemes and allowance schemes in general, or of particular rebate schemes or allowance schemes, or to the advisability of varying the provisions of Schedule 3 or Schedule 4 to this Act.

(2) The Committee shall consist of a chairman appointed by the Secretary of State and such number of other members so appointed as the Secretary of State may from time to time determine; and every member shall hold and vacate office in accordance with the terms of his appointment.

(3) The Committee shall consist of persons with experience of local government and other persons (with or without such experience) whom the Secretary of State considers to be specially qualified to advise him on the matters mentioned in subsection (1) above.

(4) The expenses of the Committee to such an amount as may be approved by the Minister for the Civil Service shall be paid by the Secretary of State out of money provided by Parliament.

(5) There may be paid as part of the expenses of the Committee—

(a) to all or any of the members of the Committee, such salaries or other remuneration and travelling and other expenses,

(b) to persons attending their meetings at the request of the Committee, such travelling and other allowances (including compensation for loss of remunerative time),

as the Secretary of State may with the consent of the Minister for the Civil Service determine.

Publicity for
schemes.

24.—(1) An authority shall deposit copies of their rebate scheme and allowance scheme at their principal office, not later than the dates on which the schemes come into operation, and shall make copies available for public inspection at that office at all reasonable hours without payment, and shall furnish a copy

to any person on payment of such reasonable sum as the authority may determine.

PART II

(2) It shall be the duty of every authority and every landlord of a private tenant to furnish the statutory particulars of a scheme in accordance with the following provisions of this section.

(3) It shall be the duty of every authority, in addition to furnishing the statutory particulars of a rebate scheme or an allowance scheme in pursuance of subsection (2) above, to take such further steps as may appear to them best designed to secure that the provisions of the scheme come to the notice of any persons who may be entitled to a rebate or allowance under the scheme.

(4) In this section "statutory particulars", in relation to a scheme, means such particulars as the Secretary of State may direct of the following matters, namely—

- (a) the procedure for making an application for a rebate or allowance ;
- (b) the information to be included in such an application ;
- (c) the circumstances in which a rebate or allowance is likely to be granted ;

and a duty to furnish statutory particulars of a scheme shall include a duty to give examples of cases in which a rebate or allowance is likely to be granted under the scheme and of the amount of rebate or allowance likely to be granted in different cases.

(5) Every authority shall furnish the statutory particulars of their rebate scheme in writing and in a convenient form to each of their tenants—

- (a) not later than the date on which the scheme comes into operation ;
- (b) within a period of three months before the date on which it is proposed that any variation in the scheme shall come into operation ;
- (c) on the date on which that tenant is given notice of an increase in his rent ; and
- (d) at such other times as will ensure that each tenant is furnished with the particulars at least once in any twelve months.

(6) An authority shall also furnish the statutory particulars of their rebate scheme to any person who becomes a tenant of

PART II one of their Housing Revenue Account dwellings, on or before the date on which his tenancy commences.

(7) A local authority other than the Greater London Council shall publish the statutory particulars of their allowance scheme or such abridged particulars of that scheme as the Secretary of State may direct under subsection (8) below in two or more newspapers circulating in their area (of which one at least shall, if practicable, be a local newspaper)—

- (a) not later than the date on which the scheme comes into operation ;
- (b) at intervals thereafter each of not more than twelve months from the previous insertion.

(8) The Secretary of State may give directions as to abridged particulars of allowance schemes which authorities are to publish under subsection (7) above.

(9) A local authority shall furnish the statutory particulars of their allowance scheme on request to a tenant of a dwelling in their area or a landlord of such a tenant, free of charge and in a form convenient to be kept in a rent book.

(10) It shall be the duty of a landlord who grants a new tenancy of a dwelling to a private tenant on or after 1st January 1973 to furnish to the tenant in writing and in a convenient form the statutory particulars of the allowance scheme currently operated by the local authority in whose area the dwelling is situated.

1962 c. 50.

(11) Where by virtue of section 1(1) of the Landlord and Tenant Act 1962 (provision of rent books for tenants whose rent is payable weekly) a landlord is under a duty to provide for a private tenant of a dwelling a rent book or other similar document, he shall insert the statutory particulars of the allowance scheme currently operated by the local authority in whose area the dwelling is situated in any rent book or similar document issued to the tenant.

If the rent book or other document in which a landlord is required to insert statutory particulars by this subsection was issued to the tenant before 1st January 1973, the landlord shall insert the statutory particulars in it not later than 30th June 1973 ; but he shall insert them in any rent book or similar document issued to the tenant on or after 1st January 1973 before issuing it to the tenant.

(12) Any landlord who refuses or wilfully neglects to perform a duty imposed on him by subsection (10) or subsection (11) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(13) Where an offence under subsection (12) above which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Where the affairs of a body corporate are managed by its members this subsection shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(14) Subsections (12) and (13) above do not apply to a county council or to the Housing Corporation.

25.—(1) In Schedule 3 to this Act “rent which is eligible to be met by a rebate or an allowance” means the occupational element of the rent less, where part of the dwelling is sub-let, the occupational element of any rent payable by the sub-tenant.

Treatment for purposes of Part II of sums payable in respect of rates or for use of furniture or for services.

(2) For the purposes of subsection (1) above “the occupational element” of any rent means the amount of the rent—

- (a) exclusive of any sum attributable to rates, and
- (b) subject to any regulations made under this section, exclusive of any sum attributable to the use of furniture or the provision of services.

(3) The Secretary of State may by regulations—

- (a) prescribe circumstances in which amounts are to be reckoned or not reckoned for the purposes of this section as payable for the use of furniture or the provision of services, and
- (b) prescribe circumstances in which amounts payable by the tenant are to be treated for the purposes of this section as rent notwithstanding that they are expressed to be something other than rent.

(4) Regulations under this section shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any question whether any rent includes any sum payable in respect of rates or for the use of furniture or for the provision of services, or as to the amount so payable, shall be determined for the purposes of a rebate scheme or an allowance scheme by the authority who made the scheme.

(6) In order to assist the authority to give effect to this section, where a rent is registered under Part IV of the Rent Act 1968 there shall be noted on the register the amount, if any, of the registered rent which, in the opinion of the rent officer or rent

PART II

assessment committee, is fairly attributable to the use of furniture or the provision of services, but excepting any amount which in the opinion of the rent officer or, as the case may be, the rent assessment committee is negligible.

The provisions of this subsection shall be applied in accordance with any regulations for the time being in force under this section.

Interpretation
of Part II.

26.—(1) In this Part of this Act, unless the context otherwise requires—

“allowance” means an allowance under an allowance scheme, but also includes a rebate granted by virtue of subsection (8) or subsection (10) of section 19 above;

“allowance period” means a period for which an allowance is or may be granted;

“allowance scheme” has the meaning assigned to it by section 19 of this Act and includes a scheme made under subsection (10) of that section;

“authority” means, in relation to a rebate scheme, a housing authority, and in relation to an allowance scheme, a local authority;

“landlord” includes any person from time to time deriving title under the original landlord and also includes, in relation to any dwelling, any person other than the tenant who is, or but for Part II of the Rent Act 1968 would be, entitled to possession of the dwelling;

1968 c. 23.

“pensionable age” has the meaning assigned to it by section 114(1) of the National Insurance Act 1965;

1965 c. 51.

“private tenant” has the meaning assigned to it by section 19 of this Act;

“rates” includes water rates and charges;

“rebate” means a rebate under a rebate scheme;

“rebate period” means a period for which rebate is or may be granted;

“rebate scheme” has the meaning assigned to it by section 18 of this Act;

“sub-let”, as regards a tenant’s dwelling, includes a case where part of the dwelling is held by another person under a statutory tenancy as defined in the Rent Act 1968, and references to a sub-tenant of part of a tenant’s dwelling shall be construed accordingly;

1966 c. 20.

“supplementary benefit” means benefit under Part II of the Ministry of Social Security Act 1966, except that it does not include benefit under section 6 (benefit to meet medical and similar requirements) or section 7 (benefit to meet exceptional requirements) of that Act;

“tenant” means—

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(a) in relation to a rebate scheme, a person who occupies a dwelling as mentioned in section 18 of this Act, including a successor in title of the person to whom the dwelling was originally let ;

(b) in relation to an allowance scheme, a private tenant ;

(c) a person who is granted a rebate by virtue of subsection (8) or subsection (10) of section 19 of this Act,

and “tenancy” shall be construed accordingly.

(2) Where part of a tenant’s dwelling is sub-let then, in this Part of this Act, unless the context otherwise requires—

(a) references to that tenant’s dwelling do not include references to the part which is sub-let (but without prejudice to the application of this Part of this Act where the sub-tenant is himself a tenant as defined above) ;

(b) references to a person who resides in the dwelling occupied by the tenant are references to a person who resides in the part which is not sub-let.

(3) In construing any reference in this Part of this Act to the amount of rebates or allowances granted by an authority account shall be taken of paragraph 17(6) of Schedule 4 to this Act.

PART III

RENT OF DWELLINGS IN GOOD REPAIR AND PROVIDED WITH STANDARD AMENITIES

Conversion of controlled tenancies

27.—(1) The following provisions of this section shall have effect with respect to a controlled tenancy of a dwelling-house which is certified by the local authority, on the application of the landlord, to satisfy the following conditions, that is to say, that it is provided with all the standard amenities for the exclusive use of its occupants, that it is in good repair, having regard to its age, character and locality and disregarding internal decorative repair, and that it is in all other respects fit for human habitation. Conversion of controlled tenancies.

(2) On the issue of the certificate the tenancy shall cease to be a controlled tenancy and, except in the case mentioned in subsection (3) below, shall become a regulated tenancy.

(3) If the controlled tenancy is one to which Part II of the Act of 1954 would apply, apart from section 9(3) of the Rent Act 1968, or would so apply if the controlled tenancy were a 1968 c. 23.

PART III tenancy within the meaning of the Act of 1954, it shall, when it ceases to be a controlled tenancy, be treated as a tenancy continuing by virtue of section 24 of the Act of 1954 after the expiry of a term of years certain.

1954 c. 56. In this subsection "the Act of 1954" means the Landlord and Tenant Act 1954.

(4) The conditions mentioned in subsection (1) of this section are in this Part of this Act referred to as the "qualifying conditions" and a certificate issued in accordance with this section as a "qualification certificate".

Application for qualification certificate. **28.**—(1) An application for a qualification certificate must state the name of the tenant under the controlled tenancy, and may be combined with an application for a grant under Part I of the Housing Act 1969.

1969 c. 33.

(2) Before considering an application for a qualification certificate the local authority shall serve on the person named in the application as the tenant a copy of the application and, where subsection (3) below applies, the notice required by that subsection.

(3) Subject to subsection (4) below, and to the next following section, the local authority shall serve on the person so named a notice in the prescribed form—

(a) informing him that he may, within 28 days from the service of the notice or such other period as may be prescribed, make representations to the authority that the dwelling does not satisfy the qualifying conditions, and

(b) containing such other information or explanation of the effect of this Part of this Act as may be prescribed.

(4) Subsection (3) above shall not apply where the local authority approved an application for a grant under section 2(1) or section 9(1) of the Housing Act 1969 in respect of a dwelling and the work specified in the application for the grant has been carried out.

(5) Where, after considering any representations made in pursuance of subsection (3) above (where that subsection applies), the local authority are satisfied that the dwelling satisfies the qualifying conditions, they shall issue to the applicant a qualification certificate, but if they are not so satisfied they shall give notice to the applicant of their refusal of his application containing a written statement of their reasons for the refusal.

(6) The local authority shall send a copy of the certificate or of the notice of refusal to the tenant.

29.—(1) If an application for a qualification certificate is made at a time when the dwelling-house lacks one or more of the standard amenities, the application must state what works are required for the qualifying conditions to be satisfied, and must be accompanied by plans and specifications of those works.

Application for qualification certificate: issue of certificate of provisional approval.

(2) Where the application contains such a statement, subsection (3) of the last preceding section shall not apply.

(3) If it appears to the local authority that the dwelling-house will satisfy the qualifying conditions when the works specified in the application have been carried out, the local authority shall approve the application provisionally and shall issue to the applicant a certificate of provisional approval, and send a copy thereof to the tenant.

(4) Where the local authority decide not to issue a certificate of provisional approval, they shall give the applicant a written statement of their reasons for the refusal, and the application for a qualification certificate shall be dismissed.

(5) When it is shown to the satisfaction of the local authority, after issue of a certificate of provisional approval—

- (a) that the works specified in the relevant application have been carried out, and
- (b) that the dwelling-house is then in the state in which it would be expected to be after the carrying out of the works,

they shall issue the qualification certificate applied for (but without prejudice to their power of issuing a qualification certificate where the qualifying conditions are satisfied although the specified works have not been carried out in whole or in part).

30.—(1) Where an application for a qualification certificate is or is to be made in respect of a dwelling-house which lacks one or more of the standard amenities, the applicant may apply for a certificate of fair rent.

Certificate of fair rent.

(2) The application shall be accompanied by plans and specifications of the works required for the qualifying conditions to be satisfied.

(3) A certificate of fair rent issued on the application shall specify the rent which would be a fair rent under the regulated

PART III tenancy that might arise by virtue of section 27 of this Act if the works shown in the plans and specifications were carried out.

1968 c. 23.

(4) Schedule 7 to the Rent Act 1968 shall have effect with respect to such an application as if—

- (a) paragraphs 1(c) and 3 were omitted, and
- (b) in paragraph 4(1) for the words from the beginning to “ he shall serve ” there were substituted the words “ The rent officer shall serve ”, and
- (c) in paragraph 9 the words preceding sub-paragraph (a) were omitted.

(5) If the applicant for a qualification certificate has obtained a certificate of fair rent on an application under this section, and supplies to the local authority a copy of that certificate, and—

- (a) certifies to the local authority that the plans and specifications accompanying the application for the certificate of fair rent were the same as those which accompanied his application for a qualification certificate, or
- (b) supplies to the local authority copies of the plans and specifications which accompanied his application for the certificate of fair rent,

the local authority shall, if they issue a qualification certificate, state that the landlord has complied with the provisions of this subsection as respects the certificate of fair rent, and shall also state whether the works specified in the plans and specifications accompanying the application for the certificate of fair rent have been carried out, and give particulars of any respect in which they have not been carried out.

Registration
of rent.

31.—(1) Where a controlled tenancy of a dwelling-house has become a regulated tenancy on the issue of a qualification certificate, an application for the first registration of a rent for the dwelling-house, if made before the date applicable to the dwelling-house under section 35 of this Act, shall be accompanied by a copy of the qualification certificate.

(2) Where a certificate of fair rent has been issued under this Part of this Act and an application for the first registration of a rent for the dwelling-house is made not later than two

years after the issue of the certificate of fair rent, Schedule 5 to this Act shall have effect with respect to the application instead of Schedule 6 to the Rent Act 1968.

PART III

1968 c. 23.

32.—(1) Within twenty-eight days of the service on him under section 28(5) of this Act of a notice of refusal to grant a qualification certificate, or such longer period as the county court may allow, the applicant for a qualification certificate may appeal to the county court on the ground that the certificate ought to be issued; and on such an appeal the court may confirm the refusal, or order the local authority to issue the certificate.

Appeal to
county court.

(2) Within twenty-eight days of the service on him under section 28(6) of this Act of a copy of a qualification certificate, or such longer period as the county court may allow, the tenant may appeal to the county court on either or both of the following grounds, that is to say—

- (a) that the certificate ought not to have been issued;
- (b) that the certificate is invalid by reason of a failure to comply with any requirement of this Part of this Act or of some informality, defect or error;

and on any such appeal the court may confirm or quash the certificate, but if the appeal is on the ground mentioned in paragraph (b) of this subsection the court shall confirm the certificate unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.

(3) The following provisions shall apply on an appeal under this section, that is to say—

- (a) the court shall have regard to the state of the dwelling-house at the time of the hearing as well as at the time of the issue or refusal of the certificate, and
- (b) the court shall make no order for costs unless it appears to the court, having regard to the conduct of the parties and all other circumstances, that it would be equitable to do so.

(4) Any certificate issued in pursuance of an order made under subsection (1) of this section shall be deemed to be issued on the date of the order.

(5) Where a qualification certificate with respect to any dwelling is quashed by an order under this section after a rent for the dwelling-house has been registered in pursuance of this Part of this Act the registration shall be deemed never to have

PART III had effect and the rent officer shall delete it on being informed of the order.

Miscellaneous

Consent of
tenant.

33.—(1) Where a dwelling which is subject to a statutory tenancy (whether a controlled or a regulated tenancy) does not satisfy the qualifying conditions and the works required for those conditions to be satisfied cannot be carried out without the consent of the tenant but the tenant is unwilling to give his consent, then, if the condition specified in paragraph (a), or the condition specified in paragraph (b), of subsection (2) of this section is satisfied, the county court may, on the application of the landlord, make an order empowering him to enter and carry out the works.

(2) The said condition is—

1969 c. 33.

(a) that the works were specified in an application for a grant under Part I of the Housing Act 1969 and the application has been approved, or

(b) that the works are specified in a certificate issued by a local authority (which may be a certificate of provisional approval under the preceding provisions of this Part of this Act) and stating that the dwelling will satisfy the qualifying conditions when the works have been carried out.

(3) An order under subsection (1) of this section may be made subject to such conditions as to the time at which the works are to be carried out and as to any provision to be made for the accommodation of the tenant and his household whilst they are carried out as the court may think fit; and where such an order is made subject to any condition as to time, compliance with that condition shall be deemed to be also compliance with any condition imposed by the local authority under section 4(4) or section 10 of the Housing Act 1969.

(4) In determining whether to make such an order and, if it is made, subject to what, if any, conditions, the court shall have regard to all the circumstances and, in particular to—

(a) any disadvantage to the tenant that might be expected to result from the works, and

(b) the accommodation that might be available for him whilst the works are carried out, and

(c) the age and health of the tenant,

but the court shall not take into account the means or resources of the tenant.

34.—(1) The power to make regulations under section 50 of the Rent Act 1968 for the purposes of Part IV of that Act shall extend to this Part of this Act and the power to modify by such regulations the provisions of Schedules 6 and 7 to that Act shall extend to the provisions of Schedule 5 to this Act. PART III
Supplemental.
1968 c. 23.

(2) The power of the Lord Chancellor under section 106 of the Rent Act 1968 to make rules and give directions for the purpose of giving effect to the provisions of that Act shall extend to sections 32 and 33 of this Act.

(3) In this Part of this Act—

“local authority” means a local authority to whom section 107 of the Rent Act 1968 applies,

“prescribed” means prescribed by regulations under section 50 of the Rent Act 1968,

“qualification certificate” and “qualifying conditions” have the meanings assigned to them by section 27 of this Act,

“standard amenities” has the meaning assigned to it by section 7 of the Housing Act 1969,

1969 c. 33.

and other expressions shall be construed as in the Rent Act 1968.

(4) Section 4 of the Housing Act 1957 (standard of fitness for human habitation) shall apply for the purposes of this Part of this Act. 1957 c. 56.

(5) Part III of the Housing Act 1969 (which is superseded by this Part of this Act) shall cease to have effect.

(6) This Part of this Act shall come into force at the expiration of a period of one month beginning with the date on which this Act is passed.

PART IV

CONTROLLED AND REGULATED TENANCIES

35.—(1) Where, on the date applicable to the dwelling-house under the following provisions of this section, a dwelling-house is let on a protected tenancy or subject to a statutory tenancy which, in either case, is a controlled tenancy, the protected or statutory tenancy shall on that date cease to be a controlled tenancy and, except in the case mentioned in subsection (8) below, shall become a regulated tenancy. Conversion
of controlled
tenancies:
general
decontrol.

(2) Subject to the provisions of this section, the date applicable to a dwelling-house shall be that given by the following Table, where the amounts in columns 1 and 2 refer to the value of the dwelling-house.

PART IV

TABLE

1. Dwelling-house in Greater London Rateable value of dwelling-house	2. Dwelling-house elsewhere in England and Wales Rateable value of dwelling-house	3 Applicable date
£95 or more	£60 or more	1st January 1973.
£80 or more but less than £95.	£45 or more but less than £60.	1st July 1973.
£70 or more but less than £80.	£35 or more but less than £45.	1st January 1974.
£60 or more but less than £70.	£25 or more but less than £35.	1st July 1974.
£50 or more but less than £60.	£20 or more but less than £25.	1st January 1975.
Less than £50	Less than £20	1st July 1975.

(3) The Secretary of State may by order substitute as the date applicable to a dwelling-house of such value as may be specified in the order a date earlier or later than that which would be applicable to it under subsection (2) above.

(4) An order under this section—

- (a) may make different provision with respect to different registration areas,
- (b) may be varied or revoked by a subsequent order under this section, and
- (c) shall be made by statutory instrument.

(5) In subsection (2) above “value” means the rateable value on 31st March 1972.

(6) Subject to subsection (7) below, the rateable value shall be ascertained for the purposes of this section in accordance with subsections (1) and (2) of section 6 of the Rent Act 1968:

1968 c. 23.

Provided that any question arising under the said section 6 as applied by this subsection as to the proper apportionment or aggregation of any value or values may be determined by the landlord and tenant by agreement in writing, instead of being determined by the county court under subsection (2) of the said section 6.

(7) Where the date applicable to the dwelling-house is uncertain because it depends on an apportionment of a rateable value which has not been determined and it appears to the rent officer, on an application for registration of a rent for the dwelling-house that, if a proper apportionment of the rateable value had been

made, the application could properly be entertained, he may proceed on that assumption unless, before the rent officer disposes of the application, the tenant informs the rent officer that he proposes to apply for an apportionment to be made by the county court and, within two weeks of so informing the rent officer, brings proceedings in the county court for an apportionment of the said rateable value.

Any decision of the rent officer under this subsection shall, unless the tenant brings proceedings in the county court in accordance with this subsection, be conclusive on any question as to the date applicable to the dwelling-house.

(8) If the controlled tenancy is one to which Part II of the Act of 1954 would apply, apart from section 9(3) of the Rent Act 1968, or would so apply if the controlled tenancy were a tenancy within the meaning of the Act of 1954, it shall, when it ceases to be a controlled tenancy be treated as a tenancy continuing by virtue of section 24 of the Act of 1954 after the expiry of a term of years certain. 1968 c. 23

In this subsection "the Act of 1954" means the Landlord and Tenant Act 1954. 1954 c. 56.

(9) This section has effect subject to the next following section, which excludes unfit houses in certain circumstances.

(10) No application to a local authority shall be made under paragraph 4 or paragraph 6 of Schedule 9 to the Rent Act 1968 (application by tenant for certificate of disrepair, and application by landlord for cancellation of certificate of disrepair) in respect of a dwelling later than six months before the date applicable to the dwelling under this section.

36.—(1) If at some time not later than three months before the date applicable to a dwelling-house under the last preceding section a notice or order applying to the dwelling-house has been served or made, and the notice or order is— Unfit houses excluded from general decontrol.

- (a) a notice under section 16 of the Housing Act 1957 (unfit premises), or 1957 c. 56
- (b) a compulsory purchase order under section 43 of the Housing Act 1957 (clearance areas), or
- (c) a clearance order under section 44 of the Housing Act 1957 (clearance areas), or
- (d) an order under paragraph 2 of Schedule 2 to the Land Compensation Act 1961 declaring the dwelling-house unfit, 1961 c. 33

the dwelling-house shall, subject to the provisions of this section, be excluded from the last preceding section.

PART IV

(2) Subsection (1) above shall not apply where on or before the date applicable to the dwelling-house under the last preceding section—

1957 c. 56.

(a) in the case of a notice under section 16 of the Housing Act 1957, the dwelling-house was rendered fit to the satisfaction of the local authority or of a court,

(b) in the case of any order, the Secretary of State decides not to confirm the order, or the relevant part of the order, or the order or the relevant part of the order is quashed by a court,

(c) in the case of a compulsory purchase order or clearance order under section 43 or 44 of the Housing Act 1957, the dwelling-house is excluded from the clearance area,

or, in the case of a compulsory purchase order under the said section 43, where (because the purchase was under subsection (2) of that section) the dwelling-house was never in the clearance area, and if any such event as is mentioned in paragraph (a), (b) or (c) above occurs after the date applicable to the dwelling-house under the last preceding section, that section shall apply as if the date of the event were the date applicable to the dwelling-house.

Conversion
of controlled
tenancies:
general
provisions.

37.—(1) The provisions of this section shall apply to a tenancy (in this section called a “converted tenancy”) which is or becomes a regulated tenancy by virtue of—

(a) Part III of this Act, or

(b) section 35 of this Act, or

1968 c. 23.

(c) paragraph 5 of Schedule 2 to the Rent Act 1968 (conversion on death of first successor),

and “the conversion” means the time when the tenancy became a regulated tenancy.

(2) In relation to any rental period beginning after the conversion, sections 22 to 24 of the Rent Act 1968 (rent limit and adjustments) shall have effect as if references therein to the last contractual period were references to the last rental period beginning before the conversion.

(3) Section 25(1) of the Rent Act 1968 (increase of rent for improvements) shall not apply to any improvement completed before the conversion, but if the rent recoverable for the last rental period beginning before the conversion was less than it would have been if all notices of increase authorised by virtue of section 56 of the said Act had been served, the rent recoverable under section 22(1) of that Act, as modified by subsection (2) above, shall be increased by the amount of that difference:

Provided that that increase shall not take effect except in pursuance of a notice of increase served by the landlord on the tenant and specifying the date, which may be any date after the service of the notice, from which it is to take effect.

Section 26 of the Rent Act 1968 shall apply to a notice of increase under this proviso as it applies to a notice of increase described in that section. PART IV
1968 c. 23.

(4) Section 2(1)(a) of the Rent Act 1968 (exclusion of tenancies where rent is less than two thirds of the rateable value) shall not apply to the converted tenancy after the conversion.

(5) Section 46 of the Rent Act 1968 (determination of fair rent) shall apply in relation to the converted tenancy as if the references in subsection (3) of the said section 46 to the tenant under the regulated tenancy included references to the tenant under the tenancy before the conversion.

(6) The enactments mentioned in subsection (1) above shall not be taken as affecting any court proceedings instituted under the Rent Act 1968 before the conversion which may affect the recoverable rent before the conversion, or the rent under the regulated tenancy after the conversion so far as that depends on the previous rent.

(7) Any court order in any proceedings to which subsection (6) above applies which is made after the time of the conversion may exclude from the effect of the order rent for any rental period beginning before the conversion, or for any later rental period beginning before the making of the order.

(8) Any right conferred on a tenant by section 62 of, or by paragraph 7(4) of Schedule 9 to, the Rent Act 1968 to recover any amount by deducting it from rent shall be exercisable by deducting it from rent for any rental period beginning after the conversion to the same extent as the right would have been exercisable if the conversion had not taken place.

(9) No certificate of disrepair shall be issued or cancelled by the local authority after the time of the conversion.

(10) Subject to subsection (7) above, where the court is satisfied that a local authority have failed to issue a certificate of disrepair and make an order under paragraph 4(5) of the said Schedule 9 after the conversion, the order shall be that a certificate of disrepair shall be deemed to have been issued immediately before the conversion.

38.—(1) Schedule 6 to this Act shall have effect for securing that, on first registration of a rent after the conversion of a controlled tenancy into a regulated tenancy, an increase in rent may, in certain circumstances, be recovered only in stages. Phasing of
rent increases
towards
registered
rent.

(2) Section 25(1) of the Rent Act 1968 (increase for improvements) shall not apply to any improvements with respect to which a grant under Part I of the Housing Act 1969 is payable or has been paid, and Schedule 6 to this Act shall have effect for securing that, on first registration of a rent after such an improvement, an increase in rent may, in certain circumstances, be recovered only in stages. 1969 c. 33.

PART IV

Registration of rent for regulated tenancies

Application
to rent officer
by local
authority.
1968 c. 23.

39.—(1) In the Rent Act 1968 after section 44 there shall be inserted the following section:—

“ 44A—(1) A local authority may apply to the rent officer for consideration of the fair rent for any dwelling-house within their area for which a rent may be or has been registered under this Part of this Act.

(2) If on the application the rent officer is satisfied that the rent, or the highest rent, payable for the dwelling-house under any lease or agreement exceeds what in his opinion is a fair rent, the rent officer shall register a rent for the dwelling-house.

(3) The rent officer may under subsection (2) above take account of the rent payable under any lease or agreement whether or not that exceeds the recoverable rent and whether or not the lease or agreement has taken effect.

(4) Where a rent for a dwelling-house has been registered under this Act no application under this section shall be entertained before the expiry of three years from the relevant date (as defined in section 44(4) above) except on the ground that, since that date, there has been such a change in the condition of the dwelling-house (including the making of any improvement therein), the terms of the tenancy or any other circumstances taken into consideration when the rent was registered or confirmed as to make the registered rent no longer a fair rent.

(5) For the purposes of section 44(4)(a) above, a case where the rent officer does not register a rent on an application under this section shall not be treated as a confirmation of any rent already registered.

(6) Section 44(5) above shall apply to an application under this section as it applies to an application for the registration of a rent.

(7) Regulations shall be made under section 50 of this Act prescribing the procedure on an application under this section, and the regulations shall prescribe the notices to be given to, and the rights to make representations of, the landlord and tenant.

(8) The said regulations shall confer on the landlord and the tenant a right to object to the determination of a rent by the rent officer on an application under this section and, on receipt of such an objection in circumstances prescribed by the regulations, shall provide for the reference of the matter to a rent assessment committee.

(9) In this section “local authority” means a local authority to whom section 107 of this Act applies.”

(2) In section 44(4) of the said Act (definition of the relevant date) for the words "the next following section" there shall be substituted the words "section 44A and section 45 below."

(3) This section shall come into force at the expiration of a period of one month beginning with the date on which this Act is passed.

40.—(1) Subject to the provisions of this section, any application under section 44 or section 44A of the Rent Act 1968 may be made at a time when the dwelling-house is subject to a controlled tenancy. Early application for registration of rent.
1968 c. 23.

(2) An application under the said section 44 shall not be made earlier than three months before the date applicable to the dwelling-house under section 35 of this Act.

(3) An application under section 44A of the Rent Act 1968 shall only be made by virtue of this section if before the application the local authority have been given a document relating to the dwelling-house in compliance with the provisions of section 44 of this Act.

(4) Where an application is made by virtue of this section the regulated tenancy for which the rent is registered shall be assumed to be a tenancy on the same terms (other than terms relating to rent) as the terms applicable to the controlled tenancy.

(5) Where a rent is registered on an application made by virtue of this section—

- (a) the date from which the registration takes effect under section 48(1) of the Rent Act 1968 shall not be earlier than the date when the dwelling-house ceases to be subject to a controlled tenancy,
- (b) any registration before that date shall be provisional only until that date, and
- (c) any reference in this Act, or in the Rent Act 1968, or in any other enactment, to the date of registration shall, where paragraph (b) applies, be taken as a reference to the date when the registration ceases to be provisional.

41.—(1) In the Rent Act 1968 after section 48 there shall be inserted the following section— Cancellation of registration of rent.

"**48A.—**(1) An application may be made in accordance with this section for the cancellation of the registration of a rent for a dwelling-house where—

- (a) a rent agreement as respects the dwelling-house takes effect, or is to take effect, after the expiration of a period of three years beginning with the relevant date as defined in section 44(4) of this Act, and

PART IV

(b) the period for which the tenancy has effect cannot end, or be brought to an end by the landlord (except for non-payment of rent or a breach of the terms of the tenancy), earlier than twelve months after the date of the application, and

(c) the application is made jointly by the landlord and the tenant under the agreement.

(2) The rent agreement may be one providing that the agreement does not take effect unless the application for cancellation of registration is granted.

(3) An application under this section must be in the prescribed form and contain the prescribed particulars, and must be accompanied by a copy of the rent agreement.

(4) Regulations shall be made under section 50 of this Act prescribing the procedure on an application under this section.

(5) If the rent officer is satisfied that the rent, or the highest rent, payable under the rent agreement does not exceed a fair rent for the dwelling, he shall, subject to subsection (6) below, cancel the registration.

(6) Where under the terms of the rent agreement the sums payable by the tenant to the landlord include any sums varying according to the cost from time to time of any services provided by the landlord or a superior landlord, or of any works of maintenance or repair carried out by the landlord or a superior landlord, the rent officer shall not cancel the registration unless he is satisfied that those terms are reasonable.

(7) The cancellation shall not take effect until the date when the agreement takes effect; and if the cancellation is registered before that date, the date on which it is to take effect shall be noted on the register.

(8) The cancellation of the registration shall be without prejudice to a further registration of a rent at any time after cancellation.

(9) The rent officer shall notify the applicants of his decision to grant, or to refuse, any application under this section.

(10) In this section "rent agreement" means—

(a) an agreement increasing the rent payable under a protected tenancy which is a regulated tenancy, or

(b) where a regulated tenancy is terminated, and a new regulated tenancy is granted at a rent exceeding the rent under the previous tenancy, the grant of the new tenancy."

(2) No application shall be made under the said section 48A before 1st January 1973. PART IV

Regulated tenancies where no rent is registered

42.—(1) Section 20(3) and section 21 of the Rent Act 1968 (which fix a limit for contractual periods of a regulated tenancy where no rent is registered) shall, subject to subsection (2) below, cease to have effect. Repeal of rent limit for contractual periods.
1968 c. 23.

(2) The repeal by this Act of the said sections 20(3) and 21 shall not apply to—

- (a) rent for a rental period beginning before 1st January 1973, or
- (b) rent under a regulated tenancy granted before 1st January 1973 if the rent under the tenancy, as varied by any agreement made before that date, exceeded the rent limit under the said section 20(3) (with any adjustment under the said section 21).

(3) Paragraph (b) of subsection (2) above shall cease to apply if the landlord and the tenant enter into an agreement which is a rent agreement with a tenant having security of tenure as defined by the next following section which complies with the requirements of subsection (3) of that section, or if they provide that the said paragraph (b) is not to apply by an agreement conforming with the requirements of subsection (3) of the next following section.

43.—(1) In this Part of this Act a “rent agreement with a tenant having security of tenure” means— Protection for tenant with security of tenure.

- (a) an agreement increasing the rent payable under a protected tenancy which is a regulated tenancy, or
- (b) the grant to the tenant under a regulated tenancy, or to any person who might succeed him as a statutory tenant, of another regulated tenancy of the dwelling-house at a rent exceeding the rent under the previous tenancy:

Provided that there shall be disregarded for the purposes of this definition any increase of rent if (where any rates in respect of the dwelling-house are borne by the landlord or a superior landlord) the increase is no more than one corresponding to an increase in the rates borne by the landlord or a superior landlord in respect of the dwelling-house.

(2) If—

- (a) a rent agreement with a tenant having security of tenure takes effect on or after 1st January 1973, and was made at a time when no rent is registered for the dwelling-house under Part IV of the Rent Act 1968, and

PART IV

(b) it is not an agreement to which section 44 of this Act applies,

the requirements of subsection (3) below shall be observed as respects the agreement.

(3) The said requirements are that—

(a) the agreement is in writing signed by the landlord and the tenant, and

(b) the document containing the agreement contains a statement, in characters not less conspicuous than those used in any other part of the agreement, that the tenant's security of tenure under the Rent Act 1968 will not be affected if he refuses to enter into the agreement, and that entry into the agreement will not deprive the tenant or landlord of the right to apply at any time to the rent officer for the registration of a fair rent under Part IV of the Rent Act 1968, or words to that effect, and

(c) the statement mentioned in paragraph (b) above is set out at the head of the document containing the agreement.

1968 c. 23.

Protection
of tenant
with security
of tenure:
special
provisions
following
conversion.

1969 c. 33.

44.—(1) This section applies where a protected or statutory tenancy of a dwelling-house becomes a regulated tenancy by virtue of—

(a) Part III of this Act, or section 43 of the Housing Act 1969 (which is superseded by Part III of this Act), or

(b) section 35 of this Act, or

(c) paragraph 5 of Schedule 2 to the Rent Act 1968 (conversion on death of first successor),

and in this section “the conversion” means the time when the tenancy became a regulated tenancy.

(2) If a rent agreement with a tenant having security of tenure of the dwelling-house takes effect—

(a) on or after 1st January 1973, and after the conversion, and

(b) at a time when no rent is registered for the dwelling-house under Part IV of the Rent Act 1968,

the requirements of subsection (5) below shall be observed as respects the agreement.

(3) This section shall not apply to any agreement where the tenant is neither the person who, at the time of the conversion, it was the tenant, nor a person who might succeed the tenant at that time as a statutory tenant, and where this section has

applied to any agreement, it shall not apply to any subsequent agreement relating to the dwelling-house which takes effect more than three years after the first such agreement took effect.

(4) Where a rent is registered for the dwelling-house and the registration is subsequently cancelled, this section shall not apply to the agreement submitted to the rent officer in connection with the cancellation nor to any agreement which takes effect after the cancellation.

(5) The requirements mentioned in subsection (2) above are that not later than 28 days before the date when the agreement takes effect—

(a) the landlord gives to the local authority at the offices of the local authority a document in a prescribed form, and containing—

(i) the prescribed particulars as respects the agreement and the dwelling-house to which it relates, and

(ii) a statement, in characters not less conspicuous than those used in any other part of the document, which is the same as that required by section 43(3)(b) of this Act,

signed by the landlord and by the tenant, and

(b) the landlord has served a copy of the document on the tenant.

(6) Not later than the expiration of 21 days beginning with the date on which the document is given to the local authority in accordance with this section the local authority shall serve on the landlord, and on the tenant, a notice acknowledging receipt of the document, and stating that the rent of the dwelling-house is not to be increased for any period beginning before the expiration of a period of 28 days beginning with the date on which the document was given to the local authority.

(7) Any document given to the local authority in accordance with this section shall be open to public inspection without charge from 7 days after receipt:

Provided that the local authority may withdraw the right of inspection at the expiration of a period of three years beginning with the date when the agreement (or if this section is applied to more than one agreement relating to the dwelling-house, the first of them) took effect.

(8) No stamp duty shall be chargeable on any document executed in accordance with this section.

(9) In this section—

“local authority” means a local authority to whom section 107 of the Rent Act 1968 applies, and

“prescribed” means prescribed by regulations under section 37 of the Rent Act 1968.

1968 c. 23.

PART IV
Protection of
tenant with
security of
tenure where
grant-aided
improvement
is carried out.
 1969 c. 33.

45.—(1) This section applies where a grant under Part I of the Housing Act 1969 has been approved in respect of works to be carried out in a dwelling-house subject to a regulated tenancy.

(2) If a rent agreement with a tenant having security of tenure of the dwelling-house takes effect—

(a) on or after 1st January 1973, and in the period beginning with the time when the tenant's consent to the works was sought by the landlord and ending one year after the completion of the works, and

(b) at a time when no rent is registered for the dwelling-house under Part IV of the Rent Act 1968,

and the increase of rent effected by the agreement is wholly or partly to take account of the carrying out of the works, the requirements of subsection (4) below shall be observed as respects the agreement.

(3) The provisions of this section are without prejudice to the requirements imposed by section 43 above.

(4) The requirements mentioned in subsection (2) above are that the statement in the document containing the agreement—

(a) says that a grant has been approved, and

(b) explains that, if a rent were to be registered following improvements for which a grant was payable, the rent increase up to the registered rent would be phased as follows, that is—

(i) if the increase exceeded £1.50 per week, the rent would be increased by three annual increments, each of one-third of the total increase,

(ii) if the rent increase did not exceed £1.50 per week, the rent would be increased by annual increments of up to £0.50 per week up to the registered rent.

Failure to
comply with
provisions for
protection
of tenant.

46.—(1) If, in the case of a variation of the terms of a regulated tenancy, there is a failure to observe any of the requirements of section 43, 44(5) or 45 of this Act, any excess of the rent payable under the terms as varied over the terms without the variation shall be irrecoverable from the tenant.

(2) If, in the case of the grant of a tenancy, there is a failure to observe any of the requirements of section 43, 44(5) or 45 of this Act, any excess of the rent payable under the tenancy so granted (for any contractual or any statutory period of the tenancy) over the previous limit shall be irrecoverable from the tenant.

(3) In subsection (2) above the "previous limit" shall be taken to be the amount which (taking account of any previous operation of this section) was recoverable by way of rent for the last rental period of the previous tenancy of the dwelling-

house, or which would have been so recoverable if all notices of increase authorised by the Rent Act 1968, or by section 37(3) of this Act, had been served. PART IV
1968 c. 23.

(4) A default which consists only in delay in complying with the requirements of paragraph (a) of section 44(5) above shall only affect rent for any rental period beginning before the expiration of a period of 28 days beginning with the date when the requirements in the said paragraph (a) are complied with and a default in complying with paragraph (b) of the said section 44(5) shall not apply to rent for any rental period beginning after the default is made good.

(5) Section 33 of the Rent Act 1968 (enforcement provisions) shall apply as if any amount made irrecoverable by this section were irrecoverable by virtue of Part III of that Act.

Miscellaneous

47.—(1) At the end of Schedule 1 to the Rent Act 1968 there shall be inserted the following paragraph:— Statutory
tenants by
succession.

“ 10.—(1) Where after a succession the successor becomes the tenant of the dwelling-house by the grant to him of another tenancy, “the original tenant” and “the first successor” in this Schedule shall, in relation to that other tenancy, mean the persons who were respectively the original tenant and the first successor at the time of the succession, and accordingly—

- (a) if the successor was the first successor, and, immediately before his death he was still the tenant (whether protected or statutory), paragraphs 6 and 7 above shall apply on his death,
- (b) if the successor was not the first successor, no person shall become a statutory tenant on his death by virtue of this Schedule.

(2) Sub-paragraph (1) above applies—

- (a) even if a successor enters into more than one other tenancy of the dwelling-house, and
- (b) even if both the first successor, and the successor on his death, enter into other tenancies of the dwelling-house.

(3) In this paragraph “succession” means the occasion on which a person becomes the statutory tenant of a dwelling-house by virtue of this Schedule and “successor” shall be construed accordingly.”

(2) Subsection (1) above shall apply as respects a succession which took place before the date of the coming into force of this section if and only if the tenancy granted after the succession,

PART IV or the first of those tenancies, was granted on or after that date, and where it does not apply as respects a succession, no account should be taken of that succession in applying subsection (1) above as respects any later succession.

(3) This section shall come into force at the expiration of a period of one month beginning with the date on which this Act is passed.

Supplemental. 48. In this Part of this Act—

“ rates ” includes water rates and charges,

“ rent agreement with a tenant having security of tenure ” has the meaning given by section 43(1) of this Act,

1968 c. 23. and other expressions shall be construed as in the Rent Act 1968.

PART V

FAIR RENTS FOR HOUSING AUTHORITY DWELLINGS

Duty of
authorities
to charge
fair rents.

49.—(1) Subject to the provisions of this Part of this Act and of Part VI below, it shall be the duty of every local authority and of every new town corporation to charge for each of their Housing Revenue Account dwellings a fair rent determined on the principles set out in sections 50 and 57 below.

(2) Nothing in this Part of this Act shall impose any obligation as to the amount to be charged to a person—

(a) who occupies a dwelling in pursuance of a contract of service with the authority the terms of which require that he shall be provided with a dwelling at a rent specified in the contract or without payment of rent ;

1954 c. 56. (b) who occupies a dwelling comprised in a tenancy to which Part II of the Landlord and Tenant Act 1954 (security of business tenants) applies.

(3) Fair rents for Housing Revenue Account dwellings shall be determined in accordance with the procedure set forth in this Part of this Act.

(4) For the purposes of a determination under this Part of this Act, subject to section 57(2) below,—

(a) the rent for a dwelling shall be expressed as a weekly amount, whether or not the tenancy of the dwelling is a weekly tenancy ; and

(b) any arrangements made for administrative convenience such as are mentioned in section 70(6) below shall be disregarded.

(5) In this Part of this Act “ authority ” means a local authority or a new town corporation.

50.—(1) In determining a fair rent for a dwelling under this Part of this Act, regard shall be had, subject to the following provisions of this section, to all the circumstances (other than personal circumstances) and in particular to the age, character and locality of the dwelling and to its state of repair. PART V
Principles
for the
determination
of fair rent.

(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwellings in the locality on the terms (other than those relating to rent) of the tenancy is not substantially greater than the number of such dwellings in the locality which are available for letting on such terms, and that no person seeking to become such a tenant can expect any special preference.

(3) There shall be disregarded—

(a) any disrepair or other defect attributable to a failure by the tenant or any predecessor in title of his to comply with any terms of the tenancy, and

(b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant or any predecessor in title of his,

and any improvement carried out by a previous tenant may be disregarded if a member of that tenant's family who then resided with him is the present tenant.

(4) In any case where, if the rent of a dwelling were being determined under Part IV of the Rent Act 1968, consideration would be given to the return that it would be reasonable to expect on it as an investment, the like consideration shall be given in determining a fair rent for it under this Part of this Act, and the fact that it is vested in a public body shall be disregarded. 1968 c. 23

(5) In this section "improvement" includes the replacement of any fixture or fitting.

51.—(1) The panel of persons drawn up for any area under paragraph 1 of Schedule 5 to the Rent Act 1968 (panels for the constitution of rent assessment committees) shall also be a panel for the constitution of rent scrutiny boards for that area; and the Secretary of State may accordingly appoint to any panel drawn up under that paragraph such number of persons as he considers necessary to enable the members of the panel to carry out the functions of rent scrutiny boards for their area. Rent
scrutiny
boards.

(2) The terms of appointment of a person appointed to a panel under subsection (1) above shall state that he is appointed under that subsection.

(3) The president of a panel shall constitute rent scrutiny boards to act for such areas as he may determine, comprising together the whole of the panel's area.

PART V

(4) Subject to subsection (6) below, each rent scrutiny board shall consist of a chairman and at least six other members, at least two of whom shall be persons appointed to the panel under subsection (1) above.

(5) The chairman and other members of a board shall be nominated and may be removed by the president of the panel.

(6) If a member of a board for any reason ceases to be a member, the president shall nominate another member of the panel to replace him, and in doing so shall have regard to subsection (4) above; but he shall not be obliged to make a nomination until he regards it as expedient.

(7) A board may continue to carry out their functions during a vacancy in their membership, and no act performed by them during such a vacancy shall be invalidated by reason of it.

(8) The president of the panel may be chairman or an ordinary member of a board.

(9) The president of the panel may appoint, with the approval of the Secretary of State as to numbers, such clerks and other officers and servants of rent scrutiny boards as he thinks fit, and there shall be paid to the clerks and other officers and servants out of moneys provided by Parliament such salaries and allowances as the Secretary of State, with the consent of the Minister for the Civil Service, may determine.

(10) The functions of the president of a panel under this section may be exercised, in the case of the president's absence or incapacity, by the vice-president or, as the case may be, one of the vice-presidents.

Provisional
assessment
of fair rent.

52.—(1) It shall be the duty of every authority provisionally to assess a fair rent for each of their dwellings which is a Housing Revenue Account dwelling when this Act comes into force.

(2) The duty provisionally to assess a fair rent imposed by subsection (1) above shall be construed, in relation to a dwelling which is not let when the authority perform it, as a duty provisionally to assess the rent which would be a fair rent for the dwelling if it were let by the authority on the terms on which they normally let comparable dwellings.

(3) For the purpose of provisionally assessing a fair rent for a dwelling an authority may consult any rent officer appointed by virtue of section 40 of the Rent Act 1968 for the registration area in which the dwelling is situated.

(4) It shall be the duty of an authority, for the purpose of provisionally assessing fair rents for dwellings which are situated in the area of another authority, to consult that authority.

1968 c. 23.

53.—(1) An authority shall publish their provisional assessment of fair rents within six months of the coming into force of this Act, by depositing a copy of it at their principal office. **PART V**
Publication and alteration of provisional assessments.

(2) In addition to publishing their provisional assessment in accordance with subsection (1) above, an authority shall take, not later than the date of publication, such further steps as may appear to them best designed to secure that it is brought to the notice of their tenants, and for that purpose may in particular deposit copies of it—

- (a) at any office other than their principal office which their tenants normally attend for the purpose of dealing with matters arising out of the authority's management of their Housing Revenue Account dwellings ;
- (b) at the principal office of any other authority in whose area any of their Housing Revenue Account dwellings are situated,

and shall notify in writing each individual tenant of a dwelling to the rent of which the assessment relates of the rent provisionally assessed for his dwelling and also—

- (i) that copies of the authority's provisional assessment of fair rents for their dwellings have been deposited at the offices mentioned in the notice and are available for inspection there, and
- (ii) that every tenant of such a dwelling has the right under subsection (5) below to make representations relating to the assessment.

(3) Where an authority have Housing Revenue Account dwellings which are situated in the area of another authority, it shall be the duty of those authorities to consult together with a view to depositing copies of their assessments on the same day both in their principal offices and in any other office in which it is proposed that they should be deposited under subsection (2) above.

(4) Copies of assessments which have been deposited at an office shall be made available for inspection at that office at all reasonable times.

(5) If within two months of the date of publication of a provisional assessment an authority receive representations in writing relating to the assessment from any tenant of a dwelling

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to the rent of which the assessment relates, they shall consider the representations, and according to the circumstances may re-assess the rent of the dwelling and of any other dwelling the rent of which in their opinion should in consequence also be re-assessed, or confirm the rent previously assessed.

(6) If an authority re-assess the rent of a dwelling under subsection (5) above, they shall notify the tenant of the dwelling in writing of the amount of the rent as re-assessed.

(7) If an authority re-assess the rent of a dwelling under subsection (5) above—

(a) they shall amend the entry relating to the rent of that dwelling in the copy of the assessment deposited at their principal office;

(b) they shall take such steps as they may consider reasonable—

(i) to amend copies deposited at any other of their offices;

(ii) to inform any other authority at whose offices copies have been deposited that those copies ought to be amended.

(8) Any reference to a copy of an assessment in the provisions of this section other than subsection (1) above or in section 54 below includes a reference to a copy of part of an assessment.

Submission of provisional assessment and supplementary information to rent scrutiny board.

54.—(1) Not later than four months from the date on which an authority publish a provisional assessment under subsection (1) of section 53 above, they shall submit it (amended where necessary pursuant to subsection (7) of that section) to the rent scrutiny board.

(2) An assessment may be submitted to the rent scrutiny board under subsection (1) above by sending it to the office of the panel for the constitution of that board.

(3) The board may, by notice in writing to the authority, require the authority, in addition to submitting copies of their provisional assessment, to give them, within such period (which shall be not less than fourteen days from the date of service of the notice) as may be specified in the notice, such further information so specified as they may reasonably require for the purpose of fulfilling their functions in relation to that assessment.

(4) Without prejudice to subsection (3) above, the Secretary of State may direct that the information to be supplied to rent scrutiny boards by authorities in general or by any description of authority or particular authority specified in the direction shall include such information as may be specified in the direction.

PART V

(5) A notice under subsection (3) above may be served upon an authority by delivering it to their clerk or principal officer, or by leaving it at their principal office with some person employed there, or by sending it by post in a registered letter or by the recorded delivery service addressed to the authority or their clerk or principal officer at their principal office.

55.—(1) It shall be the duty of the rent scrutiny board to consider any provisional assessment submitted to them and to confirm the rents assessed by the authority or substitute other rents for them. Functions
of rent
scrutiny
board

(2) The board shall not be obliged to consider individually the rent of any particular dwelling to which an assessment relates.

(3) The board shall be taken to have considered an assessment if they have considered it by reference to—

- (a) the rents of certain dwellings to which it relates and which in their opinion are representative of types or descriptions of such dwellings; or
- (b) the rents of reasonable samples of dwellings to which it relates but which in their opinion are not sufficiently similar to each other to fall within the same type or description.

(4) Subject to any direction given under subsection (5) below, the board—

- (a) may consider a provisional assessment partly by the method specified in paragraph (a) and partly by that specified in paragraph (b) of subsection (3) above;
- (b) may determine the criteria by reference to which a type or description of dwellings is to be defined or a sample of dwellings is to be chosen;
- (c) may apply different criteria in the definition of different types or descriptions of dwellings or the choice of different samples.

(5) The Secretary of State may give directions to rent scrutiny boards, or to any such boards as are specified in a direction, as to the manner in which they are to apply the provisions of subsections (3) and (4) above.

(6) A rent scrutiny board shall not be required to have regard to any representations made to them with respect to provisional assessments which have been submitted to them.

56.—(1) If the rent scrutiny board agree with a provisional assessment, they shall send to the authority a report confirming the assessment. Determination
of fair rent.

(2) If the board have confirmed a provisional assessment, the fair rent for any dwelling to which the assessment relates shall be the rent which the authority assessed in that assessment.

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(3) If the board do not agree with the rents assessed for any dwellings to which a provisional assessment relates, they shall send to the authority a report on that assessment specifying the rents (if any) with which they agree and the rents with which they do not agree and giving their reasons for disagreeing with the rents with which they do not agree and stating the rents which in their opinion ought to be substituted for them.

(4) If within two months of the receipt of a report under subsection (3) above the authority make representations in writing to the board as to any of the rents to which the report relates, the board shall have regard to those representations and send to the authority either amendments to their report or a notice that they do not propose to make any amendments.

(5) The authority shall deposit any report under subsection (1) or subsection (3) above, and any amendments under subsection (4) above of a report under subsection (3) above, at their principal office.

(6) The fair rent of any dwelling to which a report under subsection (3) above relates shall be the rent specified in the report as originally sent to the authority or, as the case may be, as amended under subsection (4) above.

(7) For the purposes of this Act a fair rent of a dwelling is determined under this section—

(a) in a case to which subsection (2) above applies, on the date when the authority receive the board's report under subsection (1) above ;

(b) in a case to which subsection (3) above applies—

(i) if the authority make no representations under subsection (4) above concerning any of the rents to which the report under subsection (3) above relates, at the end of two months from the date when the authority receive the board's report ;

(ii) if the authority make such representations, on the date when the authority receive from the board either amendments to their report or a notice that they do not propose to make any amendments.

(8) The authority shall notify in writing each individual tenant of a dwelling of the rent which has been determined for his dwelling.

(9) A list of the fair rents of an authority's Housing Revenue Account dwellings shall be deposited by that authority at their principal office.

(10) Where an authority have deposited copies of a provisional assessment of fair rents for dwellings at any office

other than their principal office, they shall also deposit at that office—

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- (a) any report on that assessment made by the rent scrutiny board under subsection (1) or (3) above ;
- (b) any amendments under subsection (4) above of a report under subsection (3) above ;
- (c) a list of the fair rents determined for the dwellings.

(11) Any report, amendments or list deposited at an office under subsection (5), (9) or (10) above shall be made available for public inspection at that office at all reasonable times ; and the authority shall furnish a copy to any person on payment of such reasonable sum as they determine.

57.—(1) In connection with the determination of the fair rent of a Housing Revenue Account dwelling the authority and the rent scrutiny board—

Treatment for purposes of Part V of sums payable in respect of rates or for use of furniture or for services.

- (a) shall take account of any sums payable by the tenant to the authority for the use of furniture or for services, whether or not those sums are separate from the sums payable for the occupation of the dwelling or are payable under separate agreements ;
- (b) shall not take account of any liability to pay rates.

(2) Where under the terms of a tenancy the sums payable by the tenant to the authority include any sums varying according to the cost from time to time of any services provided by the authority, the fair rent may be determined as an amount variable in accordance with those terms.

58.—(1) Subject to the provisions of this section, it shall be the duty of an authority to assess from time to time for any of their Housing Revenue Account dwellings for which a fair rent has previously been determined such a new fair rent as in their opinion will be sufficient to take account of any change in the condition of the dwelling or the terms of the tenancy, or in the other circumstances taken into account when the fair rent was previously determined.

Determination of a new fair rent in case of change of circumstances.

(2) Subsection (1) above applies even if the change, although not taken into account, occurred before the fair rent was previously determined, but shall not apply to a change later than three months before the beginning of the next review under section 59 of this Act.

(3) Where an authority assess a new fair rent for a dwelling under this section at a time when the dwelling is let, their assessment shall be provisional.

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(4) If within two months of the date of notification under subsection (3) above the authority receive representations in writing from the tenant relating to the rent provisionally assessed, they shall consider the representation and may re-assess the rent or confirm the rent provisionally assessed according to the circumstances.

(5) The Secretary of State may direct authorities in general or any description of authority or particular authority specified in the direction to submit to the rent scrutiny board particulars of the new fair rent of a dwelling which they propose under this section, their reasons for the proposal and any other information specified in the direction as being information which in his opinion is relevant.

(6) In any case where a direction has been given under subsection (5) above—

(a) the rent scrutiny board shall have the like functions for the purpose of determining a fair rent of dwellings particulars of which are submitted to them in accordance with the direction as they have for the purpose of the first determination of a fair rent for a dwelling which is a Housing Revenue Account dwelling when this Act comes into force ; and

(b) subsections (2) and (6) of section 56 above shall have the like effect as they have in relation to such a first determination of a fair rent.

(7) The authority shall notify the tenant of a dwelling in writing of any rent which has been assessed or determined for his dwelling under subsection (3), (4) or (6) above.

(8) For the purposes of this Act a new fair rent of a dwelling is determined under this section, subject to subsections (9) and (10) below—

(a) in a case to which subsection (3) above does not apply, on the date when the authority assess it ;

(b) in a case to which subsection (3) above applies but subsection (4) above does not apply, at the end of two months from the date of the notification under subsection (3) above ;

(c) in a case to which subsections (3) and (4) above both apply, on the date when the authority re-assess the rent or confirm the rent previously assessed.

(9) In a case to which subsection (6) above applies the date on which a fair rent is determined shall be ascertained in accordance with the provisions of section 56(7) of this Act.

(10) In any case where a new fair rent of a dwelling determined under this section is lower than the rent which was the fair rent of the dwelling immediately before the determination,

the authority may treat the date of determination of the new fair rent as having been such date as may in their opinion be appropriate, being either the date of the change in circumstances as a result of which the new fair rent was determined or a date after that change but before the date which would be the date of determination under subsection (8) or (9) above.

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59.—(1) Without prejudice to section 58 above, it shall be the duty of an authority to carry out from time to time a review of the fair rents of all their dwellings which are Housing Revenue Account dwellings on the date specified in subsection (2) below.

Triennial review of fair rents.

(2) The date mentioned in subsection (1) above is for each review a date six months before the date on which the authority are required by subsection (4) below to publish their provisional assessments.

(3) This Part of this Act shall apply in relation to a review of fair rents under this section as it applies in relation to the first determination of such rents for dwellings which are Housing Revenue Account dwellings when this Act comes into force.

(4) Subject to subsection (5) below, an authority shall publish their provisional assessments in accordance with section 53 of this Act on a date not later than three years after the date on which the fair rent of their Housing Revenue Account dwellings was last determined under section 56 above or this section.

(5) The Secretary of State may direct authorities in general or any description of authority specified in the direction or any authority so specified to publish any assessment under this section on a date earlier or later than it would otherwise fall to be published.

60.—(1) It shall be the duty of an authority to determine on the principles set out in sections 50 and 57 above a fair rent for any dwelling which becomes a Housing Revenue Account dwelling after the coming into force of this Act.

Dwellings which become Housing Revenue Account dwellings after Act comes into force.

(2) A determination under this section shall be made, subject to subsection (3) below, as soon as reasonably possible after the dwelling to which it relates becomes a Housing Revenue Account dwelling.

(3) An authority shall not determine a fair rent under this section until, in connection with their first determination of fair rents under this Part of this Act—

- (a) the authority receive a report from the rent scrutiny board under subsection (1) of section 56 above, or
- (b) the authority receive a report under subsection (3) of the said section 56 and the authority decide to make no

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representations concerning the rents to which the report relates, or the two month time limit for making such representations expires without their making any representations, or

- (c) the authority receive from the rent scrutiny board, after making any such representations, either amendments to the board's report or a notice that the board do not propose to make any amendments.

(4) The Secretary of State may direct that as respects an authority who have no Housing Revenue Account dwellings when this Act comes into force the provisions of this Part of this Act shall have effect subject to such exceptions or modifications as may be specified in the direction.

(5) For the purposes of this Act a fair rent is determined under this section on the date when the authority determine one.

**Interpretation
of Part V.**

61.—(1) References in this Part of this Act to the area of a new town corporation are references—

- (a) in relation to a development corporation, to any area designated under section 1 of the New Towns Act 1965 as the site of the proposed new town for the purpose of whose development the corporation was established (including any extension of that area);
- (b) in relation to the Commission, to any area which immediately before the date on which the property of a development corporation vested in the Commission by virtue of an order under section 41 of that Act, was designated under the said section 1 for development as a new town by the development corporation (including any extension of such an area).

(2) The duties imposed on the Commission by this Part of this Act shall be taken to be duties severally imposed on them in relation to each such area as is mentioned in paragraph (b) of subsection (1) above, and not in relation to the aggregate of those areas.

(3) In this Part of this Act, references to a rent scrutiny board are, in relation to any assessment, references to the rent scrutiny board constituted under section 51(3) above for the area in which are situated the dwellings to which the assessment relates.

(4) Any reference to an assessment in the provisions of this Part of this Act, other than the provisions mentioned in subsection (5) below, includes a reference to a part of an assessment.

(5) The provisions referred to in subsection (4) above are section 53(1), section 53(7)(a), section 58 and section 59 of this Act.

1965 c. 59.

(6) In this Part of this Act—**PART V**

- “ authority ” means a local authority or a new town corporation ;
- “ rates ” includes water rates and charges ;
- “ tenant ” includes a person occupying premises under a licence ; and
- “ tenancy ” and other cognate expressions shall be construed accordingly.

PART VI**HOUSING AUTHORITY DWELLINGS: PROGRESSION TO FAIR RENTS**

62.—(1) Every local authority, and every new town corporation shall, subject to the provisions of this section, make the increases (in this Part of this Act called “ increases towards fair rents ”) required by sections 63 and 64 below. Increases towards fair rents.

(2) The increases shall be in the rents of some or all of such of the authority’s Housing Revenue Account dwellings as are—

- (a) dwellings for which a fair rent has been determined (or redetermined) under Part V of this Act which exceeds the rent for the time being charged, or
- (b) dwellings for which no fair rent has been determined, but excluding from paragraph (a) and paragraph (b) above—
 - (i) any dwelling for the time being occupied by a person within section 49(2) of this Act, and
 - (ii) a dwelling for the time being subject to a tenancy which was granted, by the authority or any predecessor in title of the authority, before 19th July 1971 and which is not a periodical tenancy, and
 - (iii) a dwelling which, whether before the coming into force of this Act or later, was acquired by the authority from a person other than another housing authority, which when acquired was regarded by the authority as only likely to be available for use as a dwelling for a period not exceeding ten years and—
 - (aa) which is for the time being subject to a tenancy which was granted before it was so acquired and which is not a periodical tenancy, or
 - (bb) which for the time being is subject to a periodical tenancy and is a dwelling for which a fair rent has not been determined, and
 - (iv) a dwelling which is for the time being excluded from section 69 of this Act by a direction given by the Secretary of State.

The authority’s dwellings for the time being within paragraphs (a) and (b) of this subsection are in this Part of this Act called “ qualifying dwellings ”.

PART VI

(3) Nothing in the following provisions of this Part of this Act shall authorise the authority at any time to increase a rent to an amount in excess of the fair rent for the dwelling and accordingly no increase towards fair rents shall be made in any year if on the relevant date in that year the rents for all the authority's Housing Revenue Account dwellings are fair rents.

In this subsection "the relevant date" means—

(a) in the year 1972-73, 1st October 1972, and

(b) in any later year the relevant date as defined in section 64 below.

(4) If it appears to the Secretary of State that the amount of an authority's increase towards fair rents in the year 1972-73 or 1973-74, as determined under the following provisions of this Part of this Act, is such that, whatever the way in which the increase is distributed or apportioned among the authority's qualifying dwellings, that increase towards fair rents is likely to bring the rents of 2 per cent. or more of the authority's qualifying dwellings substantially above the fair rents for those dwellings, the Secretary of State may direct that the authority's increase towards fair rents in the year 1972-73, or as the case may be in the year 1973-74, shall be such lower amount as is specified in the direction.

(5) An increase towards fair rents may be up to 1 per cent. more or less than the exact amount required by section 63 or 64 below, or as the case may be by subsection (4) above.

(6) Subject to section 65 below, the way in which an increase towards fair rents is distributed or apportioned among the authority's qualifying dwellings shall be such as the authority may determine.

(7) Where the weekly or other periodical amount of rent for a qualifying dwelling which the authority would have to collect to conform with their determination under subsection (6) above would not be an exact multiple of 5 new pence, it may be increased or reduced by not more than $2\frac{1}{2}$ new pence so as to produce an exact multiple of 5 new pence; and the power conferred by this subsection shall be exercisable notwithstanding that the total increase towards fair rents is then more or less than the exact amount mentioned in subsection (5) above as adjusted under that subsection, but this subsection has effect subject to section 65 below.

(8) Subsection (7) above shall be applied by reference to the methods of rent collection adopted by the authority and without regard to subsection (2) or subsection (6) of section 70 of this Act.

63.—(1) If the authority made a general rent increase in the first half of 1972-73 which produces £26 or more per dwelling in 1972-73 they shall not make an increase towards fair rents in that year.

PART VI
Increase towards fair rents before 1973-74.

(2) Subject to subsection (1) above, an increase towards fair rents shall be made in the year 1972-73, and the increase in the rent of any qualifying dwelling shall take effect for the rental period, or the first rental period, beginning on or after 1st October 1972.

(3) Subject to subsection (1) above, if the authority made a general rent increase in the first half of 1972-73, or in the second half of 1971-72, the amount of the increase towards fair rents shall be that specified in column 2 of the Table below.

(4) If the authority made no general rent increase in the first half of 1972-73 or in the second half of 1971-72, the amount of the increase towards fair rents in the year 1972-73 shall be an amount which, in the first week, produces additional rental income of an amount equal to £1 times the number of the authority's qualifying dwellings on 1st October 1972.

(5) If in the period beginning with 19th July 1971 and ending immediately before the coming into force of this Act decreases whether simultaneous or not, were made in the rents of more than one per cent. of the authority's Housing Revenue Account dwellings as at the coming into force of this Act, the increase towards fair rents in the year 1972-73, as ascertained in accordance with the preceding provisions of this section and the Table below, shall be increased by an amount which produces a total weekly rental equal to the total weekly rental lost by the decreases.

This subsection applies whether or not the decreases were wholly or partly restored before the coming into force of this Act.

(6) If the authority made a general rent increase in the first half of 1972-73 which produces £26 or more per dwelling in 1972-73, and subsection (5) above applies, subsection (1) of this section shall not apply, and an increase towards fair rents in the year 1972-73 under subsection (2) above shall be made equal to the said amount which produces a total weekly rental equal to the total weekly rental lost by the decreases described in subsection (5) above.

(7) The Secretary of State may in any case direct—

- (a) that subsections (5) and (6) above shall not apply, or
- (b) that those subsections shall have effect as if for the reference to the total weekly rental lost by the decreases there were substituted a reference to such fraction of that total weekly rental as is specified in the direction.

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Any direction under this subsection may be either a general direction as respects specified classes or descriptions of authorities, or specified circumstances, or a direction as respects a particular authority or a particular case.

(8) Subject to section 70(6) below, the decreases to which subsections (5) and (6) above apply include any case where there is a reduction of rents (affecting more than one per cent. of the dwellings in question) for any period, however short and, for the purposes of the said subsections (5) and (6), rebates from rent, or waivers of rent, unrelated to the particular personal or domestic circumstances of the tenants, granted for a week or other period, and not granted for prior periods, shall be treated as decreases of rent.

(9) For the purposes of this and the next following section—

- (a) there is a general rent increase in a specified period if in that period increases, whether simultaneous or not, are made in the rent of more than one per cent. of the authority's Housing Revenue Account dwellings as at 31st March 1972,
- (b) where a rental period begins before, but ends after, the beginning of a specified period, an increase taking effect from the beginning of that rental period shall be regarded as made in the specified period,
- (c) "second half of 1971-72" means the last six months of that year,
- (d) "first half of 1972-73" means the first six months of that year, or the period beginning with 1st April 1972 and ending with the coming into force of this Act, whichever is the shorter,
- (e) "£26 per dwelling" means £26 times the number of the authority's Housing Revenue Account dwellings as at 31st March 1972, but excluding any dwelling within paragraph (i), (ii) or (iii) of section 62(2) above,
- (f) it shall be assumed that a dwelling is always let, and that the increased rent is paid in full.

For the purposes of paragraph (a) above the termination of any such rebates from rent, or waivers of rent, as are referred to in subsection (8) above shall not be regarded as giving rise to increases of rent.

(10) Any reference in this section to additional rental income "in the first week", as respects additional rental income from an increase towards fair rents, is a reference to the additional rental income produced by the increase in question for the weekly rental period, or first weekly rental period, for each dwelling in question beginning on or after 1st October 1972.

TABLE

PART VI

General rent increase

Amount of increase towards fair rents on 1st October 1972

1

2

If the authority made a general rent increase in the first half of 1972-73, but it did not produce £26 or more per dwelling in 1972-73—

1. If the general rent increase produced an additional rental income of an amount which was not less than £0.50 times the number of the qualifying dwellings as at 31st March 1972 for the first week in which the rent increase was completed.

The least amount which secures that the amount produced in 1972-73 by the general rent increase plus the increase towards fair rents is not less than £26 per dwelling.

2. If head 1 above does not apply.

The least amount which secures—
(a) that the amount produced in 1972-73 by the general rent increase plus the increase towards fair rents is not less than £26 per dwelling, and

(b) that, in the first week, the said two increases together produce additional rental income of an amount equal to £0.75 times the number of qualifying dwellings on 1st October 1972.

If the authority made a general rent increase in the second half of 1971-72, and no general rent increase in the first half of 1972-73—

1. If the amount produced in 1971-72 and 1972-73 taken together by the general rent increase is not less than £26 per dwelling.

An amount which, in the first week, produces an additional rental income of an amount equal to £0.50 times the number of the authority's qualifying dwellings on 1st October 1972.

2. If head 1 above does not apply.

The least amount which secures—
(a) that the amount produced in 1971-72 and 1972-73 taken together by the general rent increase plus the amount produced in 1972-73 by the increase towards fair rents is not less than £26 per dwelling, and

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<i>General rent increase</i>	<i>Amount of increase towards fair rents on 1st October 1972</i>
1	2
2. If head 1 above does not apply. <i>(continued)</i>	(b) the production in the first week of an additional rental income of an amount equal to £0.50 times the number of the authority's qualifying dwellings on 1st October 1972, and (c) that, in the first week, the said two increases together produce additional rental income of an amount equal to £0.75 times the number of qualifying dwellings on 1st October 1972.

Increase towards fair rents in 1973-74 and subsequent years.

64.—(1) An increase towards fair rents shall be made in the year 1973-74 and in each subsequent year, and the increase in the rent of any qualifying dwelling shall take effect for the rental period, or the first rental period, beginning on or after the relevant date as defined in the following provisions of this section.

(2) The amount of any such increase shall be that which, in the first week, produces additional rental income of an amount equal to £0.50 times the number of the authority's qualifying dwellings on the said relevant date.

(3) The relevant date in the year 1973-74 shall, subject to subsection (4) below, be fifty-two weeks after 1st October 1972.

(4) If the authority made a general rent increase in the first half of 1972-73 which produced in 1972-73 £26 or more per dwelling, the relevant date is fifty-two weeks after that general rent increase took effect.

(5) If the general rent increase was not made simultaneously, the relevant date shall be fifty-two weeks after the increase in the largest number of rents made simultaneously, taking, if there are two or more equally large, the latest of them.

(6) If the general rent increase was made at the beginning of a rental period beginning before 1st April 1972, and was taken into account by virtue of section 63(9)(b) of this Act, it shall be regarded for the purposes of subsection (4) above as taking effect at the beginning of that rental period.

(7) The relevant date in any year after the year 1973-74 shall be fifty-two weeks after the relevant date in the last preceding year (whether or not any increase towards fair rents was required in that preceding year).

(8) An authority may substitute for the relevant date as determined under the preceding provisions of this section any of the next seven days, and shall exercise the power conferred by this subsection where otherwise there would be two relevant dates in the same year.

(9) The Secretary of State may on the application of any authority direct that this section shall apply, for any year specified in the direction, with such adjustments as appear to the Secretary of State desirable for the convenience of the authority in the administration of the increase towards fair rents, and any such adjustment may be as respects all or any of the authority's qualifying dwellings.

(10) Any reference in this section to additional rental income "in the first week" is a reference to the additional rental income produced by the increase in question for the weekly rental period, or first weekly rental period, for each dwelling in question beginning on or after the relevant date.

65.—(1) An increase towards fair rents made in the year 1972-73—

Maximum annual increase for any dwelling.

- (a) shall not increase the rent of any qualifying dwelling by more than £1 per week, and
- (b) if there was a general rent increase in the first half of 1972-73, shall not make an increase in the rent of any qualifying dwelling which, taken together with that general rent increase, is more than £1 per week.

(2) An increase towards fair rents made in the year 1973-74 or any later year shall not increase the rent of any qualifying dwelling by more than £0.75 per week.

(3) This section shall be applied before giving effect to subsection (5) of section 63 of this Act, and shall not apply to any increase required by subsection (5) or subsection (6) of that section.

(4) In this section "first half of 1972-73" and "general rent increase" have the same meanings as in section 63 of this Act.

66.—(1) Subject to the preceding provisions of this Part of this Act, the authority, in determining the rents to be charged for their qualifying dwellings shall act on the principles set out in this section.

Variations of rent apart from annual increases towards fair rents.

(2) Subject to subsection (3) below, rents shall not be increased or reduced during the currency of a tenancy, and if—

- (a) the tenant is granted a new tenancy, or
- (b) on the death of a tenant, a member of that tenant's family who was then residing with him is granted a new tenancy, or

PART VI

- (c) there is a change of tenant, or a new tenancy, and the tenant is the wife or husband of the previous tenant, and is treated by the authority as deserted by the other,

the rent of the dwelling shall not exceed the rent for the last rental period before the change of tenant or the new tenancy.

- (3) Rents may be increased to reflect—

- (a) any change in the condition of the dwelling, but disregarding any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant or any predecessor in title of his, or
 (b) any change in the terms of the tenancy (other than terms as to rent), or
 (c) any other change of circumstances.

This subsection applies both during the currency of a tenancy and on the grant of a new tenancy.

(4) Except to prevent a rent being above the fair rent, a rent shall not be reduced, rent under a new tenancy shall not be less than the rent under the previous tenancy and the rent of a dwelling not previously let shall not be less than that of the most nearly comparable Housing Revenue Account dwelling of the authority.

(5) In determining a rent no account shall be taken of a tenant's means or resources.

(6) This section, so far as it applies during the currency of a tenancy, has effect as respects tenancies granted before the coming into force of this Act or later.

(7) In this section "improvement" includes the replacement of any fixture or fitting.

Rent
exceeding
a fair rent.

67.—(1) This section has effect where a fair rent is determined, or redetermined, for a Housing Revenue Account dwelling at a time when it is let at a rent exceeding the fair rent.

(2) The authority shall reduce the rent to the fair rent with effect from the first rental period beginning after the time of the determination, but without prejudice to the application of this Part of this Act on any redetermination of the fair rent.

(3) If the fair rent is the first determined for the dwelling, the amount, if any, by which the rent paid for any rental period which began before the time of the determination (that is to say a rental period which began at a time when there was no fair rent) exceeded the fair rent so determined shall be recoverable from the authority by the tenant who paid the rent.

This subsection applies whether or not the tenant was the person who is the tenant when the fair rent is determined, and

applies to any rental period ending not earlier than 1st October 1971.

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(4) Where rent was paid under a tenancy the terms of which (other than terms as to rent) are different from the terms of the tenancy for which the fair rent is determined, the fair rent to be taken into account under subsection (3) above shall be the actual amount of the fair rent with such adjustment as properly reflects the difference in the terms.

(5) Where a rent rebate was granted to the tenant for any rental period taken into account under subsection (3) above, and, if the tenant had paid no more than the fair rent, with any adjustment under subsection (4) above, the rent rebate would have been less, the difference between the amounts of the respective rent rebates shall be deducted from the excess as arrived at under subsection (3) above.

(6) If a person entitled to recover any amount under the preceding provisions of this section is not the tenant on the date when the fair rent is determined, the authority shall, in the twelve months after that date, take all reasonable steps to trace him or his personal representatives, and to refund what is due.

(7) If the authority receives a statutory declaration that—

- (a) the person entitled to recover any amount under the preceding provisions of this section has died, and
- (b) the claimant specified in the declaration is entitled to receive that amount,

and the authority has obtained satisfactory evidence of the death, the authority may pay that amount to the said claimant.

(8) Where the power conferred by subsection (7) above has been exercised, the payment shall be valid and effectual with respect to any claim against the authority, but without prejudice to any right of recourse by any personal representative or beneficiary against the person who received the payment.

(9) No proceedings shall be instituted to recover any amount made recoverable by this section after the expiry of a period of three years beginning with the date on which the fair rent was determined.

68.—(1) An increase of rent to reflect any such change of circumstances as is described in section 66(3) above (whether for a rental period beginning before the coming into force of this Act or later)—

Increases towards fair rents: supplemental provisions.

- (a) shall be disregarded in determining whether there has been a general rent increase or in determining the amount of that increase, and
- (b) shall not count towards the increases towards fair rents which the authority is to make.

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(2) An authority shall not in the case of any of the authority's Housing Revenue Account dwellings grant a long periodical tenancy, or agree to alter the terms of a short periodical tenancy so as to convert it into a long periodical tenancy, unless the authority is satisfied that it will still be possible to make all increases towards fair rents without imposing an unfair burden on other tenants, and that in other respects to do so will not conflict with the duties imposed on them by the provisions of this Part of this Act about increases towards fair rents.

(3) If in the period beginning with 19th July 1971 and ending immediately before the coming into force of this Act any authority has, as respects 1 per cent. or more of their Housing Revenue Account dwellings as at the coming into force of this Act, converted a short periodical tenancy (by the grant of a new tenancy or a variation of its terms) into a long periodical tenancy, then as from the coming into force of this Act each periodical tenancy so converted, or any other long periodical tenancy to which the dwelling is then subject, shall become a tenancy which, except as respects the rent, is the same as the tenancy which was converted, and is at a rent equivalent to the current rent.

This subsection shall not apply if the Secretary of State so directs as respects all or any of the dwellings.

(4) In this section "short periodical tenancy" means a periodical tenancy of a month or of a shorter period, and "long periodical tenancy" means any other periodical tenancy.

Tenancies
at a rent
unalterable
over a long
period.

69.—(1) This section applies to a tenancy of any of the authority's Housing Revenue Account dwellings (including a tenancy granted before the coming into force of this Act) other than—

- (a) a dwelling for the time being subject to a weekly or other periodical tenancy,
- (b) a dwelling for the time being subject to a tenancy granted, by the authority or any predecessor in title, before 19th July 1971,
- (c) a dwelling which, whether before the coming into force of this Act or later, was acquired by the authority from a person other than another housing authority, which when acquired was regarded by the authority as only likely to be available for use as a dwelling for a period not exceeding ten years and which is for the time being subject to a tenancy which was granted before it was so acquired, or
- (d) a dwelling for the time being excluded from this section by a direction of the Secretary of State subject to such conditions, if any, and for such period, as may be

specified in the direction, being a general direction, or a direction given on the application of an authority for a particular case,

if, apart from this section, the authority would not have the rights conferred by subsection (2) of this section.

(2) It shall be an implied term of the tenancy that the authority may increase the rent payable under the tenancy with effect from the beginning of any rental period by a notice given to the tenant not less than four weeks before the beginning of the rental period (or any earlier day on which the payment of rent in respect of that period falls to be made).

Where in accordance with this section a term is to be so implied for the benefit of the landlord, it shall also be an implied term of the tenancy that the tenant may terminate the tenancy with effect from the beginning of any rental period by a notice given not later than two weeks before the beginning of that rental period.

(3) Where an authority gives a notice of increase under subsection (2) above for the beginning of a rental period and the tenancy continues into that period, the notice shall nevertheless not have effect if the tenancy is terminated by notice given by the tenant in accordance with the provisions, express or implied, of the tenancy, and—

- (a) the notice to terminate the tenancy is given before the end of the period of two weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase, and
- (b) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice given by the tenant on the last day of that period.

(4) An authority's notice of increase under subsection (2) above shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and it also gives him the dates by which, if the increase is not to be effective, the notice to terminate the tenancy must be received by the authority and the tenancy be made to terminate.

(5) If any rental period exceeds six weeks, this section shall apply as if references to the beginning of the rental period included references to the beginning of the second or any subsequent week in the rental period.

(6) Where the rent for any rental period beginning after the coming into force of this Act would, apart from this subsection, be less than the rent for any previous rental period of the tenancy

PART VI (including in the case of a tenancy granted before the date of the coming into force of this Act a rental period beginning before that date) it shall be the duty of the authority to exercise the rights conferred by this section so as to increase the rent up to the highest rent for any previous rental period of the tenancy.

(7) Subject to subsection (6) above, the rights conferred on the authority by this section have effect subject to the other provisions of this Part of this Act about the circumstances in which rent is to be, or may be, increased.

Supplemental. 70.—(1) In this Part of this Act, unless the context otherwise requires—

“authority” means a local authority or a new town corporation;

“general rent increase” has the meaning given by section 63(9) of this Act;

“increases towards fair rents” has the meaning given by section 62(1) of this Act;

“qualifying dwellings” has the meaning given by section 62(2) of this Act;

“rates” includes water rates and charges;

“tenant” includes a person occupying premises under a licence, and “tenancy” and other cognate expressions shall be construed accordingly.

(2) Any reference in this Part of this Act to the amount of any rent shall be taken as a reference to the amount exclusive of any sum attributable to rates, or the use of furniture, or the provision of services; and if the terms of the tenancy do not identify the portion of any rent for a dwelling for which the authority provide furniture or services which is attributable to the use of furniture or the provision of services, the authority shall determine the proportion fairly attributable to the use of furniture or the provision of services:

Provided that this subsection shall not prevent any sum being taken into account in comparing a rent with a fair rent where otherwise the comparison would not be of like with like.

(3) Without prejudice to the generality of the provisions of subsection (2) above, an increase of the part of any rent attributable to rates, or to the use of furniture, or to the provision of services—

(a) shall be disregarded in determining whether there has been a general rent increase or in determining the amount of that increase, and

(b) shall not count towards the increases towards fair rents which the authority is to make.

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(4) Subject to subsection (2) above, any reference in this Part of this Act to the amount of any rent shall, in a case where (before the coming into force of section 66(5) of this Act) the authority charged the tenant an amount payable at a rate varying according to the tenant's means or resources from time to time (including in particular the earnings of other persons in the dwelling or of members of his family, or the presence of a lodger in the dwelling), be taken as a reference to the whole of the amount charged whether or not the charge is expressed as being in whole or in part something other than rent.

(5) Section 36 of the Rent Act 1968 (adjustment for differences in lengths of rental periods) shall apply for the purposes of this Part of this Act. 1968 c. 23.

(6) Where an authority for administrative convenience arrange for the year's rents to be paid irregularly, or so that no rent is payable for, or collected in, certain periods, or so that rents for different periods in the year are of different amounts, the provisions of this Part of this Act shall be applied, and all calculations shall be made, by reference to the rents which would have been paid if the arrangements had not been made.

(7) Any reference in this Part of this Act to the amount of a rent shall, if at the relevant time the dwelling is not let, but was previously let, be taken as a reference to the rent for the last previous rental period for which it was let.

(8) The Secretary of State may direct that, as respects all or any of the Housing Revenue Account dwellings of a new town corporation, the provisions of this Part of this Act shall have effect subject to such exceptions or modifications as may be specified in the direction.

A direction under this subsection as respects the Commission may be one applying differently to different new towns of the Commission, or one not applying to all of them.

PART VII

HOUSING ASSOCIATIONS

Subsidies

71.—(1) The following three subsidies shall be payable to housing associations in the circumstances, and subject to the conditions, set out in this Part of this Act, namely—

Introduction of new subsidies for housing associations.

- (a) the basic residual subsidy ;
- (b) the special residual subsidy ;
- (c) the new building subsidy.

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(2) None of the three subsidies may be paid for the year 1971-72, or for an earlier year.

(3) The subsidies shall be paid by the Secretary of State out of money provided by Parliament.

(4) Subsections (1) to (3) and subsection (5) of section 15 of this Act shall apply in relation to the payment of subsidies under this Part of this Act as they apply in relation to the payment of subsidies under Part I of this Act.

The basic residual subsidy.

72.—(1) This section has effect as to the circumstances in which basic residual subsidy is payable to housing associations and also, subject to section 74 below, as to the amount of basic residual subsidy so payable.

(2) A housing association shall be entitled to basic residual subsidy for the year 1972-73 if the association's subsidies for the year 1971-72 exceed the withdrawal factor, and the amount of the basic residual subsidy for that year shall be equal to the excess.

(3) A housing association which is entitled to basic residual subsidy for the year 1972-73 shall also be entitled to the subsidy for any subsequent year for which the amount of basic residual subsidy payable to the association for the immediately preceding year exceeds the withdrawal factor, and the amount of the basic residual subsidy shall for each such year be equal to the amount obtained by deducting the withdrawal factor from the amount of the basic residual subsidy payable to the association for the immediately preceding year.

(4) In this section "the association's subsidies for the year 1971-72" means the aggregate of such sums received or to be received by the association as the Secretary of State determines and notifies the association as representing payments made or to be made by him for the year 1971-72 under or by reference to any of the enactments described in Part I or Part III of Schedule 7 to this Act.

(5) For the purpose of determining the association's subsidies for the year 1971-72 the Secretary of State shall only take into account payments made in pursuance of section 29(1) of the Housing Act 1930 so far as he has made contributions in respect of them under section 29(3) of that Act.

1930 c. 39.

(6) The withdrawal factor for the purposes of this section shall be determined, in relation to each housing association, by the Secretary of State.

(7) For the purposes of subsection (6) above, the Secretary of State shall determine the number of dwellings as at 31st March 1972 in respect of which the association's subsidies for the year 1971-72 are payable.

(8) For the year 1972-73, the withdrawal factor is the sum produced by multiplying £5 by the number of dwellings determined under subsection (7) above.

(9) For each year subsequent to the year 1972-73, the withdrawal factor is the sum produced by multiplying £20 by the number of dwellings determined under subsection (7) above.

73.—(1) This section has effect as to the circumstances in which special residual subsidy is payable to a housing association and also, subject to section 74 below, as to the amount of special residual subsidy so payable.

(2) A housing association shall be entitled to special residual subsidy for dwellings (in this section called "relevant dwellings") which—

- (a) were approved by the Secretary of State for the purposes of Part I of the Housing Subsidies Act 1967 before the coming into force of this Act, and
- (b) were completed during the year 1972-73, 1973-74 or 1974-75.

(3) If an association complete any relevant dwellings during any one of the three years 1972-73, 1973-74 and 1974-75, they shall be entitled for that year to special residual subsidy of such an amount as the Secretary of State may determine; and in making a determination under this subsection the Secretary of State—

- (a) shall have regard to the amount of the financial assistance which in his opinion the association would have been likely to receive for that year in respect of those dwellings under Part I of the Housing Subsidies Act 1967 if the said Part I had been in force throughout the year; and
- (b) may adopt, after consultation with such bodies representative of housing associations as appear to him to be appropriate, a rate of interest which is to be treated as if it had been specified for that year by an order made under section 2(2) of the Housing Subsidies Act 1967 (which relates to the calculation of aggregate cost subsidies).

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(4) An association entitled under subsection (3) above to an amount of special residual subsidy for the year 1972-73 shall, in addition, be entitled—

(a) for the year 1973-74 to the said amount of subsidy less the reduction factor for dwellings completed during the year 1972-73, and

(b) for the year 1974-75 to the amount of subsidy payable to the association under paragraph (a) above less the reduction factor for dwellings completed during the year 1972-73.

(5) An association entitled under subsection (3) above to an amount of special residual subsidy for the year 1973-74 shall, in addition, be entitled for the year 1974-75 to the said amount of subsidy less the reduction factor for dwellings completed during the year 1973-74.

(6) For the year 1975-76 and subsequent years the amount of an association's special residual subsidy shall be the amount, if any, produced by deducting the reduction factor for dwellings completed during the three years 1972-73, 1973-74 and 1974-75 from the amount of their special residual subsidy for the immediately preceding year.

(7) In this section the "reduction factor for dwellings completed" during any specified year or years means the sum produced by multiplying £20 by the total number of relevant dwellings completed by the association during the year or years.

Residual
subsidies—
supplemental.

74.—(1) If a housing association, by furnishing to the Secretary of State such information as to their financial position as he may require, satisfy him that for the year 1972-73 or for any year subsequent to that year their income from their dwellings will be inadequate, having regard to their normal sources of income, to meet such expenditure (including loan charges) as in his opinion it would be reasonable for them to incur for that year in the exercise of their housing functions, he may direct that section 72 or section 73 above shall have effect in relation to that association for that year as if for any references to £5 or £20 there were substituted references to such smaller amount as may be specified in the direction; and the amounts which may be so substituted shall include zero.

(2) The Secretary of State may reduce, suspend or discontinue the payment of basic residual subsidy or special residual subsidy to a housing association if they lease or otherwise dispose of any

of their dwellings in respect of which they are entitled to such a payment. PART VII

(3) If any of the dwellings of a housing association—

- (a) are leased to or become vested in another housing association, or trustees for another housing association, or
- (b) are leased to or become vested in the Housing Corporation,

the Secretary of State may pay to them the whole or any part of any basic residual subsidy or special residual subsidy which he would otherwise have paid to the former association for any year beginning with the year in which the dwellings are so leased or come to be so vested.

(4) For the purposes of this section dwellings are leased if and only if they are leased for a term exceeding seven years, or for a term not exceeding seven years granted by a lease which confers on the lessee an option for renewal for a term which, together with the original term, exceeds seven years.

(5) In this section and section 75 below—

“housing functions” means constructing, improving or managing or facilitating or encouraging the construction or improvement of dwellings, the provision of dwellings by conversion and the acquisition of dwellings, and includes functions which are supplemental or incidental to any of those functions,

“loan charges” includes any loan charges made by a housing association (including charges for debt management) whether in respect of borrowing from any capital fund kept by the housing association, or in respect of borrowing between accounts kept by the housing association for different functions, or otherwise.

75.—(1) This section has effect, subject to section 76 below, **The new as to the circumstances in which new building subsidy is payable** **building subsidy.** to a housing association and the amount of new building subsidy so payable.

(2) A housing association shall be entitled to new building subsidy, as provided by the following provisions of this section and section 76 below, in respect of a building scheme approved

PART VII by the Secretary of State for the purposes of this section, if they incur an initial deficit on it.

(3) In this section and section 76 below “building scheme” means a scheme for the erection by a housing association of a group of dwellings or a single dwelling for the purpose of letting, or for any purpose which in the opinion of the Secretary of State is comparable, and also includes the provision of other buildings or land connected with the requirements of the occupiers of the dwellings or dwelling comprised in the scheme.

(4) Subject to subsections (12) and (13) below, and to subsections (2) and (3) of section 76 below, new building subsidy shall be paid to a housing association for ten years, namely the year of completion of the last or only dwelling comprised in a building scheme (in this section referred to as the “year of completion”) and the nine years immediately following, and the amount of subsidy for a year shall be the percentage of the initial deficit shown for that year in the Table in subsection (6) below.

(5) For the purposes of this section—

- (a) a housing association incur an initial deficit on a building scheme if their income from the scheme for the year immediately following the year of completion is less than their reckonable expenditure on the scheme for that year ;
- (b) the income from a building scheme for the year immediately following the year of completion is the income which would be obtained for that year from all the buildings and land comprised in the scheme, assuming, subject to subsection (8) below, that every dwelling so comprised were let for the whole of that year at a rent equal to the amount which would be registered as a fair rent for the dwelling pursuant to Part VIII of this Act ;
- (c) the reckonable expenditure on a building scheme for the year immediately following the year of completion is any expenditure on the part of the association which in the opinion of the Secretary of State is attributable to the scheme and reasonable and appropriate having regard to all the circumstances, and, without prejudice to the generality of this paragraph, may include expenditure on the preparation of the scheme and the maintenance and management of the buildings and land comprised in the scheme and on the loan charges which the association are liable to pay for that year in respect of money borrowed by them for the purpose of the scheme.

(6) The following is the Table referred to in subsection (4) above:—

TABLE

<i>Year for which subsidy is payable</i>						<i>Percentage of initial deficit to be met by subsidy</i>
Year of completion	...	...	...	...	...	100
Second	...	...	...	...	...	100
Third	...	...	...	...	...	100
Fourth	...	...	...	...	...	60
Fifth	...	...	...	...	...	60
Sixth	...	...	...	...	...	60
Seventh	...	...	...	...	...	30
Eighth	...	...	...	...	...	30
Ninth	...	...	...	...	...	30
Tenth	...	...	...	...	...	10

(7) Income from and reckonable expenditure on a building scheme shall be estimated in such manner and on such evidence as the Secretary of State may from time to time direct in the case of associations in general or any individual association or description of associations.

(8) The Secretary of State may direct under subsection (7) above that paragraph (b) of subsection (5) above shall have effect with the substitution for the assumption specified in that paragraph of such other assumption as may be specified in the direction.

(9) In any case where a housing association are entitled to new building subsidy but are precluded by their rules or constituent instrument from granting tenancies for some or all of their dwellings, the reference in paragraph (b) of subsection (5) above to the amount which would be registered as a fair rent shall be construed, in relation to those dwellings, as a reference to the amount which in the opinion of the Secretary of State would be registered as a fair rent if they were available for letting at a rent.

(10) In any case to which subsection (9) above applies the Secretary of State may assume, without prejudice to subsections (7) and (8) above, that the dwellings would be let on such terms and in such circumstances as he considers appropriate.

(11) The Secretary of State shall consult with such bodies representative of housing associations as he considers appropriate—

- (a) before giving a general direction as to the method of estimating reckonable expenditure ;

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(b) before determining, in any case to which subsection (9) above applies, the assumptions as to letting which are to be made under subsection (10) above.

(12) If a housing association, by furnishing to the Secretary of State such information as to their financial position as he may require, satisfy him, in relation to a building scheme, that for any year except—

(a) the year of completion, or

(b) the second or third year for which new building subsidy is payable,

payment of an amount of subsidy equal to the percentage of the initial deficit shown in the Table in subsection (6) above will be inadequate, having regard to their normal sources of income, to enable them to meet such expenditure (including loan charges) as in his opinion it would be reasonable for them to incur for that year in the exercise of their housing functions, he may direct that for that year the percentage of the initial deficit to be met by subsidy shall be greater than that shown in the Table but not greater than 90 per cent., or than the percentage met by subsidy for the immediately preceding year if that was less than 90 per cent.

(13) The Secretary of State may by order, after consultation with such bodies representative of housing associations as appear to him to be appropriate, provide that in relation to building schemes approved by him and in relation either to all housing associations or to any description of such associations mentioned in the order—

(a) if the year of completion is later than the year 1981-82, the percentage of the initial deficit to be met by new building subsidy for any year shall be altered to such percentage other than that shown in the Table as may be specified in the order ;

(b) that new building subsidy shall be payable for a number of years other than ten ;

and an order under this subsection may make such consequential amendments in subsection (12) above as appear to the Secretary of State to be appropriate.

(14) An order under subsection (13) above shall be made with the concurrence of the Treasury by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be varied or revoked by a subsequent order under that subsection.

76.—(1) The Secretary of State may make his approval of a building scheme subject to compliance by the association who apply for that approval with such conditions as he may specify.

PART VII
New building
subsidy—
supple-
mental.

(2) The Secretary of State may make reduced payments of new building subsidy to a housing association in respect of a building scheme, or suspend or discontinue such payments—

- (a) if he made his approval of the building scheme subject to compliance with any conditions and is satisfied that any of those conditions has not been complied with ; or
- (b) if he is satisfied that a dwelling comprised in the scheme—
 - (i) has been converted, demolished or destroyed ;
 - or
 - (ii) is not fit to be used or is not being used for the purpose for which it was intended ; or
 - (iii) has been sold or leased ; or
 - (iv) has ceased for any reason whatsoever to be vested in the association or trustees for the association.

(3) If any of the dwellings comprised in a building scheme—

- (a) are leased to or become vested in a housing association or trustees for a housing association other than the association who received approval for the scheme, or
- (b) are leased to or become vested in the Housing Corporation,

the Secretary of State may pay them the whole or any part of any new building subsidy which he would otherwise have paid for any year beginning with the year in which they are so leased or come to be so vested to the association which received approval for the scheme.

(4) For the purposes of this section dwellings are leased if and only if they are leased for a term exceeding seven years, or for a term not exceeding seven years granted by a lease which confers on the lessee an option for renewal for a term which, together with the original term, exceeds seven years.

Miscellaneous

77.—(1) After subsection (1) of section 1 of the Housing Act 1964 (which established the Housing Corporation and imposed on it certain general duties relating to housing societies within the meaning of subsection (7) of that section) there shall be inserted—

Extension to all housing associations of Housing Corporation's power to make loans and extension of power to make loans to housing Corporation.

“(1A) In addition to their general duty in relation to housing societies under subsection (1) above, it shall be the duty of the Corporation to assist housing associations, including housing associations which are not housing

1964 c. 56

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societies, by exercising the function assigned to them in relation to such associations by section 2 below.”

1964 c. 56.

(2) In subsections (1) and (5) of section 2 of the Housing Act 1964 (power of Housing Corporation to make loans to housing societies) and in section 8 of that Act (building society advances to housing societies to which the Corporation has made loans) every reference to a housing society shall include a reference to a housing association (within the meaning of section 12 of that Act) which is not a housing society.

(3) In section 9(2) of that Act (which imposes a maximum which advances to the Housing Corporation out of the National Loans Fund are not together to exceed, but provides for the increase of that maximum by order), for the words from “exceed” to “one hundred million pounds” there shall be substituted the words “exceed £150 million or such greater sum, not exceeding £300 million.”

**Housing
agreements.**

78.—(1) Any term of a housing agreement limiting the aggregate amount of rents payable in respect of dwellings to which the agreement relates or contributions towards the cost of maintaining such dwellings, or specifying a limit which the rent of a dwelling is not to exceed, shall cease to have effect on 1st January 1973.

(2) In this section “housing agreement” means any of the following, namely—

1957 c. 56.

(a) an agreement for a loan or a grant to a housing association under section 119(3) of the Housing Act 1957 (loans and grants to housing associations by local authorities and county councils);

(b) an agreement made between a local authority and a housing association under section 120 of that Act (arrangements for provision of housing);

(c) an agreement made between a housing association and a local authority under section 121 of that Act (arrangements for improvement of housing);

(d) a scheme under section 123 of that Act (unification of conditions affecting housing associations' houses);

1961 c. 65.

(e) an agreement made between the Secretary of State and a housing association under section 7 of the Housing Act 1961 (advances by Secretary of State for provision of housing accommodation for letting);

(f) an agreement for a loan to a housing association by the Housing Corporation under section 2 of the Housing Act 1964.

PART VII

(3) The enactments mentioned in paragraphs (b) and (d) of subsection (2) above shall cease to have effect.

(4) Any such term as is mentioned in subsection (1) above included in a housing agreement made under section 119 or section 121 of the Housing Act 1957 after the coming into force of this Act shall be void. 1957 c. 56.

(5) Subject to subsection (1) above and subsection (6) below, a housing agreement made before the coming into force of this Act shall continue to have effect after this Act comes into force.

(6) Upon the application of a party to a housing agreement, the Secretary of State may, if he thinks fit, direct—

(a) that the agreement shall have effect with such variations, determined by him or agreed by the parties, as may be specified in the direction ; or

(b) that the agreement shall be terminated ;
but no variation shall be directed which would have the effect of including in an agreement any term such as is mentioned in subsection (1) above.

79.—(1) Where an agreement in pursuance of which payments are to be made under or by reference to any of the enactments described in Part III of Schedule 7 to this Act (hereafter referred to as a “subsidy agreement”) has been made between a local authority and a housing association, the prohibition on the making of payments under or by reference to such an enactment contained in paragraph 1 of Schedule 8 to this Act shall be construed, subject to subsection (2) below and to the provisions of any order under section 80 below, as extending only to the payment of amounts which the authority are obliged to pay by the relevant enactment ; and accordingly, where such an agreement provides for the payment of greater amounts, the authority shall continue to pay to the housing association sums equal to the difference between the amounts for the payment of which the agreement provides and the amounts which they are obliged to pay by that enactment. Subsidy agreements.

(2) Upon the application of a party to a subsidy agreement, the Secretary of State may, if he thinks fit, direct—

(a) that the agreement shall have effect with such variations, determined by him or agreed by the parties, as may be specified in the direction ; or

(b) that the agreement shall be terminated ;
but no variation shall be directed which would have the effect of including in an agreement any term such as is mentioned in subsection (1) of section 78 above.

PART VII
 Power to
 apply to
 certain
 housing
 associations
 provisions
 of Act relating
 to local
 authorities.

80.—(1) The Secretary of State may by order made with the consent of the Treasury provide—

- (a) that any housing association specified in the order shall be treated, to such an extent and subject to such conditions as may be so specified, as if it were for any specified purpose of this Act either the local authority or, as the case may in the opinion of the Secretary of State require, the agent of the local authority for an area in which, by carrying out agreements made with the approval of the Secretary of State, the association renders it substantially unnecessary in his opinion for that authority to perform some or all of the functions relating to the provision of housing accommodation conferred on them by any enactment ;
- (b) that any dwellings provided under an agreement made with the approval of the Secretary of State between a local authority and an association to which paragraph (a) above applies shall be treated, to such an extent as may be specified in the order, as if they were Housing Revenue Account dwellings of the local authority in whose area they are situated ;

and such an order may direct that any provision of this Act specified in the order shall apply in relation to the association and to any relevant authority subject to such exceptions, adaptations and modifications as may be so specified.

(2) Before making an order under this section, the Secretary of State shall consult—

- (a) any housing association to which it is intended that the order shall relate ;
- (b) such local authorities or associations of local authorities as appear to him to be appropriate.

(3) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be varied or revoked by a subsequent order so made.

(4) Without prejudice to the generality of subsection (1) above, an order under this section may, in relation to a housing association to which it applies—

- (a) provide for the payment, in substitution for the subsidies payable to housing associations in general under this Part of this Act, of subsidies calculated by such methods and on such principles as may be specified ;

- (b) empower the Secretary of State to direct that a greater amount of subsidy than would otherwise be payable by virtue of the order shall be payable to the association in respect of the area of any local authority specified in the direction ;
- (c) provide for the keeping by the association of such kinds or numbers of accounts as may be specified in the order and empower the Secretary of State to give directions as to the amounts which are or are not to be credited or debited to any account ;
- (d) specify circumstances in which sums are to be transferred from one such account to another and empower the Secretary of State to determine from time to time whether or not circumstances have arisen in which any sums fall to be so transferred ;
- (e) provide for the making by the association of a scheme for the granting of rebates from rent to persons who occupy dwellings owned by the association in any area identical with the scheme for granting such rebates made by the local authority for that area under section 18 of this Act ;
- (f) require a local authority to make rate fund contributions to the association equal—
- (i) to any expenditure incurred in respect of the authority's area, being either expenditure towards which subsidy is payable to the association but which is not met by that subsidy, or expenditure which is not reckonable for the purpose of calculating the amount of that subsidy ;
 - (ii) to the amount of any deficit due to the granting of rebates from rent in an account kept by the association in respect of the area of that authority or to the association's costs of administering a scheme for the granting of such rebates in that area ;
- (g) provide that a rate fund contribution made in pursuance of the order shall be treated, for such purposes and to such extent as may be specified, as if it had been made under Part I of this Act ;
- (h) provide that Parts V and VI of this Act shall apply in relation to dwellings provided under an agreement made with the approval of the Secretary of State between the association and any local authority as if they were Housing Revenue Account dwellings of that authority ;

PART VII

(j) provide for the determination by agreement made with the approval of the Secretary of State between an authority who have no Housing Revenue Account dwellings and an association, or in default of such an agreement by the Secretary of State, of the manner in which dwellings provided by the association under an agreement made with the approval of the Secretary of State between the association and the authority are to be treated for any purpose relating to rebates from rent or for the purpose of applying Parts V and VI of this Act ;

1957 c. 56.

(k) provide that the power to make grants to housing associations conferred by paragraph (a) of section 119(3) of the Housing Act 1957 on local authorities and county councils shall terminate ;

(l) provide that payments for the year 1972-73 and subsequent years under the enactments described in Schedule 7 to this Act shall terminate in such manner as may be provided by the order in substitution for the provision made for their termination by this Act as it applies in relation to housing associations in general.

(5) In this section “ rate fund contribution ” means a contribution made by a local authority out of their general rate fund.

PART VIII

RENT LIMIT FOR DWELLINGS LET BY HOUSING ASSOCIATIONS, HOUSING TRUSTS AND THE HOUSING CORPORATION

Tenancies to which this Part of this Act applies.

81.—(1) This Part of this Act applies to a tenancy where—

(a) the interest of the landlord under that tenancy belongs to a housing association or housing trust, or to the Housing Corporation, and

(b) the tenancy would be a protected tenancy but for section 5 of the Rent Act 1968, and is not a tenancy to which Part II of the Landlord and Tenant Act 1954 applies,

1968 c. 23.

1954 c. 56.

and in this Part of this Act “ tenancy ” means, unless the context otherwise requires, a tenancy to which this Part of this Act applies.

(2) In this Part of this Act “ housing trust ” has the meaning given by section 5(3) of the Rent Act 1968 (but “ housing association ” has the meaning given by this Act).

82.—(1) There shall be a part of the register under Part IV of the Rent Act 1968 in which rents may be registered for dwelling-houses which are let, or are, or are to be, available for letting, under a tenancy to which this Part of this Act applies.

PART VIII
Rents to be
registrable
under Part IV
of the Rent
Act 1968.
1968 c. 23.

(2) In relation to that part of the register the following provisions of the Rent Act 1968, that is—

- (a) sections 44, 45 and 46,
- (b) section 47, except subsection (3), and
- (c) Schedules 6 and 7,

shall have effect as if for any reference in those provisions to a regulated tenancy there were substituted a reference to a tenancy to which this Part of this Act applies.

(3) Registration in the said part of the register shall take effect on the date of registration:

Provided that registration before 1st January 1973 shall be provisional only until that date, and the date of registration shall be 1st January 1973.

(4) From the date of registration any previous registration of a rent for the dwelling-house shall cease to have effect.

(5) A rent registered in any part of the register for a dwelling-house which becomes, or ceases to be, one subject to a tenancy to which this Part of this Act applies, shall be as effective as if it were registered in any other part of the register.

(6) Subject to subsection (5) above references in this Part of this Act to registration are, unless the context otherwise requires, references to registration pursuant to this section.

83.—(1) Where the rent payable under a tenancy would exceed the rent limit determined in accordance with this Part of this Act the amount of the excess shall be irrecoverable from the tenant.

The rent limit.

(2) Where a rent for the dwelling-house is registered, then, subject to sections 84 and 85 below, the rent limit is the rent so registered:

Provided that where any rates in respect of the dwelling-house are borne by the landlord, or a superior landlord, the amount of those rates for any rental period, ascertained in accordance with Schedule 4 to the Rent Act 1968, shall be added to the

PART VIII limit imposed by this subsection, and in this Part of this Act references to the amount of the registered rent include any amount to be added under this proviso.

(3) Where no rent for the dwelling-house is registered, then, subject to subsection (4) below, the rent limit shall be determined as follows—

- (a) if the lease or agreement creating the tenancy was made before 1st January 1973, the rent limit is the rent recoverable under the tenancy, as varied by any agreement made before that date (but not as varied by any later agreement),
- (b) if paragraph (a) above does not apply, and, not more than three years before the tenancy began, the dwelling-house was subject to another tenancy (whether before 1973 or later) the rent limit is the rent recoverable under that other tenancy (or, if there was more than one, the last of them) for the last rental period thereof,
- (c) if paragraph (a) and paragraph (b) above do not apply, the rent limit is the rent payable under the terms of the lease or agreement creating the tenancy (and not the rent so payable under those terms as varied by any subsequent agreement).

(4) Where for any period there is a difference between the amount (if any) of the rates borne by the landlord or a superior landlord in respect of the dwelling-house and the amount (if any) so borne in the rental period on which the rent limit is based, the rent limit under this Part of this Act shall be increased or decreased by the amount of the difference.

1968 c. 23.

(5) Section 33 of the Rent Act 1968 (enforcement provisions) shall apply as if any amount made irrecoverable by this Part of this Act were irrecoverable by virtue of Part III of that Act.

(6) A tenancy commencing (whether before or after the coming into force of this Act) while there is in operation a condition imposed under any of the enactments specified in section 30(2) of the Rent Act 1968 (which impose rent limits on tenancies of subsidised private houses) shall be disregarded for the purposes of subsection (3)(b) above in determining the rent limit under any subsequent tenancy of the dwelling-house.

(7) Section 35 of the Rent Act 1968 (duty of landlord to supply statement of rent under previous tenancy) shall apply where the rent is subject to the rent limit under subsection (3)(b) above as it applies where rent under a regulated tenancy is subject to the contractual rent limit mentioned in that section.

(8) This section shall not apply to rent for any rental period beginning before 1st January 1973.

84.—(1) This section applies where a rent is registered for a dwelling-house (whether it is the first or any subsequent registration) unless at the date of registration there is no tenant and no person to whom a tenancy has been granted. PART VIII
Phasing of
progression
to registered
rent.

(2) The rent limit shall progress from the rent limit immediately before the date of registration to the registered rent in stages, and—

- (a) for any rental period beginning in the first stage, the rent limit shall be the rent limit immediately before the date of registration plus £0·75 per week, or the registered rent, whichever is the less,
- (b) for any rental period beginning in the second or any subsequent stage, the rent limit shall be the rent payable for the first rental period of the last previous stage plus £0·75 per week, or the registered rent, whichever is the less.

(3) The first stage shall last for 52 weeks from the date of registration, or from the beginning of the first rental period for which the rent is first increased (by any amount) on or after that date, whichever is the later.

(4) Any subsequent stage shall last 52 weeks from the end of the last previous stage, or from the beginning of the first rental period for which the rent is first increased (by any amount) after the end of the last previous stage, whichever is the later.

(5) If a tenancy of the dwelling-house is granted at any time when the rent limit is less than the registered rent, and the tenant is neither the person who, at the time when the previous tenancy (or the last previous tenancy) ended, was the tenant under that tenancy nor a member of that tenant's family who resided with him, the registered rent shall become the rent limit from the beginning of the new tenancy, and the stages by which the rent limit was to progress shall terminate.

(6) The registration of a lower or higher rent during the progression from the rent limit in force before the prior registration shall not alter the stages by which the rent limit is to progress, and if a higher rent is registered in the 52 weeks beginning with the first rental period for which the rent is increased up to the rent registered on the prior registration, the first stage in the progression from that rent up to the later registered rent shall not begin until the end of that period of 52 weeks.

(7) If for any rental period beginning after the date of registration there is a difference between the amount (if any) of the rates borne by the landlord or a superior landlord in respect of the dwelling-house and the amount (if any) so borne immediately before the date of registration, any limit imposed by this section

PART VIII

for that rental period shall be increased or decreased by the amount of the difference, but not so as to enable any rent to be increased above the rent limit under the last preceding section, and an increase of rent made solely to reflect an increase in the amount of rates borne by the landlord or a superior landlord shall be disregarded for the purposes of subsections (3) and (4) of this section.

Previous
rent limit
exceeding
registered
rent: special
rent limit.

85.—(1) Where the rent limit for a dwelling-house immediately before the date of registration of a rent for that dwelling-house exceeded the rent so registered, the registration shall be provisional only until it takes effect in accordance with this section.

(2) If—

(a) no application is made under this section to the Secretary of State before the expiration of a period of 28 days beginning with the date of registration or, where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, and it is lower than the rent for which it is substituted, a period of 28 days beginning with the date of registration of the substituted rent, or

(b) an application duly made to the Secretary of State under this section is refused,

the registration shall cease to be provisional, and shall take effect as from the date of registration.

(3) The Secretary of State may, on an application made to him within the relevant period of 28 days mentioned in subsection (2)(a) above, grant the application and direct that the rent limit for the dwelling-house shall be such amount as is specified in the direction, being an amount not more than the said previous rent limit, but more than the rent which is provisionally registered.

The Secretary of State may include in a direction under this subsection such conditions as he thinks fit, and if any condition is not complied with the direction shall cease to have effect.

(4) The period for which the direction has effect shall begin with the date of the provisional registration, and the date when, subject to subsections (5) and (6) below, that period is to end shall be specified in the direction, being a date not more than three years and six months from the date of the provisional registration.

(5) The direction shall cease to have effect—

(a) if on a subsequent application for registration a different rent is registered for the dwelling-house, and that rent is equal to or exceeds the rent specified in the direction, or

(b) the rent assessment committee determine a rent in substitution for the rent registered by the rent officer, and

that rent is equal to or exceeds the rent specified in the direction, or

PART VIII

(c) the applicant ceases to be the landlord of the dwelling-house.

(6) Subject to subsection (5) above, if on the date specified as the end of the period under subsection (4) above a subsequent application for registration is pending, the direction shall continue in force until that application has been disposed of by the rent officer.

(7) When the period for which a direction has effect ends, and the provisional registration is not superseded by a new registration under paragraph (a) or paragraph (b) of subsection (5) above, the registration shall cease to be provisional and, except for the purposes of section 44 of the Rent Act 1968 (right to apply for registration of a new rent after three years), shall take effect at the time when the period ends. 1968 c. 23.

(8) The rent officer shall notify the tenant of any case where a registration is by virtue of this section a provisional registration.

(9) This section applies whether the registration mentioned in subsection (1) above is the first or any subsequent registration and, in the case of a subsequent registration, whether or not the rent limit immediately before the date of registration was that fixed by a direction under this section.

(10) A confirmation of a rent by the rent officer shall be treated for the purposes of this section as a registration of a rent which, whether or not it is a provisional registration, supersedes the registration in force prior to the confirmation.

86.—(1) An application under the last preceding section shall be in such form as the Secretary of State may direct either generally or in any particular case, and the applicant shall give notice of the application to the rent officer, and shall take all reasonable steps to give notice of the application to the tenant of each dwelling-house which would be affected by a direction given on the application. Special rent limit: procedure on application.

(2) The Secretary of State in entertaining the application—

(a) shall take into consideration the information about the finances of the applicant given to him on the application, and any further information given by the applicant at his request, and

(b) shall not give a direction unless he is satisfied that the direction is necessary having regard to the applicant's normal sources of income, and to the expenditure (including loan charges as defined in section 74 of this Act) which in his opinion it is reasonable for the applicant to incur in the exercise of housing functions, as defined in the said section.

PART VIII

(3) The Secretary of State shall give notice in writing of his decision on the application to the applicant and to the rent officer and, where the decision is to grant the application, the notice shall include particulars of the direction given on the application.

(4) The rent officer shall note in the register—

- (a) any application notified to him by the applicant, and
- (b) any direction given and the period for which it is effective, and
- (c) any decision of the Secretary of State not to grant an application.

(5) The applicant shall take all reasonable steps to notify the tenant of each dwelling-house affected of any case where the Secretary of State decides to grant or not to grant an application and, where the decision is to grant the application, the notice shall include particulars of the direction given on the application.

Increase of
rent without
notice to quit.

87.—(1) Subject to subsections (2) and (3) below, where a tenancy to which this Part of this Act applies is a weekly or other periodical tenancy, the rent payable to the housing association or, as the case may be, the housing trust or the Housing Corporation (in this section called “the landlord”) may, without the tenancy being terminated, be increased with effect from the beginning of any rental period by a written notice of increase given by the landlord to the tenant—

- (a) not later than four weeks before the beginning of the rental period (or any earlier date on which the payment of rent in respect of that period falls to be made), and
- (b) not later than the time when a notice to quit would have to be served if it were to be effective to terminate the tenancy at the beginning of the said rental period.

(2) Where notice of increase is given under subsection (1) above for the beginning of a rental period and the tenancy continues into that period, the notice shall nevertheless not have effect if the tenancy is terminated by notice given by the tenant in accordance with the provisions express or implied of the tenancy and—

- (a) the notice to terminate the tenancy is given before the end of the period of two weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase, and
- (b) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice given by the tenant on the last day of that period.

(3) A notice of increase under subsection (1) above shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and it also gives him the dates by which, if the increase is not to be effective, notice to terminate the tenancy must be received by the landlord and the tenancy be made to terminate.

(4) This section shall apply to a tenancy notwithstanding that the letting took place before the coming into force of this Act.

(5) Nothing in this section shall authorise any rent to be increased above the rent limit, and any reference in section 83 of this Act to the variation by agreement of the rent recoverable under a tenancy shall include a reference to variation under this section.

88.—(1) In this Part of this Act—

Supplemental.

(a) “rates” includes water rates and charges,

(b) other expressions shall be construed as in the Rent Act 1968 c. 23, 1968.

(2) Where a rent determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, the date of registration shall be deemed for the purposes of this Part of this Act to be the date on which the rent determined by the rent officer was registered:

Provided that a landlord shall not by virtue of this subsection be entitled to recover any rent for a rental period beginning before the date when the rent determined by the rent assessment committee was registered.

(3) Section 36 of the Rent Act 1968 (adjustment for differences in lengths of rental periods) shall apply for the purposes of this Part of this Act.

(4) A county court shall have jurisdiction, either in the course of any proceedings relating to a dwelling-house or on an application made for the purpose by the landlord or the tenant, to determine any question as to the rent limit under this Part of this Act, or as to any matter which is or may become material for determining any such question.

PART IX

MISCELLANEOUS AND SUPPLEMENTAL

Rateable value limits for Rent Act 1968

89.—(1) Subsections (6) and (7) of this section shall come into force if and only if the Secretary of State so directs by an order made not later than 1st September 1973.

Power to increase rateable value limits for Rent Act 1968.

(2) For the purposes of the said subsections (6) and (7) (which, for dwellings first entered in the valuation list on or after 1st

PART IX
1968 c. 23.

April 1973, alter the rateable value limits in sections 1 and 71 of the Rent Act 1968) an order under subsection (1) above shall determine—

- (a) as the relevant amount for a dwelling-house in Greater London, such sum exceeding £400 as is specified in the order, and
- (b) as the relevant amount for a dwelling-house elsewhere, such sum exceeding £200 as is so specified.

(3) An order under this section shall be made by statutory instrument, and the Secretary of State shall not make an order under this section unless a draft of the order has been approved by a resolution of each House of Parliament.

(4) The date specified in an order under this section as the date when it is to come into force shall not be earlier than 1st April 1973.

(5) If the date so specified is later than 1st April 1973, the order may contain such transitional provisions as appear to the Secretary of State to be desirable.

(6) For paragraph (a) of section 1(1) of the Rent Act 1968 (protected tenancies) there shall be substituted the following paragraphs—

- “ (a) where the appropriate day in relation to the dwelling-house fell before 1st April 1973, the dwelling-house on the said appropriate day had a rateable value exceeding, if it is in Greater London, £400 or, if it is elsewhere, £200, or
- (aa) where the appropriate day in relation to the dwelling-house falls on or after 1st April 1973, the dwelling-house on the said appropriate day has or had a rateable value exceeding the relevant amount determined by an order under section 89 of the Housing Finance Act 1972, or ”.

(7) In section 71(1) of the Rent Act 1968 for the words from “ which has or had ” to end of the subsection there shall be substituted the following words—

“ unless—

- (a) where the appropriate day in relation to the dwelling fell before 1st April 1973, the dwelling on the said appropriate day had a rateable value exceeding, if it is in Greater London, £400 or, if it is elsewhere, £200, or
- (b) where the appropriate day in relation to the dwelling falls on or after 1st April 1973, the dwelling on the said appropriate day has or had a rateable

value exceeding the relevant amount determined by an order under section 89 of the Housing Finance Act 1972.” PART IX

(8) It is hereby declared that in section 1(1)(a) and section 71(1) of the Rent Act 1968, as they have effect apart from the preceding provisions of this section, the expression “has or had on the appropriate day” requires, in all cases, the ascertainment of what the rateable value is or was on the appropriate day, and not on any other date. 1968 c. 23.

Service charges for flats

90.—(1) Where the service charges which are payable by the tenant of a flat in any calendar year, or which are demanded from the tenant as being so payable, exceed the amount specified in subsection (2) of this section, the tenant shall, in accordance with this section, be entitled to obtain a summary in writing of the relevant costs in the accounting year ending in or with that year, certified by a qualified accountant as being in his opinion— Information about service charges.

(a) a fair summary of those costs, set out in a way which shows how they are or will be reflected in demands for service charges, and

(b) sufficiently supported by accounts, receipts and other documents which have been produced to the accountant,

and the certificate shall identify the accounting year to which the summary relates.

(2) The said amount is £80, but the Secretary of State may from time to time vary that amount by order.

An order under this subsection may contain such transitional or other supplemental or incidental provisions as appear to the Secretary of State to be necessary or expedient, and shall be contained in a statutory instrument of which a draft has been approved by a resolution of each House of Parliament.

(3) The rights conferred by subsection (1) of this section shall not be exercisable—

(a) if the tenant has contractual rights exercisable in return for a reasonable payment, or without payment, enabling him to obtain from time to time statements of the relevant costs, certified by a qualified accountant, which afford all the information which could be obtained under this section, or

(b) if there are accounts, certified by a qualified accountant, which afford all the information which could be obtained under this section, and the tenant is given reasonable facilities for inspecting them, and taking copies of or extracts from them, or

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(c) where there are not more than five flats in the building, and the relevant costs relate only to that building, if the tenant is afforded reasonable facilities for inspecting the receipts and other records supporting the service charges, and for taking copies of or extracts from them.

(4) The tenant shall exercise the rights conferred by this section by serving on the landlord a request in writing which states the calendar year to which the request relates, and which is so served not later than twelve months after the end of that year.

(5) It shall be the duty of the landlord to comply with the request not later than one month after the service of the request, or six months after the end of the accounting year with which the summary is to deal, whichever is the later.

(6) If the request relates in whole or in part to relevant costs incurred by or on behalf of a superior landlord, and the landlord on whom the request is served is not in possession of the relevant information about the costs so incurred—

(a) he shall in turn serve a request for the relevant information on the person who is his landlord, and it shall be the duty of that person to comply with the request within a reasonable time, and

(b) it shall be the duty of the landlord (that is to say the immediate landlord) to comply with the tenant's request, or the part of the request relating to the relevant costs incurred by or on behalf of the superior landlord, within the time allowed by subsection (5) above or within such further time, if any, as is reasonable in the circumstances.

(7) If no accounts have been made up, or if for any other reason it is impracticable to deal with an accounting year, the summary specified in subsection (1) of this section shall be a summary of the relevant costs in the calendar year, and—

(a) the accountant's certificate shall indicate that the summary deals with relevant costs in the calendar year, and

(b) subsection (5) above shall apply with the substitution for the reference to the accounting year of a reference to the calendar year.

(8) A request under this section shall be deemed to be duly served on a landlord if it is served on any agent of the landlord named as such in a rent book or other similar document, or on the person who receives the rent on behalf of the landlord; and it shall be the duty of a person on whom the request is so served to forward it as soon as may be to the landlord.

(9) The assignment of a tenancy shall not affect the validity of a request served under this section before the assignment, but a landlord shall not be obliged to provide the summary specified

in subsection (1) of this section more than once for the same flat for the same period.

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(10) If any person without reasonable excuse fails to perform any duty imposed upon him by this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(11) Proceedings for an offence under this section may be instituted by any local authority.

(12) In this section—

“accounting year” means a period of twelve months for which the accounts relating to the building in question are made up,

“flat” means a separate set of premises, whether or not on the same floor, constructed or adapted for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally, being a set of premises occupied wholly or mainly as a private dwelling,

“landlord”, in relation to a flat occupied by a tenant under a right conferred by an enactment, includes the person who, apart from that right, would be entitled to possession of the flat,

“qualified accountant” means a member of—

(a) The Institute of Chartered Accountants in England and Wales,

(b) the Institute of Chartered Accountants of Scotland,

(c) The Association of Certified Accountants,

(d) The Institute of Chartered Accountants in Ireland, or

(e) any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State,

1948 c. 38.

or a person who is for the time being authorised by the Secretary of State under section 161(1)(b) of that Act; but excludes, except in the case of a Scottish firm every partner of which is so qualified, any body corporate,

“relevant costs” means any costs (including charges for overheads) incurred or defrayed in the period in question by or on behalf of the landlord, or any superior landlord, which affect, or may affect, the amount of the service charges for the flat for that period or for any other period, earlier or later,

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“service charge” means any charge for services, repairs, maintenance or insurance, being a charge which is payable as part of, or in addition to, the rent, and which varies or may vary according to any costs (including charges for overheads) incurred from time to time by or on behalf of the landlord or any superior landlord,
 “tenant” includes a tenant under a right conferred by an enactment, and, where the whole or any part of the flat is sub-let, includes both the tenant and the sub-tenant.

(13) This section shall come into force, for tenancies granted before the passing of this Act or later, on 1st November 1972, but subsection (1) of this section shall not apply to an accounting year ending before 1st August 1972.

Information about service charges: exceptions.

91.—(1) The last preceding section shall not impose any duty on—

- (a) a local authority or a county council, or
- (b) a new town corporation, or
- (c) the Housing Corporation, or
- (d) a housing association as defined in section 189(1) of the Housing Act 1957.

1957 c. 56.

(2) The last preceding section shall not apply to service charges payable to an association or company the membership of which is wholly or mainly restricted to persons who are tenants in the same block or blocks of flats.

Hostel subsidy

Hostel subsidy.

92.—(1) A subsidy, to be known as “hostel subsidy”, shall be payable to housing authorities and housing associations in the circumstances, and subject to the conditions, set out in this section.

(2) Hostel subsidy shall be paid by the Secretary of State out of money provided by Parliament.

(3) A housing authority or housing association shall be entitled to hostel subsidy if they complete a hostel scheme approved by the Secretary of State for the purposes of this section.

(4) In this section “hostel scheme” means a scheme for the erection or conversion by a housing authority or housing association of a building for use as a hostel or as part of a hostel.

(5) The Secretary of State may make his approval of a hostel scheme subject to compliance by the housing authority or housing association who apply for that approval with such conditions as he may specify.

(6) Subject to subsections (7) to (10) below, the hostel subsidy payable to a housing authority or housing association in respect of a hostel scheme—

- (a) shall be payable for such number of years, not exceeding ten, as the Secretary of State may determine, beginning with the year in which the scheme is completed ;
- (b) shall be of such amount, not exceeding the sum produced by multiplying £30 by the number of bedrooms contained in the building as the Secretary of State may determine having regard to the standard of construction and amenity of the building.

(7) Hostel subsidy shall not be payable for the year 1971-72, or for an earlier year.

(8) The Secretary of State may make reduced payments of hostel subsidy to a housing authority or housing association in respect of a hostel scheme, or suspend or discontinue such payments—

- (a) if he made his approval of the hostel scheme subject to compliance with any conditions and is satisfied that any of those conditions has not been complied with ; or
- (b) if he is satisfied that premises comprised in the scheme—
 - (i) have been converted, demolished or destroyed ;
 - or
 - (ii) are not fit to be used, or are not being used, for the purpose for which they were intended ; or
 - (iii) have been sold or leased ; or
 - (iv) have ceased for any reason whatsoever to be vested in the authority or association or trustees for the association.

(9) If premises comprised in a hostel scheme—

- (a) are leased to or become vested in a housing authority or housing association, or trustees for a housing association, other than the authority or association who received approval for the scheme, or
- (b) are leased to or become vested in the Housing Corporation,

the Secretary of State may pay to them the whole or any part of any hostel subsidy which he would otherwise have paid for any year beginning with the year in which they are so leased or come to be so vested to the authority or association which received approval for the scheme.

(10) The Secretary of State may by order, after consultation with such bodies representative of housing authorities or housing associations as appear to him to be appropriate, direct that, in relation to hostel schemes approved by him after 31st March 1977 and in relation to housing authorities or to housing

PART IX

associations or to both, paragraph (b) of subsection (6) above shall have effect as if for the reference to £30 there were substituted a reference to such greater amount as may be specified in the order.

(11) An order under subsection (10) above shall be made with the concurrence of the Treasury by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be varied or revoked by a subsequent order under that subsection.

(12) Subsections (1), (2) and (5) of section 15 of this Act shall apply in relation to the payment of hostel subsidy as they apply in relation to the payment of subsidies under Part I of this Act.

(13) For the purposes of this section premises are leased if and only if they are leased for a term exceeding seven years, or for a term not exceeding seven years granted by a lease which confers on the lessee an option for renewal for a term which, together with the original term, exceeds seven years.

(14) No amount shall be payable under this section in respect of any premises approved for the purposes of section 15(1) of the Housing (Financial Provisions) Act 1958 (which relates to hostels and is repealed by this Act), or provided or converted under arrangements entered into before the coming into force of this Act under or by virtue of section 120 of the Housing Act 1957 or section 9 of the Housing Act 1961.

1958 c. 42.

1957 c. 56.

1961 c. 65.

Removal and rehousing

Financial
assistance
towards
tenants'
removal
expenses.

1965 c. 59.

93.—(1) A local authority and a new town corporation shall each, in the performance of the functions of management conferred on them by section 111(1) of the Housing Act 1957, section 3(2) of the New Towns Act 1965 or section 36 of that Act, as the case may be, have power, subject to subsections (2) to (4) below, in every case where a tenant of one of their Housing Revenue Account dwellings moves to another dwelling, whether or not that dwelling is also one of theirs—

(a) to pay any expenses of the removal ;

(b) where the tenant is purchasing the dwelling, to pay any expenses incurred by him in connection with the purchase, other than the purchase price.

(2) Paragraph (b) of subsection (1) above shall only apply in a case where a tenant of a Housing Revenue Account dwelling moves to another dwelling of the same authority or corporation if that dwelling has never been let and was built expressly with a view to sale or for letting.

(3) The Secretary of State may give directions to authorities or new town corporations in general or to any particular authority or corporation as to the expenses which may be treated (whether generally or in any particular case) for the purposes of this section as incurred in connection with the purchase of a dwelling and limiting the amount which they may pay in respect of such expenses.

(4) An authority or corporation may make their payment of expenses under this section subject to such conditions as they think fit.

94.—(1) Subject to the provisions of this section, where undertakers are acquiring land which comprises any dwelling, it shall be a term of any agreement (whether formal or informal) made after the coming into force of this Act between them and a local authority, for the provision by the authority, under Part V of the Housing Act 1957, of housing accommodation for the rehousing of any occupier of a dwelling who is displaced as a result of the acquisition that the undertakers will make to the authority periodical payments by way of indemnity against any net loss in respect of the authority's provision of that accommodation which may be incurred by the authority in any year during the period of ten years commencing with the year in which the person for whom the accommodation is provided is first rehoused by them.

Financial provision for the rehousing of persons displaced on acquisition of dwellings by statutory undertakers. 1957 c. 56.

(2) For the purposes of this section a local authority incur a net loss in respect of their provision of accommodation for a person whom they are rehousing—

- (a) if they rehouse him in a dwelling provided by them under Part V of the Housing Act 1957 for the purpose of rehousing him ; or
- (b) if they rehouse him in a Housing Revenue Account dwelling not so provided and provide under the said Part V in the year immediately preceding that in which he first occupies it, or in the period of three years commencing with the year in which he first occupies it, a dwelling of a similar type or size.

(3) The Secretary of State may for the purposes of this section—

- (a) from time to time determine a method to be used generally in calculating net losses incurred by authorities ;
- (b) determine the net loss incurred by an authority in any particular case.

(4) An agreement such as is mentioned in subsection (1) above may provide for the payment of a lump sum to the local authority in lieu of the periodical payments to be made to the local authority by virtue of that subsection.

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(5) In this section “undertakers” means any authority, company or person who are acquiring land compulsorily or by agreement under any local Act or Provisional Order or order having the effect of an Act, or are acquiring land compulsorily under any general Act, except that it does not include either a local authority or a new town corporation.

Provisions as to default by local authority

Default by
local authority.

95.—(1) Where the Secretary of State is of opinion, whether on representations made to him or otherwise, that a local authority—

- (a) have failed effectively to discharge any of their functions under Part I, II, V or VI of this Act ; or
- (b) have failed so to discharge any function conferred on them by this Act or any other enactment as to secure the effective discharge of any of their functions under those Parts of this Act ; or
- (c) have in the discharge of any of their functions under those Parts of this Act contravened or failed to comply with any requirement imposed by virtue of this Act ; or
- (d) have, at any time after the passing of this Act, acted in such a manner as will or may render them unable to prevent a default under any of the preceding paragraphs of this subsection ; or
- (e) have by unreasonable delay made it certain or likely that they will be unable to prevent any such default,

he may after such inquiry as he may think fit make an order declaring the authority to be in default.

(2) Without prejudice to the generality of subsection (1) above, references in that subsection to the effective discharge of an authority’s functions include references to the exercise by the authority of any power, whether conferred on them by an enactment or not, which in the opinion of the Secretary of State it is necessary or expedient that they should exercise with a view to the discharge of any of their functions under Part I, II, V or VI of this Act.

(3) It shall be the duty of the Secretary of State before making an order under subsection (1) above to give notice in writing to the authority concerned that he is considering whether to make such an order and to have regard to any representations made to him by the authority within one month of the notification.

(4) An order under subsection (1) above shall direct the authority, for the purpose of remedying the default, to take any

such step as may be specified in the order within such time as may be so specified.

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(5) The Secretary of State may direct local authorities in general or any description of local authority specified in the direction or particular local authority so specified to supply within such time as may be specified in the direction such information in such form as may be so specified as to whether or to what extent or in what manner—

(a) they have discharged—

(i) any of their functions under Part I, II, V or VI of this Act ;

(ii) any functions conferred on them by this Act or any other enactment (including an enactment passed after this Act) the discharge of which is in his opinion necessary or expedient for securing the discharge of any of their functions under the said Parts of this Act or for complying with any requirement imposed by virtue of this Act, including a requirement imposed by an order under subsection (1) above ;

(b) they have exercised any power, whether conferred on them by an enactment or not, which in the opinion of the Secretary of State it is necessary or expedient that they should exercise with a view to the discharge of any of their functions under Part I, II, V or VI of this Act.

(6) It shall be the duty of an authority to comply with a direction under subsection (5) above within the period and in the manner specified in the direction or within such longer period or in such other manner as the Secretary of State may allow.

(7) If the Secretary of State is satisfied, after such inquiry as he may think fit, that an authority with respect to whom an order has been made under subsection (1) above have failed to comply with any requirement of the order within the time limited by it for compliance with that requirement, he may by order, without prejudice to any other means of enforcing the order, appoint a person (hereafter referred to as a "Housing Commissioner")—

(a) to discharge in the name of the authority and at their expense, subject to such limitations, conditions or exceptions (if any) as may be specified in the order—

(i) such functions of the authority under Part I, II, V or VI of this Act as are so specified ;

(ii) such other functions of the authority as are so specified as being functions which the Secretary of State considers necessary or expedient for the discharge of those functions ;

PART IX

- (b) to discharge at the expense of the authority any incidental or supplementary functions the discharge of which the Secretary of State considers necessary or expedient,

and may direct that the authority shall not during such time as the Commissioner's appointment continues perform any function conferred by the order on the Commissioner.

(8) The Secretary of State may by an order under this section require or empower an authority or, as the case may be, a Commissioner, to treat during such period as may be specified in the order any provision of this Act so specified—

- (a) as having effect with such exceptions, adaptations and modifications as may be so specified ;
 (b) as not having effect ;

and the order may provide in particular that section 65 of this Act shall not have effect in relation to the authority to whose default the order relates or for the discharge of whose functions the Commissioner was appointed.

(9) An order under this section—

- (a) shall be made by statutory instrument ;
 (b) may contain such incidental or supplementary provisions as appear to the Secretary of State to be necessary or expedient ;
 (c) may be varied or revoked by a subsequent order under this section.

1957 c. 56.

(10) Nothing in sections 171 to 176 of the Housing Act 1957 shall oblige the Secretary of State to take any step required by any of those sections if in his opinion it would be more appropriate to exercise the powers conferred on him by this section.

Housing
 Commissioner:
 supplemental
 provisions.

96.—(1) A Housing Commissioner shall have power to do all such things as appear to him to be necessary or expedient for the performance of the functions he is appointed to discharge, and he may in particular—

- (a) do anything which the authority would have power to do in the performance of those functions, and complete anything begun by the authority in the performance of those functions,
 (b) appoint and employ his own staff, obtain any legal or other professional services, and use any legal or other professional advice obtained by the authority,
 (c) institute or defend legal proceedings, and continue any proceedings to which the authority are a party,

- (d) execute any deed or other document, which shall be valid whether or not expressed to be executed in the name of the authority, and for that purpose use the seal of the authority,
- (e) grant any tenancy, and execute and serve a notice to quit, or any other notice, and
- (f) conduct business from, and require correspondence to be addressed to, any ordinary address or place of business of the authority, or any other address or place.

(2) Notwithstanding section 286(1) of the Local Government Act 1933 or any other provision concerning any notice or other document served or to be served on a local authority, a Housing Commissioner may authorise a document which relates to the functions which he is appointed to discharge to be served on the Housing Commissioner, instead of on the authority, or to be served at an address appointed by the Housing Commissioner for the purpose, instead of at any other proper address; and service in accordance with this subsection shall be good service for all purposes.

This subsection shall apply, with any necessary modifications, in relation to any document sent or delivered to a local authority or to a Housing Commissioner as it applies to a document served on a local authority or on a Housing Commissioner.

(3) It shall be the duty of the authority to take all reasonable steps to facilitate the performance by a Housing Commissioner of the functions he is appointed to discharge, and the authority shall in particular—

- (a) afford all reasonable facilities to the Housing Commissioner for obtaining information and inspecting and taking copies of documents and, where documents relate exclusively to the functions he is appointed to discharge, for taking possession or control of those documents,
- (b) allow the Housing Commissioner to use, or share the use of, any premises or property previously used, or used in part, by the authority in discharge of those functions,
- (c) allow the Housing Commissioner to use, or share the use of, the services of officers in any department of the local authority to which those functions are or were assigned, or of any officers whose services were used, or used in part, by the authority in discharge of those functions.

(4) It shall be the duty of any officer of the authority to obey any order given to him by a Housing Commissioner for the purposes of the functions which the Commissioner is appointed

PART IX to discharge, and to give to the Housing Commissioner all assistance which he is reasonably able to give for those purposes.

(5) The terms of service and remuneration of a Housing Commissioner, and of any staff appointed by him, shall be such as the Secretary of State may determine with the approval of the Minister for the Civil Service.

(6) The acts of a Housing Commissioner shall be valid notwithstanding any defect that may afterwards be discovered in his appointment.

(7) The authority shall on demand pay to the Secretary of State—

(a) any expenses certified by the Secretary of State to have been incurred by a Housing Commissioner in pursuance of the provisions of this Part of this Act ; and

(b) any sum certified by the Secretary of State as required to meet the remuneration of a Housing Commissioner.

(8) An authority shall have the like power of raising money required for paying expenses or other sums certified by the Secretary of State as aforesaid as they have of raising money for paying expenses incurred directly by them, and the payment of any sums so certified shall, to such extent as may be sanctioned by the Secretary of State, be a purpose for which the authority may borrow money in accordance with the statutory provisions relating to borrowing by that authority.

(9) The provisions which may be included in an order by virtue of subsection (9)(b) of the last preceding section shall include any matters connected with the coming into force of such an order, or its termination, and the provisions of this section are without prejudice to the generality of the said subsection (9)(b).

(10) Where, in pursuance of an order under the said subsection (9), a Housing Commissioner ceases to perform the functions which he was appointed to discharge, he shall prepare a report on the discharge of those functions, and submit it to the authority ; and he shall include in the report any information which, in his opinion, may assist the authority in resuming the functions which he has been discharging.

Power of
Housing
Commissioner
to require
authority to
supply
information or
produce
documents.

97.—(1) If in the opinion of a Housing Commissioner it is necessary or expedient for the discharge of any of his functions that the authority in relation to whom the order appointing him was made should produce any document or supply any information, he may by notice in writing to the authority require them, (within such period as may be specified in the notice or such longer period as he may allow) to produce that document or supply that information to him.

(2) Where a notice is given under subsection (1) above, it shall be the duty of each officer concerned, without instructions from the authority, to take all reasonable steps to ensure that the notice is complied with.

(3) In subsection (2) above "officer concerned" means the clerk or chief officer of the authority, any officer designated in the notice for the purpose and any officer having custody or control of any document, or possession of any information, to which the notice relates.

(4) If an officer of a local authority fails to comply with this section he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

98. If a member of the authority—

Obstruction
of Housing
Commissioner.

(a) wilfully obstructs a Housing Commissioner in the performance of the functions to be discharged by him, or wilfully obstructs any person carrying out any order or requirement of a Housing Commissioner given or imposed in the performance of those functions, or

(b) whether before or after the appointment of a Housing Commissioner, does any act having reasonable cause to believe that it is likely to impede, mislead or interfere with a Housing Commissioner, or any person carrying out the orders or requirements of a Housing Commissioner, in performing those functions,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

99.—(1) The Secretary of State may make reduced payments of any subsidy payable under this Act or any other subsidy which is in his opinion a subsidy in respect of housing, or suspend or discontinue such payments, to a local authority in respect of whom an order has been made under section 95(1) above.

Reduction,
suspension
and dis-
continuance
of housing
subsidies where
authority is
in default.

(2) The power conferred on the Secretary of State under subsection (1) above shall be exercisable in respect of any such subsidy as is there mentioned payable to the authority in respect of any financial year during which, or part of which, he considers that the default by reason of which the order under the said section 95(1) was made continues.

(3) It shall be the duty of the Secretary of State before exercising the power conferred on him by subsection (1) above to give notice in writing to the authority concerned that he is considering whether to exercise that power and to have regard to any representations made to him by the authority in writing within such period as may be specified in the notice.

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Miscellaneous

Termination of certain existing housing subsidies and related provisions.

100. Schedule 8 to this Act shall have effect as to—

- (a) the termination, for the year 1972-73 and subsequent years, of payments under the enactments described in Schedule 7 to this Act, and
- (b) the termination or modification of certain other provisions about assistance for housing authorities or other persons providing housing accommodation.

Adjustment of accounts on appropriation of land.
1957 c. 56.

101.—(1) Where after the coming into force of this section land is appropriated by a local authority for the purposes of Part V of the Housing Act 1957, or on the discontinuance of use for those purposes, such adjustment shall be made in the accounts of the local authority as the Secretary of State may direct.

(2) Any direction under this section may be either a general direction or a direction for any particular case.

1959 c. 53.

(3) Where this section applies, section 24 of the Town and Country Planning Act 1959 (which also relates to the adjustment of accounts on appropriation of land) shall not apply.

Adjustments for local government changes and transfer of functions or property.

102.—(1) The Secretary of State may make regulations modifying the provisions of this Act where, in England and Wales, or in any part of England or Wales, there is a change of local authorities or local government areas, or a transfer of local authority housing functions, or of property held for those functions.

(2) This section applies to any such change or transfer effected by or under any Act, whether public, general or local and whether passed before, or in the same Session as, or after, this Act.

(3) Regulations under this section may in particular make special provision for the method of ascertaining the amount of any subsidy under Part I of this Act payable to a local authority from whom or to whom any property is transferred, and those regulations may—

- (a) alter the amounts of any element of subsidy where the base year falls before the change or transfer, as well as other elements of the subsidy,
- (b) make provision as to the rate fund contributions to be made by the authorities in question, and as to the adjustments of their Housing Revenue Accounts,
- (c) make special provision as to the subsidies payable for the year in which the property is transferred,
- (d) provide for any apportionments of expenditure or receipts or other amounts.

(4) Regulations under this section—

- (a) shall have effect notwithstanding any other provision of this Act,
- (b) may apply to all local authorities, or to a specified class or description of local authorities, and may apply to the whole of England and Wales or to any specified part of England and Wales, and
- (c) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any power conferred by any Act of the present Session to make provision with respect to local government and the functions of local authorities in England and Wales, being a power to adapt or modify or exclude any provisions of this Act in connection with any general provisions of that Act about new local government authorities, or in connection with any proposals by any local government boundary commission as respects a particular area, shall include power to make any such provision as could be made by regulations under this section (restricted where appropriate to the particular area or authority in question).

(6) In this section "local authority" includes a county council.

Supplemental

103.—(1) Without prejudice to his powers under section 292 of the Local Government Act 1933 the Secretary of State may by order direct that any of the provisions of this Act or of any enactment relating to housing contained in any other Act passed before or after this Act shall, subject to such exceptions, adaptations and modifications as may be specified in the order, extend to the Isles of Scilly. 1933 c. 51.

(2) Except as provided by an order having effect under this section, this Act and the Housing Acts 1957 to 1971 shall not extend to the Isles of Scilly.

(3) Subsections (1) and (2) above shall not apply to any provision contained in Part III or IV of this Act, or to any provision of Part IX of this Act if and so far as that provision of the said Part IX relates to controlled or regulated tenancies or to the Rent Act 1968. 1968 c. 23.

(4) An order made under this section may contain such incidental and consequential provisions, including provisions conferring powers or imposing duties on the Council of the Isles of Scilly, as the Secretary of State thinks necessary.

(5) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and may be varied or revoked by a subsequent order so made.

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(6) The following sections (which confer powers superseded by the provisions of this section) shall cease to have effect, but any order in force under any of those sections when this section comes into force shall continue in force and have effect as if made under this section.

1957 c. 56.
1958 c. 42.
1959 c. 33.
1961 c. 65.
1964 c. 56.
1967 c. 29.

The said sections are section 134 of the Housing Act 1957 and section 57 of the Housing (Financial Provisions) Act 1958 as extended by paragraph 7 of Schedule 1 to the House Purchase and Housing Act 1959, paragraph 10 of Schedule 2 to the Housing Act 1961, section 104 of the Housing Act 1964 and paragraph 7 of Schedule 3 to the Housing Subsidies Act 1967.

Interpretation.

104.—(1) In this Act, unless the context otherwise requires:—

1944 c. 36.

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with that building or part, and includes any structure made available under section 1 of the Housing (Temporary Accommodation) Act 1944,

“general rate fund”, in relation to the Greater London Council, means the general fund of the Greater London Council, and in relation to the Common Council of the City of London, means the general rate,

“hostel” means a building wherein is provided, for persons generally or for a class or classes of persons, residential accommodation (otherwise than in separate and self-contained sets of premises) and either board or facilities for the preparation of food adequate to the needs of those persons, or both,

“houses and other property within the account”, in relation to a local authority’s property, means houses, dwellings, buildings and land falling within section 50 of the Housing (Financial Provisions) Act 1958 (where the reference is to property at a time before the coming into force of section 12 of this Act) or (where it is not such a reference) falling within section 12 of this Act, and references to houses, dwellings, or other property “within the account” shall be construed accordingly,

1965 c. 12.

“housing association” has the meaning assigned to it for the purposes of the Housing Act 1957 by section 189(1) of that Act, except that it does not include any association which is, or is deemed to be, duly registered under the Industrial and Provident Societies Act 1965 and whose rules restrict membership to persons who are tenants or prospective tenants of the association,

and preclude the granting or assigning of tenancies to persons other than members,

“housing authority” means a local authority or a new town corporation,

“land” includes any estate or interest in land,

“local authority” means the council of a county borough, London borough, or county district, the Greater London Council or the Common Council of the City of London,

“model rent rebate contribution” has the meaning given by section 7 of this Act,

“officer”, in relation to any authority, includes a servant,

“rental period” means a period in respect of which a payment of rent falls to be made,

“year” means a financial year, and “the year 1972-73” means the financial year beginning in 1972 and ending in 1973, and so on.

(2) In this Act “Housing Revenue Account dwelling” means a dwelling which is within the local authority’s Housing Revenue Account, or as the case may be the new town corporation’s housing account, but excluding—

(a) a dwelling for the time being let on a long tenancy at a low rent within the meaning of the Leasehold Reform Act 1967, and a dwelling no longer owned by the authority, and

(b) a dwelling approved for the purposes of section 13 of the Housing (Financial Provisions) Act 1958 (unfit houses for temporary accommodation) and belonging to a local authority.

(3) In this Act, unless the context otherwise requires, the expression “loan charges”—

(a) in relation to money borrowed by any person, means the sums required for the payment of interest on that money, and for the repayment thereof either by instalments or by means of a sinking fund, and the expenses of managing the debt,

(b) in relation to a housing authority, includes any loan charges made by the housing authority as a matter of internal accounting (including charges for debt management), whether in respect of borrowing from any capital fund kept by the housing authority, or in respect of borrowing between accounts kept by the housing authority for different functions, or otherwise.

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(4) It is hereby declared that any power of giving directions conferred on the Secretary of State by this Act includes power to vary or revoke directions so given.

1968 c. 23.

(5) It is hereby declared that references in this Act to a controlled tenancy or a regulated tenancy include references to any tenancy which is to be treated as such, or deemed to be such, by virtue of paragraph 9 of Schedule 16 to the Rent Act 1968, or of paragraph 26(2) of that Schedule as amended by paragraph 33 of Schedule 8 to the Housing Act 1969, but without prejudice to any provision of this or any other Act under which a tenancy may cease to be a controlled tenancy and become a regulated tenancy.

1969 c. 33.

(6) Any reference in this Act to any provision which is a re-enactment of a provision of an earlier Act shall, so far as the context permits, be construed as including, in relation to times, circumstances and purposes in relation to which the repealed provision had effect, a reference to, or to things done or falling to be done under, that repealed provision; and where the repealed provision was itself a re-enactment of an earlier provision the references shall extend in the same way to that earlier provision, and so on.

(7) References in this Act to any enactment shall be construed, except where the context otherwise requires, as references to that enactment as amended, and as including references thereto as applied, by any other enactment, including any enactment contained in this Act.

Exclusion of housing authority property from provisions of this Act.

105.—(1) Where the Secretary of State is satisfied that it is inappropriate that this Act, or any provision of this Act, should apply to a dwelling, he may direct that, for the purposes specified in the direction, it shall not be treated as a Housing Revenue Account dwelling.

1957 c. 56.

(2) Where the Secretary of State is satisfied, on the application of a local authority, that any of the provisions of this Act relating to the Housing Revenue Account are inappropriate for any houses or other property provided by that authority under Part V of the Housing Act 1957, he may direct that all or any of those provisions shall not apply to that property, or shall apply subject to such modifications as are specified in the direction.

(3) Where in pursuance of a direction under this section any dwellings of a housing authority are excluded from all or any of the provisions of Parts V and VI of this Act, the Secretary of State may direct that Part I of this Act shall apply to the authority subject to such modifications as are specified in the direction, being modifications which do not increase all or any of the sums payable by the Secretary of State to the authority under the said Part I.

(4) A direction under this section may be a general direction or a direction for a particular case, and may be given for such period and subject to such conditions as may be specified in the direction. PART IX

- 106.** In this Act, unless the context otherwise requires—
- “the Commission” means the Commission for the New Towns, New town corporations: supplemental.
 - “development corporation” means a development corporation established under the New Towns Act 1965, 1965 c. 59.
 - “housing account”, in relation to a new town corporation, means the housing account, or one of the housing accounts, to be kept by the corporation in pursuance of section 46 of the New Towns Act 1965,
 - “new town corporation” means a development corporation or the Commission.

107.—(1) There shall be paid out of money provided by Parliament— Financial provisions.

- (a) any expenses of the Secretary of State under this Act, and
 - (b) any increase in the sums payable out of money provided by Parliament under any Act other than this Act which is attributable to any provision of this Act.
- (2) There shall be paid into the Consolidated Fund—
- (a) any payments to be made to, or to be recoverable by, the Secretary of State under this Act, and
 - (b) any increase in the sums so payable under any Act other than this Act which is attributable to any provision of this Act.

108.—(1) This Act may be cited as the Housing Finance Act 1972. Citation, etc

(2) The Housing Acts 1957 to 1971 and this Act may be cited together as the Housing Acts 1957 to 1972.

(3) Schedules 9 and 10 to this Act, which contain consequential and minor amendments of other Acts and transitory provisions, shall have effect.

(4) The enactments mentioned in Schedule 11 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule, and subject to the provisions of Schedule 8 and Schedule 10 to this Act.

PART IX

(5) Except as otherwise expressly provided, this Act shall come into force at the expiration of a period of two weeks beginning with the date on which it is passed.

(6) This Act, except section 77, does not extend to Scotland.

(7) This Act does not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 12.

THE HOUSING REVENUE ACCOUNT

PART I

CREDITS AND DEBITS

Credits

1.—(1) For each year a local authority who are required to keep a Housing Revenue Account shall carry to the credit of the account amounts equal to—

- (a) the income of the authority for that year from rents (exclusive of any amounts included in the rents in respect of rates or water rates or charges, and exclusive of any rent remitted by way of rebate) in respect of houses and other property within the account,
- (b) any income of the authority for that year in respect of services or facilities provided by them in connection with the provision by them of houses and other property within the account, including in particular any such services or facilities provided under sections 94 and 95 of the Housing Act 1957 (power to provide furniture, board and laundry facilities), but excluding any payments for the purchase of furniture, or any hire-purchase instalments for furniture, 1957 c. 56.
- (c) the following subsidies, if any, payable to the local authority for that year, that is—
 - (i) the residual subsidy,
 - (ii) the transition subsidy,
 - (iii) the rising costs subsidy,
 - (iv) the operational deficit subsidy,
- (d) any contribution payable to the local authority for that year in respect of houses or other property within the account under any of the following enactments (which relate to contributions out of money provided by Parliament towards costs of improvements and conversions) that is—
 - (i) section 15 of the Housing Act 1949, 1949 c. 60.
 - (ii) section 9 of the Housing (Financial Provisions) Act 1958, 1958 c. 42.
 - (iii) section 13 of the House Purchase and Housing Act 1959, or that section as extended by section 50 of the Housing Act 1964, or 1959 c. 33. 1964 c. 56.
 - (iv) sections 17 to 19 of the Housing Act 1969, 1969 c. 33.
- (e) any other contributions of any description paid to the local authority for that year, being contributions towards expenditure falling to be debited to the account for any year,
- (f) income, and receipts in the nature of income, being income or receipts arising to the local authority for that year from the investment or other use of money carried to the account.

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(2) Subject to sub-paragraph (3) below, where any house or other property within the account has been sold or otherwise disposed of, an amount equal to any income of the local authority arising from an investment or other use of capital money received by the authority in respect of the transaction shall be carried to the credit of the account.

(3) Sub-paragraph (2) above shall not apply—

(a) where the Secretary of State otherwise directs as respects the whole or any part of any such income, or

1953 c. 26. (b) as respects income from capital money carried to a capital fund under section 2 or section 2A of the Local Government (Miscellaneous Provisions) Act 1953.

(4) An amount equal to any income of the local authority arising from an investment or other use of borrowed moneys in respect of which the authority are required under paragraph 3 below to debit loan charges to the account shall be carried to the credit of the account.

2.—(1) There shall also be credited to the account an amount equal to the net proceeds for the year derived by the local authority from any demolition—

1944 c. 36. (a) of any structure made available to a local authority under section 1 of the Housing (Temporary Accommodation) Act 1944, or

1958 c. 42. (b) of any building demolished upon ceasing to be used for the purpose of providing housing accommodation in pursuance of arrangements approved under section 16 of the Housing (Financial Provisions) Act 1958 (temporary housing accommodation provided in war buildings), or

1964 c. 56. (c) of any house to which section 92 of the Housing Act 1964 applied (houses constructed of alloy containing aluminium).

(2) In this paragraph “net proceeds”, in relation to a demolition by a local authority, means any sums realised by the local authority by the disposal of materials derived from the demolished building or structure, after deducting the cost of demolition and any cost incurred in reinstating the site of the building or structure.

Debits

3.—(1) For each year the local authority shall debit to the account amounts equal to—

(a) the loan charges which the local authority are liable to pay for that year in respect of money borrowed by a local authority for the purpose of—

1957 c. 56. (i) the provision by them of housing accommodation under Part V of the Housing Act 1957,

(ii) the purchase by them of, or the carrying out of works on, any houses purchased under section 12 of the said Act.

(iii) the execution of works in respect of which a Minister has made a contribution under section 4(2A) of the Housing (Rural Workers) Act 1926, or in respect of which the local authority for the purposes of that Act have given assistance under that Act, SCH. 1
1926 c. 56.

(b) subject to sub-paragraph (2) below, rents, taxes and other charges which the local authority are liable to pay for that year in respect of houses and other property within the account,

(c) the expenditure (including loan charges) of the authority for that year in respect of the improvement, repair, maintenance, supervision and management of houses and other property within the account.

(2) Sub-paragraph (1)(b) above shall include—

(a) any rates in respect of houses and other property within the account payable in pursuance of a resolution of the rating authority under section 17 of the General Rate Act 1967 (unoccupied property), and 1967 c. 9.

(b) rates or water rates or charges in respect of any building provided under section 93 of the Housing Act 1957 (buildings for ancillary purposes) and occupied by the local authority, 1957 c. 56.

but shall not include any other rates or water rates or charges.

Supplemental

4.—(1) Where, by virtue of any enactment or otherwise, money borrowed by a local authority for different purposes is carried to a common fund or account, the loan charges in respect of money borrowed for any one of those purposes shall, subject to paragraph 5 below, be ascertained by reference to the accounting practice of the local authority, and by reference to the manner in which loan charges are ascertained for the purposes of their internal accounting.

(2) Any requirement of this Schedule as respects any amount to be credited or debited to the account may be met by taking in the first instance an estimate of the amount, and by making adjustments in the account for a later year when the amount is more accurately known, or is finally ascertained.

5.—(1) Where it appears to the Secretary of State that amounts in respect of incomings or outgoings other than those mentioned in the preceding provisions of this Schedule ought properly to be credited or debited to a Housing Revenue Account or that the amounts in respect of any of the incomings and outgoings aforesaid which ought properly to have been credited or debited thereto have not been so credited or debited, or that any amounts have been improperly credited or debited to that account, he may give directions for the appropriate credits or debits to be made, or for the rectification of the account, as the case may require.

SCH. 1

(2) In the case of incomings and outgoings other than those mentioned in the preceding paragraphs of this Schedule, directions under this paragraph may (instead of directing particular amounts to be credited or debited) direct generally that credits or debits shall be made in respect of incomings or outgoings of a kind specified in the direction.

(3) Without prejudice to the generality of the preceding provisions of this paragraph, the Secretary of State may give such directions, which may be general directions or directions for a particular case, as to the amounts to be credited or debited to the account as in his opinion will ensure that the account reflects a proper system of internal accounting of the local authority.

(4) Before giving a direction under this paragraph the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned, and with any local authority with whom consultation appears to him to be desirable:

Provided that if the local authorities who are to comply with the direction are all named in the direction, the Secretary of State shall consult with each of those local authorities, and need not consult any association of local authorities.

PART II

RATE FUND CONTRIBUTIONS TO THE ACCOUNT

6.—(1) There shall be credited to the account—

- (a) any rate fund contributions associated with the transition subsidy, the rising costs subsidy or the operational deficit subsidy,
- (b) the model rent rebate contribution,
- (c) any other rate fund contribution under section 7 of this Act,
- (d) any rate fund contribution under this Part of this Schedule.

(2) The amount to be so credited, except in the case of a rate fund contribution under paragraph 10 below, is subject to any reduction to be made under Part III of this Schedule.

Payments out of Consolidated Fund towards costs of improvements and conversions

7. A local authority shall make a rate fund contribution for any year equal to one-third of the amount of any sum payable to the local authority for the year in respect of houses and other property within the account under any of the enactments mentioned in paragraph 1(1)(d) of this Schedule:

Provided that this sub-paragraph shall not apply to a sum payable under the Housing Act 1969 which is greater than the sum which could have been paid if the Housing Act 1971 (financial assistance in development areas and intermediate areas) had not been enacted.

Land disposed of at less than market value

8. The Secretary of State, in giving any consent under section 26(4) of the Town and Country Planning Act 1959 for the disposal

1969 c. 33.
1971 c. 76.

1959 c. 53.

of land at less than market value, or in giving his consent under any other enactment as regards such a disposal of land, may, if the land is property within the account, impose a condition in giving his consent requiring the local authority to make a rate fund contribution for such years, and of such amount, or of an amount calculated in such manner, as he may determine.

Sch. 1

Local authority expenditure not reckonable for rising costs subsidy

9.—(1) Where the local authority debit to the account for the year any amount of expenditure (including loan charges) which is not included in their reckonable expenditure as defined in section 4(11) of this Act they shall make a rate fund contribution of that amount for the year.

(2) Sub-paragraph (1) above shall not apply where the Secretary of State otherwise directs, either generally or in any particular case, as respects the whole or any part of the amount of the expenditure.

(3) This paragraph applies whether or not the local authority is entitled to any payment under the said section 4 for the year of account.

Amenities shared by the whole community

10.—(1) Where benefits or amenities arising from the exercise of a local authority's housing functions under Part V of the Housing Act 1957 c. 56. (and provided for the persons housed by the local authority) are shared by the community as a whole, the local authority shall make such rate fund contributions as, in the opinion of the local authority and having regard to the amounts of the contributions and the period over which they are made, will properly reflect the community's share of the benefits or amenities.

(2) Where it appears to the Secretary of State that a local authority have, either generally or in any particular case, failed to comply with sub-paragraph (1) above, he may give to the local authority such directions as appear to him appropriate to ensure compliance with that sub-paragraph, and the direction may contain such particulars as to the amounts of the rate fund contributions, and the years for which they are to be made, as appear to the Secretary of State to be appropriate to ensure compliance with that sub-paragraph.

(3) Before giving a direction to a local authority under this paragraph the Secretary of State shall consult with that local authority.

PART III

LIMITATION OF CERTAIN SUBSIDIES AND RATE FUND CONTRIBUTIONS

11. The provisions of this Part of this Schedule have effect as respects the subsidies and rate fund contributions described in the Table below.

TABLE

A.—(1) The transition subsidy and the associated rate fund contribution.

SCH. 1

(2) If the subsidy and contribution comprise elements based on different years, the reduction shall be made first in the elements, if any, based on the year of account and, subject to that, in the element based on an earlier year before a reduction in the element based on a later year.

(3) The amount of the subsidy, and the amount of the rate fund contribution, comprised in the element based on any year shall be reduced in the proportion in which the subsidy and contribution were to be made for the base year (and so that the subsidy and contribution abate in proportion to their amounts before reduction).

B.—(1) The rising costs subsidy and the associated rate fund contribution.

(2) If the subsidy and contribution comprise elements based on different years, the reduction shall be made first in the elements, if any, based on the year of account and, subject to that, in the element based on an earlier year before a reduction in the element based on a later year.

(3) The amount of the subsidy, and the amount of the rate fund contribution, comprised in the element based on any year shall be reduced in the proportion in which the subsidy and contribution were to be made for the base year (and so that the subsidy and contribution abate in proportion to their amounts before reduction).

C.—(1) The operational deficit subsidy and the associated rate fund contribution.

(2) Any reduction in that subsidy, and in the associated rate fund contribution, shall be of equal amounts.

D. The model rent rebate contribution.

E. Any rate fund contribution under section 7 of this Act, other than the model rent rebate contribution, and any of the rate fund contributions to be made under paragraphs 7, 8 and 9 of this Schedule, in any order chosen by the local authority.

NOTE. Any reduction of the model rent rebate contribution will result, in accordance with section 6 of this Act, in a proportionate reduction of the rent rebate subsidy.

Limitation by reference to the sum sufficient to balance the account

12.—(1) The total of the amounts of the subsidies and contributions within the Table above shall not exceed the sum sufficient to balance the account (as defined in Part IV of this Schedule).

(2) The order in which amounts are reduced to give effect to subparagraph (1) above shall be the order of the heads in the Table, so that the amounts within head A are reduced to zero before any reduction of any amount within any of the later heads, and so on.

(3) In the application of this Schedule to the year 1972-73, the Table shall have effect as if head C (the operational deficit subsidy and associated rate fund contribution) came first (before heads A and B).

(4) Subject to the preceding provisions of this paragraph, the order in which reductions are made shall be as specified in the Table.

Reductions of subsidies and associated rate fund contributions to be repeated in subsequent years

13.—(1) If under paragraph 12 above a reduction of any amount is to be made in a subsidy, or in an element of a subsidy, payable for any year, a reduction of the same amount shall be made in that subsidy or element payable to the local authority for each subsequent year; and, correspondingly, a reduction of any amount under paragraph 12 above in an associated rate fund contribution shall be repeated for each subsequent year.

(2) Any reduction under this paragraph for any such subsequent year shall be effected before applying paragraph 12 above for that subsequent year (and accordingly if in that subsequent year an additional reduction falls to be made under paragraph 12 above, both the original reduction and the additional reduction shall be repeated in accordance with this paragraph for subsequent years).

PART IV

SUPPLEMENTAL

Working balances

14.—(1) Subject to the next following paragraph, the local authority may debit to the account any amount by way of working balance.

(2) An amount so debited for any year shall be carried forward and credited to the account for the next following year:

Provided that the local authority may, instead of carrying forward the whole or any part of the working balance, treat the balance, or that part of it, as a surplus.

(3) A working balance debited to the account under sub-paragraph (1) above is referred to in this Act as a working balance "at the end of" the year for which it is debited, and a working balance carried forward, and credited to the account for any year, is referred to in this Act as a working balance "at the beginning of" that year.

15.—(1) Subject to the provisions of this paragraph, the working balance at the end of a year shall not exceed £30 multiplied by the number of the local authority's Housing Revenue Account dwellings as at the end of that year.

(2) The Secretary of State may by order direct that, for such years after the year 1975-76 as may be specified in the order, sub-

SCH. 1 paragraph (1) above shall have effect with the substitution for £30 of such amount greater than £30 as is specified in the order.

Section 16 of this Act shall apply to orders under this sub-paragraph.

(3) The working balance at the end of a year shall not be of an amount—

- (a) which exceeds the working balance at the beginning of the year, and
- (b) which is such as to make the total of the amounts of the subsidies and rate fund contributions within the Table in Part III of this Schedule, or the deficit shown in the account, greater than it would be if the working balances at the beginning and end of the year were equal (or such as to create entitlement to subsidy, or liability to make rate fund contributions, or a deficit, which would not exist if the working balances were equal).

Treatment of deficit

16.—(1) If for any year, after giving effect to the preceding provisions of this Schedule, a deficit is shown in the account, the local authority shall carry to the credit of the account for the year a rate fund contribution of an amount equal to the deficit.

(2) In determining for the purposes of any other paragraph of this Schedule whether there is a deficit in the account, the provisions of this paragraph shall be disregarded.

Treatment of surplus

17.—(1) The provisions of this paragraph have effect where a surplus is shown in the account for any year (whether or not consisting of or comprising any amount treated as a surplus under paragraph 14(2) above).

(2) The local authority shall pay to the Secretary of State a sum equal to the amount of the surplus, and any such sum shall be paid into the Consolidated Fund.

(3) If no rent allowance subsidy is payable to the local authority for the year, the Secretary of State shall pay half of the sum paid to him under sub-paragraph (2) above to the local authority, to be credited to their general rate fund.

(4) If any rent allowance subsidy is payable to the local authority for the year, and the amount of the surplus exceeds the standard amount of rent allowances, the Secretary of State shall pay to the local authority for the credit of the general rate fund an amount equal to half the excess.

(5) In this and the next following paragraph the “standard amount of rent allowances” means the local authority’s standard

amount of rent allowances for the year, as defined by section 20(8) of this Act.

SCH. 1

Surplus : provisions for 1976-77 and subsequent years

18.—(1) In the case of a surplus for the year 1976-77 or any subsequent year the provisions of this paragraph shall have effect where any rent allowance subsidy is payable to the local authority for the year, and paragraph 17(4) above shall not apply.

(2) If the standard amount of rent allowances is equal to or exceeds the amount of the surplus, the Secretary of State shall pay to the local authority for the credit of the general rate fund an amount equal to the surplus multiplied by the fraction of which—

(a) the numerator is the difference, if any, between the standard amount of rent allowances and the rent allowance subsidy payable for the year, and

(b) the denominator is the standard amount of rent allowances.

(3) If the surplus exceeds the standard amount of rent allowances, the Secretary of State shall pay to the local authority, for the credit of the general rate fund, an amount equal to the sum of—

(a) the difference, if any, between the standard amount of rent allowances and the rent allowance subsidy payable for the year, and

(b) half the difference between the amount of the surplus and the standard amount of rent allowances.

“ Sum sufficient to balance the account ”

19.—(1) For the purposes of Part III, and this Part, of this Schedule references to the sum sufficient to balance the account shall be construed in accordance with this paragraph.

(2) The said sum shall be the deficit which would be shown in the account on the assumption that there were omitted from the account—

(a) all sums to be credited to the account in respect of any item in the Table in Part III of this Schedule, and

(b) any rate fund contribution under paragraph 16(1) above.

(3) If, on that assumption, there would be no deficit, the sum sufficient to balance the account shall be taken as zero.

Duty to supply information

20. Every local authority, and every officer of a local authority concerned with their housing functions, shall supply the Secretary of State with such information as he may specify, either generally or in any particular case, for the purpose of enabling the Secretary of State to ascertain the state of the local authority's Housing Revenue Account for any year, and it shall be the duty of every local authority to supply the Secretary of State with such certificates supporting the information required by him as he may specify.

SCH. 1

District audit

1933 c. 51.

21. Section 219 of the Local Government Act 1933 (district audit) shall not have effect, in relation to the housing accounts of the council of a borough, so far as it makes the application of the system of district audit to the accounts of such a council conditional upon the passing of a resolution adopting that system; and the housing accounts of such a council shall accordingly in every case be subject to audit by a district auditor under Part X of that Act.

(2) In sub-paragraph (1) above "housing accounts" means the Housing Revenue Account and every other account kept in respect of houses and other property within the account.

Housing Revenue Accounts of London authorities

1963 c. 33.

22.—(1) Where houses and other property within the account have been transferred from one local authority who are required to keep a Housing Revenue Account to another such authority by virtue of an order made (whether before or after the coming into force of this Act) under section 23(3) of the London Government Act 1963, the Secretary of State may by order direct, for any of the purposes of Part I of this Act, including this Schedule—

- (a) within whose Housing Revenue Account the transferred houses and property are to be treated as falling;
- (b) how expenditure and income relating to them in the Housing Revenue Accounts of the authorities to whom the order applies are to be treated;
- (c) how the number of Housing Revenue Account dwellings transferred is to be calculated.

(2) An order under this paragraph may make different provision in respect of different years or for different purposes in relation to the same year.

(3) An order under this paragraph may amend any order under the said section 23(3), and accordingly may provide that one authority shall pay to another in respect of houses and property to which it relates such amounts calculated by such methods and in respect of such items and such years as appear to the Secretary of State to be appropriate.

(4) Nothing in this paragraph shall be taken to prevent regulations under section 102 of this Act providing for any matter for which an order under this paragraph might provide.

(5) Section 16 of this Act shall apply to orders under this paragraph.

Expenses of the Secretary of State

23. Any payments to be made by the Secretary of State under this Part of this Schedule shall be paid out of money provided by Parliament.

SCHEDULE 2

Section 13

SUBSIDIES FOR NEW TOWN CORPORATIONS

Limitation of certain subsidies and rate fund contributions

1. The provisions of this Schedule have effect as respects the subsidies and rate fund contributions described in the Table below which are to be paid to or made by new town corporations.

TABLE

A.—(1) The transition subsidy and the associated rate fund contribution.

(2) If the subsidy and contribution comprise elements based on different years, the reduction shall be made first in the elements, if any, based on the year of account and, subject to that, in the element based on an earlier year before a reduction in the element based on a later year.

(3) The amount of the subsidy, and the amount of the rate fund contribution, comprised in the element based on any year shall be reduced in the proportion in which the subsidy and contribution were to be made for the base year (and so that the subsidy and contribution abate in proportion to their amounts before reduction).

B.—(1) The rising costs subsidy and the associated rate fund contribution.

(2) If the subsidy and contribution comprise elements based on different years, the reduction shall be made first in the elements, if any, based on the year of account and, subject to that, in the element based on an earlier year before a reduction in the element based on a later year.

(3) The amount of the subsidy, and the amount of the rate fund contribution, comprised in the element based on any year shall be reduced in the proportion in which the subsidy and contribution were to be made for the base year (and so that the subsidy and contribution abate in proportion to their amounts before reduction).

C. The model rent rebate contribution.

D. Any rate fund contribution under section 7 of this Act, other than the model rent rebate contribution, and any rate fund contribution which the Secretary of State under section 46 of the New Towns Act 1965 requires the new town corporation to make for the year of account, in the order specified by the Secretary of State. 1965 c. 59.

NOTE.—Any reduction of the model rent rebate contribution will result, in accordance with section 6 of this Act, in a proportionate reduction of the rent rebate subsidy.

2.—(1) The total of the amount of the subsidies and contributions described in the Table above shall not exceed the sum sufficient to balance the new town corporation's housing account.

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(2) The order in which amounts are reduced to give effect to sub-paragraph (1) above shall be the order of the heads in the Table, so that the amounts within head A are reduced to zero before any reduction of any amount within any of the later heads, and so on.

(3) Subject to the preceding provisions of this paragraph, the order in which reductions are made shall be as specified in the Table.

(4) For the purposes of this paragraph the sum sufficient to balance the housing account is the deficit which would be shown in the account on the assumption that there were omitted from the account all sums to be credited to the account in respect of any item in the Table above, and if on that assumption, there would be no deficit, the sum sufficient to balance the account shall be taken as zero.

3.—(1) If under paragraph 2 above a reduction of any amount is to be made in a subsidy, or in an element of a subsidy, payable for any year, a reduction of the same amount shall be made in that subsidy or element payable to the new town corporation for each subsequent year; and correspondingly, a reduction of any amount under paragraph 2 above in an associated rate fund contribution shall be repeated for each subsequent year.

(2) Any reduction under this paragraph for any such subsequent year shall be effected before applying paragraph 2 above for that subsequent year (and accordingly if in that subsequent year an additional reduction falls to be made under paragraph 2 above, both the original reduction and the additional reduction shall be repeated in accordance with this paragraph for subsequent years).

Separate accounting for the Commission's towns

4.—(1) The provision of Part I of this Act, including the preceding provisions of this Schedule, so far as they determine—

(a) the amount of the subsidies, if any, to be paid to the Commission, or

(b) the amount of any rate fund contribution,

shall be applied separately in relation to each of the Commission's towns as if, in relation to each town, the Commission were a different body.

(2) Any reference in the provisions of Part I of this Act, including the preceding provisions of this Schedule, to a new town corporation's housing account shall, in relation to the Commission, be taken as a reference to the housing account for the town for which the calculations are, in accordance with the preceding provisions of this paragraph, being made.

(3) Any apportionment of any payment or receipt or other sum required to give effect to the provisions of this paragraph shall be made in such manner as the Secretary of State may direct.

SCHEDULE 3

Section 20.

COMPUTATION OF REBATES AND ALLOWANCES

PART I

GENERAL

Introductory

1.—(1) The rebate or allowance to which a tenant is entitled under a scheme shall be a weekly amount calculated in accordance with this Schedule by reference to—

- (a) an amount to be allowed for the needs of the tenant and of any spouse of the tenant or dependent child of the tenant or his spouse (“the needs allowance”);
- (b) the income of the tenant and of any such spouse;
- (c) the amount of the rent which is eligible to be met by a rebate or an allowance;
- (d) a minimum weekly rent;
- (e) a minimum and maximum rebate or allowance;
- (f) amounts to be deducted for non-dependants.

(2) The amounts listed in sub-paragraph (1) above (other than the amount of the rent) shall be ascertained in accordance with this Schedule.

(3) A scheme shall not apply to rent payable in respect of any rental period which begins before the date on which the scheme is made or, if it is expressed to come into force after that date, before the date on which it is expressed to come into force.

(4) No person shall be entitled to benefit under more than one scheme.

2. In this Schedule—

“dependent child” means a person who resides in the dwelling occupied by the tenant and whose requirements are provided for, in whole or in part, by the tenant or his spouse and who is either under the age of sixteen or of or over that age but receiving full time instruction at any university, college or other educational establishment;

“full-time instruction at an educational establishment” includes a reference to a person undergoing training for any trade, profession or vocation in such circumstances that he is required to devote the whole of his time to the training for a period of not less than two years;

“married couple” includes a man and a woman who lives with him as his wife, but does not include a man and wife who are living apart, and “spouse” and “wife” shall be construed accordingly;

“non-dependant” means in relation to a tenant, any person who resides in the dwelling occupied by the tenant, other than the tenant himself, except a spouse of the tenant and a dependent child of the tenant or his spouse.

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3.—(1) Where any sum which is payable or calculated otherwise than as a weekly amount falls to be taken into account for the purposes of this Schedule, it shall be converted into the weekly amount which represents it, and that amount shall be treated as the relevant amount for those purposes; and accordingly in this Schedule references to “weekly income” are references to the amount which represents the income as so converted.

(2) References in this Schedule to “weekly rent” are references to the amount which represents the rent which is eligible to be met by a rebate or an allowance as converted in pursuance of sub-paragraph (1) above.

(3) Where an authority for administrative convenience arrange for the year’s rent to be paid irregularly, or so that no rent is payable for or collected in certain periods, or so that rent for different periods in the year is of different amounts, the provisions of this Schedule shall be applied, and all calculations shall be made, by reference to the rent which would have been paid if the arrangements had not been made.

4.—(1) An authority may treat as a sole tenant for the purposes of this Schedule one of two or more joint tenants, and in that case, subject to sub-paragraph (2) below, every joint tenant who resides in the tenant’s dwelling and is not so treated shall be treated as a non-dependant for those purposes.

(2) Neither the spouse nor a dependent child of a tenant shall be treated as a non-dependant by virtue of sub-paragraph (1) above.

5.—(1) If some person who resides in the dwelling occupied by the tenant appears to an authority to have a higher income than the tenant, and the authority have grounds for considering that in the special circumstances of the case it would be reasonable to make their calculations under this Schedule by reference to the income of that other person and not of the tenant, they may treat that other person as the tenant and make such payments of rebate or allowance (if any) as ought to be made on that basis.

(2) Where an authority exercise the power conferred on them by sub-paragraph (1) above, the tenant shall be treated as a non-dependant for the purposes of this Schedule, but neither the spouse nor a dependent child of the person who is treated as the tenant shall be treated as a non-dependant for those purposes.

6. In the following provisions of this Schedule “tenant” includes a person treated as a tenant under paragraph 4 or 5 above or paragraph 1 of Schedule 4 below.

7. Any question whether a person is a sub-tenant of the tenant or a non-dependant shall be determined, for the purposes of any scheme, by the authority.

Needs allowance

8.—(1) Subject to sub-paragraph (2) below, the needs allowance for each week is—

(a) for an individual person who has no dependent children£10.50

- (b) for a married couple£14·75 **SCH. 3**
 (c) for an individual person who has a dependent child or children£14·75
 (d) for each dependent child of a tenant or his spouse ...£2·75
- (2) The needs allowance for each week is—
- (a) for an individual person who has no dependent children and who is registered in pursuance of arrangements made under section 29(1) of the National Assistance Act 1948 (welfare arrangements for handicapped persons).....£11·75 1948 c. 29.
 (b) for a married couple one of whom is so registered...£16·00
 (c) for an individual person who is so registered and who has a dependent child or children£16·00
 (d) for a married couple both of whom are so registered...£16·75

Income of tenant and spouse

9.—(1) The weekly income of the tenant and any spouse of the tenant shall be ascertained for the purposes of this Schedule by taking the amount which the authority has assessed under Schedule 4 below as likely to be their income during the rebate period or, as the case may be, the allowance period and—

- (a) disregarding any item mentioned in sub-paragraph (2) below which is included in that income, and
 (b) adding any such notional sum as is mentioned in sub-paragraph (4) below.
- (2) The items to be disregarded are—
- (a) any rent received from a sub-tenant of part of the dwelling, exclusive of any amount attributable to furniture provided by the tenant, or to services provided by the tenant ;
 (b) any payment made to the tenant or his spouse by a dependent child of his or of his spouse or by a non-dependant ;
 (c) in the case of a married couple £2.50 of the earnings of a woman who is either the tenant or the tenant's wife ;
 (d) any sums payable by virtue of regulations made under section 81 of the Education Act 1944 (financial assistance for education) ; 1944 c. 31.
 (e) any attendance allowance ;
 (f) any sums payable to any person as holder of the Victoria Cross or of the George Cross ;
 (g) any benefit under the Ministry of Social Security Act 1966 ; 1966 c. 20.
 (h) £2.00 of any of the following, namely—
 (i) a war disablement pension ;
 (ii) industrial disablement benefit ;
 (iii) an old cases allowance ;
 (iv) any payment which the Secretary of State accepts as being analogous to a payment mentioned in sub-paragraphs (i) to (iii) above ;

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- 1965 c. 52. (j) £2.00 of so much of—
- (i) a widow's pension under section 19(3) of the National Insurance (Industrial Injuries) Act 1965 payable by virtue of paragraphs (a) to (e) thereof ;
- (ii) a special widow's pension (not including any allowance in respect of children) ;
- (iii) any payment which the Secretary of State accepts as being analogous to a payment mentioned in sub-paragraph (i) or (ii) above,
- 1965 c. 51. as exceeds the rate specified in Schedule 3 to the National Insurance Act 1965 for a widow's pension under that Act ;
- (k) £1.00 of any charitable payment or of any voluntary payment other than a payment made by a person who is not a non-dependant for the maintenance of his spouse (including a spouse with whom he is not living) or his former spouse or his children.
- (3) The total disregard under paragraphs (h) to (k) of sub-paragraph (2) above shall in no case exceed £2.00, and where a number of voluntary or charitable payments (other than payments for maintenance such as are mentioned in sub-paragraph (2)(k) above) are received, they shall be treated as if they were one payment for the purposes of that paragraph.
- (4) If the tenant and any spouse of the tenant have between them £800 or more in liquid cash resources, the weekly income shall be treated as increased by a notional sum equal to 0.1 per cent. of the excess over £800.
- (5) In sub-paragraph (2) above—
- 1970 c. 55. "attendance allowance" and "war disablement pension" have the meanings assigned to them by any regulations for the time being in force under the Family Income Supplements Act 1970 ;
- 1965 c. 52. "industrial disablement benefit" means any weekly payment of disablement benefit under the National Insurance (Industrial Injuries) Act 1965 ;
- 1967 c. 34. "old cases allowance" means a weekly payment made under a scheme having effect by virtue of the Industrial Injuries and Diseases (Old Cases) Act 1967 ;
- "special widow's pension" means—
- 1916 c. 65. (a) any widow's pension or allowance granted under powers conferred by or under the Ministry of Pensions Act 1916, the Air Force (Constitution) Act 1917, the Personal Injuries (Emergency Provisions) Act 1939, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939, the Polish Resettlement Act 1947, the Home Guard Act 1951 or the Ulster Defence Regiment Act 1969 ;
- 1917 c. 51. (b) a pension or allowance for a widow granted under any scheme made under the Injuries in War (Compensation) Act 1914, the Injuries in War Compensation Act 1914 (Session 2), or the Injuries in War (Compensation) Act 1915 or under any War Risk Compensation Scheme for the Mercantile Marine.
- 1939 c. 82.
- 1939 c. 83.
- 1947 c. 19.
- 1951 c. 8 (15 & 16 Geo. 6. & 1 Eliz. 2).
- 1969 c. 65.
- 1914 c. 30.
- 1914 c. 18
- (5 and 6 Geo. 5).
- 1915 c. 24.

(6) The Secretary of State may accept a payment as being analogous to a payment mentioned in sub-paragraph (2) above—

- (a) by directing authorities in general to regard payments of that description as analogous for the purposes of this Schedule ; or
- (b) by notifying an authority that he accepts such a payment as analogous for those purposes.

Amount of rebate or allowance

10.—(1) In this Schedule “ minimum weekly rent ” means, subject to sub-paragraphs (2) and (3) below, £1.00 or 40 per cent. of the weekly rent, whichever is the greater.

(2) In any case where the weekly income of the tenant and his spouse is less than the needs allowance, “ minimum weekly rent ” means the amount calculated in accordance with sub-paragraph (1) above less an amount equal to 25 per cent. of the difference between the needs allowance and the weekly income.

(3) In any case where the reduction under sub-paragraph (2) above would be equal to or greater than £1.00 or 40 per cent. of the weekly rent, whichever is the greater, the minimum weekly rent shall be zero.

11.—(1) The amount of rebate or allowance to be granted shall be an amount calculated in accordance with this paragraph but less any sum in respect of non-dependants as mentioned in paragraph 12 below, and subject in any event to paragraphs 13, 14 and 16 below.

(2) If the weekly income of the tenant and his spouse is equal to or less than the needs allowance, the rebate or allowance shall be equal to the amount, if any, by which the weekly rent exceeds the minimum weekly rent.

(3) In any case where the weekly income exceeds the needs allowance, the rebate or allowance shall be calculated in accordance with sub-paragraphs (4) and (5) below.

(4) There shall be added—

- (a) an amount equal to the minimum weekly rent ;
- (b) an amount equal to 17 per cent. of the difference between the weekly income and the needs allowance.

(5) If the sum produced under sub-paragraph (4) above is less than the weekly rent, the rebate or allowance shall be equal to the difference between the weekly rent and that sum.

12.—(1) The deductions from a rebate or allowance in respect of non-dependants are for each week—

- (a) for each person aged 18 years or more, but under 21 years and neither undergoing full-time instruction at an educational establishment nor in receipt of supplementary benefit £1.00 ;
- (b) for each person aged 21 years or more, but under pensionable age and neither undergoing full time instruction at an educational establishment nor in receipt of supplementary benefit £1.50 ;

SCH. 3	(c) for each person in receipt of supplementary benefit	£0·70 ;
	(d) for each person of pensionable age not in receipt of supplementary benefit, except in the case mentioned in paragraph (e) below	£0·70 ;
	(e) for a married couple both of pensionable age and not in receipt of supplementary benefit	£0·70.

(2) If any person is in receipt of supplementary benefit for himself and also for his spouse they shall be treated as one person for the purposes of this paragraph.

Minimum and maximum rebate and allowance

13. If the amount of a rebate or allowance as calculated in accordance with this Schedule would be less than 20p, it shall not be granted.

14.—(1) If the amount of a rebate or allowance as so calculated would exceed the maximum rebate or maximum allowance, the excess shall not be granted, except in a case to which paragraph 16 below applies.

(2) For the purposes of this Schedule the maximum rebate and the maximum allowance are—

(a) for a dwelling in the area of the Greater London Council	£8·00 ;
(b) for any other dwelling	£6·50.

Treatment of fractional amounts

15. The amount of any rebate or allowance shall be calculated to the nearest new penny by disregarding an odd amount of half a new penny or less, and by treating an odd amount exceeding half a new penny as a whole new penny.

Transitional rebate or allowance

16.—(1) An authority may grant to any person a rebate of such an amount commencing at such time and continuing for such period and subject to such conditions as the Secretary of State may by general or particular direction provide if—

- (a) the whole or part of the rent under his tenancy was met by a rebate for the rental period immediately preceding that in which their rebate scheme comes into operation ; and
- (b) the condition mentioned in sub-paragraph (3) below is satisfied in his case.

(2) An authority may grant to any person an allowance of such amount commencing at such time and continuing for such period and subject to such conditions as the Secretary of State may by general or particular direction provide if—

- (a) the whole or part of the rent under his tenancy was met for the rental period immediately preceding that in which their allowance scheme comes into operation by an allowance granted by virtue of a scheme under a local Act for the payment of such allowances ; and

(b) the condition mentioned in sub-paragraph (3) below is satisfied in his case.

(3) The condition that must be satisfied in the case of any person before he is granted a rebate or allowance by virtue of this paragraph is either—

(a) that the rent remaining to be met by him (after taking account of any rebate or allowance granted otherwise than by virtue of this paragraph) was less during the rental period mentioned in paragraph (a) of sub-paragraph (1) or, as the case may be, paragraph (a) of sub-paragraph (2) above than during the first rental period after the relevant scheme under this Act came into operation, or

(b) that the rebate or allowance granted for the rental period immediately preceding that in which the relevant scheme under this Act came into operation consisted of or included an amount granted under a provision which in the opinion of the Secretary of State was comparable to this paragraph.

(4) Where an authority grant a rebate or allowance under this paragraph to a person to whom they grant a rebate or allowance apart from this paragraph, the amount granted under this paragraph shall be additional to the amount of that other rebate or allowance.

(5) In this paragraph “rent” means rent which is eligible to be met by a rebate or an allowance.

Provision applying only to computation of allowances

17.—(1) For the purposes of the computation of allowances, the foregoing provisions of this Schedule shall be modified in accordance with sub-paragraph (2) below.

(2) It shall be the duty of every authority, for the purpose of computing the amount of an allowance—

(a) if they consider that the tenant is in occupation of a dwelling larger than he reasonably requires, or

(b) if they consider that, by virtue of the location of the tenant's dwelling, its rent is exceptionally high by comparison with the rent payable under comparable private tenancies of similar dwellings in the authority's area,

to consider whether they ought in all the circumstances to treat the rent as reduced by an appropriate amount, and if in their opinion they ought to treat it as reduced, to grant an allowance only in respect of the rent as so reduced.

PART II

PERSONS RECEIVING SUPPLEMENTARY BENEFIT

18. The provisions of this Part of this Schedule have effect as respects the amount of rebate or allowance to be granted to a person for a week which is the ninth or any later week in any period for which he, or any person whose income is to be aggregated with his under paragraph 9 of this Schedule, is in receipt of supplementary benefit.

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19.—(1) The said amount shall be the amount if any by which the weekly rent exceeds the minimum weekly rent mentioned in sub-paragraph (1) of paragraph 10 of this Schedule, but less any sum in respect of non-dependants as mentioned in paragraph 12 of this Schedule, and subject to paragraphs 13, 14, 15 and 17 of this Schedule.

(2) Paragraph 11 of this Schedule shall not apply where this paragraph applies.

1966 c. 20.

20.—(1) The last preceding paragraph shall not apply where, assuming it did apply, the amount of supplementary benefit payable for the week would fall to be reduced under paragraph 5 of Schedule 2 to the Ministry of Social Security Act 1966 (adjustment of benefit to normal earnings), but Part I of this Schedule shall then apply subject to the following provisions of this paragraph.

(2) The weekly income of the tenant and any spouse of the tenant shall be ascertained for the purposes of this Schedule by taking for the rebate period or allowance period the amount of the gross weekly income which the person in receipt of supplementary benefit would have if he were engaged in full time work in his normal occupation, and the amount of any gross income of the spouse, and—

(a) disregarding to the extent mentioned in paragraph 9(3) of this Schedule any item mentioned in paragraph 9(2) of this Schedule which is included in that income, and

(b) adding any such notional sum as is mentioned in paragraph 9(4) of this Schedule.

(3) The amounts mentioned in sub-paragraph (2) above shall be those amounts as estimated or determined by the Supplementary Benefits Commission.

(4) The preceding provisions of this paragraph shall be in substitution for paragraph 9(1) of this Schedule.

21.—(1) In this Schedule “ period of supplementary benefit ” means a continuous period for which the person in question is in receipt of supplementary benefit, but the Secretary of State may give directions as to the circumstances in which two periods of supplementary benefit with a break between are to be regarded as one continuous period.

(2) This Part of this Schedule applies whether or not the period of supplementary benefit began before the coming into operation of the scheme.

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SCHEDULE 4

REBATES AND ALLOWANCES: PROCEDURE

PART I

GENERAL

Introductory

1.—(1) Subject to the provisions of this Schedule, an authority may pay a rebate or allowance at any time and in any manner that they think fit.

(2) Where an authority for administrative convenience arrange for the year's rent to be paid irregularly, or so that no rent is payable for or collected in certain periods, or so that rent for different periods in the year is of different amounts, the provisions of this Schedule shall be applied, and all calculations shall be made, by reference to the rent which would have been paid if the arrangements had not been made.

(3) Where—

- (a) a Housing Revenue Account dwelling is let to one of two spouses or one of two spouses is a private tenant, and
- (b) the premises are not occupied by the tenant, and
- (c) the other spouse is in occupation of the premises and has paid the rent in respect of any rental period,

the authority may, if in their opinion it is reasonable to do so, treat the spouse who has paid the rent as the tenant for the purposes of this Schedule and grant a rebate, or as the case may be, an allowance accordingly, and an authority may treat as spouses for the purposes of this sub-paragraph a man and a woman who formerly lived with him in the dwelling as his wife.

(4) In the following provisions of this Schedule "tenant" includes, subject to paragraph 15(6) below, a person treated as a tenant under this paragraph or paragraph 4 or 5 of Schedule 3 above, and "spouse" has the same meaning as in Schedule 3 above.

Applications for rebates and allowances

2.—(1) When an authority receive an application for a rebate or allowance, whether before or after their rebate scheme or allowance scheme comes into operation, it shall be their duty, subject to sub-paragraph (2) below, to determine whether the applicant is entitled to a rebate or an allowance and, if so, the amount to which he is so entitled; and they shall request him in writing to furnish such information and such evidence as they may reasonably require for that purpose as to the following matters namely—

- (a) the persons who reside in the dwelling occupied by him;
- (b) the rent in respect of any sub-letting of the premises;
- (c) his other income and his liquid cash resources and, if he has a spouse, the income and liquid cash resources of his spouse,

and shall include with the request a notice to the applicant of the duty under paragraph 5 of this Schedule to report to the authority changes of circumstances such as are mentioned in that paragraph.

(2) An authority shall be under no duty to grant a rebate or an allowance unless they are satisfied that the applicant has furnished all such information and evidence as they require for the purpose of determining whether he is entitled to a rebate or an allowance.

(3) An application may be withdrawn at any time, and if an application is withdrawn the authority shall upon the withdrawal cease to be under any duty to make a determination on it, or to take any further step in relation to it.

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Assessment of income

3.—(1) If an authority are satisfied on an application for a rebate or an allowance that the applicant is eligible for consideration for a rebate or an allowance, it shall be their duty to assess the amount which is likely to be the income of the applicant and of any spouse of his during the rebate period or, as the case may be, the allowance period.

(2) In so far as a person's income consists of earnings from a gainful occupation, the amount which is likely to be the income shall be calculated or estimated by reference to the average of his earnings from that occupation over a period ending with his last pay-day before the application and being a period—

(a) of five weeks, if he is paid weekly,

(b) of two months, if he is paid monthly,

so, however, that in any case the authority may have regard to the average of a person's earnings from a gainful occupation over such other period or periods as appear to them to be appropriate in order properly to assess the amount which is likely to be his income during the rebate period or the allowance period, as the case may be.

(3) In so far as a person's earnings from any gainful occupation comprise salary, wages or fees related to a fixed period, the gross amount of his salary, wages or fees shall be taken into account; and in so far as a person's earnings from any gainful occupation do not comprise salary, wages or fees related to a fixed period, the net profit derived from that occupation shall be taken into account.

(4) In so far as a person's income does not consist of earnings from a gainful occupation, its weekly amount shall be calculated or estimated, subject to sub-paragraph (5) below, on such basis as appears to the authority to be appropriate in the circumstances of the particular case.

(5) The Secretary of State may give directions to authorities in general as to the manner in which they are to calculate the income of persons who belong to classes of persons to whom payments are made by virtue of any enactment which in his opinion are not taxable and are of amounts calculated on the basis that they are not taxable.

(6) In this paragraph—

“net profit” means profit after deduction of expenses but without deduction of income tax or of contributions payable by him under the National Insurance Act 1965 except contributions paid otherwise than as an insured person; and

“pay day” means an occasion on which earnings are paid.

(7) Where any amount which is payable or calculated otherwise than as a weekly amount falls to be taken into account for the purposes of this paragraph, it shall be converted into the weekly amount which represents it, and that amount shall be treated as the relevant amount for those purposes.

Rebate period and allowance period

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4.—(1) Where a rebate or an allowance is first granted, the rebate period or allowance period shall commence at the commencement of the rental period in which the application for a rebate or an allowance was received.

(2) A rebate period and an allowance period shall end, subject to paragraphs 5 and 6 below—

(a) if the tenant is of pensionable age, not later than twelve months after the date on which he was notified that his application for a rebate or an allowance was granted; and

(b) in any other case, not later than six months after that date.

5.—(1) If at any time between the making of an application for a rebate or an allowance and any determination made on that application there is a change of circumstances such that the applicant may be reasonably expected to know that it may reduce the amount to which he is entitled, it shall be the duty of the applicant to notify the authority of that change.

(2) If after a rebate or an allowance has been granted to a tenant and before the end of the rebate period or allowance period there is a change of circumstances such that the tenant may be reasonably expected to know that it may affect his entitlement or reduce the amount to which he is entitled, it shall be the duty of the tenant to notify the authority of that change.

(3) If during a rebate period or an allowance period an authority receive a notification of a change of circumstances under sub-paragraph (2) above, or consider, without receiving such a notification, that there has been such a change in the tenant's circumstances as will affect the tenant's entitlement or reduce the amount to which he is entitled, the authority shall determine, according to the circumstances, either that the period shall terminate on a date earlier than it would otherwise terminate or that the amount of rebate or allowance shall be altered in respect of such rental period or periods as they consider appropriate.

6.—(1) If during a rebate period or an allowance period an authority receive from a tenant a notification of a change of circumstances relating to him which might entitle him to a higher rebate or allowance, the authority, if they are of the opinion, after obtaining and considering such information and evidence as they require, that the tenant is entitled to a higher rebate or allowance, shall determine, according to the circumstances, that the period shall terminate on a date earlier than that on which it would otherwise terminate, or that the amount of rebate or allowance shall be increased in respect of any rental period or periods commencing after the date on which the circumstances changed.

(2) If an authority determine under sub-paragraph (1) above that a rebate period or allowance period ought to terminate, they shall invite the tenant to submit a further application for a rebate, or, as the case may be, an allowance.

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7. If there is such an alteration in the terms of a rebate scheme or allowance scheme or in the rent as to affect the amount of rebate or allowance to which a tenant is entitled, the authority shall make such alterations as may be appropriate in the amount of his rebate or allowance.

8. It shall not be the duty of an authority to alter a rebate or allowance under paragraph 5, 6 or 7 above if the alteration would be equal to or less than the amount of the minimum rebate or minimum allowance under the authority's rebate scheme or allowance scheme.

9. Without prejudice to any other right to recover the amount of any rebate or allowance which has been wrongly granted, where any person has received a rebate or allowance to which he was not entitled, it may be recovered from him by deduction from sums which would otherwise be granted to him by way of rebate or allowance.

Application for further rebate or allowance

10.—(1) A tenant to whom a rebate or allowance has been granted may apply to the authority for a further rebate or allowance commencing with the first rental period after the end of the current rebate period or allowance period.

(2) An application under sub-paragraph (1) above need not be entertained if it is made more than one month before the end of the current period.

(3) If the application is made not later than one month after the end of that period, the new rebate period or allowance period shall commence with the first rental period after the end of the former period.

(4) If the application is made at any later date, the new period shall commence with the first rental period after the date of the application:

Provided that the authority may, if in their opinion the circumstances are exceptional, allow the new period to commence with the first rental period after the end of the former rebate or allowance period.

(5) Subject to this paragraph, the provisions of this Schedule shall apply on an application for a further rebate or allowance as they apply on a first application.

Transitional

11. Where—

(a) the whole or part of a person's rent under a tenancy—

(i) was met by a rebate for the rental period immediately preceding that in which the rebate scheme under this Act of the authority who granted him that rebate comes into operation ; or

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(ii) was met, for the rental period immediately preceding that in which the allowance scheme under this Act of the authority in whose area his dwelling is comes into operation, by an allowance granted by virtue of a scheme under a local Act for the payment of such allowances ; and

- (b) the terms on which the rebate or allowance was granted for that rental period are identical with those on which rebates or, as the case may be, allowances, are to be granted under the relevant scheme under this Act,

the authority may treat him, for all the purposes of this Schedule or Schedule 3 above, as if he were a person to whom they had granted under this Act a rebate or, as the case may be, an allowance for the first rental period after the relevant scheme came into operation.

Provisions applying only to allowances

12.—(1) An authority may require from any person who has applied for or who is in receipt of an allowance evidence—

- (a) of his interest in the dwelling in respect of which his application was made or the allowance is paid ;
 (b) of the rent paid for the dwelling in respect of the rental period in which his application was made or any other rental period in the allowance period.

(2) An authority may terminate an allowance period or pay the allowance to the tenant's landlord for any rental period within the allowance period if they are satisfied that the tenant is not paying rent regularly to his landlord or if the tenant is unable to show the amount of rent paid in respect of any rental period within the allowance period.

(3) In paying an allowance, an authority—

- (a) shall comply with such general or particular directions as the Secretary of State may from time to time give as to the frequency of payment ;
 (b) shall have regard, subject to sub-paragraph (2) above, to the reasonable needs and convenience of the tenant.

13. The authority may withhold an allowance where the landlord of a private tenant is residing with a tenant, or where the landlord is a member of the family of a private tenant and it appears to the authority that the tenancy was created to take advantage of any allowance scheme.

14.—(1) In ascertaining the amount of an allowance the authority shall disregard—

- (a) where the rent is payable under a controlled tenancy, any rent paid in excess of the rent limit under Part V of the Rent Act 1968,

1968 c. 23.

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1968 c. 23.
1969 c. 33.

- (b) where the rent is paid under a regulated tenancy and a rent is registered for the dwelling, any rent paid in excess of the rent limit under Part III of the Rent Act 1968 or Schedule 3 to the Housing Act 1969 or in excess of the amount which is for the time being recoverable under Schedule 6 to this Act,
- (c) where the rent is payable under such a tenancy as is described in paragraph (b) above, but no rent is registered for the dwelling, and the authority are not satisfied that the rent paid is equal to or less than the fair rent, as estimated by the authority, any rent paid in excess of that estimated fair rent,
- (d) where the rent is payable under a tenancy to which Part VIII of this Act applies, any rent paid in excess of the rent limit under that Part,
- (e) where the rent is payable under such a tenancy as is described in paragraph (d) above, but no rent is registered (whether provisionally or otherwise) for the dwelling, and the authority are not satisfied that the rent paid is equal to or less than the fair rent, as estimated by the authority, any rent paid in excess of that estimated fair rent,
- (f) where there is in operation, with respect to the dwelling, any such condition relating to rent as is described in section 44(5) of the Rent Act 1968 (conditions attached to financial assistance for housing) any rent paid in excess of any limit of rent imposed by the conditions,
- (g) where there is in operation any condition mentioned in section 33 of the Housing (Financial Provisions) Act 1958, including that section as applied by section 7 of the House Purchase and Housing Act 1959, which limits the rent to be charged in respect of the dwelling, any rent paid in excess of that limit.

1958 c. 42.

1959 c. 33.

(2) Nothing in sub-paragraph (1) above shall affect the operation of paragraph 17 of Schedule 3 to this Act.

(3) Where after paying any rent a tenant becomes entitled, under section 33 of the Rent Act 1968 or otherwise, to recover part of that rent as being in excess of any such limit as is described in sub-paragraph (1) above, the authority shall ascertain what the amount of the allowance would have been if the tenant had not paid the rent he is entitled to recover; and the excess of the allowance actually made over that amount shall be treated for the purposes of paragraph 9 of this Schedule as an allowance which has been wrongly granted.

(4) Expressions in this paragraph which are defined by the Rent Act 1968 for the purposes of that Act shall have the same meanings in this paragraph.

General duty of authority as to determinations

15.—(1) It shall be the duty of an authority to notify a tenant in writing of every determination which they make under their rebate scheme or allowance scheme in relation to him.

(2) A tenant may make representations to an authority concerning a determination which they make in relation to him, and if an authority receive such a representation from a tenant within one month of their notification to him of such a determination they shall consider the representation and may alter or confirm the determination according to the circumstances; and if they alter or confirm it they shall notify the tenant in writing of their reasons for doing so.

(3) Every notification of a determination shall include a notice to the tenant explaining the provisions of sub-paragraph (2) above.

(4) When an authority determine to treat as the tenant, in pursuance of paragraph 5 of Schedule 3 above, a person who is not the tenant within the meaning of section 26 of this Act, it shall be their duty to notify of that determination both the person who will fall to be treated as the tenant as a result of the determination and the person who would have been considered eligible for a rebate or an allowance but for the determination.

(5) When an authority determine to treat as the tenant, in pursuance of paragraph 4 of Schedule 3 above or paragraph 1 of this Schedule, a person who is not the tenant or, as the case may be, not the sole tenant, within the meaning of section 26 of this Act, it shall be their duty to notify of that determination the person who will fall to be treated as the tenant as a result of it and to take such (if any) steps as they consider reasonable to notify of the determination the person or persons who would have been considered eligible for a rebate or an allowance but for the determination.

(6) The references to the tenant in sub-paragraphs (2) and (3) above shall accordingly be construed as including every person to whom sub-paragraph (4) or (5) above applies.

(7) Where an authority notify a tenant of a determination to grant him a rebate or an allowance their notification shall state the amount of the rebate or allowance granted, the rebate period or allowance period and the circumstances in which the amount or the period may be altered, and draw his attention to the duty imposed on him by paragraph 5(2) above.

PART II

PERSONS IN RECEIPT OF SUPPLEMENTARY BENEFIT

16.—(1) The Secretary of State may give directions, either generally or in any particular case, as to the application of Part II of this Act (including the last preceding Schedule and this Schedule) to persons who may be entitled to receive supplementary benefit or are or have been in receipt of such benefit, and to persons whose income or resources have been or may be aggregated for the purposes of this Act, or of the Ministry of Social Security Act 1966, with those of persons who are or have been or may be in receipt of supplementary benefit. 1966 c. 20.

(2) Directions under this paragraph may in particular make provision as to—

- (a) the beginning or ending of any rebate or allowance period;
- (b) the procedures to be adopted in cases where a person is or may be entitled both to rent rebate or rent allowance and to

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supplementary benefit, and the method of disposing of any application for rent rebate or rent allowance which is pending when a person becomes entitled to supplementary benefit; and

(c) the method of dealing with cases where it is difficult to ascertain whether a person has been in receipt of supplementary benefit for more than eight weeks.

(3) Any direction under this paragraph shall have effect notwithstanding anything in Part I of this Schedule.

17.—(1) An authority shall not, under this Schedule, require the tenant, as respects any period for which he is in receipt of supplementary benefit, to give any information to the authority, other than such information as may for the time being be specified for the purposes of this paragraph by any direction given by the Secretary of State, either generally or in any particular case.

1966 c. 20.

(2) An authority shall afford to the Secretary of State such information in their possession as he may require to give effect to the Ministry of Social Security Act 1966 as amended by this Act, and the Secretary of State and the Supplementary Benefits Commission shall afford to every authority such information concerning claims for, and payments of, supplementary benefit as the authority may require to give effect to Schedule 3 to this Act and this Schedule.

(3) Without prejudice to the generality of sub-paragraph (2) above, where the authority are to ascertain the amounts specified in paragraph 20(2) of Schedule 3 to this Act for a person who is in receipt of supplementary benefit, whether in the first eight weeks or later (or for a person whose income is to be aggregated with that of a person in receipt of supplementary benefit) it shall be the duty of the Commission to notify the authority of those amounts as estimated or determined by the Commission and to supply the authority with such particulars of the resources of the tenant and any spouse as will enable the authority to ascertain the weekly income of the tenant and any spouse.

(4) An authority and the Secretary of State may from time to time enter into any arrangements for purposes of administrative convenience which, without affecting the total relief available to any tenant—

- (a) authorise the authority to grant a rebate or allowance greater than, or less than, the amount required by or under the authority's scheme, or to grant, or refrain from granting, a rebate or allowance where the provisions of the scheme provide otherwise, and
- (b) require the authority to pay to the Secretary of State such amount, estimated in a manner determined by the arrangements, as reflects any liability to give relief to the tenant transferred by the arrangements from the authority to the Secretary of State.

and where any arrangements within paragraph (a) above were made in the period beginning on 1st April 1972 and ending with the coming

into force of this Act, the local authority shall have power to pay to the Secretary of State such amount in respect of any liability to give relief to the tenant transferred by the arrangements to the Secretary of State as may be determined by them on a formula agreed with the Secretary of State.

(5) Without prejudice to paragraph 16 above, the Secretary of State may give directions to authorities in general or any individual authority or description of authority requiring them in such cases and circumstances as may be specified in the direction to grant a rebate or allowance greater than, or less than, the amount required by or under their scheme, or to grant, or refrain from granting, a rebate or allowance where the provisions of the scheme provide otherwise, and to pay to the Secretary of State such amount, to be estimated in such manner as may be so specified, as reflects any liability to give relief to the authority's tenants which is transferred in accordance with the directions from the authority to the Secretary of State.

(6) Any reference in this Act to the amount of rebates or allowances granted by an authority for a year or other period shall include an amount which in the opinion of the Secretary of State represents the rebates or allowances which would have been granted but for any arrangements under sub-paragraph (4) or directions under sub-paragraph (5) above, estimated in such manner as the Secretary of State may direct; and a corresponding adjustment shall be made in arriving at the amount to be treated for any purpose of this Act as an authority's standard amount of rent rebates or rent allowances.

SCHEDULE 5

Section 31.

CERTIFICATE OF FAIR RENT UNDER PART III OF THIS ACT:
APPLICATION FOR REGISTRATION OF RENT

PART I

GENERAL

1. If the local authority have, under section 30(5) of this Act, stated that the works specified in the plans and specifications accompanying the application for the certificate of fair rent have been carried out, and the application for registration of a rent is made not later than three months after the issue of the qualification certificate, the rent officer shall register the rent in accordance with the certificate of fair rent.

2.—(1) If the application for registration of a rent is made not later than three months after the issue of the qualification certificate, but the local authority have not stated that the landlord has complied with the provisions of section 30(5) of this Act as respects the certificate of fair rent, the rent officer shall ascertain whether the works specified in the plans and specifications accompanying the application for the certificate of fair rent have been carried out.

(2) If the rent officer is satisfied that the works have been so carried out, he shall register the rent in accordance with the certificate.

SCH. 5 (3) If the rent officer is not so satisfied, Part II of this Schedule shall apply.

3. If—

- (a) the application for registration of a rent is made later than three months after the issue of the qualification certificate, or
- (b) the local authority have, under section 30(5) of this Act, stated that the works specified in the plans and specifications accompanying the application for the certificate of fair rent have not been carried out (in whole or in part),

Part II of this Schedule shall apply.

PART II

NOTICE SERVED ON TENANT

4. Where this Part of this Schedule applies, the rent officer shall serve a notice on the tenant informing him of the application and specifying a period of not less than seven days from the service of the notice during which representations in writing may be made to the rent officer against the registration of the rent specified in the certificate.

5. Where no such representations are made then, unless it appears to the rent officer that the rent specified in the certificate of fair rent is higher than a fair rent, he shall register that rent and notify the landlord and tenant accordingly.

6.—(1) Where representations are made as mentioned in paragraph 4 of this Schedule or the rent officer is of opinion that the rent specified in the certificate of fair rent is higher than a fair rent he shall serve notice on the landlord and on the tenant informing them that he proposes, at a time (which shall not be earlier than seven days after the service of the notice) and place specified in the notice to consider in consultation with the landlord and the tenant or such of them as may appear at that time and place, what rent, not exceeding that specified in the certificate of fair rent, ought to be registered.

(2) At any such consultation the landlord and tenant may each be represented by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

7.—(1) The rent officer shall consider, in accordance with the preceding paragraph, what rent ought to be registered, and—

- (a) if, after considering it, he is of opinion that the rent specified in the certificate is not higher than a fair rent he shall register it ; but
- (b) if, after considering it, he is of opinion that the rent so specified is higher than a fair rent he shall determine a fair rent and register that rent,

as the rent for the dwelling, and shall give notice of the registration to the landlord and the tenant.

(2) The notice shall state that if, within twenty-eight days of the service of the notice or such longer period as the rent officer or a rent assessment committee may allow, an objection in writing is

received by the rent officer from the landlord or the tenant the matter will be referred to a rent assessment committee.

SCH. 5

8.—(1) If such an objection is received, then—

- (a) if it is received within the period of twenty-eight days mentioned in the preceding paragraph or a rent assessment committee so direct, the rent officer shall refer the matter to a rent assessment committee ;
- (b) if it is received after that period, the rent officer may either refer the matter to a rent assessment committee or seek the directions of a rent assessment committee whether so to refer it.

(2) The rent officer shall indicate in the register whether the matter has been referred to a rent assessment committee in pursuance of this paragraph.

Determination of fair rent by rent assessment committee

9. The rent assessment committee to whom a matter is referred under paragraph 8 of this Schedule shall serve on the landlord and on the tenant a notice specifying a period of not less than fourteen days from the service of the notice during which either representations in writing or a request to make oral representations may be made by him to the committee.

10. Where, within the period specified under paragraph 9 of this Schedule or such further period as the committee may allow, the landlord or the tenant requests to make oral representations the committee shall give him an opportunity to be heard either in person or by a person authorised by him in that behalf, whether or not that person is of counsel or a solicitor.

11.—(1) The committee shall make such inquiry, if any, as they think fit and consider any representation made to them in pursuance of the preceding paragraphs and—

- (a) if it appears to them that the rent registered by the rent officer has been rightly registered they shall confirm it ;
- (b) in any other case they shall designate as the rent for the dwelling-house either the rent specified in the certificate of fair rent or such lower rent as appears to them to be a fair rent, as the case may require ;

and they shall notify the landlord, the tenant and the rent officer accordingly.

(2) On receiving the notification, the rent officer shall, as the case may require, either indicate in the register that the rent has been confirmed or register the rent designated by the committee as the rent for the dwelling.

Section 38.

SCHEDULE 6

RESTRICTION ON RENT INCREASES

1.—(1) This paragraph applies where a rent for a dwelling-house which is subject to a regulated tenancy is registered under Part IV of the Rent Act 1968 and—

1968 c. 23.

(a) the registration is the first registration, and the tenancy has become a regulated tenancy by virtue of Part III of this Act, or section 43 of the Housing Act 1969, or section 35 of this Act, or

1969 c. 33.

(b) the registration is the first after the completion, during the existence of the regulated tenancy, of works towards the cost of which a grant was payable under Part I of the Housing Act 1969.

(2) If the rent payable under the tenancy for any statutory period beginning during the period of delay imposed by paragraph 2 of this Schedule is less than the rent so registered, it shall not be increased by a notice of increase under section 22(2) of the Rent Act 1968 except to the extent (if any) permitted under the following provisions of this Schedule: and any such notice which purports to increase it further shall have effect to increase it to the extent so permitted but no further.

(3) If after the tenancy becomes a regulated tenancy, or as the case may be after the completion of the works, and whether or not before the beginning of the period of delay, an agreement increasing the rent under the tenancy takes effect, the rent limit for any period of that tenancy (whether contractual or statutory) beginning during the period of delay shall be the amount to which, if the agreement had not been made, the rent could have been increased in accordance with this Schedule for a statutory period beginning at the same time, and in relation to such a contractual period the reference in section 47(3) of the Rent Act 1968 to section 20(2) of that Act shall be construed as a reference to this sub-paragraph.

(4) Where sub-paragraph (3) above applies to a statutory period, sub-paragraph (2) of this paragraph shall not apply to that period.

(5) Nothing in this Schedule shall prevent the rent being increased to the previous limit, calculated in accordance with paragraph 3 below, and nothing in this Schedule shall be taken to enable any rent to be increased above the amount registered.

(6) Subject to sub-paragraph (5) above, the registration, during the period of delay, of a rent superseding, and lower than, the rent registered at the beginning of the period of delay shall not affect the amount by which the rent may be increased in the period of delay.

2. The period of delay shall begin with the date of registration, and its duration and the extent to which the rent may be increased in the period of delay, shall be as set out in the Table below where—

“the step” means the excess of the rent registered at the beginning of the period of delay over the previous limit, and

“increase in recoverable rent for an improvement” means an increase in rent made by virtue of section 25(1) or section 56 of the Rent Act 1968, or by virtue of section 37(3) of 1968 c. 23. this Act, and SCH. 6

“add” means that for any rental period beginning on or after the date as at which the addition is to be made the rent may be increased up to the previous limit, calculated in accordance with paragraph 3 below, with any previous addition under the Table, plus the specified addition,

and any reference to the addition of either a fraction of the step or a specified sum per week is a reference to an addition of which ever represents the greater increase of rent.

TABLE

PROGRESSION TO REGISTERED RENT FROM PREVIOUS RENT LIMIT

<i>Case</i>	<i>Phasing</i>
<i>Case A.</i> First registration of rent after tenancy becomes a regulated tenancy by virtue of Part III of this Act or section 43 of the Housing Act 1969 or section 35 of this Act (except where one of the following cases applies).	Period of delay is 2 years. On date of registration add one third of the step, or £0·50 per week. One year after registration add one third of the step, or £0·50 per week. 1969 c. 33.
<i>Case B.</i> As in Case A, but in the 12 months ending with the date of registration there has been an increase in recoverable rent for an improvement of £0·50 per week or more.	Period of delay ends with second anniversary of the date of increase. On first anniversary of the date of increase add one half of the step, or £0·50 per week.
<i>Case C.</i> As in Case A, but at a date more than 12 months before the date of registration but not more than 2 years before the date of application for registration there has been an increase in recoverable rent for an improvement of £0·50 per week or more.	Period of delay is one year. On date of registration add one half of the step, or £0·50 per week.
<i>Case D.</i> As in Case A, but at the date of registration the landlord is entitled to serve (but has not served) a notice of increase under section 37(3) of this Act or section 25 of the Rent Act 1968 which, or which taken together, would increase the recoverable rent by £0·50 per week or more.	Period of delay is 2 years. One year after date of registration add one half of the step, or £0·50 per week.

Any such notice served before the date of registration which is not reflected in the previous limit as defined below because it has not taken effect shall be treated for the purposes of this Case as a notice which the landlord is entitled to serve.

SCH. 6

Case

Phasing

Case E. As in Case A, but the date of registration is more than 3 months after the date of application for registration. If Case B, C or D applies this Case does not apply.

Period of delay ends 27 months after the date of application. On date of registration add one third of the step, or £0·50 per week.

15 months after date of application add one third of the step, or £0·50 per week.

Case F. Works towards which a grant is payable or has been paid under Part I of the Housing Act 1969 are completed during a regulated tenancy of the dwelling house. First registration after completion of the works.

Period of delay is 2 years.

On date of registration add one third of the step, or £0·50 per week.

One year after registration add one third of the step, or £0·50 per week.

Case G. As in Case F, but the registration (after completion of the works) is in a period of delay beginning with an earlier registration.

From the date of registration the limitation under the period of delay beginning with the earlier registration ceases to apply.

A period of delay of two years shall begin with the later registration.

On the date of the later registration add one third of the step, or £0·50 per week.

One year after the later registration add one third of the step, or £0·50 per week.

The step is from the previous limit for the earlier registration to the rent registered on the later registration, less any addition permitted in the part of the earlier period of delay before the second registration.

Case H. In the period of delay current under any of the Cases above the registration at the beginning of the period of delay is superseded by a later registration of a higher rent. If Case G applies this Case does not apply.

No new period of delay arises on the later registration, and the duration of the current period of delay is unaffected.

On the date of the later registration add the excess of the later registered rent over the earlier registered rent; in other respects the additions appropriate to the earlier registration are unaffected.

1969 c. 33.

Previous limit

Sch. 6

3.—(1) For the purposes of this Schedule the previous limit of a rent shall be taken to be, subject to sub-paragraph (2) of this paragraph, the amount which at the date of registration was recoverable by way of the rent or would have been so recoverable if all notices of increase authorised by the Rent Act 1968 or by section 1968 c. 23. 37(3) of this Act had been served.

(2) Where the rent includes an amount payable in respect of rates, the amount so payable, ascertained in accordance with Schedule 4 to the Rent Act 1968, shall be deducted from the amount specified in sub-paragraph (1) of this paragraph in calculating the previous limit of the rent.

*Agreements with tenants having security of tenure
Tenancy granted between conversion or improvement and the
registration of rent*

4.—(1) This paragraph applies where—

- (a) in the period between the conversion or improvement and the registration of a rent, the tenant, or any person who might succeed him as a statutory tenant, becomes the tenant under a new regulated tenancy of the dwelling-house, and
- (b) paragraph 1 of this Schedule would have applied if the previous tenancy had continued and the new tenancy had not been granted.

(2) The preceding provisions of this Schedule shall apply as if the said previous tenancy had continued, and the rent limit for any period (whether contractual or statutory) of the new regulated tenancy beginning during the period of delay shall be the amount to which, if the original tenancy had continued, the rent payable thereunder could have been increased in accordance with this Schedule for a statutory period beginning at the same time, and in relation to such a contractual period the reference in section 47(3) of the Rent Act 1968 to section 20(2) of that Act shall be construed as a reference to this paragraph.

(3) In this paragraph “conversion or improvement” means the time when the tenancy in paragraph 1(1)(a) above becomes a regulated tenancy, or as the case may be the time when the works in paragraph 1(1)(b) above are completed.

*Rent agreement taking effect between conversion or improvement
and the registration of rent*

5.—(1) If, in the period between the conversion or improvement and the registration of a rent, a rent agreement with a tenant having security of tenure takes effect as respects the dwelling-house, and the landlord has conformed with the requirements of section 44(5) of this Act, or with sections 43 and 45 of this Act, then the preceding provisions of this Schedule shall apply as respects the period after

SCH. 6 the actual registration of rent as if the registration of rent had been on the date when the agreement took effect.

(2) Where this paragraph applies, the Table in this Schedule shall have effect as if all the Cases, other than Cases A and F, were omitted.

(3) In this paragraph—

“conversion or improvement” has the same meaning as in paragraph 4 above,

“rent agreement with a tenant having security of tenure” has the meaning given by section 43(1) of this Act.

Tenancy granted after registration of rent to a tenant having security of tenure

6. Where during the period of delay in any Case the tenant, or any person who might succeed him as a statutory tenant, becomes the tenant under a new regulated tenancy of the dwelling-house paragraph 4(2) above shall apply as it applies to a tenancy granted before the registration of a rent.

Supplemental

7. In ascertaining for the purposes of this Schedule whether there is any difference between amounts, or what that difference is, such adjustments shall be made as may be necessary to take account of periods of different lengths; and for that purpose a month shall be treated as one-twelfth and a week as one fifty-second of a year.

1968 c. 23. 8.—(1) In this Schedule “registration” means registration of a rent under Part IV of the Rent Act 1968, and “registered” shall be construed accordingly.

(2) Where a registration takes effect from a date earlier than the date of registration, references in this Schedule to the date of registration shall nonetheless be references to the later date.

(3) Where a rent designated or determined by a rent assessment committee is registered in substitution for a rent determined by the rent officer, the preceding provisions of this Schedule shall have effect as if only the rent designated or determined by the rent assessment committee had been registered; but the date of registration shall be deemed for the purposes of this Schedule (but not for the purposes of section 22(3) of the Rent Act 1968) to be the date on which the rent determined by the rent officer was registered.

(4) Where any provision of this Schedule imposes a rent limit for a statutory period in the period of delay, section 22(2) of the Rent Act 1968 shall have effect as if for references to the registered rent there were substituted references to that rent limit.

Transitional provisions

9.—(1) Cases B and D in the Table in this Schedule, together with Case H, apply if the registration is after the expiration of a period of one month beginning with the date on which this Act is passed.

(2) The remaining Cases in the said Table apply only if the registration is after the end of the year 1972.

10.—(1) Schedule 3 to the Housing Act 1969 shall not apply so as to create a period of delay beginning on a registration of rent after the end of the year 1972, and shall not apply where Case B or Case D of the Table in this Schedule applies. SCH. 6
1969 c. 33.

(2) On a registration before 1st January 1973 which is the first registration after the tenancy becomes a regulated tenancy by virtue of Part III of this Act, the said Schedule 3 shall apply as if the tenancy became a tenancy by virtue of Part III of the Housing Act 1969; and then paragraph 4 of that Schedule (the previous limit) shall have effect as if a notice of increase authorised by section 37(3) of this Act were included among the notices of increase there referred to.

(3) The said Schedule 3 shall have effect subject to the following modifications.

(4) For any year of a period of delay under that Schedule which begins on or after 1st January 1973 paragraph 3(3) of that Schedule shall have effect with the substitution for the reference to 37½ new pence of a reference to 50 new pence.

(5) Where the second year of a period of delay of four years under the said Schedule 3 begins on or after 1st January 1973, the period of delay shall instead be two years, and the fraction in the third column of the Table in the said paragraph 3 for the second year shall be three fifths, and not two fifths.

(6) Where sub-paragraph (5) above does not apply, and any year of a period of delay of four years begins on or after 1st January 1973, the period of delay shall instead be three years, and, if the said date falls in the second year of delay, the fraction in the said third column for the third year shall be four fifths, and not three fifths.

(7) Where the registration is in November or December 1972, and is the first registration after the tenancy has become a regulated tenancy by virtue of Part III of the Housing Act 1969—

(a) the period of delay shall end on 31st December 1974, and

(b) the stages by which the rent may progress to the amount registered shall be on the same dates, and of the same amounts, as prescribed by Case A of the Table above for a period of delay beginning on 1st January 1973.

(8) If in a period of delay under the said Schedule 3 the registration at the beginning of the period of delay is superseded by a later registration of a higher rent, and the later registration is on or after 1st January 1973—

(a) paragraph 6(4) of the said Schedule 3 shall not apply, and

(b) the rent for any rental period beginning after the second registration may be increased by an amount equal to the excess of the later registered rent over the earlier registered rent, in addition to any other permitted increase.

(9) Subject to the next following sub-paragraph, the repeal by this Act of section 52 of, and of Schedule 3 to, the Housing Act 1969 shall not apply where the date of registration of rent mentioned in paragraph 1 of the said Schedule 3 falls before the year 1973.

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(10) In the said Schedule 3, paragraph 5 (amount to be apportioned to services), with paragraphs 11 and 12, and all other provisions referring to that paragraph, shall be repealed for all purposes as from the expiration of a period of one month beginning with the date on which this Act is passed.

Improvement works begun before 1972 to be disregarded for certain purposes

11. For the purposes of Cases B, C and D in the Table in this Schedule any improvement the works for which were begun before the year 1972 shall be disregarded, and accordingly if the effect of this paragraph is that one of those Cases does not apply, Case A shall apply instead.

SCHEDULE 7

Section 2.

ENACTMENTS RELATING TO CERTAIN SUBSIDIES AND
OTHER PAYMENTS

PART I

PAYMENTS MADE BY SECRETARY OF STATE

<i>Act</i>	<i>Section or Schedule</i>
The Housing, Town Planning, &c. Act 1919 (c. 35).	Section 7. Section 19.
The Housing, &c. Act 1923 as extended, with amendments, by the Housing (Financial Provisions) Act 1924.	Section 1, except for sub-section (1)(a). Section 3.
The Housing Act 1930 (c. 39).	Section 26. Section 29(3).
The Housing Act 1935 (c. 40).	Section 27. Section 31. Section 33.
The Housing Act 1936 (c. 51).	Section 94. Sections 105 and 106. Section 108.
The Housing (Financial Provisions) Act 1938 (c. 16).	Sections 1 and 2. Section 9.
The Housing (Financial and Miscellaneous Provisions) Act 1946 (c. 48).	Sections 1 to 4. Sections 6 and 7. Sections 9 to 15.
The New Towns Act 1946 (c. 68).	Section 8.
The Housing Act 1949 (c. 60).	Section 42.
The Town Development Act 1952 (c. 54).	Section 2(2)(a).
The Requisitioned Houses and Housing (Amendment) Act 1955 (c. 24).	Section 10(2). Section 11.
The Housing Subsidies Act 1956 (c. 33).	Section 1. Sections 3, 4, 5 and 6.
The Housing (Financial Provisions) Act 1958 (c. 42).	Section 1. Sections 3, 4, 5, 6, 7 and 8. Section 16(1)(a). Section 19(3). Section 21. Section 25, so far as it relates to sections 3 to 8 and section 15 of the same Act, to Part I of the Housing Act 1961, and to Part I of the Housing Subsidies Act 1967. Section 46(5)(b). Section 48(3).

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<i>Act</i>	<i>Section or Schedule</i>
The New Towns Act 1959 (c. 62).	Section 4, except for sub-section (2) (grants for building experiments and for hostels). In Schedule 2, sub-paragraphs (1) and (2) of paragraph 4 except so far as they relate to hostels.
The Housing Act 1961 (c. 65).	Section 1. Sections 3, 4, 5 and 6. Section 8(2).
The Housing Act 1964 (c. 56).	Section 92(2). Section 94.
The New Towns Act 1965 (c. 59).	In Schedule 10, paragraph 4 except so far as it relates to hostels.
The Housing Subsidies Act 1967 (c. 29).	Sections 1 and 2. Sections 4, 5, 6, 7 and 8. Sections 10 and 11. Section 14(6) except so far as it relates to hostels, or relates to the enactments mentioned in section 77(2) of the Housing Act 1969 (contributions in respect of conversion or improvement of dwellings). Section 16.

PART II**CONTRIBUTIONS BETWEEN AUTHORITIES**

The Housing Subsidies Act 1967.	Section 9. Section 18.
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PART III**LOCAL AUTHORITY GRANTS LINKED WITH PAYMENTS
MADE BY SECRETARY OF STATE**

The Housing Act 1930.	Section 29(1).
The Housing Act 1935.	Section 27(3).
The Housing Act 1936.	Section 94(3).
The Housing Subsidies Act 1956.	Section 1(2)(b).
The Housing (Financial Provisions) Act 1958.	Section 1(2)(b).
The Housing Act 1961.	Section 1(2).
The Housing Subsidies Act 1967.	Section 1(5). Section 9(4).

PART IV

SCH. 7

MISCELLANEOUS

County council contributions to councils of county districts

<i>Act</i>	<i>Section or Schedule</i>
The Housing Act 1936.	Subsections (2) and (3) of section 115.
The Housing (Financial Provisions) Act 1938.	Subsections (1) and (2) of section 7.
The Housing (Financial and Miscellaneous Provisions) Act 1946.	Section 8(1).
The Housing (Financial Provisions) Act 1958.	Section 23.

Recovery of contributions paid out of money provided by Parliament

The Housing Subsidies Act 1956.	Section 9.
The Housing Subsidies Act 1967.	Section 17.

Payments by local authorities to Secretary of State

The Housing (Financial Provisions) Act 1958.	Section 16(1)(b).
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SCHEDULE 8

Section 100

TERMINATION OF CERTAIN PROVISIONS ABOUT HOUSING FINANCE

1.—(1) No payment shall be made under any of the enactments described in Schedule 7 to this Act for the year 1972-73 or any subsequent year.

(2) Without prejudice to the generality of sub-paragraph (1) above, no payment shall be made by a local authority for the year 1972-73 or any subsequent year in pursuance of any undertaking or agreement made under or by reference to any of the enactments described in Part III of the said Schedule 7 (which includes—

- (a) provisions authorising a local authority to enter into undertakings to make payments to other persons, and authorising payments out of money provided by Parliament to local authorities entering into such undertakings, and
- (b) provisions requiring or authorising a local authority, on receipt of any sum, to pay to another person an amount not less than that sum).

(3) Subject to sub-paragraphs (5) and (6) below, an agreement between a local authority and a new town corporation in pursuance of which payments are to be made under or by reference to any of the enactments described in the said Part III shall continue in force except so far as those payments are prohibited or restricted by the preceding provisions of this paragraph.

(4) This paragraph has effect subject to section 79(1) of this Act as respects certain agreements between local authorities and housing associations.

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(5) Upon the application of a party to an agreement such as is mentioned in sub-paragraph (3) above, the Secretary of State may, if he thinks fit, direct that the agreement shall have effect with such variations as may be specified in the direction.

(6) The variations which may be directed under sub-paragraph (5) above may be variations agreed by the parties or determined by the Secretary of State.

Termination of other provisions

2. The enactments described in the Table below shall cease to have effect, subject to the savings in that Table.

TABLE

Recovery of Exchequer contributions in respect of requisitioned houses

1955 c. 24. A. Section 11(4) of the Requisitioned Houses and Housing (Amendment) Act 1955, except as respects a sale of a house, or surrender of a lease, before 1st April 1972.

Temporary accommodation provided in war buildings

1958 c. 42. B. Section 16(3) of the Housing (Financial Provisions) Act 1958, except where the buildings were demolished before the coming into force of this Schedule.

Aluminium houses in unsatisfactory state

1964 c. 56. C. Section 93 of the Housing Act 1964, except where the request by the housing authority was duly made before the date of the coming into force of this Schedule, and the housing authority, before that date, satisfied the Secretary of State that they had taken the appropriate steps, including the disconnection of services, to enable the demolition to be carried out safely and efficiently.

Housing (Rural Workers) Acts

1926 c. 56. D. The Housing (Rural Workers) Acts 1926 to 1942, except in relation to any loan made before the coming into force of this Act under section 2 of the Housing (Rural Workers) Act 1926 (and excepting any enactment so far as it relates to the rate of interest payable on such a loan).

Houses built under s. 2 of Act of 1923

3.—(1) This paragraph applies in the case of a house—

1923 c. 24. (a) the construction of which was promoted by a local authority in accordance with section 2 of the Housing, &c. Act 1923, and

1924 c. 35. (b) in respect of which contributions would, apart from this paragraph, fall to be paid for the year 1974-75, or for that and later years, by the Secretary of State under the Housing (Financial Provisions) Act 1924.

(2) The following provisions of this paragraph shall have effect if—

(a) the person who, on 1st April 1974, is the owner of the house has so elected before that date, and

(b) the local authority are satisfied that the conditions set out in paragraph 1 of Schedule 2 to the Housing (Financial Provisions) Act 1958 and the condition set out in section 48(2) of that Act have been observed as respects the house throughout the year 1973-74. SCH. 8
1958 c. 42.

(3) In the circumstances specified in sub-paragraph (2) above, no payment shall be made under the said Acts of 1923 and 1924 in respect of the house for the year 1974-75 or any subsequent year either by the Secretary of State or by the local authority, and—

(a) the Secretary of State shall pay to the local authority a sum, calculated in such manner as appears to him to be appropriate, equivalent to one half of the value, as at 1st April 1974, of the payments which would have been made by him in respect of the house but for the election,

(b) the local authority shall pay to the owner of the house—

(i) an amount equal to that received by them from the Secretary of State under paragraph (a) above, and

(ii) where the annual sum which the local authority have undertaken to pay under section 2(3)(b) of the said Act of 1923 in respect of the house is greater than the annual amount of the Secretary of State's contribution, a sum, calculated in such manner as the Secretary of State may direct, either generally or in any particular case, being a sum equivalent to one half of the value, as at 1st April 1974, of the annual sums, so far as exceeding the Secretary of State's contributions, which the local authority would have paid but for the election.

(4) In the circumstances specified in sub-paragraph (2) above, the conditions described in paragraph (b) of that sub-paragraph (whether or not incorporated in any covenant or agreement) shall cease to apply to the house on 1st April 1974.

(5) Written notice of an election under this paragraph shall be given to the local authority before the end of the year 1973-74, and where the local authority receive such a notice they shall, as soon as possible after the end of that year—

(a) notify the Secretary of State, and

(b) send him a certificate stating whether they are, or are not, satisfied that the conditions described in the said sub-paragraph (2)(b) have been observed as regards the house throughout the year 1973-74.

(6) In this paragraph "owner" means the person or persons to whom payments by the local authority under the said Acts of 1923 and 1924 are for the time being payable.

Temporary housing under Act of 1944

4.—(1) The Housing (Temporary Accommodation) Act 1944, and any agreement under section 1 of that Act, shall cease to have effect. 1944 c. 36.

(2) So far as any agreement under the said section 1 provides for a payment by a local authority to the Secretary of State, or by the Secretary of State to a local authority, sub-paragraph (1) above shall have effect as respects payments to be made for the year 1972-73 and subsequent years.

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(3) All rights of property and other rights of the Secretary of State as respects any structure being used by a local authority in pursuance of an agreement under the said section 1 when this Schedule comes into force, and any obligation of the Secretary of State to any person other than the local authority as respects the removal or demolition of the structure, shall be transferred to the local authority.

(4) Subject to sub-paragraph (3) above, all obligations of the Secretary of State as respects any such structure shall be terminated.

1957 c. 56.

(5) The provisions of the Housing Act 1957 relating to houses provided by a local authority under Part V of that Act shall continue to have effect in relation to any such structure, and housing accommodation provided in any such structure shall be deemed to have been provided under the said Part V:

Provided that any such structure, and any land on which it is situated, which immediately before the coming into force of this Schedule was deemed to be land acquired for the purposes of Part V of that Act, may be appropriated, or disposed of, by the local authority in the same way as any other land provided under the said Part V.

(6) The preceding provisions of this paragraph shall not affect any obligation of a local authority to any other person as respects the removal or demolition of any structure.

(7) Where, under section 2 of the said Act of 1944, the local authority have, before the date when this Schedule comes into force, duly requested the Secretary of State to cause the structure to be taken down and removed, and the local authority have, before that date, satisfied the Secretary of State that they have taken the appropriate steps, including the disconnection of services, to enable the demolition to be carried out safely and efficiently, the Secretary of State shall, notwithstanding the preceding provisions of this paragraph, comply with the request and subsections (2) and (3) of the said section 2 shall apply as respects structures, fittings and materials removed in compliance with the request.

(8) References in this paragraph to any structure include references to any fittings forming part of the structure.

1945 c. 39.

1954 c. 53.

1944 c. 36.

5. The repeal by this Act of the Housing (Temporary Accommodation) Act 1945 and of section 19 of the Housing Repairs and Rents Act 1954 (which amend the Housing (Temporary Accommodation) Act 1944) shall not affect any duty imposed on a local authority before the coming into force of this Act under section 1(6) of the said Act of 1945 or the said section 19.

Exchequer contributions for unfit houses retained by local authorities

1958 c. 42.

6.—(1) Payments under section 13 of the Housing (Financial Provisions) Act 1958—

(a) shall not be made for the year 1972-73 or any subsequent year, and

(b) shall only be made (and only for the year 1971-72 and earlier years) as regards a house approved by the Secretary of State for the purposes of the said section 13 before 1st April 1972.

(2) Where payments under the said section 13 as regards a house approved before 1st April 1972 would, apart from this paragraph, fall to be paid for the year 1972-73, or for that and later years, the Secretary of State shall, subject to sub-paragraph (3) below, pay to the local authority a sum, calculated by such method as he may determine, equivalent to the value of those payments, as at 1st April 1972.

(3) In the case of payments under subsection (2)(a) of the said section 13 (payments for years during which the house is used for approved housing purposes), it shall be assumed for the purposes of sub-paragraph (2) above—

- (a) that no payment would, apart from this paragraph, fall to be paid under the said subsection (2)(a) for the year 1972-73 or any later year if the first such payment was for the year 1961-62 or any earlier year, and
- (b) if the first such payment was for the year 1962-63, that no such payment would be made for the year 1972-73 or any later year, and correspondingly that if the first such payment was for a year after 1962-63, that no such payment would be made for any year beginning more than ten years after the beginning of the year for which the first such payment was made,
- (c) that any house is used in the year 1972-73, and later years, for the said approved housing purposes.

(4) Where a local authority have taken possession of a house before 1st April 1972, and—

- (a) the house has not been approved for the purposes of the said section 13, but
- (b) apart from the provisions of this paragraph, it would have been eligible for approval under that section, or would have been so eligible if the local authority had purchased it,

the Secretary of State may pay to the local authority a sum of such amount as, in his opinion, is appropriate having regard to the period for which the house is likely to be used for housing purposes, and to the date when the local authority might be expected to incur expenditure on purchasing the house.

Agricultural housing accommodation

7.—(1) No undertaking shall be given by the Secretary of State under section 46 of the Housing (Financial Provisions) Act 1958— 1958 c. 42,

- (a) as respects arrangements made on or after the date when this Schedule comes into force, or
 - (b) as respects any house completed on or after 1st April 1974.
- (2) The following provisions of this paragraph shall have effect if—
- (a) the person who on 1st April 1974, is the owner of a house as respects which contributions would, apart from this paragraph, fall to be paid under the said section 46 for the year 1974-75 has so elected before that date, and
 - (b) the local authority are satisfied that the conditions specified in the said section 46 have been observed as respects the house throughout the year 1973-74 or, if the house was not completed until after the beginning of that year, throughout the part of that year after it was completed.

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(3) In the circumstances specified in sub-paragraph (2) above no payment shall be made under the said section 46 in respect of the house for the year 1974-75 or any subsequent year either by the Secretary of State, or by the local authority (whether by way of annual grant equal to the Secretary of State's contribution, or by way of any additional amount), and—

(a) the Secretary of State shall pay to the local authority a sum, calculated in such a manner as appears to him to be appropriate, equivalent to one half of the value, as at 1st April 1974, of the payments which would have been made by him in respect of the house but for the election,

(b) the local authority shall pay to the owner of the house—

(i) an amount equal to that received by them from the Secretary of State under paragraph (a) above, and

(ii) where the annual grant paid by them in respect of the house is greater than the annual amount of the Secretary of State's contribution, a sum calculated in such manner as the Secretary of State may direct, either generally or in any particular case, being a sum equal to one half of the value, as at 1st April 1974, of the annual grants, so far as exceeding the Secretary of State's contributions, which the local authority would have paid but for the election.

(4) In the circumstances specified in sub-paragraph (2) above, the conditions described in paragraph (b) of that sub-paragraph (whether or not incorporated in any covenant or agreement) shall cease to apply to the house on 1st April 1974.

(5) Written notice of an election under this paragraph shall be given to the local authority before the end of the year 1973-74, and where the local authority receive such a notice they shall, as soon as possible after the end of that year—

(a) notify the Secretary of State, and

(b) send him a certificate stating whether they are, or are not, satisfied that the conditions described in the said sub-paragraph (2)(b) have been observed as regards the house throughout the period described in that paragraph.

(6) In this paragraph "owner" means the person or persons to whom payments by the local authority under the said section 46 are for the time being payable.

Advances on account of expensive site subsidies

1967 c. 29. 8.—(1) Subject to the provisions of this paragraph, section 11 of the Housing Subsidies Act 1967 shall cease to have effect.

(2) Sub-paragraph (1) above shall not affect the right of recovery by the Secretary of State under subsection (2)(b) of the said section 11 (recovery on exercise of Secretary of State's power to terminate subsidies in certain circumstances) where the subsidies cease on the exercise by the Secretary of State of his powers under section 14(3) of the said Act.

(3) If any such event or other circumstance as is described in the said section 14(3) arises in the year 1971-72, and the Secretary of State is satisfied that, apart from the provisions of this Act, he would have discontinued any subsidy in the circumstances, he may exercise his right of recovery under the said subsection (2)(b) notwithstanding that he has not exercised his power of discontinuance under the said section 14(3).

(4) Without prejudice to any right of recovery saved by the preceding provisions of this paragraph, the Secretary of State may, on the coming into force of this Schedule, recover any payment made by him under the said section 11 on or after 1st December 1971 as respects the site or part of a site for which the first payment was made on or after 1st December 1971, and paragraphs 10 and 11 below shall not be taken to apply to any such payment by the Secretary of State under the said section 11.

(5) Sub-paragraph (1) above shall not affect the Secretary of State's right of recovery under subsection (2)(c) of the said section 11 (subsidy unlikely ever to become payable) where the Secretary of State notified the local authority of his intention to recover before the coming into force of this Schedule.

Payments for hostels

9.—(1) No payment shall be made under section 15 of the Housing (Financial Provisions) Act 1958 or, so far as it relates to hostels, under any provision of the New Towns Act 1959 or the New Towns Act 1965 except in the case of—

- (a) premises approved for the purposes of subsection (1) of the said section 15 before the coming into force of this Act, or
- (b) premises provided or converted under arrangements entered into before the coming into force of this Act under or by virtue of section 120 of the Housing Act 1957 or section 9(2) of the Housing Act 1961.

(2) Except as respects payments falling to be made by a Minister for the year 1971-72 or any earlier year, for Schedule 2 to the Housing Subsidies Act 1967 (annual subsidies which may be reduced, discontinued or transferred under section 14 of that Act) there shall be substituted the following Schedule—

“ SCHEDULE 2

PROVISIONS AUTHORISING PAYMENT OF ANNUAL SUBSIDIES

The Housing Act 1949

(12, 13 & 14 Geo. 6. c. 60)

Section 40.

The Housing (Financial Provisions) Act 1958

(6 & 7 Eliz. 2. c. 42)

Sections 15 and 22.

The Housing Act 1961

(9 & 10 Eliz. 2. c. 65)

Section 9.

Any provision of the New Towns Act 1959, or of the New Towns Act 1965, so far as it relates to hostels.

This Act

Section 14(6).”

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*Supplemental**Subsidies paid under old law for the year 1972-73*

10.—(1) Any sum paid, before the coming into force of this Schedule, by the Secretary of State for the year 1972-73 under any enactment described in Part I of Schedule 7 to this Act shall be brought into account as follows.

(2) A sum so paid shall be treated as paid on account of any sums payable to the recipient housing authority under Part I or VII of this Act for the year 1972-73, and if the total of sums so paid exceeds the total of the sums payable under Part I or VII of this Act for the year 1972-73, the excess shall be recoverable by the Secretary of State from the recipient housing authority.

(3) If it appears to the Secretary of State at any time that, when the sums payable under Part I or VII of this Act for the year 1972-73 are finally ascertained, any amount will be recoverable by him under sub-paragraph (2) above, he may require the recipient housing authority to pay that amount to him forthwith, but without prejudice to any further adjustment, either way, when those sums are finally ascertained.

(4) Where sums are payable to the recipient housing authority for the year 1972-73 under two or more different sections in Part I or VII of this Act, the Secretary of State may determine the order in which the sums so payable are to be reduced to give effect to sub-paragraphs (2) and (3) above.

(5) In this paragraph “recipient housing authority” means the local authority, new town corporation or housing association to whom the sum in question is payable.

11.—(1) Any sum paid, before the coming into force of this Schedule, by the Secretary of State for the year 1972-73 under any enactment described in Part III of Schedule 7 to this Act (payments by Secretary of State linked with local authority grants to new town corporations or housing associations) shall be dealt with as follows.

(2) Nothing in this Act shall affect the obligation of the local authority receiving the payment to pay a sum of an amount equal to that received by them to the new town corporation or housing association.

(3) A sum paid by a local authority in pursuance of such an obligation (up to the amount equal to that received by the local authority) shall be treated as paid on account of any sums payable to the new town corporation or housing association under Part I, or as the case may be Part VII, of this Act for the year 1972-73, and if the total of sums so paid exceeds the total of the sums payable under the said Part I or Part VII for the year 1972-73, the excess shall be recoverable by the Secretary of State from the new town corporation or housing association.

(4) Any sums paid, before the coming into force of this Schedule, by a local authority to a new town corporation in pursuance of any undertaking or agreement made under or by reference to any of the enactments described in Part III of Schedule 7 to this Act,

so far as it exceeds the amount received by the local authority from the Secretary of State under that enactment, shall be repaid by the new town corporation to the local authority.

Payment of old subsidy based on an estimate

12.—(1) This paragraph has effect where information given to the Secretary of State on an application duly made for a payment for the year 1971-72 or any earlier year under any enactment described in Part I of Schedule 7 to this Act includes any particulars which are, and are stated to be, based on an estimate arrived at to the best of the knowledge and belief of the applicant.

(2) Subject to the following provisions of this Schedule, if it appears to the Secretary of State—

(a) that the estimate is reasonable, and

(b) that, assuming the estimate was reasonable, the information and other particulars given on the application are sufficient to enable him to determine the amount of the payment,

he may accept the estimate, and make a payment accordingly.

(3) Where a payment is made in pursuance of this paragraph neither the local authority receiving the payment nor (where the payment is made under a provision requiring a local authority to pay over to a new town corporation or a housing association an amount not less than that received) the new town corporation or housing association, shall be entitled to question the amount of the payment on a ground which means that the estimate was incorrect.

(4) Where the Secretary of State is not satisfied that the estimate is reasonable, he may, if he thinks fit, accept the application and make a payment of such amount as appears to him reasonable.

Time limit for applications for old subsidies

13.—(1) Subject to the provisions of this paragraph, the right to receive any payment from the Secretary of State under any enactment described in Part I of Schedule 7 to this Act shall be extinguished unless an application has been duly made for the payment before the relevant date, and unless the Secretary of State is satisfied that the information and other particulars given (before the relevant date) on the application—

(a) are sufficient to enable him to determine the amount of the payment, or

(b) are such as to enable him to make a payment based on an estimate in pursuance of the last preceding paragraph.

(2) The relevant date is—

(a) where the payment claimed is not under the Housing Subsidies Act 1967, 18th September 1971,

(b) where the payment claimed is under the said Act, the day after the expiration of a period of one month beginning with the date on which this Act is passed.

(3) Where an application satisfying paragraph (a) or (b) of subparagraph (1) above for a payment which is not under the Housing

SCH. 8 Subsidies Act 1967 is made on or after 18th September 1971, the Secretary of State may, if he thinks fit, make a payment in accordance with the application.

(4) The provisions of this paragraph are without prejudice to the discretion conferred on the Secretary of State by paragraph 12(4) above.

Attribution of payments to financial years

14.—(1) This paragraph has effect where, for the purposes of this Schedule, or of any other provision of this Act, it is necessary to determine the year for which any sum is payable under any of the enactments described in Part I of Schedule 7 to this Act, or for which any such sum would be payable apart from the provisions of this Act.

(2) The determination shall be made according to the practice followed by the Secretary of State up to the coming into force of this Act, that is to say the system of accounting by which—

(a) all sums so payable are referred to particular years ; and

(b) the payments referred to any year are, up to the amounts which up to that time have been ascertained to be due, made on 30th June and 31st December in that year.

(3) Accordingly, the sums to be treated for the purposes of this Act as payable for a particular year shall include all those sums which, by the said system of accounting, are referred to that year even if the amount payable has not been, or cannot be, ascertained by 31st December in that year.

(4) The Secretary of State may give directions, which may be either general directions or directions for a particular case—

(a) for settling any question as to the nature of the practice followed up to the coming into force of this Act, or as to the application of that practice under this paragraph,

(b) where it appears to the Secretary of State that the practice does not enable the year to be determined in any case or class of cases, for settling the matter either generally or for the particular case or class of case,

and directions given under this sub-paragraph may apply either as respects payments to be made by the Secretary of State, or as respects payments to be made by any other person.

(5) Any sum which is, or would apart from the provisions of this Act be, payable under any enactment described in Part III of Schedule 7 to this Act (sum payable by a local authority on receipt of payment from the Secretary of State) shall be referred to the same year as the payment from the Secretary of State.

15. Where paragraph 14 does not apply, and it is necessary for the purposes of this Schedule, or of any other provision of this Act, to determine the year for which any sum is, or would apart from the provisions of this Act be, payable, the Secretary of State may give directions, either generally or in any particular case, for prescribing the manner in which, or method by which, the question is to be determined.

Determination of disputes

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16.—(1) Any dispute between two or more housing authorities, or between any housing authority and any other person, as to a claim for a payment from a housing authority under any of the enactments described in Schedule 7 to this Act or this Schedule, shall be referred to and determined by the Secretary of State.

(2) In this paragraph “housing authority” includes the council of a county.

Duty to supply information

17.—(1) Every housing authority, and every officer of a housing authority concerned with their housing functions, shall supply the Secretary of State with such information as he may specify, either generally or in any particular case, for the purpose of enabling the Secretary of State to make any determination or calculation as respects payments for the year 1971-72 or any earlier year under the enactments described in Schedule 7 to this Act or this Schedule, or any determination or calculation related to the winding-up of the housing subsidy system superseded by this Act.

(2) In this paragraph “housing authority” includes the council of a county and a housing association.

Expenses of Secretary of State

18. Any payments to be made by the Secretary of State under this Schedule shall be paid out of money provided by Parliament.

SCHEDULE 9

Section 108.

MINOR AND CONSEQUENTIAL AMENDMENTS

Town Development Act 1952

1. In section 14(3) of the Town Development Act 1952, for the words “as mentioned in subsection (1) of this section” there shall be substituted the words “by agreement in connection with town development within the meaning of this Act, or by order under section 9 or section 13 of this Act”. 1952 c. 54.

*Local Government
(Miscellaneous Provisions) Act 1953*

2.—(1) In section 2 of the Local Government (Miscellaneous Provisions) Act 1953 (local authorities’ capital funds) after subsection (2) there shall be inserted— 1953 c. 26.

“(2A) Except with the consent of the Secretary of State, money received from the disposal of any property within the local authority’s Housing Revenue Account shall not be paid into any such capital fund”.

(2) After the said section 2 there shall be inserted—

“Capital funds under local Acts. 2A. Except with the consent of the Secretary of State, money received from the disposal of any property within a local authority’s Housing Revenue Account shall not be paid into any capital fund established under any existing or future local Act.”

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Housing Act 1957

1957 c. 56.

3.—(1) In section 111(1) of the Housing Act 1957 (general responsibility for houses provided under Part V of the Act) after the word “may” there shall be inserted the words “subject to the provisions of the Housing Finance Act 1972”.

(2) In section 152 of the Housing Act 1957 (compensation in certain cases of subsidence) for the words “is liable to contribute” there shall be substituted the words “was liable to contribute at any time before the coming into force of the Housing Finance Act 1972.”

Ministry of Social Security Act 1966

1966 c. 20.

4. In section 16 of the Ministry of Social Security Act 1966 (prevention of duplication of payments) after subsection (2) there shall be inserted—

“(2A) Where, in determining the amount of any benefit, the requirements of any person have been taken into account for the whole or part of a period in respect of which rebate or allowance under Part II of the Housing Finance Act 1972 might be afforded to him, and, before the whole or part of it has been afforded, the authority are notified by the Commission of the amount by which the amounts paid under this Act exceed what the Commission have determined they would have been had the rebate or allowance been afforded before the amount of the benefit was determined, the amount of the rebate or allowance to be afforded shall be reduced by the amount so notified.”

Supplementary benefit : rent brought into calculation of requirements

5. At the end of paragraph 13 of Schedule 2 to the Ministry of Social Security Act 1966 (supplementary benefit: the rent to be included in calculation of requirements) there shall be added the following sub-paragraph:—

“(4) Where any amount of the rent or rates is met by a rebate or allowance under Part II of the Housing Finance Act 1972, or by any rate rebate, the amount so met shall be deducted from the increase to be made under sub-paragraph (1)(a) of this paragraph.”

6.—(1) The provisions of this paragraph have effect as respects the exercise of the power under sub-paragraph (1)(a) of paragraph 13 of Schedule 2 to the Ministry of Social Security Act 1966 to take account of part only of the net rent payable (reduced where appropriate under sub-paragraph (2) of that paragraph) for any period for which a rent rebate or rent allowance is made to a person in receipt of supplementary benefit, or to a person whose requirements are aggregated with his under paragraph 3(1) of the said Schedule 2.

(2) The said power shall not be exercisable—

(a) subject to sub-paragraph (3) below, on the ground that the rent is an excessive rent for the dwelling, or

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(b) subject to sub-paragraph (4) below, on the ground that the rent is excessive because of the size, location or character of the dwelling, or

(c) on the ground that the rent is excessive having regard to the resources of the tenant and of any person whose requirements are aggregated with his under the said paragraph 3(1).

(3) Sub-paragraph (2)(a) above shall not apply to rent disregarded in pursuance of paragraph 14 of Schedule 4 to this Act.

(4) Sub-paragraph (2)(b) above—

(a) shall not apply where a rent allowance is granted for the period and a reduction falls to be made under sub-paragraph (2) of paragraph 13 of the said Schedule 2 (adjustment for non-dependants sharing the accommodation), and

(b) where rent is reduced under paragraph 17 of Schedule 3 to this Act, shall only apply to the amount of the rent after the reduction.

(5) The preceding provisions of this paragraph shall not apply where the rebate or allowance has been restricted under paragraph 14 of Schedule 3 to this Act.

(6) Regulations under section 5 of the Ministry of Social Security Act 1966 may vary the provisions of this paragraph as if they were contained in Part II of the said Schedule 2.

(7) This paragraph shall not affect the provisions of the said sub-paragraph (1)(a) so far as they relate to any amount which is not rent which is eligible to be met by a rebate or an allowance as defined in section 25 of this Act.

Local Government Act 1966

7. In section 1(6) of the Local Government Act 1966 for the words “the provision of housing accommodation” there shall be substituted the word “housing”.

8.—(1) The expression “relevant expenditure” as defined by section 1(7) of that Act (which relates to rate support grant) shall not include—

(a) any expenditure in or in connection with the discharge of slum clearance functions as defined by section 11(7) of this Act, or

(b) any expenditure incurred in granting rent allowances, or in administering a rent allowance scheme.

(2) This paragraph has effect as respects expenditure for the year 1973-74 and subsequent years.

Leasehold Reform Act 1967

9. In paragraph 8(4) of Schedule 5 to the Leasehold Reform Act 1967 for the reference to section 9(4) of the Rent Act 1968 there shall be substituted a reference to section 35(8) of this Act.

Rent Act 1968

10. In section 5(6) of the Rent Act 1968 (conditions for a housing association tenancy to be excluded from the Rent Acts) there shall be inserted after paragraph (c)—

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“(cc) that the dwelling-house was comprised in a scheme approved for the purposes of section 75 of the Housing Finance Act 1972”.

1968 c. 23.

11. For paragraph (a) of section 107(1) of the Rent Act 1968 (power of local authority to publish information) there shall be substituted the following paragraphs—

“(a) to publish information, for the assistance of landlords and tenants and others, as to their rights and duties under—

1962 c. 50.

(i) the Landlord and Tenant Act 1962,

1965 c. 75.

(ii) Part III of the Rent Act 1965,

(iii) this Act, and

(iv) Parts III, IV, VIII and section 90 of the Housing Finance Act 1972,

and as to the procedure for enforcing those rights or securing the performance of those duties, and

(aa) to make any such information available in any other way, and”.

12.—(1) In section 109 of the Rent Act 1968 (service of notices on agents of landlord) subsection (5) (which excludes the operation of that section in relation to Parts VI and VII of that Act) shall cease to have effect.

(2) In subsection (3) of the said section 109 (right to obtain name and address of landlord) after the words “this Act” there shall be inserted the words “or Part III of the Rent Act 1965 (protection against harassment)”.

(3) So far as the said section 109, as amended by this paragraph, relates to Part VI or Part VII of the Rent Act 1968 or to Part III of the Rent Act 1965, references in the said section 109 to a landlord and to a tenant shall respectively include references to a lessor and to a lessee as defined by section 84(1) of the Rent Act 1968.

13. Paragraph 5 of Schedule 9 to the Rent Act 1968 (notice to landlord of proposal to issue certificate of disrepair) and Part III of that Schedule (certificate of repair where landlord is overseas company) shall cease to have effect.

Prices and Incomes Act 1968

1968 c. 42.

14.—(1) Section 12 of the Prices and Incomes Act 1968 (increase of local authority rents without notice to quit) shall have effect as if—

(a) any reference in that section to a local authority house included reference to a Housing Revenue Account dwelling of a new town corporation, and

(b) any reference in that section to a local authority included, in relation to a Housing Revenue Account dwelling of a new town corporation, that corporation.

(2) This paragraph shall apply in relation to a tenancy notwithstanding that the letting took place before the coming into force of this Act.

Housing Act 1969

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15. In section 38 of the Housing Act 1969 (general improvement 1969 c. 33. areas: exclusion of certain entries from Housing Revenue Account) for the reference to section 50 of the Housing (Financial Provisions) Act 1958 there shall be substituted a reference to the provisions of 1958 c. 42. this Act about the Housing Revenue Account.

16. In section 40(2)(a) of the Housing Act 1969 the reference to Part III of that Act shall include a reference to Part III of this Act.

Fire Precautions Act 1971

17.—(1) The reference in paragraph 1(6)(b) of Part I of the Schedule to the Fire Precautions Act 1971 to section 53 of the 1971 c. 40. Housing Act 1969 shall include a reference to section 38(2) of this Act.

(2) At the end of paragraph 3(1) of the said Part I there shall be inserted the following:—

“(c) Schedule 6 to the Housing Finance Act 1972 (restriction on rent increases) shall have effect, in relation to any period of that tenancy (whether contractual or statutory) beginning while the registration of that rent continues to have effect, as if the amount to which the rent could be increased in accordance with that Schedule for a statutory period had been simultaneously increased by the same amount (that is to say by the amount specified in the court order).

(1A) Where the rent payable under a tenancy to which Part VIII of the Housing Finance Act 1972 applies is increased by an order of a court made by virtue of section 28(3)(b) of this Act, then the rent limit for the dwelling-house under the said Part VIII (including the rent limit specified in a direction of the Secretary of State) shall be increased by an amount equal to the increase effected by the order in the rent payable for the rental period in question:

Provided that if, at any time after the court order takes effect, a rent is registered for the dwelling-house (whether it is the first or any subsequent registration) this sub-paragraph shall not apply to any rental period beginning after that time.”

SCHEDULE 10

Section 108.

TRANSITORY PROVISIONS

Rising costs subsidy

1.—(1) For the purposes of section 4 of this Act no expenditure in connection with houses approved under section 13 of the Housing (Financial Provisions) Act 1958 (unfit houses retained for temporary accommodation) shall be included in a housing authority's expenditure.

(2) For the purposes of the said section 4 a local authority's expenditure shall not include any contribution to the Housing Repairs Account which is debited to the Housing Revenue Account for the year 1971-72, but shall include the expenditure on repairs and main-

SCH. 10 tenance which is debited to the Housing Repairs Account for the year 1971-72 as if it had been debited to the Housing Revenue Account.

Working balances in Housing Revenue Account

1958 c. 42.

2. The repeal by this Act of Schedule 5 to the Housing (Financial Provisions) Act 1958 shall not affect the amount, if any, to be carried to the credit of the Housing Revenue Account for the year 1972-73, and any amount so carried forward shall be treated as a working balance at the beginning of the year.

Housing Repairs Account

3.—(1) No Housing Repairs Account shall be kept for the year 1972-73, or any later year.

(2) Any surplus in a Housing Repairs Account as at 31st March 1972 shall be treated as a working balance, or part of a working balance, carried forward to the credit of the Housing Revenue Account for the year 1972-73.

(3) Any deficit in a Housing Repairs Account as at 31st March 1972 shall be debited to the local authority's Housing Revenue Account for the year 1972-73, and shall be treated as if it represented expenditure on repairs for that year, in addition to expenditure on repairs actually incurred for the year 1972-73.

(4) Any investment under section 53 of the Housing (Financial Provisions) Act 1958 (temporary application of money in housing accounts) of money required to be credited to a Housing Repairs Account shall be realised not later than 31st March 1973.

(5) In complying with the requirements of this paragraph a local authority shall act in accordance with such directions, if any, as may be given by the Secretary of State.

Housing Equalisation Account

4.—(1) No Housing Equalisation Account shall be kept for the year 1972-73, or any later year.

(2) Any balance in a Housing Equalisation Account as at 31st March 1972 shall be treated by the local authority as a capital receipt, and the local authority shall apply it for any one or more of the following purposes—

(a) the repayment of housing debt,

(b) the purchase of land for the purposes of Part V of the Housing Act 1957,

(c) any other purpose approved by the Secretary of State, being a purpose for which the local authority may properly apply capital money.

1957 c. 56.

(3) For each year the local authority shall carry to the credit of the Housing Revenue Account amounts equal to any income, and receipts in the nature of income, being income or receipts arising to the local authority for that year from the investment or other use of money representing any sum treated as a capital receipt in pursuance of this paragraph.

(4) In complying with the requirements of this paragraph a local authority shall act in accordance with such directions, if any, as may be given by the Secretary of State.

SCH. 10

Housing Revenue Accounts

5.—(1) The houses and other property within a local authority's Housing Revenue Account shall include any property brought within the account before the coming into force of this Act—

(a) with the consent of a Minister given under section 50(1)(e) of the Housing (Financial Provisions) Act 1958, or 1958 c. 42.

(b) by virtue of subsection (2) of the said section 50 (houses vesting in local authority on default of another person).

(2) References in section 12 of, and Schedule 1 to, this Act, to property provided under Part V of the Housing Act 1957 shall not include references to any property provided on or before 6th February 1919. 1957 c. 56.

(3) Where, but for the coming into force of this Act, any correction of a Housing Revenue Account for the year 1971-72, or for an earlier year, would have been effected by entering a credit or debit in that account for the year 1972-73, or any later year, the correction shall be so made notwithstanding the provisions of this Act as to the nature of the credits or debits to be entered in the Housing Revenue Account for the year 1972-73 and later years.

(4) Any direction given under section 24 of the Town and Country Planning Act 1959 concerning the Housing Revenue Account of any local authority shall apply in relation to the account to be kept under this Act as it would have applied to the account to be kept under the Housing (Financial Provisions) Act 1958. 1959 c. 53.

(5) Any direction given under paragraph 1(3) of Schedule 5 to the Housing (Financial Provisions) Act 1958 (crediting of income from proceeds of sale of property) shall, in the year 1972-73 and later years, have effect as if given under paragraph 1(3)(a) of Schedule 1 to this Act.

(6) Any direction given under paragraph 4 of the said Schedule shall, as respects those years, have effect as if it had been given under paragraph 5 of Schedule 1 to this Act.

Rent rebate schemes operated in 1970-71 and 1971-72

6.—(1) This paragraph has effect where, for all or any part of the years 1970-71 and 1971-72, a local authority were making rent rebates to the tenants of their Housing Revenue Account dwellings, but were excluding all or any of the tenants in receipt of supplementary benefit.

(2) The local authority shall have power to pay to the Secretary of State such amount in respect of tenants so excluded as may be determined by them on a formula agreed with the Secretary of State.

Repeal of Part III of Housing Act 1969

7.—(1) An application under Part III of the Housing Act 1969 for a qualification certificate which has not been disposed of before 1969 c. 33.

SCH. 10 the date of the repeal by this Act of the said Part III shall be treated as if made under Part III of this Act.

(2) A certificate of provisional approval or a certificate of fair rent issued before the said date on such an application shall be treated as if issued under Part III of this Act.

(3) The said repeal shall not affect section 47 of the said Act (registration of rent after issue of qualification certificate) as respects an application for registration of a rent where the tenancy became a regulated tenancy before the said date.

(4) Where an application under Part III of the Housing Act 1969 for a qualification certificate has been disposed of before the said date (whether by refusal of the application, or by issuing a certificate) the said repeal shall not affect the right of appeal under section 49 of the Housing Act 1969, or the application of the said Part III on the determination of the appeal.

(5) Nothing in section 51(1) of the Housing Act 1969 shall apply to any notice of increase served on or after the date of the repeal, and the said repeal shall not affect paragraph (a) or paragraph (b) of subsection (2) of the said section 51.

(6) After the date of repeal of the said Part III, section 37(3) of this Act shall apply to a conversion under the said Part III as it applies to a conversion under Part III of this Act.

(7) The said repeal shall not affect the requirements of section 54(1) of the Housing Act 1969 where the tenant's consent was given before the said date.

(8) The said repeal shall not affect any proceedings pending under subsection (2) of the said section 54 when the said repeal takes effect.

Power to repeal or amend local Acts

8.—(1) The Secretary of State may, subject to the provisions of this paragraph, by order repeal or amend any provision—

- (a) in any local Act passed before this Act, or
- (b) in any order or other instrument made under an Act of Parliament before the passing of this Act,

where it appears to him that that provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act.

(2) Before making an order under this section the Secretary of State shall consult with any county council or local authority which appear to him to be concerned.

(3) An order made under this paragraph—

- (a) may contain such transitional, supplemental or incidental provisions as appear to the Secretary of State to be expedient, and
- (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Consultations by Secretary of State before the coming into force of this Act

9. A provision of this Act which imposes on the Secretary of State

a duty to consult any association or body, or to consult such SCH. 10 associations or bodies as appear to him to be desirable or appropriate or to be concerned, shall not be taken as implying that further consultation is required by the provision where the Secretary of State is satisfied that there was consultation before the coming into force of this Act which in his opinion was sufficient for the purpose.

SCHEDULE 11

Section 108.

REPEALS

PART I

HOUSING ACCOUNTS

Chapter	Short Title	Extent of Repeal
6 & 7 Eliz. 2. c. 42.	The Housing (Financial Provisions) Act 1958.	Part III. Schedule 5.
6 & 7 Eliz. 2. c. 55.	The Local Government Act 1958.	Section 56(3).
7 & 8 Eliz. 2. c. 33.	The House Purchase and Housing Act 1959.	Section 26.
1963 c. 33.	The London Government Act 1963.	Section 23(6).
1969 c. 33.	The Housing Act 1969.	In Schedule 8 paragraph 18.

The repeals in this Part of this Schedule have effect as respects accounts for the year 1972-73 and later years.

PART II

CONTROLLED AND REGULATED TENANCIES

Chapter	Short Title	Extent of Repeal
1967 c. 88.	The Leasehold Reform Act 1967.	In Schedule 5 paragraph 3(2)(a) and in paragraph 8 subparagraphs (2) and (3).
1968 c. 23.	The Rent Act 1968.	Section 8. Section 9(4). Section 20(3). Section 21. Sections 27 and 28. Section 29(3). Section 30(3). In section 31 the words " section 21(5) or as the case may be ". Section 115(5). In Schedule 9 paragraph 5, in paragraph 8(1) the words " or paragraph 5 " and Part III. In Schedule 14 paragraph 3. In Schedule 15 the amendments of paragraph 3(2)(a) and paragraph 8 of Schedule 5 to the Leasehold Reform Act 1967.

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Chapter	Short Title	Extent of Repeal
1971 c. 40.	The Fire Precautions Act 1971.	In Schedule 16, in paragraph 10 the words "without prejudice to section 30(3) of this Act", and paragraph 22(4). In Part I of the Schedule, in paragraph 1(6)(b) the words "21(5) and", paragraph 3(2), paragraph 3(3) and in paragraph 3(4)(a) the words "and after the word 'below' in subsection (3)".

This Part of this Schedule comes into force on 1st January 1973.

The repeals of section 20(3) and section 21 of the Rent Act 1968, and of references to those enactments, have effect subject to the saving in section 42 of this Act.

PART III

HOUSING SUBSIDIES, ETC.

Chapter	Short Title	Extent of Repeal
13 & 14 Geo. 5. c. 24.	The Housing, &c. Act 1923.	Section 6.
20 & 21 Geo. 5. c. 39.	The Housing Act 1930.	Section 26.
25 & 26 Geo. 5. c. 40.	The Housing Act 1935.	Section 27.
7 & 8 Geo. 6. c. 36.	The Housing (Temporary Accommodation) Act 1944.	The whole Act.
8 & 9 Geo. 6. c. 39.	The Housing (Temporary Accommodation) Act 1945.	The whole Act.
9 & 10 Geo. 6. c. 48.	The Housing (Financial and Miscellaneous Provisions) Act 1946.	The whole Act.
15 & 16 Geo. 6. and 1 Eliz. 2. c. 54.	The Town Development Act 1952.	In section 2, subsection (2)(a) and in subsection (3) the words from "towards annual" to "subsection, or". Section 3(2)(c). Section 8(1)(f). Section 14(1) and (2). Part I.
2 & 3 Eliz. 2. c. 53.	The Housing Repairs and Rents Act 1954.	Section 10(2). Section 11.
3 & 4 Eliz. 2. c. 24.	The Requisitioned Houses and Housing (Amendment) Act 1955.	The whole Act.
4 & 5 Eliz. 2. c. 33.	The Housing Subsidies Act 1956.	Section 114.
5 & 6 Eliz. 2. c. 56.	The Housing Act 1957.	

Chapter	Short Title	Extent of Repeal
6 & 7 Eliz. 2. c. 42.	The Housing (Financial Provisions) Act 1958.	Sections 1 to 8. Section 13. Sections 16 to 21. Sections 23 and 24. In section 25, in subsection (1) the words from "and, subject to the provisions" to the end of the subsection. Sections 26 and 27. In section 29, in subsection (1) all the definitions except that of "local authority", and subsection (2). Section 46(5)(b). In section 56 the words from "but excluding" to "this Act". Section 58(2). In section 59, subsection (4) except so far as it relates to section 1(1)(a) of the Housing, &c. Act 1923. Schedule 1. In Schedule 2, paragraph 2. Schedule 3.
7 & 8 Eliz. 2. c. 62.	The New Towns Act 1959.	In section 4, subsection (1) and subsection (4).
8 & 9 Eliz. 2. c. 20.	The Requisitioned Houses Act 1960.	In section 2, subsections (3) and (4).
9 & 10 Eliz. 2. c. 65.	The Housing Act 1961.	Part I, except sections 7 and 9. Schedules 1 and 2.
1964 c. 56.	The Housing Act 1964.	Sections 92 and 93. Section 97(1).
1965 c. 59.	The New Towns Act 1965.	Section 56(2). In Schedule 10 the following provisions, except as respects hostels, that is in paragraph 4 sub-paragraph (1), in sub-paragraph (4) the words from "and there shall" to the end of the sub-paragraph and paragraph 6(2).
1967 c. 29.	The Housing Subsidies Act 1967.	Sections 1 to 13. Sections 16 to 21. Section 23. Schedule 1. Schedule 3, except paragraphs 2 and 12.
1969 c. 33.	The Housing Act 1969.	In Schedule 8, paragraph 20.

The repeals in this Part of this Schedule have effect only as respects payments for the year 1972-73 and subsequent years, and have effect subject to Schedule 8 to this Act.

SCH. 11

PART IV
THE HOUSING (RURAL WORKERS) ACTS

Chapter	Short Title	Extent of Repeal
16 & 17 Geo. 5. c. 56.	The Housing (Rural Workers) Act 1926.	The whole Act.
25 & 26 Geo. 5. c. 40.	The Housing Act 1935.	Sections 37, 38 and 39.
1 & 2 Geo. 6. c. 35.	The Housing (Rural Workers) Amendment Act 1938.	The whole Act.
5 & 6 Geo. 6. c. 32.	The Housing (Rural Workers) Act 1942.	The whole Act.
12, 13 & 14 Geo. 6. c. 60.	The Housing Act 1949.	Section 45.
5 & 6 Eliz. 2. c. 56.	The Housing Act 1957.	Section 113(6).
1968 c. 13.	The National Loans Act 1968.	In section 6(1) the words "section 2(5)(a) of the Housing (Rural Workers) Act 1926".
1968 c. 23.	The Rent Act 1968.	Section 30(2)(b). Section 44(5)(b). Section 110(2)(b).

The repeals in this Part of this Schedule have effect subject to paragraph 2 of Schedule 8 to this Act.

PART V
PAYMENTS FOR HOSTELS

Chapter	Short Title	Extent of Repeal
6 & 7 Eliz. 2. c. 42.	The Housing (Financial Provisions) Act 1958.	Section 15.
7 & 8 Eliz. 2. c. 62.	The New Towns Act 1959.	Section 4(2)(b).
9 & 10 Eliz. 2. c. 65.	The Housing Act 1961.	Section 9.
1965 c. 59.	The New Towns Act 1965.	In Schedule 10 the following provisions, so far as relates to hostels, that is, in paragraph 4 sub-paragraph (1), and in sub-paragraph (4) the words from "and there shall" to the end of the sub-paragraph, and paragraph 6(2).
1967 c. 29.	The Housing Subsidies Act 1967.	Section 15.

The repeals in this Part of this Schedule do not have effect in the case of premises approved for the purposes of section 15(1) of the Housing (Financial Provisions) Act 1958 before the coming into force of this Act, or in the case of premises provided or converted under arrangements entered into before the coming into force of this Act under or by virtue of section 120 of the Housing Act 1957, or section 9(2) of the Housing Act 1961.

PART VI
OTHER REPEALS

SCH. 11

Chapter	Short Title	Extent of Repeal
5 & 6 Eliz. 2. c. 56.	The Housing Act 1957.	In section 113, subsections (3) and (4). Section 120. In section 121(2) the words from "including" to "let". Section 123. In section 125, the words from "arrangements" to "this Act, and". Section 134. Section 57.
6 & 7 Eliz. 2. c. 42.	The Housing (Financial Provisions) Act 1958.	
7 & 8 Eliz. 2. c. 33.	The House Purchase and Housing Act 1959.	In Schedule 1 paragraph 7.
7 & 8 Eliz. 2. c. 53.	The Town and Country Planning Act 1959.	In section 57(1) in the definition of "grant-aided function" the words "and any Exchequer subsidy under the Housing (Financial Provisions) Act 1958".
10 & 11 Eliz. 2. c. 50.	The Landlord and Tenant Act 1962.	Section 5(1) (as set out in Schedule 15 to the Rent Act 1968).
1964 e. 56.	The Housing Act 1964.	Section 94. Section 104.
1968 c. 23.	The Rent Act 1968.	Section 107(3). In section 109, in subsections (1) and (3) the words "Subject to subsection (5) below" and subsection (5).
1968 c. 42.	The Prices and Incomes Act 1968.	In section 12(4) the words "under the Housing (Financial Provisions) Act 1958".
1969 c. 33.	The Housing Act 1969.	Part III. In section 85(3) the figure "50". Section 87. Schedules 2 and 3.

The repeal of section 113(3) of the Housing Act 1957 takes effect on 1st October 1972, and the repeal in section 121(2) of that Act takes effect on 1st January 1973.

Subject to paragraph 10 of Schedule 6 to this Act, the repeal of Part III of the Housing Act 1969, and of Schedules 2 and 3 to that Act, takes effect at the expiration of a period of one month beginning with the date on which this Act is passed.



Parliamentary and other Pensions Act 1972

1972 CHAPTER 48

An Act to make further provision with respect to the contributory pensions scheme for Members of the House of Commons, and to establish a similar scheme for the holders of certain Ministerial and other offices; to make further provision with respect to pensions and related benefits payable to or in respect of persons who have been Prime Minister, Speaker of the House of Commons or Lord Chancellor; to extend the application to Northern Ireland of certain enactments relating to pensions; and for purposes connected with those matters. [27th July 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

GENERAL PROVISIONS

1.—(1) The fund constituted in accordance with section 4 of the Act of 1965 under the name of the Members' Contributory Pension Fund shall as from the passing of this Act be known as the Parliamentary Contributory Pension Fund (in this Part of this Act referred to as "the Fund").

Reconstitution of members' contributory pensions scheme.

(2) The following provisions of this Part of this Act shall have effect with respect to the Fund and to contributions to and payments to be made out of the Fund; and, so far as those provisions relate to Members of the House of Commons, they

PART I shall have effect in substitution for the provisions of Part II of the Act of 1965.

(3) The House of Commons shall have power, by Order of the House, to appoint Trustees of the Fund and to remove any Trustee so appointed.

(4) The persons who immediately before the passing of this Act are the Trustees appointed under section 4(3) of the Act of 1965 shall by virtue of this subsection be Trustees of the Fund (with or without other Trustees appointed under the last preceding subsection) as if they had been appointed under the last preceding subsection, and shall be removable by Order of the House of Commons accordingly.

(5) The provisions of Schedule 1 to this Act shall have effect with respect to the number, qualification and proceedings of Trustees of the Fund, the distribution of functions between the Custodian Trustee and the Managing Trustees, and the administration of the Fund.

(6) All pensions and other sums payable under this Act by the Trustees of the Fund (in the following provisions of this Act referred to as "the Trustees") shall be paid out of the Fund, and all sums received by the Trustees under this Act shall be paid into the Fund.

(7) The Trustees may invest any property in their hands, whether at the time in a state of investment or not, in any investments whatsoever and wheresoever and may also from time to time vary any such investments.

Voluntary participation by holders of Ministerial and other offices.
1972 c. 3.

2.—(1) In this Part of this Act "qualifying office" means any of the following offices, that is to say—

- (a) the offices specified in Parts I to IV of Schedule 1 to the Ministerial and other Salaries Act 1972, except the office of Prime Minister and First Lord of the Treasury ;
- (b) the offices specified in Part I of Schedule 2 to that Act ; and
- (c) the offices of Chairman of Ways and Means, Deputy Chairman of Ways and Means and Chairman of Committees of the House of Lords.

(2) In respect of any continuous period beginning on or after 1st April 1972 for which a person is—

- (a) the holder of one and the same qualifying office, or
- (b) the holder successively of two or more qualifying offices in respect of which the same salary is payable,

he may elect to be, or not to be, a participant under this section.

(3) In respect of any such period as is mentioned in subsection (2) of this section (in this Part of this Act referred to as a "period of tenure of a qualifying office")—

(a) if that period began before, or begins on the date of, the passing of this Act, an election by a person not to be a participant under this section must be made by notice in writing given to the Trustees before the end of the period of three months beginning with the passing of this Act, and

(b) in any other case, such an election must be made by notice in writing given to the Trustees before the end of the period of three months beginning with the date on which the period of tenure of a qualifying office in question began ;

and any person who, being entitled to make an election under subsection (2) of this section in respect of a period of tenure of a qualifying office, does not give notice in respect of that period in accordance with paragraph (a) or paragraph (b) of this subsection, shall be deemed to have elected to be a participant under this section in respect of that period.

(4) In the following provisions of this Act any reference to a period of tenure of a qualifying office for which a person has elected to be a participant under this section shall be construed as including any such period in respect of which, by virtue of subsection (3) of this section, a person is to be deemed to have so elected.

3.—(1) Subject to the provisions of this section, there shall be deducted from each payment of salary made pursuant to any resolution of the House of Commons relating to the remuneration of Members, being a payment made in respect of any period beginning on or after 1st January 1972, a sum calculated at the rate of the appropriate amount per annum ; and all sums so deducted shall be paid into the Fund.

Contributions
from
Parliamentary
remuneration.

(2) For the purposes of the preceding subsection the appropriate amount per annum, in relation to a payment of salary made pursuant to any such resolution as is mentioned in that subsection, is five per cent. of a Member's ordinary salary in accordance with that resolution.

(3) No sums shall be deducted under this section from salaries payable pursuant to any such resolution to the Speaker of the House of Commons, or to any person who is or has been Prime Minister and First Lord of the Treasury, in respect of any period after the date on which he is or was elected or appointed as such.

(4) If any salary from which a deduction is required to be made under this section is not drawn, there shall be set aside,

PART I

out of moneys available for the payment, a sum equal to the relevant deduction, and any sum so set aside shall be dealt with as if it were a sum so deducted.

(5) Any sums which, under section 5 of the Act of 1965 or pursuant to any resolution of the House of Commons of the present Session, have been deducted from payments of salary for the period, or any part of the period, beginning on 1st January 1972 and ending with the passing of this Act, or set aside out of moneys available for the payment of any such salary, shall, in so far as they would have fallen to be so deducted or set aside under this section if it had been in force at the material time, be treated as sums deducted or set aside under this section; and any sum so deducted which would not in that event have fallen to be deducted under this section shall be paid to the Member from whose salary it was deducted.

(6) In this Part of this Act "a Member's ordinary salary", in relation to any such resolution as is mentioned in subsection (1) of this section,—

- (a) if the resolution provides for salary to be paid at a higher rate to Members other than those who are holders of an office, or in receipt of a salary as holders of an office, of a kind specified or described in the resolution, means a Member's yearly salary at that higher rate, and
- (b) in any other case, means a Member's yearly salary at the rate specified in the resolution.

Contributions
from
participants
under s. 2.

4.—(1) From each payment of salary made to any person for a period of tenure of a qualifying office in respect of which he has elected to be a participant under section 2 of this Act, or for any part of such a period, there shall (subject to subsection (4) of this section) be deducted a sum calculated at the rate of the appropriate amount per annum; and all sums so deducted shall be paid into the Fund.

(2) For the purposes of the preceding subsection the appropriate amount per annum, in relation to a payment of salary made to a person at a time when he is not or was not a Member of the House of Commons, is five per cent. of the annual amount of that salary.

(3) For the purposes of subsection (1) of this section the appropriate amount per annum, in relation to a payment of salary made to a person at a time when he is or was a Member of the House of Commons, is five per cent. of the difference between—

- (a) the aggregate of the annual amount of that salary and of the annual amount of the salary which, pursuant to any resolution of the House of Commons relating

to the remuneration of Members for the time being in force, is or was payable to him as a Member holding the qualifying office which he then held, and

(b) the amount which, in accordance with that resolution, is or was the amount of a Member's ordinary salary.

(4) No sums shall be deducted under this section from any salary payable to a person who has at any time (whether before or after the passing of this Act) been Prime Minister and First Lord of the Treasury, Speaker of the House of Commons or Lord Chancellor.

(5) If any salary from which a deduction is required to be made under this section is not drawn, there shall be set aside, out of moneys available for the payment, a sum equal to the relevant deduction, and any sum so set aside shall be dealt with as if it were a sum so deducted.

(6) In this section (except in subsection (3)(b)) "salary" means salary payable to the holder of a qualifying office in respect of his tenure of that office.

5.—(1) In respect of the year which began on 1st April 1972 (in this section referred to as "the initial date"), and in respect of each year beginning with an anniversary of that date, an Exchequer contribution, of an amount calculated in accordance with the following provisions of this section, shall be paid into the Fund out of moneys provided by Parliament. Exchequer contributions.

(2) As soon as practicable after the passing of this Act the Government Actuary shall make a report to the Trustees and to the Minister for the Civil Service on the general financial position of the Fund as at the initial date; and as soon as practicable after the commencement of the period of three years beginning with the third anniversary of the initial date, and of each succeeding period of three years, the Government Actuary shall make a report to the Trustees and to the Minister for the Civil Service on the general financial position of the Fund as at the commencement of the period of three years in which the report is made.

(3) The first of the reports to be made by the Government Actuary under this section shall include his recommendation as to the annual rate at which Exchequer contributions should be paid under this section; and each subsequent report of the Government Actuary under this section shall include a like recommendation, either—

(a) continuing in force, for the whole of the period of three years to which the report relates, the recommendation in force immediately before the commencement of that period, or

PART I

- (b) superseding that recommendation by a different recommendation for the whole of that period, or
- (c) continuing that recommendation in force for the first, or the first and second, of the years comprised in that period and superseding it by a different recommendation for the remainder of that period.

(4) Any annual rate specified in a recommendation of the Government Actuary under subsection (3) of this section shall be expressed in terms of an amount to be calculated by multiplying aggregate sums deducted from salaries under sections 3 and 4 of this Act by a specified figure; and in the next following subsection "the specified figure", in relation to any such year as is mentioned in subsection (1) of this section, means the figure (whether being a whole number or not) specified in such a recommendation which (in accordance with the last preceding subsection) is in force for that year.

(5) The annual amount of the Exchequer contribution to be paid under this section, in respect of any such year as is mentioned in subsection (1) of this section, shall be an amount calculated by taking the aggregate of the sums deducted from salaries in respect of that year under sections 3 and 4 of this Act and multiplying that aggregate by the specified figure.

(6) Any reference in this section to sums deducted from salaries under sections 3 and 4 of this Act shall be construed as including a reference to any sum which, by virtue of any provisions of either of those sections, is to be treated as, or dealt with as if it were, a sum deducted thereunder.

(7) A copy of every report made by the Government Actuary under this section shall be laid before the House of Commons.

Reckonable
service.

6.—(1) Subject to the next following subsection and to sections 18(6), 21(4) and 22 of this Act, for the purposes of this Act—

- (a) any period before 16th October 1964 during which a person was a Member of the House of Commons, and
- (b) any period beginning on or after 16th October 1964 during which a person was or is such a Member, whether before or after the passing of this Act,

is a period of reckonable service as a Member; and in this Part of this Act "aggregate period of reckonable service as a Member", in relation to a person, means the period, falling within either of the preceding paragraphs, during which he is or was such a Member or (if more than one) the aggregate of such periods.

(2) For the purposes of the application of the preceding subsection to any person—

- (a) any such period as is mentioned in paragraph (a) of that subsection shall be disregarded unless he was or is a Member of the House of Commons at some time on or after 16th October 1964, whether before or after the passing of this Act, and
- (b) if his period of service falling within that paragraph, or the aggregate of such periods, exceeds ten years, the excess shall be disregarded.

(3) Subject to sections 18(6), 21(4) and 22 of this Act, for the purposes of this Act any period which, in the case of a person, is a period of tenure of a qualifying office in respect of which he has elected to be a participant under section 2 of this Act is a period of reckonable service as an office-holder; and in this Part of this Act “aggregate period of reckonable service as an office-holder”, in relation to a person, means his period (or, if more than one, the aggregate of his periods) of reckonable service as an office-holder.

(4) In this Part of this Act “aggregate period of reckonable service (whether as a Member or otherwise)”, in relation to a person, means whichever of the following is applicable to him, that is to say, his aggregate period of reckonable service as a Member or his aggregate period of reckonable service as an office-holder, or, if both are applicable to him, means the first-mentioned of those periods together with so much (if any) of the other period as does not coincide with any part of the first-mentioned period.

7.—(1) Subject to the provisions of this Act, a person who on or after 1st January 1972 (whether before or after the passing of this Act) has ceased to be a Member of the House of Commons shall be entitled to receive a pension under this section as from the time when the following conditions are or were fulfilled in respect of him, that is to say—

- (a) he is or was neither a Member of that House nor a candidate for election to it;
- (b) he is not or was not the holder of a qualifying office;
- (c) his aggregate period of reckonable service (whether as a Member or otherwise) is not or was not less than four years; and
- (d) he has or had attained the age of sixty-five years.

(2) No pension shall be payable under this section to a person who has been Prime Minister and First Lord of the Treasury or Speaker of the House of Commons or who is or has been Lord Chancellor.

PART I

(3) Subject to subsection (4) of this section and to sections 8, 11 and 31 of this Act, the annual amount of the pension payable to a person under this section shall be a sum equal to the aggregate of the following amounts, that is to say—

- (a) an amount equal to one-sixtieth of the relevant terminal salary multiplied by the number of complete years comprised in his aggregate period of reckonable service as a Member, and
- (b) an amount bearing the same proportion to one-sixtieth of the relevant terminal salary as the number of days comprised in that period after the end of the last complete year comprised in it bears to three hundred and sixty-five.

(4) Where on or after 1st January 1972 (whether before or after the passing of this Act) a person has ceased to be a Member of the House of Commons and the conditions specified in paragraphs (a) to (c) of subsection (1) of this section are fulfilled in relation to him, and he has attained the age of sixty years but has not attained the age of sixty-five years, then if—

- (a) he applies to the Trustees for an immediate pension under this section, and
- (b) the Trustees are satisfied that he does not intend to stand for re-election to the House of Commons,

he shall be entitled to receive a pension under this section as if he had attained the age of sixty-five years on the date on which he ceased to be a Member of the House of Commons; but the annual amount of the pension to which he is so entitled, both before and after he attains the age of sixty-five years, shall (subject to sections 8, 11 and 31 of this Act) be an amount calculated in accordance with subsection (3) of this section, reduced by such amount as the Government Actuary determines to be appropriate, having regard to the length of the period beginning with the date on which he ceased to be a Member and ending with the date on which he would attain the age of sixty-five years.

(5) In this section “the relevant terminal salary”—

- (a) in relation to a person who has been a Member of the House of Commons for a period of not less than twelve months, or for two or more periods amounting in the aggregate to not less than twelve months, means the amount of a Member's ordinary salary for the last twelve months (whether continuous or discontinuous) during which that person was a Member of that House, and
- (b) in relation to a person who has been a Member of that House, but whose aggregate period of service as such a Member was less than twelve months, means an amount calculated by taking the aggregate amount

of a Member's ordinary salary for the period (whether continuous or discontinuous) for which he was such a Member and multiplying it by the appropriate figure ; and in paragraph (b) of this subsection " the appropriate figure " in relation to a person, means the figure (whether being a whole number or not) by which the number of days comprised in his period of service as a Member of the House of Commons must be multiplied in order to be equal to twelve months.

8.—(1) Where, in the case of a person entitled to receive a pension under section 7 of this Act, the relevant terminal salary (within the meaning of that section) is less than £4,320—

Alternative calculation of pension by reference to Act of 1965.

- (a) there shall be calculated the annual amount of the pension (if any) which would have been payable to him under the repealed enactments if they had not been repealed, and
- (b) if the amount so calculated exceeds the amount calculated in his case in accordance with section 7(3) of this Act, the annual amount of the pension under section 7 of this Act shall be increased by the amount of the excess.

(2) In this section " the repealed enactments " means Part II of the Act of 1965 together with the Members' Contributory Pension Fund (Increase of Benefits) Order 1971. S.I. 1971/623

9.—(1) Subject to the next following subsection, a person who has elected to be a participant under section 2 of this Act in respect of one or more periods of tenure of a qualifying office shall be entitled to receive a pension under this section as from the time when the conditions specified in paragraphs (a) to (d) of section 7(1) of this Act are fulfilled in respect of him. Pensions for participants under s. 2.

(2) No pension shall be payable under this section to a person who is or has been Prime Minister and First Lord of the Treasury or Speaker of the House of Commons or Lord Chancellor.

(3) The same person may be entitled to a pension under section 7 of this Act and to a pension under this section ; and the amounts of the two pensions shall be cumulative.

10.—(1) The provisions of this section shall have effect for the purpose of calculating the annual amount of a pension payable to a person (in this section referred to as " the pensioner ") under section 9 of this Act. Amount of pension under s. 9.

(2) For each year of which the whole or any part was comprised in the pensioner's aggregate period of reckonable service

PART I as an office-holder the following amounts shall be calculated, that is to say—

- (a) an amount equal to the sums deducted under section 4 of this Act in respect of that year from the pensioner's salary (within the meaning of that section), and
- (b) an amount equal to five per cent. of the aggregate amount which (in accordance with such one or more resolutions of the House of Commons relating to the remuneration of Members as were in force during the whole or any part of that year) constituted a Member's ordinary salary in respect of that year ;

and for each such year there shall be calculated the amount (in this Part of this Act referred to, in relation to any such year, as "the contribution factor" for that year) which is equal to the amount calculated under paragraph (a) divided by the amount calculated under paragraph (b) of this subsection.

(3) For each such year as is mentioned in subsection (2) of this section a contribution credit shall be calculated by multiplying one-sixtieth of the relevant terminal salary by the amount of the contribution factor for that year ; and, subject to the next following subsection and to sections 11 and 31 of this Act, the annual amount of the pension payable to the pensioner under section 9 of this Act shall be an amount equal to the aggregate of the contribution credits calculated under this subsection.

(4) Where, on ceasing to hold a qualifying office at a time when he has attained the age of sixty years but has not attained the age of sixty-five years, a person would be entitled to a pension under section 9 of this Act if he had then attained the last-mentioned age, then if—

- (a) he applies to the Trustees for an immediate pension under that section, and
- (b) the Trustees are satisfied that he does not intend to stand for election to the House of Commons or to accept any further appointment to a qualifying office,

he shall be entitled to receive a pension under that section as if he had attained the age of sixty-five years on the date on which he ceased to hold the qualifying office in question ; but the annual amount of the pension to which he is so entitled, both before and after he attains the age of sixty-five years, shall (subject to sections 11 and 31 of this Act) be an amount calculated in accordance with subsections (1) to (3) of this section, reduced by such amount as the Government Actuary determines to be appropriate, having regard to the length of the period beginning with the date on which he ceased to hold that office and ending with the date on which he would attain the age of sixty-five years.

(5) In subsections (2) and (3) of this section "year" means a period of twelve months beginning with 1st April.

(6) In this section "the relevant terminal salary"—

(a) if the pensioner's aggregate period of reckonable service as an office-holder was not less than twelve months, means the amount of a Member's ordinary salary for the last twelve months (whether continuous or discontinuous) comprised in that aggregate period of reckonable service, and

(b) if the pensioner's aggregate period of reckonable service as an office-holder was less than twelve months, means an amount calculated by taking the amount of a Member's ordinary salary for the period (whether continuous or discontinuous) which constituted that aggregate period of reckonable service and multiplying it by the appropriate figure ;

and in paragraph (b) of this subsection "the appropriate figure" means the figure (whether being a whole number or not) by which the number of days comprised in the pensioner's aggregate period of reckonable service as an office-holder must be multiplied in order to be equal to twelve months.

11.—(1) Any person who is entitled to receive a pension under section 7 or section 9 of this Act may, either before, or (subject to subsection (6) of this section) not later than one month after, the first instalment of the pension becomes payable, give notice to the Trustees that he desires to commute such part of the pension as is specified in the notice. Commutation of part of pension.

(2) Where a person has given notice under this section, the Trustees shall determine—

(a) what lump sum would be actuarially equivalent to the part of the pension specified in the notice, and

(b) what reduction of the annual amount of his pension would be appropriate in consideration of the payment of that lump sum ;

and, subject to the following provisions of this section, a lump sum of the amount so determined shall be paid to that person and the annual amount of his pension shall be reduced accordingly.

(3) Any lump sum or reduction to be determined under subsection (2) of this section shall be a sum or reduction either certified by the Government Actuary, or calculated in accordance with tables to be prepared from time to time by the Government Actuary, as fulfilling the conditions specified in paragraph (a) or paragraph (b) of that subsection, as the case may be.

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(4) If, in the case of any person who has given notice under this section, the amount of the lump sum, determined in accordance with subsections (2) and (3) of this section, would exceed the permitted maximum—

- (a) the amount of the lump sum so determined shall be diminished by such proportion as is necessary to make it equal to the permitted maximum, and
- (b) the reduction of the annual amount of his pension under that subsection shall be diminished by the like proportion.

(5) For the purposes of subsection (4) of this section the permitted maximum—

- (a) in the case of a person entitled to a pension under section 7 of this Act, is three-eighths of the relevant terminal salary (within the meaning of that section) multiplied by the number of complete years comprised in his aggregate period of reckonable service as a Member, together with an amount bearing the same proportion to three-eighths of that salary as the number of days comprised in that period after the end of the last complete year comprised in it bears to three hundred and sixty-five, and
- (b) in the case of a person entitled to a pension under section 9 of this Act, is three-eighths of the relevant terminal salary (as defined by section 10(6) of this Act) multiplied by the aggregate of the contribution factors calculated in respect of him under section 10(2) of this Act.

(6) In relation to a pension to which a person is entitled as from a time before the passing of this Act, the period of one month mentioned in subsection (1) of this section shall be reckoned from the passing of this Act or the date on which the first instalment of the pension becomes payable, whichever is the later.

(7) No account shall be taken of the provisions of this section for the purposes of section 8(1)(b) of this Act.

Duration of pension under s. 7 or s. 9.

12.—(1) Subject to the following provisions of this section, a pension under section 7 or section 9 of this Act shall continue for the life of the person to whom it is payable.

(2) No such pension shall be payable to a person in respect of any period during which he is a Member of the House of Commons or a candidate for election to that House, or in respect of any part of a period of tenure of a qualifying office.

(3) For the purposes of this section a person who ceases to be a Member in consequence of the dissolution of Parliament

shall be treated as a candidate for election unless and until he gives notice in writing to the Trustees that he is not seeking re-election.

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13.—(1) Subject to the provisions of this section, the widow of a man who has died on or after 1st January 1972 (whether before or after the passing of this Act) shall be entitled to receive a pension under this section if her late husband, at the time of his death,—

- (a) was entitled to receive a pension under section 7 or section 9 of this Act, or under both those sections, or
- (b) was not so entitled, but had an aggregate period of reckonable service (whether as a Member or otherwise) of not less than four years, and either had been a Member of the House of Commons on or after 1st January 1972 or had elected to be a participant under section 2 of this Act in respect of one or more periods of tenure of a qualifying office.

(2) Subject to section 31 of this Act, the annual amount of a widow's pension under this section shall be one-half of the basic or prospective pension or pensions of her late husband.

(3) Subject to the next following subsection, a pension payable under this section to a widow shall continue for her life or until her remarriage; but in the case of remarriage the Trustees may, if they think fit, at any time direct that the pension shall be restored if satisfied that the subsequent marriage has been terminated or that there are exceptional reasons for the payment of the pension notwithstanding the subsistence of that marriage.

(4) No pension shall be payable under this section to a widow who, at her husband's death, was cohabiting with another person; and if a widow entitled to such a pension cohabits with another person, the pension shall cease to be payable:

Provided that the Trustees may, if they think fit, direct that the pension shall be paid or restored, as the case may be, if satisfied that the cohabitation has been terminated and that there are exceptional reasons for the payment of the pension.

(5) Where a man dies in circumstances in which, apart from this subsection, a widow's pension would be payable to a woman married by him within the year ending with his death, then if—

- (a) there are no children of that marriage, and
 - (b) it appears to the Trustees that his death within the year was to be foreseen by him at the date of the marriage,
- the Trustees may direct that no widow's pension shall be payable under this section.

14.—(1) Subject to the provisions of this section, the widower of a woman who has died on or after 1st January 1972 (whether

Pensions for certain widowers.

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before or after the passing of this Act) shall be entitled to receive a pension under this section if, at the time of her death, he was incapable by reason of age or bodily or mental infirmity of earning his own living and was wholly or mainly dependent on her, and at that time either—

- (a) she was entitled to receive a pension under section 7 or section 9 of this Act, or under both those sections, or
- (b) she was not so entitled, but had an aggregate period of reckonable service (whether as a Member or otherwise) of not less than four years and either had been a Member of the House of Commons on or after 1st January 1972 or had elected to be a participant under section 2 of this Act in respect of one or more periods of tenure of a qualifying office.

(2) Subject to section 31 of this Act, the annual amount of a widower's pension under this section shall be one-half of the basic or prospective pension or pensions of his late wife.

(3) A pension under this section shall, subject to the following provisions of this section, continue for the life of the widower, but may be terminated by direction of the Trustees in the event of his remarriage or of his ceasing to be incapable as mentioned in subsection (1) of this section.

(4) A pension terminated under subsection (3) of this section may be restored by direction of the Trustees if at any time the marriage upon which it was terminated comes to an end or the pensioner again becomes incapable as mentioned in subsection (1) of this section, or if the Trustees are satisfied that for exceptional reasons it is proper to restore the pension.

(5) Subsections (4) and (5) of section 13 of this Act shall apply for the purposes of this section with the necessary modifications.

Children's pensions.

15.—(1) Subject to the provisions of this section, a children's pension shall be payable for the benefit of any relevant child or children of a person who has died on or after 1st January 1972 (whether before or after the passing of this Act) and who is or has been married, if at the time of his death the condition specified in paragraph (a) or in paragraph (b) of section 13(1) of this Act is fulfilled in his case.

(2) Subject to the next following subsection and to section 31 of this Act, the annual amount of a children's pension payable under this section for the benefit of any relevant child or children of a person who has died in the circumstances mentioned in the preceding subsection shall be a sum equal to one-eighth of the basic or prospective pension or pensions of the deceased for each relevant child not exceeding four.

(3) In any of the following circumstances, that is to say—

- (a) where the deceased left no widow or widower, or
- (b) where the deceased left a widow, or left a widower entitled to a pension under section 14 of this Act, and that widow or widower has died,

the annual amount of the children's pension shall be one-quarter of the basic or prospective pension or pensions of the deceased if there is only one relevant child, or, if there are two or more relevant children, shall be one-half of his basic or prospective pension or pensions.

(4) Where the deceased left a widow or widower who was (or, apart from the provision as to cohabitation, would have been) entitled to a pension under section 13 or section 14 of this Act, and that pension—

- (a) has ceased to be payable in consequence of the re-marriage of the widow or widower, or
- (b) was not payable, or has ceased to be payable, by reason of the provision as to cohabitation,

any children's pension under this section shall cease to be payable or, as the case may be, shall not be payable unless and until the Trustees for exceptional reasons direct that the children's pension shall be payable; and if the Trustees so direct, they may, if they think fit, further direct that subsection (3) of this section shall apply as if the widow or widower had died.

(5) A children's pension under this section shall be paid to or distributed between such person or persons as the Trustees may from time to time direct, and shall be applied by that person or those persons, without distinction, for the benefit of the relevant child or relevant children of the deceased or such of them as the Trustees may from time to time direct.

(6) In this section "child", in relation to any person, includes an illegitimate child, a stepchild or an adopted child, and "relevant child" (subject to the provisions of Schedule 2 to this Act) means any child of the deceased, or of any wife or husband of the deceased, who—

- (a) is under sixteen years of age, or
- (b) is under twenty-two years of age and is within his period of full-time education as defined by that Schedule, or
- (c) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within paragraph (a) or paragraph (b) of this

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subsection or incapable, and likely to remain permanently incapable, by reason of bodily or mental infirmity, of earning his own living, and is not for the time being maintained out of moneys provided by Parliament in a hospital or similar institution so maintained, and “the provision as to cohabitation” means subsection (4) of section 13 of this Act or that subsection as applied by section 14 of this Act.

Gratuity on death of Member or office-holder.

16.—(1) Where a person has died on or after 1st January 1972 (whether before or after the passing of this Act)—

- (a) at a time when he was a Member of the House of Commons, or
- (b) at a time when he was not a Member of that House, but which brought to an end a period of tenure of a qualifying office in respect of which he had elected to be a participant under section 2 of this Act,

the Trustees may, if (subject to the next following subsection) they think fit in their discretion to do so, grant to his personal representatives a gratuity under this section.

(2) No such gratuity shall be granted in respect of a person unless immediately before his death his aggregate period of reckonable service (whether as a Member or otherwise) amounted to not less than twelve months.

(3) The amount of a gratuity granted under this section in respect of a person shall be whichever of the two following amounts is the greater, that is to say—

- (a) the amount of a Member's ordinary salary at the time of his death ;
- (b) the aggregate of the contributions paid by that person, and not refunded to him, together with interest on each such contribution from the date on which it was paid.

Gratuity on death after retirement.

17.—(1) Where a person—

- (a) dies after the passing of this Act in circumstances where he has become entitled to receive a pension under section 7 or section 9 of this Act or under both those sections, or
- (b) has died on or after 1st January 1972, but before the passing of this Act, in circumstances where, by virtue of either or both of those sections, he is to be treated as having become entitled to receive a pension thereunder,

and (in either case) no pension in respect of him is payable under section 13, section 14 or section 15 of this Act, the Trustees may, if they think fit in their discretion to do so, grant to his personal representatives a gratuity under this section.

(2) For the purpose of determining the amount of a gratuity which may be granted in respect of a person under this section, there shall be calculated—

- (a) the amount of the gratuity which the Trustees could have granted to his personal representatives under section 16 of this Act if he had died in the circumstances specified in subsection (1) of that section, and
- (b) the aggregate amount of the payments made to him by way of pension under section 7 or section 9 of this Act together with any lump sum paid to him under section 11 of this Act ;

and the amount of the gratuity shall be the amount (if any) by which the amount calculated under paragraph (a) exceeds the amount calculated under paragraph (b) of this subsection.

18.—(1) Any contributions paid under section 5 of the Act of 1965 by a person who— Refund of contributions to contributor.

- (a) ceased to be a Member of the House of Commons before 1st January 1972 and has not been a Member of that House at any time on or after that date, and
- (b) did not complete ten years' reckonable service within the meaning of Part II of that Act,

shall at his request (if they have not previously been refunded) be refunded to him by the Trustees, with interest from the dates on which the contributions were paid respectively.

(2) Any contributions paid by a person, and not previously refunded to him, shall be refunded to him by the Trustees, with interest from the dates on which the contributions were paid respectively, if he requests the Trustees to refund the contributions to him and, on the date of that request, the conditions specified in the next following subsection are fulfilled in relation to him.

(3) The conditions referred to in subsection (2) of this section are that—

- (a) either the contributor has ceased to be a Member of the House of Commons on or after 1st January 1972 (whether before or after the passing of this Act) or a period of tenure of a qualifying office in respect of which he has elected to be a participant under section 2 of this Act has come to an end ;
- (b) he has not at any time since then been a Member of that House or entered upon a period of tenure of a qualifying office in respect of which he elects to be a participant under section 2 of this Act ;

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- (c) his aggregate period of reckonable service (whether as a Member or otherwise) does not exceed four years ; and
- (d) he has not become Prime Minister and First Lord of the Treasury, Speaker of the House of Commons or Lord Chancellor after 1st April 1972 (whether before or after the passing of this Act).

(4) If, after the refund of contributions to him under this section, the contributor becomes, or (as the case may be) again becomes, a person liable to pay contributions under section 3 or section 4 of this Act, he may—

- (a) if he so desires, and makes the repayment before the end of the period of three months beginning with the date on which he becomes so liable, or

(b) after the end of that period, if the Trustees so allow, repay to the Trustees the sum so paid to him, with interest from the date on which it was paid to him ; and any sum to be paid to the Trustees under this subsection may, if the Trustees so allow, be paid by instalments over such period, not exceeding three years, as the Trustees think fit.

(5) Any amount (whether of principal or interest) paid by the contributor to the Trustees under subsection (4) of this section shall be treated for the purposes of this section as if it were a contribution paid by him at the time when he makes that payment.

(6) For the purpose of calculating a person's aggregate period of reckonable service as a Member or a person's aggregate period of reckonable service as an office-holder, no account shall be taken of any period in respect of which contributions paid by that person have been—

- (a) refunded to him under this section, and
- (b) not subsequently repaid by him to the Trustees.

Refund of contributions after death of contributor.

19. Where a person has died on or after 1st January 1972 (whether before or after the passing of this Act)—

- (a) at a time when he was a Member of the House of Commons, or which brought to an end a period of tenure of a qualifying office in respect of which he had elected to be a participant under section 2 of this Act, and which (in either case) was a time when his aggregate period of reckonable service (whether as a Member or otherwise) amounted to less than twelve months, or

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(b) in circumstances where the conditions specified in paragraphs (a) to (d) of subsection (3) of section 18 of this Act were fulfilled in relation to him, but where he had not made a request for a refund of contributions under that section,

the Trustees shall refund to his personal representatives the contributions paid by the contributor and not previously refunded to him, with interest from the dates on which the contributions were paid respectively.

20.—(1) A pension under this Part of this Act or under Part Application II of the Act of 1965 shall not be assignable or chargeable with of pensions. debts or other liabilities.

(2) Section 138 of the Mental Health Act 1959 (which enables 1959 c. 72. pay or pension of a person who is incapacitated by mental disorder from managing his affairs to be applied for the benefit of himself or his dependants instead of being paid to him) shall have effect in relation to any such pension as if it were payable directly out of moneys provided by Parliament.

21.—(1) At the request of any person who—

(a) has been, but has ceased to be, a Member of the House of Commons, or

(b) has elected to be a participant under section 2 of this Act in respect of a period of tenure of a qualifying office, but has ceased to be such a participant,

and who (in either case) has not become entitled to a pension under this Part of this Act or under Part II of the Act of 1965, the Trustees may pay into or for the purposes of any fund or scheme to which this section applies sums representing the value of that person's accrued pension rights under this Part of this Act or under Part II of the Act of 1965.

Transfers to other pension schemes.

(2) This section applies—

(a) to any scheme which is an exempt approved scheme within the meaning of section 21 of the Finance Act 1970 c. 24. 1970, and

(b) to any fund or scheme approved by the Commissioners of Inland Revenue for the purposes of this section.

(3) For the purposes of this section the value of a person's accrued pension rights under this Part of this Act or under Part II of the Act of 1965 shall be taken to be such sum as for those purposes may be certified by, or calculated in accordance with tables prepared by, the Government Actuary.

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(4) Where any sums are paid by the Trustees under this section in respect of any person, then—

- (a) for the purpose of calculating that person's aggregate period of reckonable service as a Member, or his aggregate period of reckonable service as an office-holder, no account shall be taken of any period before the date of that payment, and
- (b) for the purposes of sections 18 and 19 of this Act any contributions paid by him before that date shall be treated as not having been paid.

Transfers
from other
pension
schemes.

22.—(1) At the request, made in accordance with the next following subsection, of any person who—

- (a) is for the time being a Member of the House of Commons, or
- (b) is not for the time being a Member of that House, but has elected to be a participant under section 2 of this Act in respect of a period of tenure of a qualifying office,

the Trustees may receive any sums payable by way of transfer value in respect of him out of, or out of moneys held for purposes of, any fund or scheme to which section 21 of this Act applies, or under any enactment for the time being in force which authorises the transfer of pension rights.

(2) A request made by a person under subsection (1) of this section shall not have effect unless it is made before the end of the period of three months beginning with whichever is the earliest of such one or more of the following dates as are applicable to him, that is to say—

- (a) the date of the passing of this Act, if on that date he is a Member of the House of Commons or that date falls within a period of tenure of a qualifying office in respect of which he elects to be a participant under section 2 of this Act ;
- (b) the earliest date (if any) after the passing of this Act on which he is a Member of that House ;
- (c) the earliest date (if any) after the passing of this Act which falls within such a period as is mentioned in paragraph (a) of this subsection.

(3) Where any sums are received by the Trustees under subsection (1) of this section at the request of a person who is a Member of the House of Commons at the time when the request is made—

- (a) his aggregate period of reckonable service as a Member shall be treated as increased by the addition of such period as may be determined by the Trustees, and

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(b) for the purposes of sections 18 and 19 of this Act the sums so received by the Trustees, so far as in the opinion of the Trustees they represent his own contributory payments, shall be treated as if they were contributions paid by him, at the same times as those contributory payments were made, by deduction from his salary under section 3 of this Act or under Part II of the Act of 1965, as the case may be.

(4) Where any sums are received by the Trustees under subsection (1) of this section at the request of a person who is not a Member of the House of Commons at the time when the request is made—

(a) his aggregate period of reckonable service as an officeholder shall be treated as increased by the addition of such period as may be determined by the Trustees, and

(b) for the purposes of sections 18 and 19 of this Act the sums so received by the Trustees, so far as in the opinion of the Trustees they represent his own contributory payments, shall be treated as if they had been contributions paid by him, at the same times as those contributory payments were made, by deduction from his salary under section 4 of this Act.

(5) Any period determined by the Trustees under subsection (3)(a) or subsection (4)(a) of this section shall be a period either certified by the Government Actuary as being appropriate in relation to the sums received by the Trustees at the request of the person in question or a period calculated, in accordance with tables prepared by the Government Actuary, as being appropriate in relation to those sums.

23. For the purposes of section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 (pensions of persons transferring to different employment) a person's service—

(a) as a Member of the House of Commons, or

(b) as the holder of a qualifying office during any period of tenure of a qualifying office in respect of which he has elected to be a participant under section 2 of this Act,

Service as Member or in qualifying office to be treated as employment for certain pension purposes.
1948 c. 33.

shall be treated as employment within the meaning of that Act, whether apart from this section it would fall to be so treated or not.

24.—(1) Where on the death of any person there is due to the deceased or his personal representatives from the Trustees a sum which (if any part of it due by way of interest is disregarded) does not exceed £500, probate or other proof of the

Payments due to deceased persons.

PART I

title of the personal representatives of the deceased may be dispensed with, and the Trustees may pay the whole or any part of that sum to those representatives or to the person, or to or among any one or more of any persons, appearing to the Trustees to be beneficially entitled to the personal or movable estate of the deceased.

(2) Any person to whom a payment is made under the preceding subsection, and not the Trustees, shall thereafter be liable to account for the amount paid to him under that subsection.

(3) If the Trustees receive notice in writing of any claim against the estate of the deceased at any time before they have made a full payment under subsection (1) of this section, then, except where the sum to be paid appears to them to be bona vacantia, they shall not make any, or (as the case may be) any further, payment under that subsection to any person other than the personal representatives of the deceased until the claim is satisfied or withdrawn.

1965 c. 32.

(4) In section 6(1) of the Administration of Estates (Small Payments) Act 1965 (which confers on the Treasury power by order to increase the limit of £500 imposed by certain enactments for purposes similar to the purposes of this section), in paragraph (b), the word "and", in the first place where it occurs, shall be omitted, and after the words "Ministerial Salaries and Members' Pensions Act 1965" there shall be inserted the words "and section 24 of the Parliamentary and other Pensions Act 1972".

1965 c. 11.

Interpretation
of Part I.

25.—(1) In this Part of this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—

“aggregate period of reckonable service as a Member”.

“aggregate period of reckonable service as an office-holder” and “aggregate period of reckonable service (whether as a Member or otherwise)” have the meanings assigned to them by section 6 of this Act ;

“a Member's ordinary salary” has the meaning assigned to it by section 3(6) of this Act ;

“period of tenure of a qualifying office” and “qualifying office” have the meanings assigned to them by section 2 of this Act.

(2) In this Part of this Act “basic or prospective pension or pensions”, in relation to a person who has died and who at the time of his death was entitled to receive a pension under section 7 or section 9 of this Act, or under both those sections, means the annual amount of that pension calculated in accordance with section 7 or section 10 of this Act, or the aggregate

of the annual amounts of those pensions so calculated, as the case may be; and in relation to a person who has died and who had not before his death become entitled to receive a pension under either of those sections, but had at the time of his death an aggregate period of reckonable service (whether as a Member or otherwise) of not less than four years, it means the annual amount specified in whichever of the following paragraphs is applicable in his case, or, if both those paragraphs are applicable, it means the aggregate of the annual amounts specified in those paragraphs, that is to say—

PART I

- (a) where the deceased was a Member of the House of Commons at any time on or after 1st January 1972, the annual amount of the pension, calculated in accordance with section 7 of this Act, which he would have been entitled to receive under that section if he had ceased to be a Member of that House immediately before his death and he had then fulfilled the conditions specified in paragraphs (a) to (d) of subsection (1) of that section;
- (b) where the deceased had elected to be a participant under section 2 of this Act in respect of one or more periods of tenure of a qualifying office, the annual amount of the pension, calculated in accordance with section 10 of this Act, which he would have been entitled to receive under section 9 of this Act if immediately before his death he had fulfilled the conditions mentioned in the preceding paragraph.

PART II

PRIME MINISTER, SPEAKER AND LORD CHANCELLOR

26.—(1) Any person who has (whether before or after the passing of this Act) been appointed Prime Minister and First Lord of the Treasury or elected Speaker of the House of Commons and has after 1st April 1972 (whether before or after the passing of this Act) ceased to be Prime Minister and First Lord of the Treasury, or ceased to be Speaker, as the case may be, shall, subject to the next following subsection, be entitled to receive a pension under this section.

Pensions of
Prime Minister
and Speaker.

(2) No pension shall be payable under this section to any person so long as he is in receipt of any salary payable out of the Consolidated Fund or out of the revenues of the Duchy of Lancaster, or so long as he is in receipt of any salary payable out of moneys provided by Parliament other than a salary or allowance payable out of moneys so provided in respect of his membership of the House of Commons.

PART II

(3) Subject to sections 29 and 31 of this Act, the annual amount of a pension payable to a person under this section in respect of the office of Prime Minister and First Lord of the Treasury shall be £7,500.

(4) Subject to sections 29 and 31 of this Act, the annual amount of a pension payable to a person under this section in respect of the office of Speaker of the House of Commons shall be £6,500.

(5) Any pension payable under this section shall be charged on and paid out of the Consolidated Fund.

Pensions for dependants of Prime Minister or Speaker.

27.—(1) In relation to a person who has held office as Prime Minister and First Lord of the Treasury or as Speaker of the House of Commons at any time after 1st April 1972 (whether before or after the passing of this Act) and has died (whether before or after the passing of this Act) the provisions of sections 13 to 15 of this Act shall (subject to the next following subsection) have effect as if—

- (a) he had at the time of his death been entitled to receive a pension under section 7 of this Act, and
- (b) the annual amount of that pension had been an amount calculated (in the case of a person who held office as Prime Minister and First Lord of the Treasury) in accordance with subsection (3), or (in the case of a person who held office as Speaker) in accordance with subsection (4), of section 26 of this Act.

(2) In the application of any of the provisions of sections 13 to 15 of this Act in accordance with the preceding subsection, any reference to the Trustees shall be construed as a reference to the Minister for the Civil Service.

(3) Any pension payable under this section shall be charged on and paid out of the Consolidated Fund.

(4) In this section any reference to an amount calculated in accordance with subsection (3) or subsection (4) of section 26 of this Act shall be construed as a reference to whichever is the greater of the following amounts, that is to say—

- (a) the amount specified in that subsection, and
- (b) the amount so specified as increased under section 29 of this Act.

Pension of Lord Chancellor.
1832 c. 111.

28.—(1) Subject to sections 29 and 31 of this Act, the annual amount of any pension granted under section 3 of the Lord Chancellor's Pension Act 1832 shall, in the case of a person resigning the office of Lord Chancellor after 1st April 1972 (whether before or after the passing of this Act), be £8,500.

(2) In accordance with the preceding subsection section 3 of the Lord Chancellor's Pension Act 1832 shall be amended by substituting, for the words "£6,250 of lawful money of Great Britain" and for the words "the sum of £6,250", the words "an amount calculated in accordance with subsection (1) of section 28 of the Parliamentary and other Pensions Act 1972 and the provisions (other than this Act) referred to in that subsection."

PART II
1832 c. 111.

(3) Any Letters Patent issued under that Act before the passing of this Act shall have effect subject to subsection (1) of this section.

29.—(1) For the purposes of the application of section 26, section 27 or section 28 of this Act in relation to a person who ceases to hold an office specified in any of those sections at any time after the passing of this Act when an increased salary is payable in respect of that office, or who dies at any such time, the relevant subsection shall have effect as if, for the amount specified in it, there were substituted an amount calculated in accordance with the following provisions of this section.

Preservation
of ratio
between
salary and
pension.

(2) The amount to be so substituted, in relation to the holder of any such office, shall be an amount bearing the same proportion to the amount specified in the relevant subsection as the increased salary payable in respect of that office immediately before he ceases to hold it, or immediately before his death, as the case may be, bears to the present salary.

(3) In this section—

- (a) in relation to the office of Prime Minister and First Lord of the Treasury or the office of Speaker of the House of Commons, "the present salary" means the salary which under the Ministerial and other Salaries Act 1972 is payable in respect of that office at the passing of this Act; "increased salary", in relation to any time after the passing of this Act, means the salary payable in respect of that office as for the time being increased under section 1(4) of that Act; and "the relevant subsection" means subsection (3) or subsection (4) of section 26 of this Act, as the case may be;
- (b) in relation to the office of Lord Chancellor, "the present salary" means the aggregate of the salaries which at the passing of this Act are payable to the Lord Chancellor in respect of his tenure of that office and as Speaker of the House of Lords; "increased salary", in relation to any time after the passing of this Act, means the aggregate of those

1972 c. 3.

PART II
1972 c. 3.

salaries as for the time being increased under section 1(4) of the Ministerial and other Salaries Act 1972; and "the relevant subsection" means subsection (1) of section 28 of this Act.

Transfers to Consolidated Fund and refund of contributions.

30.—(1) In respect of any person who has paid contributions (in this section referred to as a "contributor") and who at any time after 1st April 1972 (whether before or after the passing of this Act) has become Prime Minister and First Lord of the Treasury, Speaker of the House of Commons or Lord Chancellor, the Trustees shall pay into the Consolidated Fund such sum as represents the value of his accrued pension rights under Part I of this Act or under Part II of the Act of 1965.

(2) For the purposes of the preceding subsection the value of a contributor's accrued pension rights under Part I of this Act or under Part II of the Act of 1965 shall be taken to be such sum as for those purposes may be certified by, or calculated in accordance with tables prepared by, the Government Actuary.

(3) In the case of any contributor who has ceased to hold office as Prime Minister and First Lord of the Treasury, Speaker of the House of Commons or Lord Chancellor at any time after 1st April 1972 (whether before or after the passing of this Act) or has died at any such time while holding any such office, there shall be paid to him, or (as the case may be) to his personal representatives, out of the Consolidated Fund a sum equal to the aggregate of the contributions paid by him and not previously refunded, with interest from the dates on which the contributions were paid respectively.

PART III

MISCELLANEOUS AND SUPPLEMENTARY

Provisions as to Pensions (Increase) Act 1971.
1971 c. 56.

31.—(1) In relation to any period beginning on or after 1st December 1972, Schedule 2 to the Pensions (Increase) Act 1971 (which specifies the pensions referred to in that Act as "official pensions") shall be amended by inserting, after paragraph 3 of that Schedule, the following paragraph:—

1965 c. 11.

"3A. A pension payable under Part II of the Ministerial Salaries and Members' Pensions Act 1965 or under Part I of the Parliamentary and other Pensions Act 1972."

(2) That Schedule shall also be amended as follows, that is to say—

(a) by inserting at the end of paragraph 1 the words "or under section 26 or section 27 of the Parliamentary and

other Pensions Act 1972 (pensions of Prime Minister and Speaker and their dependants) ”;

(b) by inserting at the end of paragraph 2 the words “ as amended by section 28 of the Parliamentary and other Pensions Act 1972 ”; and

(c) by inserting at the end of paragraph 3 the words “ or (except in respect of any period ending before 1st April 1972) under Mr. Speaker King’s Retirement Act 1971 c. 13. Act 1971 ”.

(3) In section 5(3) of the Pensions (Increase) Act 1971 (which confers power to make regulations modifying the provisions of that Act in relation to particular official pensions) the reference to the provisions of that Act shall be construed as including a reference to those provisions as they have effect in consequence of the amendments made by the preceding subsections. 1971 c. 56.

(4) In the preceding provisions of this Act any reference to this section shall be construed as a reference to the provisions of the Pensions (Increase) Act 1971 as amended by this section and as modified by any regulations made under section 5(3) of that Act as read with subsection (3) of this section.

(5) No account shall be taken of the provisions of that Act in calculating any amount in accordance with section 8(1) of this Act or in calculating any amount for the purposes of section 25(2) or section 27(1) of this Act.

32.—(1) In section 229 of the Income and Corporation Taxes Act 1970 (annuity premiums of Ministers and other office-holders) the following subsection shall be substituted for subsection (1):— Annuity premiums of Ministers and other office-holders.

“ (1) For the purposes of this Chapter so much of any salary which— 1970 c. 10.

(a) is payable to the holder of a qualifying office who is also a Member of the House of Commons, and

(b) is payable for a period in respect of which the holder elects not to be a participant under section 2 of the Parliamentary and other Pensions Act 1972, or for any part of such a period,

as is equal to the difference between a Member’s ordinary salary (in accordance with any resolution of the House of Commons relating to the remuneration of Members for the time being in force) and the salary which (in accordance with that resolution) is payable to him as a Member holding that qualifying office shall be treated as remuneration from the office of Member and not from the qualifying office, and shall accordingly be treated for the purposes

PART III

of section 228(1) to (3) of this Act as pensionable emoluments from the office of Member.

In this subsection 'qualifying office' has the meaning assigned to it by section 2(1) of the Parliamentary and other Pensions Act 1972 and 'Member's ordinary salary' has the meaning assigned to it by section 3(6) of that Act."

(2) This section shall be deemed to have come into operation on 1st April 1972.

Deduction of tax from refunds of contributions.
1970 c. 24.

33. On making any repayment of contributions (including interest on contributions) under section 18 of this Act, the Trustees shall be entitled, if the repayment is made on or after the date on which section 22 of the Finance Act 1970 comes into force, to deduct from the repayment any tax to which they may become chargeable under paragraph 2 of Part II of Schedule 5 to that Act (charge to tax on repayment of employee's contributions).

Provisions as to Northern Ireland.
1971 c. 56.

34.—(1) The pensions in relation to which the Pensions (Increase) Act 1971 extends to Northern Ireland shall include pensions payable under Part I of this Act or under Part II of the Act of 1965; and accordingly, in section 19(2)(a) of the said Act of 1971, after the words "Parliament of the United Kingdom" there shall be inserted the words "or out of the Parliamentary Contributory Pension Fund".

1972 c. 11.

(2) The amendments subject to which the Pensions (Increase) Act 1971 has effect in Northern Ireland (whether in relation to the pensions mentioned in the preceding subsection or any other pensions) shall include the amendments made by section 25 of the Superannuation Act 1972; and accordingly, in section 30(5) of the said Act of 1972, after paragraph (e) there shall be inserted the following paragraph:—

"(ee) section 25".

(3) Section 23 of this Act shall apply in relation to service as a Member of the House of Commons of Northern Ireland as it applies in relation to service as a Member of the House of Commons of the United Kingdom.

Interpretation (general).

1965 c. 11.

35.—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

"the Act of 1965" means the Ministerial Salaries and Members' Pensions Act 1965;

"the Consolidated Fund" means the Consolidated Fund of the United Kingdom;

PART III

“ contribution ”, in relation to a person, means any amount deducted from any salary of his under section 5 of the Act of 1965 or under section 3 or section 4 of this Act (including any sum which, by virtue of any provisions of any of those sections, is to be treated as, or dealt with as if it were, a sum so deducted) and any reference to the payment of a contribution by a person shall be construed accordingly ;

“ enactment ” includes an enactment of the Parliament of Northern Ireland ;

“ interest ” (where the reference is to the payment of any sum with interest) means compound interest at the rate of three per cent. per annum, calculated with annual rests.

(2) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

36.—(1) Subject to the following provisions of this section, and without prejudice to any express amendment made by any of the preceding provisions of this Act,— Amendments,
repeals and
savings.

(a) the enactments specified in Schedule 3 to this Act shall have effect subject to the amendments specified in that Schedule (being amendments consequential upon the preceding provisions of this Act), and

(b) the enactments specified in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) The repeal effected by the preceding subsection (in this section referred to as “ the repeal ”) shall not affect the operation of any of the provisions of Part II of the Act of 1965, or of Schedule 2 or Schedule 3 to that Act, in relation to—

(a) any deduction required by that Act to be made from the salary of any Member of the House of Commons in respect of any period ending before 1st January 1972 ;

(b) the payment of any sum required to be paid under section 6 of that Act (Exchequer contributions) in respect of any year ending before 1st April 1972 ;

(c) any pension under Part II of the Act of 1965 which has become payable before 1st January 1972 or which, apart from this Act, would become payable to or in respect of a person who ceased to be a Member of the House of Commons before 1st January 1972 and has

PART III

not been a Member of that House at any time on or after that date (whether before or after the passing of this Act); or

- (d) the payment of any sum which has before 1st January 1972 become payable under section 11 of that Act (refund of contributions) or which, apart from this Act, would become payable under subsection (1)(a) of that section in respect of a person who ceased to be a Member of the House of Commons before 1st January 1972 and has not been a Member of that House at any time on or after that date (whether before or after the passing of this Act).

(3) The repeal shall not affect the operation—

1965 c. 58.

- (a) of subsections (1) to (3) of section 3 of the Ministerial Salaries Consolidation Act 1965 (pensions of Prime Ministers), or

- (b) of subsection (4) of that section (which relates to dependants of Prime Ministers) or of any provisions of the Act of 1965 as applied by that subsection,

in relation to any person who held office as Prime Minister and First Lord of the Treasury before 1st April 1972 but has not (whether before or after the passing of this Act) held that office at any time after that date.

1948 c. 33.

(4) The repeal shall not affect the validity of any rules made by virtue of section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 as modified by subsection (6) of section 13 of the Act of 1965, or as modified by that subsection together with section 12(6) of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965; and any such rules shall have effect as if made by virtue of section 2 of the said Act of 1948 as modified by section 23 (or section 23 together with section 34(3)) of this Act, and may be varied or revoked accordingly.

1965 c. 18
(N.I.).

Short title.

37. This Act may be cited as the Parliamentary and other Pensions Act 1972.

SCHEDULES

SCHEDULE 1

Section 1.

PARLIAMENTARY CONTRIBUTORY PENSION FUND

General provisions as to Trustees

1. The Trustees shall be not more than nine in number, of whom one (being the Public Trustee or a body corporate entitled by rules made under section 4(3) of the Public Trustee Act 1906 to act as custodian trustee) shall be the Custodian Trustee of the Fund and the remainder shall be the Managing Trustees. 1906 c. 55.

2. No person shall be appointed to be a Managing Trustee unless he is a Member of the House of Commons, and, on ceasing to be a Member of the House of Commons, a Managing Trustee shall vacate his office.

3. The Managing Trustees may act by a majority of those present at any meeting of the Managing Trustees at which a quorum is present.

4. The procedure of the Trustees shall, subject to the provisions of this Act, be such as the Trustees may determine; and the quorum for any meeting of the Managing Trustees shall be three.

5. A direction of the Managing Trustees shall continue in force until revoked by a subsequent direction of the Managing Trustees, notwithstanding any changes in the persons who are Managing Trustees and notwithstanding that, by reason of a dissolution of Parliament or for any other reason, there are for the time being no Managing Trustees.

Distribution of functions between Custodian Trustee and Managing Trustees

6. All sums payable to or out of the income or capital of the Fund shall be paid to or by the Custodian Trustee, and the assets of the Fund shall be vested in him as if he were sole Trustee.

7. The management of the Fund and the exercise of any power or discretion exercisable in relation to it shall be vested in the Managing Trustees.

8. As between the Custodian Trustee and the Managing Trustees, the Custodian Trustee shall have the custody of all securities and documents of title relating to the property of the Fund; but the Managing Trustees shall have free access to those securities and documents and be entitled to take copies of them or extracts from them.

9. The Custodian Trustee shall concur in and perform all acts necessary to enable the Trustees to exercise their powers of management or any other power or discretion vested in them, unless the matter in which he is requested to concur is a breach of trust

SCH. 1 or involves a personal liability upon him in respect of calls or otherwise ; but unless he so concurs the Custodian Trustee shall not be liable for any act or default on the part of the Managing Trustees or any of them.

10. The Custodian Trustee, if he acts in good faith, shall not be liable for accepting as correct, and acting upon the faith of, any statement of the Managing Trustees as to any matter of fact, nor for acting upon any legal advice obtained by the Managing Trustees independently of the Custodian Trustee, nor for acting in accordance with any directions given to him in writing and purporting to be signed by or on behalf of the Managing Trustees.

Administrative provisions

11. The Trustees may employ such officers and servants (if any) as they think necessary in connection with the management of the Fund ; and the expenses of managing it, including the fees of the Custodian Trustee, any fee payable to the Comptroller and Auditor General and the remuneration and pensions, or contributions towards the pensions, payable to or in respect of officers and servants employed by the Trustees, shall be defrayed out of the Fund.

1906 c. 55 12. The Custodian Trustee may charge such fees as he is authorised to charge under the Public Trustee Act 1906.

13. The Trustees shall keep proper accounts and shall prepare in respect of each financial year of the Fund statements of account in such form and in such manner as the Comptroller and Auditor General may direct.

14. The Comptroller and Auditor General shall examine and certify every statement of account prepared under paragraph 13 of this Schedule and shall lay a copy of every such statement, together with his report on it, before the House of Commons.

Section 15

SCHEDULE 2

PERSONS QUALIFYING FOR CHILDREN'S PENSIONS

1. In this Schedule "section 15" means section 15 of this Act, "the deceased" means the person on whose death a children's pension is or may be payable under section 15, and "child" has the same meaning as in that section.

2. For the purposes of section 15 a child shall be treated as within his period of full-time education while—

(a) he is receiving full-time instruction at any university, college, school or other educational establishment, or

(b) he is undergoing full-time or substantially full-time training for any trade, profession or vocation ;

and any question arising under this paragraph shall be determined by the Trustees.

3. A child shall not be treated as a relevant child for the purposes of section 15—

- (a) as being an illegitimate or adopted child of the deceased, if he was born or adopted, as the case may be, after the termination of the marriage or last marriage of the deceased, or
- (b) as being the child of a wife of the deceased, if he was born or became her child after the termination of her marriage with the deceased,

unless, in the case of an adopted child falling within sub-paragraph (a) or sub-paragraph (b) of this paragraph, the Trustees, if satisfied that before the material event therein mentioned the deceased (or, as the case may be, the deceased and his wife) had already formed the intention of adopting the child, and that the child was then wholly or mainly dependent on the deceased, direct that the child shall be treated as a relevant child.

4. A child shall not be treated as a relevant child for the purposes of section 15 as being—

- (a) the illegitimate child of the deceased, or
- (b) a child of a wife of the deceased,

unless the child was wholly or mainly dependent on the deceased at the time of his death.

5. A female child shall not be treated as a relevant child for the purposes of section 15 if, at the date of the death of the deceased, she is married to or cohabiting with another person; and a female child who thereafter marries or cohabits with another person shall thereupon cease to be a relevant child unless and until the Trustees, being satisfied that the marriage or cohabitation has been terminated and that for exceptional reasons it is proper to do so, direct that she shall be so treated.

6. Where the deceased was a woman, no child of any marriage of hers shall be a relevant child for the purposes of section 15 if the father of the child was living at the death of the deceased, unless the Trustees for exceptional reasons direct that the child shall be so treated.

Section 36.

SCHEDULE 3

ENACTMENTS AMENDED

<i>Act</i>	<i>Amendment</i>
<p>The Income and Corporation Taxes Act 1970 (1970 c. 10).</p>	<p>In section 211(2) the following paragraph shall be substituted for (b):— “ (b) the fund constituted under section 4(2) of the Ministerial Salaries and Members’ Pensions Act 1965, and renamed the Parliamentary Contributory Pension Fund by the Parliamentary and other Pensions Act 1972, and ”.</p>
<p>Mr. Speaker King’s Retirement Act 1971 (1971 c. 13).</p>	<p>In section 1(2), for the words “ Part II of the Ministerial Salaries and Members’ Pensions Act 1965 ” there shall be substituted the words “ Part I of the Parliamentary and other Pensions Act 1972 ”.</p>

Section 36.

SCHEDULE 4

ENACTMENTS REPEALED

Chapter	Short title	Extent of repeal
1965 c. 11.	The Ministerial Salaries and Members’ Pensions Act 1965.	The whole Act.
1965 c. 58.	The Ministerial Salaries Consolidation Act 1965.	The whole Act.
1965 c. 61.	The Judges’ Remuneration Act 1965.	In section 2, subsection (2). In Schedule 2, the entry relating to the Lord Chancellor’s Pension Act 1832.
1965 c. 18 (N.I.).	The Ministerial Salaries and Members’ Pensions Act (Northern Ireland) 1965.	In section 12, subsection (6).
1967 c. 28.	The Superannuation (Miscellaneous Provisions) Act 1967.	Section 10.



Affiliation Proceedings (Amendment) Act 1972

1972 CHAPTER 49

An Act to amend the law relating to proceedings for an affiliation order or for the variation, revocation or revival of such an order, and for connected purposes.

[27th July 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) In section 4 of the Affiliation Proceedings Act 1957 (which, among other things, requires the court hearing a complaint to hear the mother's evidence) the following subsection shall be substituted for subsection (1):—

“(1) On the hearing of a complaint under section 1 of this Act the court may adjudge the defendant to be the putative father of the child but shall not do so, in a case where evidence is given by the mother, unless her evidence is corroborated in some material particular by other evidence to the court's satisfaction.”

(2) In subsection (2) of the said section 4, for the words from the beginning to “may also” there shall be substituted the words “Where the court has adjudged the defendant to be the putative father of the child it may also”.

(3) In section 8(2) of the said Act of 1957 (which relates to appeals), for the words from “hear the evidence” to the end there shall be substituted the words “hear any evidence given by or on behalf of either party but shall not confirm the order appealed against (or reverse the refusal to make an order), in a case where evidence is given by the mother, unless her evidence is corroborated in some material particular by other evidence to the court's satisfaction”.

(4) The following enactments are hereby repealed:—

1948 c. 29.
1948 c. 43.

(a) in section 44(3) of the National Assistance Act 1948 and section 26(2) of the Children Act 1948 the words “in addition to the evidence required to be heard by section 4 of the said Act of 1872”;

1966 c. 20.

(b) in section 24(3) of the Ministry of Social Security Act 1966 the words “in addition to the evidence required to be heard by section 4 of the said Act of 1957”; and

1972 c. 18.

(c) in section 30(3) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, paragraph (b) and the word “and” immediately preceding it.

Time for
application
for summons.

2.—(1) In section 2 of the said Act of 1957 (application for summons to be made within a certain time)—

(a) in paragraphs (a) and (b) of subsection (1), for the words “twelve months” there shall be substituted the words “three years”; and

(b) in paragraph (c) of subsection (1) and in subsection (2), for the words “twelve months”, in each case in the second place where they occur, there shall be substituted the words “three years”.

(2) In section 30(3)(a) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (payment under the law applied by a court outside the United Kingdom of money towards the maintenance of a child) for the words “twelve months” there shall be substituted the words “three years (or twelve months, in the case of a complaint under the said Act of 1924)”.

Procedure on
application
for, or for
variation,
revival or
revocation
of, affiliation
order.
1952 c. 55.

3.—(1) The proceedings which are domestic proceedings within the meaning of the Magistrates’ Courts Act 1952 shall include proceedings on an application for—

(a) an affiliation order made under the said Act of 1957, section 44 of the National Assistance Act 1948, section 26 of the Children Act 1948 or section 24 of the Ministry of Social Security Act 1966; or

(b) the revival or revocation of such an order,

and section 56 of the said Act of 1952 (which defines “domestic proceedings”) shall have effect accordingly.

(2) The court before which there fall to be heard any proceedings for the variation of such an order as is mentioned in subsection (1) of this section may, if it thinks fit, order that those proceedings and any other proceedings being heard therewith shall be treated for the purposes of the said Act of 1952 as domestic proceedings.

(3) Section 5(1) of the Legitimacy Act 1959, section 24(8) of 1959 c. 73.
the said Act of 1966 and in section 17(3) of the Maintenance 1972 c. 18.
Orders (Reciprocal Enforcement) Act 1972 the words “ or
section 5 of the Legitimacy Act 1959 ” are hereby repealed.

4.—(1) This Act may be cited as the Affiliation Proceedings Short title,
extent and
commence-
(Amendment) Act 1972. ment.

(2) This Act shall not extend to Scotland or, except in so far
as it amends section 30(3)(a) of the Maintenance Orders
(Reciprocal Enforcement) Act 1972, to Northern Ireland.

(3) This Act shall come into force at the expiration of the
period of three months beginning with the day on which it is
passed.



Legal Advice and Assistance Act 1972

1972 CHAPTER 50

An Act to make further provision for the purpose of making legal advice and assistance more readily available, including the employment of solicitors by the Law Society or the Law Society of Scotland for that purpose and for the purpose of giving legal aid; and to make provision for purposes connected with those matters.

[27th July 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

ADVICE AND ASSISTANCE

1. Advice and assistance to which this section applies shall, Persons eligible for advice and assistance. subject to and in accordance with the following provisions of this Part of this Act, be available in Great Britain for any person if—

- (a) his disposable income does not exceed £20 a week or such larger weekly sum as may be prescribed, or
- (b) he is (directly or indirectly) in receipt of supplementary benefit under the Ministry of Social Security Act 1966 1966 c. 20. or of family income supplement under the Family Income Supplements Act 1970 1970 c. 55.

and (in either case) his disposable capital does not exceed £125 or such larger sum as may be prescribed.

PART I
Advice and
assistance
to which
s. 1 applies.

2.—(1) Subject to the following provisions of this section, and to any prescribed exceptions or conditions, section 1 of this Act applies to any oral or written advice given by a solicitor or, if and so far as may be necessary, by counsel—

- (a) on the application of English law (where the advice is given in England or Wales) or of Scots law (where the advice is given in Scotland) to any particular circumstances which have arisen in relation to the person seeking the advice, and
- (b) as to any steps which that person might appropriately take (whether by way of settling any claim, bringing or defending any proceedings, making an agreement, will or other instrument or transaction, obtaining further legal or other advice or assistance, or otherwise) having regard to the application of English law or of Scots law (as the case may be) to those circumstances,

and applies to any assistance given by a solicitor or, if and so far as may be necessary, by counsel to any person in taking any such steps as are mentioned in paragraph (b) of this subsection, whether the assistance is given by taking any such steps on his behalf or by assisting him in taking them on his own behalf.

(2) Notwithstanding anything in the preceding subsection, section 1 of this Act does not apply to any advice or assistance given to a person in connection with any proceedings before a court or tribunal—

- (a) at a time when a legal aid certificate issued to him in connection with those proceedings is in force, or
- (b) in the case of criminal proceedings, at a time when a legal aid order made in respect of him for the purposes of those proceedings is in force.

(3) Without prejudice to subsection (2) of this section, section 1 of this Act does not apply to any assistance given to a person by taking on his behalf any step in the institution or conduct of any proceedings before a court or tribunal, or of any proceedings in connection with a statutory inquiry, whether by representing him in those proceedings or by otherwise taking any such step on his behalf (as distinct from assisting him in taking such a step on his own behalf), except—

- (a) in the case of civil proceedings before a court or tribunal, any step which consists only of negotiating on his behalf with a view to a settlement of a claim to which the proceedings relate, and
- (b) any step consisting of such assistance as is mentioned in the next following subsection.

(4) Section 1 of this Act also applies to any assistance given by a solicitor to any party to proceedings (whether criminal or

civil) before a magistrates' court or to proceedings before a county court, whether by representing him in those proceedings or otherwise in connection with them, where the assistance is given in compliance with a request which is made to the solicitor by the court or given in accordance with a proposal which is made by the solicitor and approved by the court and which (in either case)—

- (a) is so made or approved at a time (whether at or after the beginning of the proceedings) when the solicitor is present within the precincts of the court, but
- (b) is not made or approved at any such time as is mentioned in paragraph (a) or paragraph (b) of subsection (2) of this section.

(5) In the application of this section to Scotland—

- (a) in subsection (2), for paragraphs (a) and (b) there shall be substituted the words "at a time when he is receiving legal aid for the purposes of those proceedings", and
- (b) in subsection (4), for the words "a magistrates' court or to proceedings before a county court" there shall be substituted the words "a sheriff", and in paragraph (b) the words "paragraph (a) or paragraph (b) of" shall be omitted.

(6) In this section "legal aid certificate" means a certificate required, in accordance with regulations made under section 12 of the Act of 1949, to be obtained as a condition of entitlement to legal aid; "legal aid order" means an order made under section 73 of the Criminal Justice Act 1967; and "statutory inquiry" has the meaning assigned to it by section 19(1) of the Tribunals and Inquiries Act 1971.

1967 c. 80.

1971 c. 62.

3.—(1) Where under this Part of this Act a person seeks or receives any such advice or assistance as is mentioned in section 2 of this Act, then if at any time (whether before or after the advice or assistance has begun to be given) it appears to the solicitor from whom it is sought or received (or, in the case of advice or assistance sought or received from counsel, it appears to the solicitor instructing counsel) that the cost of giving it is likely to exceed the limit applicable under the next following subsection—

Financial limit on prospective cost of advice and assistance.

- (a) the solicitor shall determine to what extent that advice or assistance can be given without exceeding that limit, and
- (b) shall not give it (or, as the case may be, instruct counsel to give it) so as to exceed that limit except with the approval of the appropriate authority.

PART I

(2) The limit applicable under this subsection is £25 or such larger sum as may be prescribed.

(3) For the purposes of this section the cost of giving any such advice or assistance shall be taken to consist of such of the following as are applicable in the circumstances, that is to say—

- (a) any expenses (including fees payable to counsel) which may be incurred by the solicitor or his firm in, or in connection with, the giving of the advice or assistance ;
- (b) any charges or fees (not being charges for disbursements) which, apart from the next following section, would be properly chargeable by the solicitor or his firm in respect of the advice or assistance ; and
- (c) in the case of advice or assistance given by a solicitor employed by the Law Society, any charges or fees (not being charges for disbursements) which, if the solicitor had been employed by a firm of solicitors, would, apart from the next following section, have been properly chargeable by that firm in respect of the advice or assistance ;

and in paragraphs (b) and (c) of this subsection “charges for disbursements” means charges in respect of such expenses (including fees payable to counsel) as are mentioned in paragraph (a) of this subsection.

(4) In paragraph (b) of subsection (1) of this section the reference to the approval of the appropriate authority shall, in relation to the giving of advice or assistance in any particular case, be construed as a reference to approval given in accordance with the regulations by such committee or other person or body of persons as, in accordance with the provisions of the regulations and of a scheme, is the appropriate committee, person or body for determining whether approval for the purposes of that paragraph should be given in that case.

(5) In this section “scheme” means a scheme for the time being in force under section 8 of the Legal Aid Act as extended by section 6 of this Act, and “the regulations” means any regulations for the time being in force under section 12 of the Act of 1949 or section 15 of the Act of 1967 as so extended.

Contributions
from persons
receiving
advice or
assistance.

4.—(1) In respect of advice or assistance given to any person (in this Part of this Act referred to as a “client”) in pursuance of this Part of this Act, the client shall not, except in accordance with the following provisions of this section, be required to pay any charge or fee.

(2) Where the client’s disposable income exceeds £11 a week and he is not (directly or indirectly) in receipt of supplementary

benefit under the Ministry of Social Security Act 1966 or of family income supplement under the Family Income Supplements Act 1970, subsection (1) of this section shall not exempt him from liability to pay, in respect of the advice or assistance, charges or fees up to, but not in the aggregate exceeding, such amount as is applicable to him in accordance with the following provisions of this section. PART I
1966 c. 20.
1970 c. 55.

(3) The amount applicable to a client for the purposes of subsection (2) of this section, where his disposable income falls within a range specified in the first column of Schedule 1 to this Act, is the amount specified in relation to that range in the second column of that Schedule.

(4) Regulations may provide that, for any sum specified in subsection (2) of this section or in Schedule 1 to this Act, there shall be substituted such other sum as may be prescribed by the regulations.

5.—(1) This section applies to any charges or fees which, apart from section 4 of this Act, would be properly chargeable in respect of advice or assistance given to a client in pursuance of this Part of this Act, in so far as those charges or fees are not payable by the client in accordance with that section. Payment of charges or fees otherwise than through client's contribution.

(2) In the following provisions of this section “ the solicitor ”—

(a) in relation to any such advice or assistance given by a solicitor employed by a firm of solicitors or by the Law Society, and so given in the course of that employment, or given by counsel on instructions given to him by a solicitor in the course of such employment, means that firm of solicitors or the Law Society, as the case may be, and

(b) in any other case, means the solicitor by whom any such advice or assistance is given or, where it is given by counsel, the solicitor on whose instructions counsel gives it.

(3) Except in so far as regulations otherwise provide, charges or fees to which this section applies shall constitute a first charge for the benefit of the solicitor—

(a) on any costs or expenses which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the client by any other person in respect of the matter in connection with which the advice or assistance is given, and

(b) on any property (of whatever nature and wherever situated) which is recovered or preserved for the client in connection with that matter, including his rights

PART I

under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.

(4) In so far as the charge created by subsection (3) of this section in respect of any charges or fees to which this section applies is insufficient to meet them, the deficiency shall, subject to the following provisions of this section, be payable to the solicitor out of the legal aid fund.

(5) In the case of advice or assistance given by a solicitor employed by the Law Society in employment to which Part II of this Act applies, any amount which, apart from this subsection, would be payable out of the legal aid fund under subsection (4) of this section shall be reduced by an amount representing so much of—

- (a) the remuneration of that solicitor payable by the Law Society, and
- (b) any other expenses incurred by the Law Society in consequence of his being so employed,

as is properly attributable to time spent or work done by him in giving that advice or assistance.

(6) For the purpose of determining what charges or fees would be properly chargeable as mentioned in subsection (1) of this section, and whether there is a deficiency to be payable out of the legal aid fund in accordance with subsection (4) and, where applicable, subsection (5) of this section, charges or fees in respect of advice or assistance given to a client in pursuance of this Part of this Act shall, in such circumstances as may be prescribed, be taxed or assessed in such manner as may be prescribed.

(7) In the application of this section to Scotland, subsection (3) shall have effect as if, instead of providing that charges or fees to which this section applies shall constitute a first charge for the benefit of the solicitor on any such costs, expenses or property as are mentioned in that subsection, it provided that such charges or fees shall be paid to the solicitor, in priority to any other debts, out of any such costs, expenses or property; and subsection (4) shall be construed accordingly.

Application of provisions of Legal Aid Act. 6.—(1) The following provisions of the Legal Aid Act, that is to say—

- (a) section 1(7), subsections (1) to (4) and subsection (8) of section 4, subsections (1) to (4) of section 6, section 8 and sections 12 to 16 of the Act of 1949, and

(b) section 1(8), subsections (1) to (4) and subsection (7) of section 4, subsections (1) to (3) of section 6, section 8 and sections 15 to 18 of the Act of 1967,

PART I

shall have effect in relation to advice and assistance sought or received in pursuance of this Part of this Act as they have effect in relation to legal aid; and accordingly any reference in those provisions to legal aid shall be construed as including a reference to any such advice or assistance.

(2) For the purposes of the application of those provisions in accordance with the preceding subsection, and for the purposes of the provisions of sections 9 and 11 of the Act of 1949 and of sections 9 and 12 of the Act of 1967,—

- (a) references in those provisions to Part I of the Act of 1949, or to the Act of 1967, shall be construed as including references to this Part of this Act, and
- (b) any reference in those provisions (whether express or implied) to regulations made under Part I of the Act of 1949, or made under the Act of 1967, shall be construed as including a reference to regulations made under any of those provisions as extended by the preceding subsection.

(3) The powers conferred by section 4(4) and section 12 of the Act of 1949 and by section 4(4) and section 15 of the Act of 1967 (which confer powers to make regulations) as applied by subsection (1) of this section shall be construed as including power to make different regulations in relation to advice and assistance sought or received in pursuance of this Part of this Act and in relation to legal aid respectively; and those powers shall (without prejudice to their generality) be taken to include power to make provision as to the cases in which a person is for the purposes of this Part of this Act to be taken to be (directly or indirectly) in receipt of supplementary benefit under the Ministry of Social Security Act 1966 or of family income supplement under the Family Income Supplements Act 1970, and also to include power to modify the preceding provisions of this Part of this Act in any manner for the purposes of the application of those provisions to advice or assistance—

- (a) sought or received by a person who is under such age (not exceeding the age of eighteen years) as may be specified in the regulations, or
- (b) sought or received on behalf of any such person by his parent or guardian or other person under whose care he is, or by a person acting for the purposes of any proceedings in England or Wales as his next friend or guardian or acting for the purposes of any proceedings in Scotland as his curator or tutor.

Part II

H

PART II**EMPLOYMENT OF SOLICITORS BY LAW SOCIETY**

Employment
to which
Part II
applies.

7.—(1) This Part of this Act applies to the employment of solicitors by the Law Society for any one or more of the following purposes, that is to say—

- (a) giving advice and assistance to which section 1 of this Act applies ;
- (b) acting for persons receiving legal aid, either generally or in cases of any such description as may be prescribed ;
- (c) performing any such services as are mentioned in the next following subsection.

(2) The services referred to in subsection (1)(c) of this section are services performed by a solicitor for or in connection with any such local organisation as is mentioned in subsection (3) of this section and consisting—

- (a) of furnishing legal assistance to the organisation in its function of giving advice and guidance to applicants ;
- (b) of promoting contacts between the organisation and solicitors practising in the locality for which the organisation is established, with a view to enabling applicants to obtain the professional services of those solicitors in cases where those services are required ;
- (c) of giving oral advice to applicants, instead of referring them to other solicitors, in cases which can be readily disposed of by such advice.

(3) The local organisations referred to in subsection (2) of this section are organisations concerned in the giving of advice or guidance (whether generally or with respect to any particular classes of matters) to persons residing in the localities for which the organisations are established; and in that subsection “applicants”, in relation to any such organisation, means persons who apply to the organisation for advice or guidance or are referred to it with a view to their receiving advice or guidance from the organisation.

(4) In this section “organisation” includes a branch or section of an organisation ; and, in relation to such a branch or section, any reference to the locality for which it is established shall be construed as a reference to the locality for which the branch or section is established.

Arrangements
for
employment
to which
Part II applies,
and pension
rights of
persons
employed.

8.—(1) The matters which may be included in a scheme under section 8 of the Legal Aid Act (functions of Law Society) shall, without prejudice to the generality of that section, include provisions with respect to the employment of solicitors in employment to which this Part of this Act applies and, in particular, with respect to—

- (a) the circumstances in which solicitors may be so employed, and

(b) the provision of accommodation, staff and other facilities for solicitors so employed.

(2) In the following provisions of this Part of this Act "scheme" means any scheme for the time being in force under section 8 of the Legal Aid Act in so far as it includes any such provisions as are mentioned in the preceding subsection.

(3) Section 2(2)(b) of the Act of 1949 and section 2(6)(b) of the Act of 1967 (which preclude a solicitor from taking any payment in respect of legal aid except as therein mentioned) shall not apply to the remuneration of a solicitor by the Law Society in respect of any employment to which this Part of this Act applies.

(4) In section 11 of the Act of 1949 and in section 12 of the Act of 1967 (which relate respectively to pension rights of employees) any reference to employment by the Law Society for the purposes of their functions under Part I of the Act of 1949, or under the Act of 1967, as the case may be, shall include references—

- (a) to the employment of any person in accordance with a scheme in employment to which this Part of this Act applies, and
- (b) to the employment of any person by the Law Society in accordance with a scheme for purposes connected with employment to which this Part of this Act applies.

9.—(1) The receipts and expenses which, in accordance with section 9(2) of the Legal Aid Act (which requires all receipts and expenses of the Law Society attributable to Part I of the Act of 1949, or to the Act of 1967, to be paid into and out of the legal aid fund), are to be paid into and out of the legal aid fund shall include all receipts and expenses of the Law Society which are attributable to the employment of solicitors in accordance with a scheme in employment to which this Part of this Act applies, and to work performed, and other things done or omitted to be done, in the course of such employment.

Payments into and out of legal aid fund.

(2) Notwithstanding anything in section 6(5) of the Act of 1949 or in section 6(4) of the Act of 1967, a solicitor who, in the course of employment to which this Part of this Act applies, acts for a person receiving legal aid shall not be paid for so acting out of the legal aid fund, otherwise than by way of remuneration payable by the Law Society and forming part of the expenses referred to in the preceding subsection.

10.—(1) In relation to any solicitor who in accordance with a scheme is employed by the Law Society in employment to which this Part of this Act applies, and in relation to any work performed, or other things done or omitted to be done, by any such solicitor in the course of that employment,—

General provisions relating to employment to which Part II applies.

- (a) the enactments relating to solicitors, and

PART II

(b) any rule of law which relates to solicitors, or is applicable to things done, or omitted to be done, by solicitors in their capacity as solicitors, shall have effect as if the Law Society were a firm of solicitors.

(2) The preceding subsection shall not be construed as precluding two or more solicitors employed by the Law Society in employment to which this Part of this Act applies from acting for different parties having opposing or otherwise different interests in relation to the same proceedings or other matter.

PART III**SUPPLEMENTARY PROVISIONS****Regulations.**

11.—(1) In this Act “prescribed” means prescribed by regulations made under section 12 of the Act of 1949 as extended by section 6 of this Act, or made under section 15 of the Act of 1967 as so extended.

(2) Any regulations made for the purposes of section 1 or section 3(2) of this Act, or containing any provision made for any of those purposes (not being a provision to the same effect as a provision revoked by the regulations) shall not come into force unless or until approved by a resolution of each House of Parliament, and accordingly a statutory instrument by which any such regulations are made shall not be subject to annulment as mentioned in section 12(5) of the Act of 1949 or in section 15(7) of the Act of 1967.

Financial provisions.

12. There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided under the Act of 1949 or the Act of 1967.

Amendments, repeals and transitional provisions.

13.—(1) Subject to the next following subsection—

(a) the enactments specified in Schedule 2 to this Act shall have effect subject to the amendments specified in that Schedule (being minor amendments or amendments consequential upon the preceding provisions of this Act), and

(b) the enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) In so far as anything done under or for the purposes of an enactment repealed by this Act could have been done under or for the purposes of any provision of this Act, it shall not be invalidated by the repeal of that enactment, but shall have effect as if done under or for the purposes of that provision of this Act.

14.—(1) This Act may be cited as the Legal Advice and Assistance Act 1972.

PART III
Short title,
construction,
citation,
commence-
ment and
extent.
1949 c. 51.
1967 c. 43.

(2) In this Act “the Act of 1949” means the Legal Aid and Advice Act 1949 as amended by or under any other Act and “the Act of 1967” means the Legal Aid (Scotland) Act 1967 as so amended, and “the Legal Aid Act” in relation to England and Wales means the Act of 1949 and in relation to Scotland means the Act of 1967; and—

(a) except in its application to Scotland, this Act shall be construed as one with Parts I and III of the Act of 1949, and

(b) in its application to Scotland, this Act shall be construed as one with the Act of 1967.

(3) This Act may be cited together with the Legal Aid Acts 1949 to 1964 as the Legal Aid and Advice Acts 1949 to 1972, and may be cited together with the Act of 1967 as the Legal Aid and Advice (Scotland) Acts 1967 and 1972.

(4) This Act shall come into operation—

(a) in relation to England and Wales, on such day as the Lord Chancellor may by order made by statutory instrument appoint, and

(b) in relation to Scotland, on such day as the Secretary of State may by order made by statutory instrument appoint,

and different days may be appointed under paragraph (a) or paragraph (b) of this subsection for, or for different purposes of, any one or more of the provisions of this Act (including, in the case of section 13 of this Act, the amendment or repeal of different enactments specified in Schedule 2 or Schedule 3 to this Act or of different provisions of any enactment so specified).

(5) Except in so far as the operation of section 26 of the Act of 1949 (extension of powers of Northern Ireland Parliament) is extended by virtue of subsection (2) of this section, this Act shall not form part of the law of Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 4.

CLIENTS' CONTRIBUTIONS

<i>Disposable income range</i>	<i>Maximum contribution</i>
1. Exceeding £11 but not exceeding £12 a week ...	£1
2. Exceeding £12 but not exceeding £13 a week ...	£3
3. Exceeding £13 but not exceeding £14 a week ...	£5
4. Exceeding £14 but not exceeding £15 a week ...	£7
5. Exceeding £15 but not exceeding £18 a week ...	£10
6. Exceeding £18 but not exceeding £20 a week ...	£12

Section 13.

SCHEDULE 2

ENACTMENTS AMENDED

<i>Act</i>	<i>Amendment</i>
The Legal Aid and Advice Act 1949 (12 & 13 Geo. 6. c. 51).	<p>In section 3, in subsection (7), after the word "counsel" there shall be inserted the words " (or, in a case where the solicitor acting for a person is a solicitor employed by the Law Society in accordance with Part II of the Legal Advice and Assistance Act 1972, sums which would have been so payable if the solicitor had not been so employed) ".</p> <p>In section 6, in subsection (5), after the word "Act" there shall be inserted the words " and to section 9(2) of the Legal Advice and Assistance Act 1972 "; and in subsection (9), after the word "section", in the first place where it occurs, there shall be inserted the words " or in section 9(2) of the Legal Advice and Assistance Act 1972 ", and in paragraph (a), after the word "section" there shall be inserted the words " and section 9(2) of that Act ".</p> <p>In section 8, in subsection (1), for the words "and legal advice are" there shall be substituted the word "is".</p> <p>In section 9, in subsection (2), after the word "Act" there shall be inserted the words " or attributable to their functions under Part II of the Legal Advice and Assistance Act 1972 "; in subsections (3)(b) and (4), after the word "Act" there shall be inserted the words " or under Part II of the Legal Advice and Assistance Act 1972 "; and after subsection (9) there shall be added the following subsection:—</p> <p style="padding-left: 40px;">“(10) In this section any reference to the functions of the Law Society under</p>

<i>Act</i>	<i>Amendment</i>
<p>The Legal Aid and Advice Act 1949 —<i>cont.</i></p>	<p>Part II of the Legal Advice and Assistance Act 1972 is a reference to the employment of solicitors by the Law Society in accordance with that Part of that Act and to work performed, and other things done or omitted to be done, in the course of such employment.”</p> <p>In section 17, in the definition of “ person ” in subsection (1), for the words “ or advice ” there shall be substituted the words “ advice or assistance ”.</p>
<p>The Solicitors Act 1957 (5 & 6 Eliz. 2. c. 27).</p>	<p>In section 29, in subsection (4), after the words “ in a county office ” there shall be inserted the words “ or acting in the course of employment to which Part II of the Legal Advice and Assistance Act 1972 applies ”.</p> <p>In section 30, in subsection (7), after the words “ last foregoing section ” there shall be inserted the words “ or in employment to which Part II of the Legal Advice and Assistance Act 1972 applies ”, and, in paragraph (b), after the words “ public officer ” there shall be inserted the words “ or in the course of employment to which Part II of that Act applies ”.</p>
<p>The Legal Aid and Solicitors (Scotland) Act 1949 (12 & 13 Geo. 6. c. 63).</p>	<p>In section 20, in subsection (2)(a), after the words “ direction of such solicitor ” there shall be inserted the words “ or who is in employment to which Part II of the Legal Advice and Assistance Act 1972 applies ”.</p>
<p>The Legal Aid Act 1960 (8 & 9 Eliz. 2. c. 28).</p>	<p>In section 4, after the words “ Legal Aid Act ” there shall be inserted the words “ or of the Legal Advice and Assistance Act 1972 ” and for the words “ that Act ” there shall be substituted the words “ those Acts ”.</p>
<p>The Legal Aid (Scotland) Act 1967 (1967 c. 43).</p>	<p>In section 3, in subsection (7), after the word “ solicitor ” there shall be inserted the words “ (or, in a case where the solicitor acting for a person is a solicitor employed by the Law Society in accordance with Part II of the Legal Advice and Assistance Act 1972, sums which would have been so payable if the solicitor had not been so employed) ”.</p> <p>In section 6, in subsection (4), after the word “ Act ” there shall be inserted the words “ and to section 9(2) of the Legal Advice and Assistance Act 1972 ”, and for the words “ shall be paid to the solicitor instructing him ” there shall be substituted</p>

SCH. 2

Act
The Legal Aid (Scotland) Act 1967—
cont.

Amendment

the words “ shall also be paid ”; and in subsection (9), after the word “ section ”, in the first place where it occurs, there shall be inserted the words “ and section 9(2) of the Legal Advice and Assistance Act 1972 ”.

In section 8, in subsection (1), for the words “ and legal advice are ” there shall be substituted the word “ is ”.

In section 9, in subsection (2), after the word “ Act ” there shall be inserted the words “ or attributable to their functions under Part II of the Legal Advice and Assistance Act 1972 ”; in subsections (3)(b) and (4), after the word “ Act ” there shall be inserted the words “ or under Part II of the Legal Advice and Assistance Act 1972 ”; and after subsection (8) there shall be added the following subsection:—

“ (9) In this section any reference to the functions of the Law Society under Part II of the Legal Advice and Assistance Act 1972 is a reference to the employment of solicitors by the Law Society in accordance with that Part of that Act and to work performed, and other things done or omitted to be done, in the course of such employment.”

In section 10, after the word “ Act ” in the first place where it occurs there shall be inserted the words “ or of the Legal Advice and Assistance Act 1972 ”, and after that word in the second place where it occurs there shall be inserted the words “ and the said Act of 1972 ”.

In section 20, in the definition of “ person ” in subsection (1), for the words “ or advice ” there shall be substituted the words “ advice or assistance ”.

Section 13.

SCHEDULE 3

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
12 & 13 Geo. 6. c. 51.	The Legal Aid and Advice Act 1949.	Section 5. In section 6, subsection (7). Section 7. In section 12, in subsection (2)(c) and (d) and in subsection (3)(a), the words “ or advice ” in each place where they occur.

Chapter	Short Title	Extent of Repeal
12 & 13 Geo. 6. c. 51— <i>cont.</i>	The Legal Aid and Advice Act 1949— <i>cont.</i>	<p>In section 14, the words “or advice” in each place where they occur.</p> <p>In section 15, the words “or advice” in each place where they occur.</p> <p>In section 16, subsection (7).</p> <p>In section 17, in subsection (1), the definitions of “legal advice” and of “matrimonial cause”.</p> <p>In Schedule 3, the provisos to paragraphs 1(1) and 2(1).</p>
8 & 9 Eliz. 2. c. 28.	The Legal Aid Act 1960.	<p>In section 1, in subsection (2), the words from “and in subsection (5)” onwards.</p>
1967 c. 43.	The Legal Aid (Scotland) Act 1967.	<p>Section 5.</p> <p>Section 7.</p> <p>In section 15, in subsections (1), (2) and (3)(a), the words “or advice” in each place where they occur.</p> <p>In section 17, subsection (6).</p> <p>In section 18, the words “or advice” in each place where they occur.</p> <p>In section 20, in subsection (1), the definitions of “legal advice” and of “member of the forces”.</p> <p>In Schedule 2, paragraph 2(6).</p>



Chronically Sick and Disabled Persons (Scotland) Act 1972

1972 CHAPTER 51

An Act to extend sections 1 and 2(1) of the Chronically Sick and Disabled Persons Act 1970 to Scotland.
[27th July 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) For section 29(2) of the Chronically Sick and Disabled Persons Act 1970 (which limits the extent of that Act) there shall be substituted the following subsection:—

Amendment
of section
29(2) of the
Chronically
Sick and
Disabled
Persons Act
1970.

“(2) Sections 1 and 2(1) of this Act shall apply to Scotland so however that—

(a) any references to functions under section 29 of the National Assistance Act 1948 shall be construed as references to duties to chronically sick or disabled persons (being persons in need) under section 12 of the Social Work (Scotland) Act 1968;

1970 c. 44,
1948 c. 29,
1968 c. 49.

(b) any references to the services provided under arrangements made by the authority under the said section 29 shall be construed as references to the services for such persons as aforesaid provided by a local authority by virtue of the said section 12; and

(c) in section 2(1) as originally enacted—

(i) the words ‘who is ordinarily resident in their area’ shall be omitted;

*Chronically Sick and Disabled Persons
(Scotland) Act 1972*

(ii) for the words from 'notwithstanding' to 'that Act' where those words secondly occur there shall be substituted the words 'subject to the provisions of section 5 of the said Act of 1968 (which requires local authorities to exercise their functions under that Act).'

(2) Nothing in the provisions of this Act shall derogate from the scope of what local authorities are under a duty to do in respect of any person by virtue of any provision of the said Act of 1968.

Expenses.

2. There shall be defrayed out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

Short title.

3. This Act may be cited as the Chronically Sick and Disabled Persons (Scotland) Act 1972.



Town and Country Planning (Scotland) Act 1972

1972 CHAPTER 52

An Act to consolidate certain enactments relating to town and country planning in Scotland with amendments to give effect to recommendations of the Scottish Law Commission. [27th July 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

ADMINISTRATION

- 1.—(1) Subject to the provisions of this section the local planning authority for the purposes of this Act shall be— Local planning authorities.
- (a) in the case of a large burgh, the town council;
 - (b) in the case of a county (including, subject as after-mentioned, any small burghs therein), the county council or, in the case of a county combined with another county for the purposes mentioned in section 118(1) of the Local Government (Scotland) Act 1947, 1947 c. 43. the joint county council of the combined county; and
 - (c) in the case of a small burgh, to the town council of which powers and duties have been transferred under section 2(2) of the Town and Country Planning (Scotland) Act 1932, 1932 c. 49. the town council,

and the district of the local planning authority shall be the burgh or the county or the combined county, as the case may be.

(2) Two or more local planning authorities may, with the consent of the Secretary of State, combine for any of the

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purposes of any provision of this Act on such terms and conditions as may be agreed between them and approved by the Secretary of State.

(3) If it appears to the Secretary of State that the combination of any local planning authority with any other local planning authority or authorities for any of the purposes of any provision of this Act would be of public or local advantage he may make an order combining those authorities as respects their districts or parts thereof for such of the purposes aforesaid as are specified in the order:

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.

(4) The provisions of Schedule 1 to this Act shall have effect with respect to the combination of authorities under this section.

Joint advisory committees and sub-committees.

2. The provisions of Schedule 2 to this Act shall have effect with respect to the establishment and functions of—

- (a) joint advisory committees of local planning authorities ;
- (b) sub-committees of such committees and of planning committees described in paragraph 1 of Schedule 2 to this Act ; and
- (c) sub-committees of joint planning committees appointed in pursuance of any combination of local planning authorities under section 1 of this Act.

Delegation of functions to officers of local authorities.

3.—(1) A local planning authority may delegate to any officer of the authority who in their opinion is suitably qualified or experienced for the purpose the function of determining all or any, or a specified class, of the following applications, that is to say—

- (a) an application for planning permission under Part III of this Act ;
- (b) an application for an approval required by a development order or by a condition imposed on the grant of planning permission ;
- (c) an application for a determination under section 51 of this Act of the questions whether the carrying out of operations on land or the making of any change in the use of land constitutes or involves development of the land and, if so, whether an application for planning permission in respect thereof is required having regard to the provisions of the development order ;
- (d) an application for consent under an order under section 58 of this Act to the cutting down, topping, lopping or destruction of trees ;

- (e) an application for consent under regulations under section 61 of this Act to the display of advertisements ;
- (f) an application for an established use certificate under section 90 of this Act.

(2) A delegation made by a local authority under this section to an officer of theirs—

- (a) shall be made to the officer by name ;
- (b) may be made with or without restrictions or conditions ;
and
- (c) may be withdrawn at any time by the delegating authority (either generally or in respect of a particular application), without prejudice to anything previously done by the officer thereunder.

(3) Where a local authority have under this section delegated to an officer of theirs the function of determining applications, and the officer so requests in the case of any application specified by him, the delegating authority shall themselves, instead of him, determine the application.

(4) Where any functions have under this section been delegated to an officer of a local authority, any determination by him of such an application as is referred to in subsection (1) of this section shall, if it is notified in writing to the applicant, be treated for all purposes as a determination of the delegating authority.

(5) Where an action has been brought against an officer of a local authority in respect of an act done by him in the discharge or purported discharge of functions delegated to him under this section and the circumstances are such that he is not legally entitled to require the delegating authority to indemnify him, that authority may nevertheless indemnify him against the whole or part of any damages and expenses which he may have been ordered to pay or may have incurred, if they are satisfied that he honestly believed that the act complained of was done in the discharge of those functions and that his duty required or entitled him to do it.

(6) In relation to any functions delegated under this section by a local authority to an officer of theirs, any reference to the local planning authority in any enactment relating to those functions shall (subject to the terms of the delegation and so far as the context does not otherwise require) be construed as including a reference to that officer.

PART II

DEVELOPMENT PLANS

Survey and structure plan

Survey of
planning
districts.

4.—(1) It shall be the duty of the local planning authority to institute a survey of their district, in so far as they have not already done so, examining the matters which may be expected to affect the development of that district or the planning of its development and in any event to keep all such matters under review.

(2) Notwithstanding that the local planning authority have carried out their duty under subsection (1) of this section, the authority may, if they think fit, and shall, if directed to do so by the Secretary of State, institute a fresh survey of their district examining the matters mentioned in that subsection.

(3) Without prejudice to the generality of the preceding provisions of this section, the matters to be examined and kept under review thereunder shall include the following, that is to say—

- (a) the principal physical and economic characteristics of the district of the authority (including the principal purposes for which land is used) and, so far as they may be expected to affect that district, of any neighbouring districts ;
- (b) the size, composition and distribution of the population of that district (whether resident or otherwise) ;
- (c) without prejudice to paragraph (a) of this subsection, the communications, transport system and traffic of that district and, so far as they may be expected to affect that district, of any neighbouring districts ;
- (d) any considerations not mentioned in any of the preceding paragraphs which may be expected to affect any matters so mentioned ;
- (e) such other matters as may be prescribed or as the Secretary of State may in a particular case direct ;
- (f) any changes already projected in any of the matters mentioned in any of the preceding paragraphs and the effect which those changes are likely to have on the development of that district or the planning of such development.

(4) A local planning authority shall, for the purpose of discharging their functions under this section of examining and keeping under review any matters relating to the district of another such authority, consult with that other authority about those matters.

(5) Subsection (1) of this section shall, as respects any period during which this section is in operation in part only of the district of a local planning authority, be construed as requiring a local planning authority to institute a survey of that part of that district and to keep under review matters affecting only that part of that district; and subsection (2) of this section shall, whether or not this section is in operation in the whole of such a district, have effect as if the power thereby conferred included power for a local planning authority to institute, and for the Secretary of State to direct them to institute, a fresh survey of part only of their district; and references in subsection (3) of this section to the district of a local planning authority or any neighbouring districts shall be construed accordingly.

5.—(1) The local planning authority shall, within such period from the commencement of this section within their district as the Secretary of State may direct, prepare and send the Secretary of State a report of their survey under section 4 of this Act and at the same time prepare and submit to him for his approval a structure plan for their district complying with the provisions of subsection (3) of this section. Preparation of structure plans.

(2) The said report shall include an estimate of any changes likely to occur during such period as the Secretary of State may direct in the matters mentioned in section 4(3) of this Act; and different periods may be specified by any such direction in relation to different matters.

(3) The structure plan for any district shall be a written statement—

- (a) formulating the local planning authority's policy and general proposals in respect of the development and other use of land in that district (including measures for the improvement of the physical environment and the management of traffic);
- (b) stating the relationship of those proposals to general proposals for the development and other use of land in neighbouring districts which may be expected to affect that district; and
- (c) containing such other matters as may be prescribed or as the Secretary of State may in any particular case direct.

(4) In formulating their policy and general proposals under subsection (3)(a) of this section, the local planning authority shall secure that the policy and proposals are justified by the results of their survey under section 4 of this Act and by any other information which they may obtain and shall have regard—

- (a) to current policies with respect to the economic planning and development of the region as a whole;

PART II

- (b) to the resources likely to be available for the carrying out of the proposals of the structure plan ; and
- (c) to such other matters as the Secretary of State may direct them to take into account.

(5) A local planning authority's general proposals under this section with respect to land in their district shall indicate any part of that district (in this Act referred to as an "action area") which they have selected for the commencement during a prescribed period of comprehensive treatment, in accordance with a local plan prepared for the selected area as a whole, by development, redevelopment or improvement of the whole or part of the area selected, or partly by one and partly by another method, and the nature of the treatment selected.

(6) A structure plan for any district shall contain or be accompanied by such diagrams, illustrations and descriptive matter as the local planning authority think appropriate for the purpose of explaining or illustrating the proposals in the plan, or as may be prescribed, or as may in any particular case be specified in directions given by the Secretary of State ; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.

(7) At any time before the Secretary of State has under section 7 of this Act approved a structure plan with respect to the whole of the district of a local planning authority, the authority may with his consent, and shall, if so directed by him, prepare and submit to him for his approval a structure plan relating to part of that district ; and where the Secretary of State has given a consent or direction for the preparation of a structure plan for part of such a district, references in this Part of this Act to such a district shall, in relation to a structure plan, be construed as including references to part of that district.

Publicity in connection with preparation of structure plans.

6.—(1) When preparing a structure plan for their district and before finally determining its content for submission to the Secretary of State, the local planning authority shall take such steps as will in their opinion secure—

- (a) that adequate publicity is given in their district to the report of the survey under section 4 of this Act and to the matters which they propose to include in the plan ;
- (b) that persons who may be expected to desire an opportunity of making representations to the authority with respect to those matters are made aware that they are entitled to an opportunity of doing so ; and
- (c) that such persons are given an adequate opportunity of making such representations ;

and the authority shall consider any representations made to them within the prescribed period.

(2) Not later than the submission of a structure plan to the Secretary of State, the local planning authority shall make copies of the plan as submitted to the Secretary of State available for inspection at their office and at such other places as may be prescribed; and each copy shall be accompanied by a statement of the time within which objections to the plan may be made to the Secretary of State.

(3) A structure plan submitted by the local planning authority to the Secretary of State for his approval shall be accompanied by a statement containing such particulars, if any, as may be prescribed—

- (a) of the steps which the authority have taken to comply with subsection (1) of this section; and
- (b) of the authority's consultations with, and consideration of the views of, other persons with respect to those matters.

(4) If after considering the statement submitted with, and the matters included in, the structure plan and any other information provided by the local planning authority, the Secretary of State is satisfied that the purposes of paragraphs (a) to (c) of subsection (1) of this section have been adequately achieved by the steps taken by the authority in compliance with that subsection, he shall proceed to consider whether to approve the structure plan; and if he is not so satisfied, he shall return the plan to the authority and direct them—

- (a) to take such further action as he may specify in order better to achieve those purposes; and
- (b) after doing so, to resubmit the plan with such modifications, if any, as they then consider appropriate and, if so required by the direction, to do so within a specified period.

(5) Where the Secretary of State returns the structure plan to the local planning authority under subsection (4) of this section, he shall inform the authority of his reasons for doing so and, if any person has made to him an objection to the plan, shall also inform that person that he has returned the plan.

(6) A local planning authority who are given directions by the Secretary of State under subsection (4) of this section shall forthwith withdraw the copies of the plan made available for inspection as required by subsection (2) of this section.

(7) Subsections (2) to (6) of this section shall apply, with the necessary modifications, in relation to a structure plan resubmitted to the Secretary of State in accordance with directions given by him under subsection (4) as they apply in relation to the plan as originally submitted.

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Approval or
rejection of
structure
plan by
Secretary
of State.

7.—(1) The Secretary of State may, after considering a structure plan submitted (or resubmitted) to him, either approve it (in whole or in part and with or without modifications or reservations) or reject it.

(2) In considering any such plan the Secretary of State may take into account any matters which he thinks are relevant, whether or not they were taken into account in the plan as submitted to him.

(3) Where on taking any such plan into consideration the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—

- (a) consider any objections to the plan, so far as they are made in accordance with regulations under this Part of this Act ;
- (b) afford to any persons whose objections so made are not withdrawn an opportunity of appearing before, and being heard by, a person appointed by him for the purpose ; and
- (c) if a local inquiry or other hearing is held, also afford the like opportunity to the local planning authority and such other persons as he thinks fit.

(4) Without prejudice to subsection (3) of this section, on considering a structure plan the Secretary of State may consult with, or consider the views of, any local planning authority or other persons, but shall not be under an obligation to consult with, or consider the views of, any other authority or persons or, except as provided by that subsection, to afford an opportunity for the making of any objections or other representations, or to cause any local inquiry or other hearing to be held.

Alteration
of structure
plans.

8.—(1) At any time after the approval of a structure plan for their district a local planning authority may submit to the Secretary of State and shall, if so directed by the Secretary of State, submit to him within a period specified in the direction, proposals for such alterations to that plan as appear to them to be expedient or as the Secretary of State may direct, as the case may be, and any such proposals may relate to the whole or to part of that district.

(2) The local planning authority shall send with the proposals submitted by them under this section a report of the results of their review of the relevant matters under section 4 of this Act together with any other information on which the proposals are based, and sections 6 and 7 of this Act shall apply, with any necessary modifications, in relation to the proposals as they apply in relation to a structure plan.

Local plans

PART II

9.—(1) A local planning authority who are in course of preparing a structure plan for their district, or have prepared for their district a structure plan which has not been approved or rejected by the Secretary of State, may prepare a local plan for any part of that district. Preparation of local plans.

(2) Where a structure plan for their district has been approved by the Secretary of State, the local planning authority shall as soon as practicable consider, and thereafter keep under review, the desirability of preparing and, if they consider it desirable and they have not already done so, shall prepare a local plan for any part of the district.

(3) A local plan shall consist of a map and a written statement and shall—

(a) formulate in such detail as the authority think appropriate the authority's proposals for the development and other use of land in that part of their district or for any description of development or other use of such land (including in either case such measures as the authority think fit for the improvement of the physical environment and the management of traffic); and

(b) contain such matters as may be prescribed or as the Secretary of State may in any particular case direct.

(4) Different local plans may be prepared for different purposes for the same part of any district.

(5) A local plan shall contain, or be accompanied by, such diagrams, illustrations and descriptive matter as the local planning authority think appropriate for the purpose of explaining or illustrating the proposals in the plan, or as may be prescribed, or as may in any particular case be specified in directions given by the Secretary of State; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.

(6) Where an area is indicated as an action area in a structure plan which has been approved by the Secretary of State, the local planning authority shall (if they have not already done so), as soon as practicable after the approval of the plan, prepare a local plan for that area.

(7) Without prejudice to the preceding provisions of this section, the local planning authority shall, if the Secretary of State gives them a direction in that behalf with respect to a part of a district for which a structure plan has been, or is in course of being, prepared, as soon as practicable prepare for that part a local plan of such nature as may be specified in the direction.

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(8) Directions under subsection (7) of this section may be given by the Secretary of State either before or after he approves the structure plan; but no such directions shall require a local planning authority to take any steps to comply therewith until the structure plan has been approved by him.

(9) In formulating their proposals in a local plan the local planning authority shall secure that the proposals conform generally to the structure plan as it stands for the time being (whether or not it has been approved by the Secretary of State) and shall have regard to any information and any other considerations which appear to them to be relevant, or which may be prescribed, or which the Secretary of State may in any particular case direct them to take into account.

(10) Before giving a direction under the preceding provisions of this section to a local planning authority, the Secretary of State shall consult the authority with respect to the proposed direction.

(11) Where a local planning authority are required by this section to prepare a local plan, they shall take steps for the adoption of the plan.

Publicity in connection with preparation of local plans.

10.—(1) A local planning authority who propose to prepare a local plan shall take such steps as will in their opinion secure—

- (a) that adequate publicity is given in their district to any relevant matter arising out of a survey of the district carried out by them under section 4 of this Act and to the matters proposed to be included in the plan;
- (b) that persons who may be expected to desire an opportunity of making representations to the authority with respect to those matters are made aware that they are entitled to an opportunity of doing so; and
- (c) that such persons are given an adequate opportunity of making such representations;

and the authority shall consider any representations made to them within the prescribed period.

(2) When the local planning authority have prepared a local plan, they shall, before adopting it or submitting it for approval under section 12(4) of this Act (but not before the Secretary of State has approved the structure plan so far as it applies to the area of that local plan), make copies of the local plan available for inspection at their office and at such other places as may be prescribed and send a copy to the Secretary of State; and each copy made available for inspection shall be accompanied by a statement of the time within which objections to the local plan may be made to the authority.

(3) A copy of a local plan sent to the Secretary of State under subsection (2) of this section shall be accompanied by a statement containing such particulars, if any, as may be prescribed—

- (a) of the steps which the authority have taken to comply with subsection (1) of this section ; and
- (b) of the authority's consultations with, and their consideration of the views of, other persons.

(4) If, on considering the statement submitted with, and the matters included in, the local plan and any other information provided by the local planning authority, the Secretary of State is not satisfied that the purposes of paragraphs (a) to (c) of subsection (1) of this section have been adequately achieved by the steps taken by the authority in compliance with that subsection, he may, within twenty-one days of the receipt of the statement, direct the authority not to take any further steps for the adoption of the plan without taking such further action as he may specify in order better to achieve those purposes and satisfying him that they have done so.

(5) A local planning authority who are given directions by the Secretary of State under subsection (4) of this section shall—

- (a) forthwith withdraw the copies of the local plan made available for inspection as required by subsection (2) of this section ; and
- (b) notify any person by whom objections to the local plan have been made to the authority that the Secretary of State has given such directions as aforesaid.

11.—(1) For the purpose of considering objections made to a local plan the local planning authority may, and shall in the case of objections so made in accordance with regulations under this Act, cause a local inquiry or other hearing to be held by a person appointed by the Secretary of State or, in such cases as may be prescribed by regulations under this Act, by the authority themselves, and—

- (a) subsections (4) to (6) of section 267 of this Act shall apply to an inquiry held under this section as they apply to an inquiry held under that section ;
- (b) the Tribunals and Inquiries Act 1971 shall apply to a local inquiry or other hearing held under this section as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a local authority.

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(2) Regulations made for the purposes of subsection (1) of this section may—

- (a) make provision with respect to the appointment and qualifications for appointment of persons to hold a local inquiry or other hearing under that subsection, including provision enabling the Secretary of State to direct a local planning authority to appoint a particular person, or one of a specified list or class of persons ;
- (b) make provision with respect to the remuneration and allowances of a person appointed for the said purpose.

Adoption and approval of local plans.

12.—(1) After the expiry of the period afforded for making objections to a local plan or, if such objections have been duly made during that period, after considering the objections so made, the local planning authority may, subject to section 10 of this Act and subsections (2) and (3) of this section, by resolution adopt the plan either as originally prepared or as modified so as to take account of any such objections or of any matters arising out of such objections.

(2) The local planning authority shall not adopt a local plan unless it conforms generally to the structure plan as approved by the Secretary of State.

(3) After copies of a local plan have been sent to the Secretary of State and before the plan has been adopted by the local planning authority, the Secretary of State may direct that the plan shall not have effect unless approved by him.

(4) Where the Secretary of State gives a direction under subsection (3) of this section, the local planning authority shall submit the plan accordingly to him for his approval, and—

- (a) section 7 of this Act shall, subject to paragraph (b) of this subsection, apply in relation to the plan as it applies in relation to a structure plan ;
- (b) before deciding whether or not to approve the plan the Secretary of State shall consider any objections thereto which have been considered by the authority, but he shall not be obliged to cause an inquiry or other hearing to be held into the plan if any such inquiry or hearing has already been held at the instance of the authority ; and
- (c) after the giving of the direction the authority shall have no further power or duty to hold a local inquiry or other hearing under section 11 of this Act in connection with the plan.

Alteration of local plans.

13.—(1) A local planning authority may at any time make proposals for the alteration, repeal or replacement of a local

plan adopted by them and may at any time, with the consent of the Secretary of State, make proposals for the alteration, repeal or replacement of a local plan approved by him.

(2) Without prejudice to subsection (1) of this section, a local planning authority shall, if the Secretary of State gives them a direction in that behalf with respect to a local plan adopted by them or approved by him, as soon as practicable prepare proposals of a kind specified in the direction, being proposals for the alteration, repeal or replacement of the plan.

(3) The provisions of sections 9(9) to (11), 10, 11 and 12 of this Act shall apply in relation to the making of proposals for the alteration, repeal or replacement of a local plan under this section, and to alterations to a local plan so proposed, as they apply in relation to the preparation of a local plan under section 9 of this Act and to a local plan prepared thereunder, but as if the reference in section 12(4)(a) to section 7 of this Act were a reference to section 8 of this Act.

Supplementary provisions

14. Notwithstanding anything in the preceding provisions of this Act, neither the Secretary of State nor a local planning authority shall be required to consider representations or objections with respect to a structure plan, a local plan or any proposal to alter, repeal or replace any such plan if it appears to the Secretary of State or the authority, as the case may be, that those representations or objections are in substance representations or objections with respect to things done or proposed to be done in pursuance of—

Disregarding of representations with respect to development authorised by or under other enactments.

- (a) an order or scheme under section 1 of the Trunk Roads Act 1936, sections 1 and 4 of the Trunk Roads Act 1946 or section 1, 3 or 14 of the Special Roads Act 1949 (trunk road orders, special road schemes and ancillary orders); 1936 c. 5.
(1 Edw. 8 & 1 Geo. 6).
1946 c. 30.
1949 c. 32.
- (b) an order under section 1 of the New Towns Act 1946 or section 1 of the New Towns (Scotland) Act 1968 (designation of sites of new towns). 1946 c. 68.
1968 c. 16.

15.—(1) Where, by virtue of any of the preceding provisions of this Part of this Act, any survey is required to be carried out, or any structure or local plan or proposals for the alteration, repeal or replacement thereof are required to be prepared or submitted to the Secretary of State, or steps are required to be taken for the adoption of any such plan or proposals, then—

Default powers of Secretary of State.

- (a) if at any time the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the local planning authority are not carrying out the survey or

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are not taking the steps necessary to enable them to submit or adopt such a plan or proposals within a reasonable period ; or

- (b) in a case where a period is specified for the submission or adoption of any such plan or proposals, if no such plan or proposals have been submitted or adopted within that period,

the Secretary of State may carry out the survey or prepare and make a structure plan or local plan or, as the case may be, alter repeal or replace it, as he thinks fit.

(2) Where under subsection (1) of this section the Secretary of State has power to do anything which should have been done by a local planning authority, he may, if he thinks fit, authorise any other local planning authority who appear to the Secretary of State to have an interest in the proper planning of the district of the first-mentioned authority to do that thing.

(3) Where under this section anything which ought to have been done by a local planning authority is done by the Secretary of State or another such authority, the preceding provisions of this Part of this Act shall, so far as applicable, apply with any necessary modifications in relation to the doing of that thing by the Secretary of State and the latter authority and the thing so done.

(4) Where the Secretary of State incurs expenses under this section in connection with the doing of anything which should have been done by a local planning authority, so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by that authority to the Secretary of State.

(5) Where under this section anything which should have been done by one local planning authority is done by another such authority, any expenses reasonably incurred in connection with the doing of that thing by the latter authority, as certified by the Secretary of State, shall be repaid to the latter authority by the former authority.

Supplement-
ary provisions
as to structure
and local
plans.

16.—(1) Without prejudice to the powers conferred on him by the preceding provisions of this Part of this Act, the Secretary of State may make regulations with respect to the form and content of structure and local plans and with respect to the procedure to be followed in connection with their preparation, submission, withdrawal, approval, adoption, making, alteration, repeal and replacement ; and in particular any such regulations may—

- (a) provide for the publicity to be given to the report of any survey carried out by a local planning authority under section 4 of this Act ;

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- (b) provide for the notice to be given of, or the publicity to be given to, matters included or proposed to be included in any such plan, and the approval, adoption or making of any such plan or any alteration, repeal or replacement thereof or to any other prescribed procedural step, and for publicity to be given to the procedure to be followed as aforesaid;
- (c) make provision with respect to the making and consideration of representations with respect to matters to be included in, or objections to, any such plan or proposals for its alteration, repeal or replacement;
- (d) without prejudice to paragraph (b) of this subsection, provide for notice to be given to particular persons of the approval, adoption or alteration of any plan, if they have objected to the plan and have notified the local planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge for receiving it;
- (e) require or authorise a local planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;
- (f) require a local planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request in that behalf with copies of any plan or document which has been made public for the purpose mentioned in section 6(1)(a) or 10(1)(a) of this Act or has been made available for inspection under section 6(2) or 10(2) of this Act, subject (if the regulations so provide) to the payment of a reasonable charge therefor;
- (g) provide for the publication and inspection of any structure plan or local plan which has been approved, adopted or made, or any document approved, adopted or made altering, repealing or replacing any such plan, and for copies of any such plan or document to be made available on sale.

(2) Regulations under this section may extend throughout Scotland or to specified areas only and may make different provisions for different cases.

(3) Subject to the preceding provisions of this Part of this Act and to any regulations under this section, the Secretary of State may give directions to any local planning authority, or to local planning authorities generally,—

- (a) for formulating the procedure for the carrying out of their functions under this Part of this Act;

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(b) for requiring them to give him such information as he may require for carrying out any of his functions under this Part of this Act.

(4) Subject to the provisions of section 231 of this Act, a structure plan or local plan or any alteration, repeal or replacement thereof shall become operative on a date appointed for the purpose in the relevant notice of approval, resolution of adoption or notice of the making, alteration, repeal or replacement of the plan.

Meaning of
"develop-
ment plan".
1963 c. 51.

17.—(1) For the purposes of this Act, any other enactment relating to town and country planning and the Land Compensation (Scotland) Act 1963, the development plan for any area (whether the whole or part of the district of a local planning authority) shall be taken as consisting of—

- (a) the provisions of the structure plan for the time being in force for that district or the relevant part of that district, together with the Secretary of State's notice of approval of the plan ;
- (b) any alterations to that plan, together with the Secretary of State's notices of approval thereof ;
- (c) any provisions of a local plan for the time being applicable to the area, together with a copy of the authority's resolution of adoption or, as the case may be, the Secretary of State's notice of approval of the local plan ; and
- (d) any alterations to that local plan, together with a copy of the authority's resolutions of adoption or, as the case may be, the Secretary of State's notices of approval thereof.

(2) References in subsection (1) of this section to the provisions of any plan, notices of approval, alterations and resolutions of adoption shall, in relation to an area forming part of the district to which they are applicable, be respectively construed as references to so much of those provisions, notices, alterations and resolutions as is applicable to the area.

(3) References in subsections (1) and (2) of this section to notices of approval shall in relation to any plan or alteration made by the Secretary of State under section 15 of this Act be construed as references to notices of the making of the plan or alteration.

(4) This section has effect subject to Schedule 5 and Part I of Schedule 21 to this Act.

18.—(1) The preceding provisions of this Part of this Act (other than section 16 and except so far as they enable any matter or thing to be prescribed), and Part I of Schedule 21 to this Act, shall come into operation on a day appointed by an order made by the Secretary of State.

PART II
Commence-
ment of
Part II and
interim
provisions.

(2) The provisions of Schedules 3 and 4 to this Act shall have effect until they are repealed by an order made by the Secretary of State.

(3) Schedule 5 to this Act shall have effect as respects the transition from the said Schedules 3 and 4 to the preceding provisions of this Part of this Act.

(4) Different days may be appointed under this section for different purposes and, in particular, different days may be so appointed for the coming into operation or repeal of the same provisions in different areas.

(5) Any reference in this Part of this Act to the commencement of any provision thereof shall be construed as a reference to the day appointed for the coming into operation of that provision or, in the case of a provision which comes into operation on different days in different areas, shall, in relation to any area, be construed as a reference to the day appointed for the coming into operation of that provision in that area.

(6) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation or repealed, including such adaptation of those provisions or of any other provision of this Act then in force as appears to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).

(7) The Secretary of State shall maintain and keep up to date a register showing the effect of orders made under this section in such a way as enables members of the public to inform themselves—

(a) as to the provisions which have come, or are to be brought, into operation or have been, or are to be, repealed, and on which dates and in relation to which areas ; and

(b) as to whether, in the case of a particular area, any transitional provision has been made by such an order.

(8) The register maintained under this section by the Secretary of State shall be kept at his principal offices in Edinburgh and shall be available for inspection by the public at all reasonable hours.

PART III

GENERAL PLANNING CONTROL

Meaning of development and requirement of planning permission

Meaning of "development" and "new development".

19.—(1) In this Act, except where the context otherwise requires, "development", subject to the following provisions of this section, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land, that is to say—

- (a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building and (in either case) are not works for making good war damage or works begun after 7th December, 1969 for the alteration of a building by providing additional space therein below ground ;
- (b) the carrying out by a local highway authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road ;
- (c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose ;
- (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such ;
- (e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used ;
- (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use thereof for any other purpose of the same class.

(3) For the avoidance of doubt it is hereby declared that for the purposes of this section—

- (a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used ;

(b) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if either the superficial area of the deposit is thereby extended, or the height of the deposit is thereby extended and exceeds the level of the land adjoining the site.

(4) Without prejudice to any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

(5) In this Act “ new development ” means any development other than development of a class specified in Part I or Part II of Schedule 6 to this Act ; and the provisions of Part III of that Schedule shall have effect for the purposes of Parts I and II thereof.

20.—(1) Subject to the provisions of this section, planning permission is required for the carrying out of any development of land. Development requiring planning permission.

(2) Where on 1st July 1948 (in this Act referred to as “ the appointed day ”) land was being temporarily used for a purpose other than the purpose for which it was normally used, planning permission is not required for the resumption of the use of the land for the last-mentioned purpose before 8th December 1969.

(3) Where on the appointed day land was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required—

(a) in respect of the use of the land for that other purpose on similar occasions before 8th December 1969 ; or

(b) in respect of the use of the land for that other purpose on similar occasions on or after that date if the land has been used for that other purpose on at least one similar occasion since the appointed day and before the beginning of 1969.

(4) Where land was unoccupied on the appointed day, but had before that day been occupied at some time on or after 7th January 1937, planning permission is not required in respect of any use of the land begun before 8th December 1969 for the purpose for which the land was last used before the appointed day.

PART III

(5) Where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

(6) In determining, for the purposes of subsection (5) of this section, what were the purposes for which land was normally used before the grant of planning permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part of this Act or in contravention of previous planning control.

(7) Notwithstanding anything in subsections (2) to (4) of this section, the use of land as a caravan site shall not, by virtue of any of those subsections, be treated as a use for which planning permission is not required, unless the land was so used on one occasion at least during the period of two years ending with 9th March 1960.

(8) Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is the normal use of that land, unless the last-mentioned use was begun in contravention of the provisions of this Part of this Act or in contravention of previous planning control.

(9) Where an enforcement notice has been served in respect of any development of land, planning permission is not required for the use of that land for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.

(10) For the purposes of this section a use of land shall be taken to have been begun in contravention of previous planning control if it was begun in contravention of the provisions of Part II of the Act of 1947.

Development orders

Development orders.

21.—(1) The Secretary of State shall by order (in this Act referred to as a “development order”) provide for the granting of planning permission.

(2) A development order may either—

(a) itself grant planning permission for development specified in the order, or for development of any class so specified ; or

(b) in respect of development for which planning permission is not granted by the order itself, provide for the

granting of planning permission by the local planning authority (or, in the cases hereinafter provided, by the Secretary of State) on an application in that behalf made to the local planning authority in accordance with the provisions of the order.

(3) A development order may be made either as a general order applicable (subject to such exceptions as may be specified therein) to all land, or as a special order applicable only to such land as may be so specified.

(4) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.

(5) Without prejudice to the generality of subsection (4) of this section—

(a) where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the local planning authority to be obtained with respect to the design or external appearance of the buildings ;

(b) where planning permission is granted by a development order for development of a specified class, the order may enable the Secretary of State or the local planning authority to direct that the permission shall not apply either in relation to development in a particular area or in relation to any particular development.

(6) Any provision of a development order whereby permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision shall (without prejudice to the generality of references in this Act to limitations) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall not be used for any one purpose in pursuance of that provision on more than that number of days in that period.

(7) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any enactment passed before 13th August 1947 or any regulations, orders or byelaws made at any time under any such enactment, shall not apply to any development specified in the order, or shall apply thereto subject to such modifications as may be so specified.

PART III*Applications for planning permission*

Form and
content of
applications.

22. Any application to a local planning authority for planning permission shall be made in such manner as may be prescribed by regulations under this Act, and shall include such particulars, and be verified by such evidence, as may be required by the regulations or by directions given by the local planning authority thereunder.

Publication
of notices of
applications.

23.—(1) Provision may be made by a development order for designating the classes of development to which this section applies, and this section shall apply accordingly to any class of development which is for the time being so designated.

(2) An application for planning permission for development of any class to which this section applies shall not be entertained by the local planning authority unless it is accompanied—

(a) by a copy of a notice of the application, in such form as may be prescribed by a development order, and by such evidence as may be so prescribed that the notice has been published in a local newspaper circulating in the locality in which the land to which the application relates is situated ; and

(b) by one or other of the following certificates, signed by or on behalf of the applicant, that is to say—

(i) a certificate stating that he has complied with subsection (3) of this section and when he did so ; or

(ii) a certificate stating that he has been unable to comply with it because he has not such rights of access or other rights in respect of the land as would enable him to do so, but that he has taken such reasonable steps as are open to him (specifying them) to acquire those rights and has been unable to acquire them.

(3) In order to comply with this subsection a person must—

(a) post on the land a notice, in such form as may be prescribed by a development order, stating that the application for planning permission is to be made ; and

(b) leave the notice in position for not less than seven days in a period of not more than one month immediately preceding the making of the application to the local planning authority.

(4) The said notice must be posted by affixing it firmly to some object on the land, and must be sited and displayed in such a way as to be easily visible and legible by members of the public without going on the land.

(5) The applicant shall not be treated as unable to comply with subsection (3) of this section if the notice is, without any fault or intention of his, removed, obscured or defaced before the seven days referred to in subsection (3)(b) of this section have elapsed, so long as he has taken reasonable steps for its protection and, if need be, replacement; and, if he has cause to rely on this subsection, his certificate under subsection (2)(b) of this section shall state the relevant circumstances.

(6) The notice mentioned in subsection (2)(a) or required by subsection (3) of this section shall (in addition to any other matters required to be contained therein) name a place within the locality where a copy of the application for planning permission, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during such period as may be specified in the notice, not being a period of less than twenty-one days beginning with the date on which the notice is published or first posted, as the case may be.

(7) An application for planning permission for development of any class to which this section applies shall not be determined by the local planning authority before the end of the period of twenty-one days beginning with the date of the application.

(8) If any person issues a certificate which purports to comply with the requirements of subsection (2)(b) of this section and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(9) Any certificate issued for the purpose of this section shall be in such form as may be prescribed by a development order.

24.—(1) Without prejudice to section 23 of this Act, a local planning authority shall not entertain any application for planning permission unless it is accompanied by one or other of the following certificates signed by or on behalf of the applicant, that is to say—

- Notification of applications to owners and agricultural tenants.
- (a) a certificate stating that, in respect of every part of the land to which the application relates, the applicant is the proprietor of the dominium utile or is the lessee under a lease thereof;
 - (b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than the applicant) who, at the beginning of the

PART III

period of twenty-one days ending with the date of the application, were owners of any of the land to which the application relates, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice ;

- (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding paragraphs, that he has given the requisite notice of the application to such one or more of the persons mentioned in the last preceding paragraph as are specified in the certificate (setting out their names, the addresses at which notice of the application was given to them respectively, and the date of the service of each such notice), that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so ;
- (d) a certificate stating that the applicant is unable to issue a certificate in accordance with paragraph (a) of this subsection, that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) of this subsection and that he has been unable to do so.

(2) Any such certificate as is mentioned in paragraph (c) or paragraph (d) of subsection (1) of this section shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (being a date not earlier than the beginning of the period mentioned in paragraph (b) of that subsection) been published in a local newspaper circulating in the locality in which the land in question is situated.

(3) In addition to any other matters required to be contained in a certificate issued for the purposes of this section, every such certificate shall contain one or other of the following statements, that is to say—

- (a) a statement that none of the land to which the application relates constitutes or forms part of an agricultural holding ;
- (b) a statement that the applicant has given the requisite notice of the application to every person (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, was a tenant of any agricultural holding any part of

which was comprised in the land to which the application relates, and setting out the name of each such person, the address at which notice of the application was given to him, and the date of service of that notice.

(4) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(b), (c) or (d) of this section, or by a certificate containing a statement in accordance with subsection (3)(b) of this section, the local planning authority shall not determine the application before the end of the period of twenty-one days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or the date of publication of a notice as therein mentioned, whichever is the later.

(5) If any person issues any certificate which purports to comply with the requirements of this section and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(6) Any certificate issued for the purposes of this section shall be in such form as may be prescribed by a development order; and any reference in any provision of this section to the requisite notice, where a form of notice is prescribed by a development order for the purposes of that provision, is a reference to a notice in that form.

(7) In this section "owner" in relation to any land means any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and any person entitled to possession of the land as lessee under a lease the unexpired period of which is not less than ten years, and "agricultural holding" has the same meaning as in the Agricultural Holdings (Scotland) Act 1949.

1949 c. 75.

25.—(1) This section applies where an application for planning permission for any development of land is made to a local planning authority and either—

Publicity for applications affecting conservation areas.

- (a) the development would, in the opinion of the authority, affect the character or appearance of a conservation area; or
- (b) the development is of a kind specified by the Secretary of State for the purposes of this section and in respect of land in or adjacent to a conservation area.

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(2) The local planning authority shall—

- (a) publish in a local newspaper circulating in the locality in which the land is situated ; and
- (b) for not less than seven days display on or near the land, a notice indicating the nature of the development in question and naming a place within the locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of twenty-one days beginning with the date of publication of the notice under paragraph (a) of this subsection.

(3) The application shall not be determined by the local planning authority before both the following periods have elapsed, namely—

- (a) the period of twenty-one days referred to in subsection (2) of this section ; and
- (b) the period of twenty-one days beginning with the date on which the notice required by that subsection to be displayed was first displayed.

Determination by local planning authorities of applications for planning permission

Determination of applications.

26.—(1) Subject to the provisions of sections 23 to 25 of this Act, and to the following provisions of this Act, where an application is made to a local planning authority for planning permission, that authority, in dealing with the application, shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations, and—

- (a) subject to sections 38, 39, 68 and 75 to 78 of this Act, may grant planning permission, either unconditionally or subject to such conditions as they think fit ; or
- (b) may refuse planning permission.

(2) In determining any application for planning permission for development of a class to which section 23 of this Act applies, the local planning authority shall take into account any representations relating to that application which are received by them before the end of the period of twenty-one days beginning with the date of the application.

(3) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(b), (c) or (d) of section 24 of this Act, or by a certificate containing a statement in accordance with subsection (3)(b) of that section, the local planning authority—

- (a) in determining the application, shall take into account any representations relating thereto which are made

to them, before the end of the period mentioned in subsection (4) of that section, by any person who satisfies them that he is an owner of any land to which the application relates or that he is the tenant of an agricultural holding any part of which is comprised in that land ; and

- (b) shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with the preceding paragraph.

(4) In determining any application for planning permission to which section 25 of this Act applies, the local planning authority shall take into account any representations relating to the application which are received by them before the periods mentioned in subsection (3) of that section have elapsed.

(5) Before a local planning authority grant planning permission for the use of land as a caravan site, they shall, unless they are also the authority having power to issue a site licence for that land, consult the local authority having that power.

(6) In this section “ site licence ” means a licence under Part I of the Caravan Sites and Control of Development Act 1960 1960 c. 62. authorising the use of land as a caravan site and “ owner ” and “ agricultural holding ” have the same meanings as in section 24 of this Act.

27.—(1) Without prejudice to the generality of section 26(1) of this Act, conditions may be imposed on the grant of planning permission thereunder—

Conditional grant of planning permission.

- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission ;
- (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period :

Provided that conditions may not be imposed by a local planning authority under paragraph (a) of this subsection for regulating the development or use of any land within the area of another local planning authority except with the consent of that authority.

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(2) Any planning permission granted subject to such a condition as is mentioned in subsection (1)(b) of this section is in this Act referred to as "planning permission granted for a limited period".

(3) Where—

- (a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition (not being a condition attached to the planning permission by or under section 38 or 39 of this Act); and
- (b) any building or other operations are commenced after the time so specified,

the commencement and carrying out of those operations do not constitute development for which that permission was granted.

Directions,
etc. as to
method of
dealing with
applications.

28.—(1) Subject to the provisions of section 26(2) to (5) of this Act, provision may be made by a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by local planning authorities, and in particular—

- (a) for enabling the Secretary of State to give directions restricting the grant of planning permission by the local planning authority, either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
- (b) for authorising the local planning authority, in such cases and subject to such conditions as may be prescribed by the order, or by directions given by the Secretary of State thereunder, to grant planning permission for development which does not accord with the provisions of the development plan;
- (c) for requiring the local planning authority, before granting or refusing planning permission for any development, to consult with such authorities or persons as may be prescribed by the order or by directions given by the Secretary of State thereunder;
- (d) for requiring the local planning authority to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
- (e) for requiring the local planning authority to give to the Secretary of State, and to such other persons as may

be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.

(2) The Secretary of State may give directions to local planning authorities with respect to the matters which they are to take into consideration in determining an application to which section 25 of this Act applies and with respect to the consultations which such authorities are to undertake before determining any such application.

(3) Different directions may under this section be given to different local planning authorities ; and any such directions may require an authority—

- (a) before determining an application to consult such persons or bodies of persons as the Secretary of State may specify, being persons or bodies appearing to him to be competent to give advice in relation to the development or description of development to which the directions have reference ;
- (b) to supply to any person or body, whom they are required by the directions to consult, specified documents or information enabling that person or body to form an opinion on which to base advice ;
- (c) to establish committees, consisting either of members of the authority or of other persons, or of both, to advise the authority in relation to the determination of any application referred to in subsection (2) of this section.

29.—(1) An application for planning permission may relate to buildings or works constructed or carried out, or a use of land instituted, before the date of the application, whether the buildings or works were constructed or carried out, or the use instituted, without planning permission or in accordance with planning permission granted for a limited period. Permission to retain buildings or works or continue use of land.

(2) Any power to grant planning permission to develop land under this Act shall include power to grant planning permission for the retention on land of buildings or works constructed or carried out, or for the continuance of a use of land instituted, as mentioned in subsection (1) of this section ; and references in this Act to planning permission to develop land or to carry out any development of land, and to applications for such permission, shall be construed accordingly :

Provided that this subsection shall not affect the construction of section 23, 25, 26(2) or (4), or 57, of sections 64 to 83 or of Part VII of this Act.

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(3) Any planning permission granted in accordance with subsection (2) of this section may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or (in the case of buildings or works constructed or carried out or a use instituted in accordance with planning permission granted for a limited period) so as to take effect from the end of that period, as the case may be.

Provisions as to effect of planning permission.

30.—(1) Without prejudice to the provisions of this Part of this Act as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein.

(2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

Information regarding, and registers of, applications and decisions.

31.—(1) A development order may make provision for requiring applicants for planning permission for development or for any class of development prescribed by or under the order to furnish at such time and to such persons as may be so prescribed such information with respect to the application as may be so prescribed.

(2) Every local planning authority shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect to applications for planning permission made to that authority, including information as to the manner in which such applications have been dealt with.

(3) A development order may make provision for the register to be kept in two or more parts, each part containing such information relating to applications for planning permission made to the authority as may be prescribed by the order, and may also make provision—

- (a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted therewith; and
- (b) for the entry relating to any application, and every thing relating thereto, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of, without prejudice to the inclusion of any different entry relating thereto in another part of the register.

(4) Every register kept under this section shall be available for inspection by the public at all reasonable hours. PART III

Secretary of State's powers in relation to planning applications and decisions

32.—(1) The Secretary of State may give directions requiring applications for planning permission, or for the approval of any local planning authority required under a development order, to be referred to him instead of being dealt with by local planning authorities. Reference of applications to Secretary of State.

(2) A direction under this section—

(a) may be given either to a particular local planning authority or to local planning authorities generally; and

(b) may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

(4) Subject to subsection (5) of this section, where an application for planning permission is referred to the Secretary of State under this section, the following provisions of this Act, that is to say, sections 23(2) and (7), 24, 26(1) to (3) and 27(1), shall apply, with any necessary modifications, as they apply to an application for planning permission which falls to be determined by the local planning authority.

(5) Before determining an application referred to him under this section, other than an application for planning permission referred to a Planning Inquiry Commission under section 45 of this Act, the Secretary of State shall, if either the applicant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) The decision of the Secretary of State on any application referred to him under this section shall be final.

33.—(1) Where an application is made to a local planning authority for planning permission to develop land, or for any approval of that authority required under a development order, and that permission or approval is refused by that authority or is granted by them subject to conditions, the applicant, if he is aggrieved by their decision, may by notice under this section appeal to the Secretary of State. Appeals against planning decisions.

(2) Any notice under this section shall be served within such time (not being less than twenty-eight days from the date of

PART III notification of the decision to which it relates) and in such manner as may be prescribed by a development order.

(3) Where an appeal is brought under this section from a decision of a local planning authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the local planning authority, whether the appeal relates to that part thereof or not, and may deal with the application as if it had been made to him in the first instance.

Provided that where the Secretary of State proposes to reverse or vary any part of the decision of the local planning authority to which the appeal does not relate, he shall give notice of his intention to the local planning authority and to the applicant and shall afford to them an opportunity to make representations in regard thereto.

(4) Before determining an appeal under this section, other than an appeal referred to a Planning Inquiry Commission under section 45 of this Act, the Secretary of State shall, if either the applicant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) Subject to subsection (4) of this section, the following provisions of this Act, that is to say, sections 24, 26(1) and (3) and 27(1) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under this section as they apply in relation to an application for planning permission which falls to be determined by the local planning authority.

(6) The decision of the Secretary of State on any appeal under this section shall be final.

(7) If before or during the determination of an appeal under this section in respect of an application for planning permission to develop land, the Secretary of State forms the opinion that, having regard to the provisions of sections 26(1), 27(1) and 65 of this Act and of the development order and to any directions given under that order, planning permission for that development—

(a) could not have been granted by the local planning authority; or

(b) could not have been granted by them otherwise than subject to the conditions imposed by them,

he may decline to determine the appeal or to proceed with the determination.

(8) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section, including appeals under this section as applied by or under any other provision of this Act.

34. Where an application is made to a local planning authority for planning permission, or for any approval of that authority required under a development order, then unless within such period as may be prescribed by the development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority, the local planning authority either—

Appeal in default of planning decision.

- (a) give notice to the applicant of their decision on the application ; or
- (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 32 of this Act,

the provisions of section 33 of this Act shall apply in relation to the application as if the permission or approval to which it relates had been refused by the local planning authority, and as if notification of their decision had been received by the applicant at the end of the period prescribed by the development order, or at the end of the said extended period, as the case may be.

35.—(1) The provisions of this section and of section 36 of this Act shall have effect where, in accordance with the provisions of section 143 of this Act, one or more claims for compensation in respect of a planning decision have been received by the Secretary of State, and the claim, or (if there is more than one) one or more of the claims, has not been withdrawn.

Review of planning decisions where compensation claimed.

(2) If, in the case of a planning decision of the local planning authority, it appears to the Secretary of State that, if the application for permission to develop the land in question had been referred to him for determination, he would have made a decision more favourable to the applicant, the Secretary of State may give a direction substituting that decision for the decision of the local planning authority.

(3) If, in any case, it appears to the Secretary of State that planning permission could properly be granted (either unconditionally or subject to certain conditions) for some development of the land in question other than the development to which the application for planning permission related, the Secretary of State may give a direction that the provisions of this Act shall have effect in relation to that application and to the planning decision—

- (a) as if the application had included an application for permission for that other development, and the decision

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had included the grant of planning permission (unconditionally or subject to the said conditions, as the case may be) for that development ; or

- (b) as if the decision had been a decision of the Secretary of State and had included an undertaking to grant planning permission (unconditionally or subject to the said conditions, as the case may be) for that development,

as may be specified in the direction.

(4) The reference in subsection (2) of this section to a decision more favourable to the applicant shall be construed—

- (a) in relation to a refusal of permission, as a reference to a decision granting the permission, either unconditionally or subject to conditions, and either in respect of the whole of the land to which the application for permission related or in respect of part of that land ; and
- (b) in relation to a grant of permission subject to conditions, as a reference to a decision granting the permission applied for unconditionally or subject to less stringent conditions.

Provisions
supplemen-
tary to s. 35.

36.—(1) Before giving a direction under section 35 of this Act the Secretary of State shall give notice in writing of his proposed direction to the local planning authority to whose decision that direction relates, and to any person who made, and has not since withdrawn, a claim for compensation in respect of that decision ; and, if so required by the local planning authority or by any such person, shall afford to each of them an opportunity to appear before, and be heard by, a person appointed by the Secretary of State for the purpose.

(2) In giving any direction under section 35 of this Act, the Secretary of State shall have regard to the provisions of the development plan for the area in which the land in question is situated, in so far as those provisions are material to the development of that land, and shall also have regard to the local circumstances affecting the proposed development, including the use which prevails generally in the case of contiguous or adjacent land, and to any other material considerations.

(3) Where the Secretary of State gives a direction under section 35 of this Act, he shall give notice of the direction to the local planning authority to whose decision the direction relates, and to every person (if any) who made, and has not since withdrawn, a claim for compensation in respect of that decision.

Deemed planning permission

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37.—(1) Where the sanction of a government department other than the Secretary of State is required by virtue of an enactment in respect of development to be carried out by a local authority, or by statutory undertakers not being a local authority, that department may, on granting that sanction, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the directions.

Development by local authorities and statutory undertakers with sanction of government department.

(2) The provisions of this Act (except Parts VII and XII thereof) shall apply in relation to any planning permission deemed to be granted by virtue of directions under this section as if it had been granted by the Secretary of State on an application referred to him under section 32 of this Act.

(3) For the purposes of this section development shall be taken to be sanctioned by a government department if—

- (a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment ;
- (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development ;
- (c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose ;
- (d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable ; or
- (e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants,

and references in this section to the sanction of a government department shall be construed accordingly.

Duration of planning permission

38.—(1) Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—

Limit of duration of planning permission.

- (a) five years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted ; or

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(b) such other period (whether longer or shorter) beginning with the said date as the authority concerned with the terms of the planning permission may direct, being a period which the authority considers appropriate having regard to the provisions of the development plan and to any other material considerations.

(2) If planning permission is granted without the condition required by subsection (1) of this section, it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.

(3) Nothing in this section applies—

- (a) to any planning permission granted by a development order ;
- (b) to any planning permission granted for a limited period ;
- (c) to any planning permission granted under section 29 of this Act on an application relating to buildings or works completed, or a use of land instituted, before the date of the application ; or
- (d) to any outline planning permission, as defined by section 39 of this Act.

**Outline
planning
permission.**

39.—(1) In this section and section 38 of this Act “outline planning permission” means planning permission granted, in accordance with the provisions of a development order, with the reservation for subsequent approval by the local planning authority or the Secretary of State of matters (referred to in this section as “reserved matters”) not particularised in the application.

(2) Subject to the provisions of this section, where outline planning permission is granted for development consisting in or including the carrying out of building or other operations, it shall be granted subject to conditions to the following effect—

- (a) that, in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission ; and
- (b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates—
 - (i) the expiration of five years from the date of the grant of outline planning permission ; or
 - (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

(3) If outline planning permission is granted without the conditions required by subsection (2) of this section, it shall be deemed to have been granted subject to those conditions.

(4) The authority concerned with the terms of an outline planning permission may, in applying subsection (2) of this section, substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as they consider appropriate.

(5) The said authority may, in applying the said subsection, specify, or direct that there be specified, separate periods under paragraph (a) of the subsection in relation to separate parts of the development to which the planning permission relates; and, if they do so, the condition required by paragraph (b) of the subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.

(6) In considering whether to exercise their powers under subsections (4) and (5) of this section, the said authority shall have regard to the provisions of the development plan and to any other material considerations.

40.—(1) For the purposes of sections 38 and 39 of this Act, Provisions supplementary to ss. 38 and 39. development shall be taken to be begun on the earliest date on which any specified operation comprised in the development begins to be carried out.

(2) In subsection (1) of this section “specified operation” means any of the following, that is to say—

- (a) any work of construction in the course of the erection of a building;
- (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
- (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph;
- (d) any operation in the course of laying out or constructing a road or part of a road;
- (e) any change in the use of any land, where that change constitutes material development.

(3) In subsection (2)(e) of this section “material development” means any development other than—

- (a) development for which planning permission is granted by a general development order for the time being in

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force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted ;

- (b) development falling within any of paragraphs 1, 2, 3 and 5 to 9 of Schedule 6 to this Act, as read with Part III of that Schedule ; and
- (c) development of any class prescribed for the purposes of this subsection ;

and in this subsection “general development order” means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in Scotland.

(4) The authority referred to in sections 38(1)(b) and 39(4) of this Act is the local planning authority or the Secretary of State, in the case of planning permission granted by them, and—

- (a) in the case of planning permission under section 37 of this Act is the department on whose direction planning permission is deemed to be granted ; and
- (b) in the case of planning permission granted on an appeal determined, under paragraph 1 or 4 of Schedule 7 to this Act, by a person appointed by the Secretary of State to determine the appeal, is that person.

(5) For the purposes of section 39 of this Act, a reserved matter shall be treated as finally approved when an application for approval is granted or, in a case where the application is made to the local planning authority and there is an appeal to the Secretary of State against the authority’s decision on the application and the Secretary of State or a person appointed by him under paragraph 1 or 4 of Schedule 7 to this Act to determine the appeal grants the approval, on the date of the determination of the appeal by the Secretary of State or that person.

(6) Where a local planning authority grant planning permission, the fact that any of the conditions of the permission are required by the provisions of sections 38 or 39 of this Act to be imposed, or are deemed by those provisions to be imposed, shall not prevent the conditions being the subject of an appeal under section 33 of this Act against the decision of the authority.

(7) In the case of planning permission (whether outline or other) having conditions attached to it by or under section 38 or 39 of this Act—

- (a) development carried out after the date by which the conditions of the permission require it to be carried out shall be treated as not authorised by the permission ; and

- (b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.

41.—(1) The following provisions of this section shall have effect where, by virtue of section 38 or 39 of this Act, a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period and that development has been begun within that period but the period has elapsed without the development having been completed.

Termination of planning permission by reference to time limit.

(2) If the local planning authority are of opinion that the development will not be completed within a reasonable period, they may serve a notice (in this section referred to as a “completion notice”) stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice, being a period of not less than twelve months after the notice takes effect.

(3) A completion notice—

- (a) shall be served on the owner and on the occupier of the land and on any other person who in the opinion of the local planning authority will be affected by the notice ; and
- (b) shall take effect only if and when it is confirmed by the Secretary of State, who may in confirming it substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.

(4) If, within such period as may be specified in a completion notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the notice, shall afford to that person and to the local planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) If a completion notice takes effect, the planning permission therein referred to shall at the expiration of the period specified in the notice, whether the original period specified under subsection (2) of this section or a longer period substituted by the Secretary of State under subsection (3) of this section, be invalid except so far as it authorises any development carried out thereunder up to the end of that period.

(6) The local planning authority may withdraw a completion notice at any time before the expiration of the period specified therein as the period at the expiration of which the planning

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permission is to cease to have effect ; and if they do so they shall forthwith give notice of the withdrawal to every person who was served with the completion notice.

Revocation or modification of planning permission

Power to
revoke or
modify
planning
permission.

42.—(1) If it appears to the local planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part of this Act, the authority, subject to the following provisions of this section, may by order revoke or modify the permission to such extent as (having regard to those matters) they consider expedient.

(2) Except as provided in section 43 of this Act, an order under this section shall not take effect unless it is confirmed by the Secretary of State ; and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, the authority shall serve notice on the owner, on the lessee and on the occupier of the land affected and on any other person who in their opinion will be affected by the order ; and if within such period as may be specified in that notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the local planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) The power conferred by this section to revoke or modify permission to develop land may be exercised—

- (a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed ;
- (b) where the permission relates to a change of the use of any land, at any time before the change has taken place :

Provided that the revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been carried out before the date on which the order was confirmed as aforesaid.

43.—(1) The following provisions shall have effect where the local planning authority have made an order under section 42 of this Act but have not submitted the order to the Secretary of State for confirmation by him, and—

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Unopposed
revocation or
modification.

- (a) the owner, the lessee and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order; and
- (b) it appears to the authority that no claim for compensation is likely to arise under section 153 of this Act on account of the order.

(2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—

- (a) the period (not being less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and
- (b) the period (not being less than fourteen days from the expiration of the period referred to in paragraph (a) of this subsection) at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section and without being confirmed by the Secretary of State.

(3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(a) of this section, and the notice shall include a statement to the effect that no compensation is payable under section 153 of this Act in respect of an order under section 42 of this Act which takes effect by virtue of this section and without being confirmed by the Secretary of State.

(4) The authority shall send a copy of any advertisement published under subsection (2) of this section to the Secretary of State, not more than three days after the publication.

(5) If within the period referred to in subsection (2)(a) of this section no person claiming to be affected by the order has given notice to the Secretary of State as aforesaid, and the Secretary of State has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in subsection (2)(b) of this section, take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 42(2) of this Act.

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(6) This section does not apply to an order revoking or modifying a planning permission granted or deemed to have been granted by the Secretary of State under this Part of this Act or under Part IV or V thereof; nor does it apply to an order modifying any conditions to which a planning permission is subject by virtue of section 38 or 39 of this Act.

*Reference of certain matters to Planning Inquiry
Commission or independent tribunal*

Constitution
of Planning
Inquiry
Commission.

44.—(1) The Secretary of State may constitute a Planning Inquiry Commission to inquire into and report on any matter referred to them under section 45 of this Act.

(2) Any such commission shall consist of a chairman and not less than two nor more than four other members appointed by the Secretary of State.

(3) The Secretary of State may pay to the members of any such commission such remuneration and allowances as he may with the consent of the Minister for the Civil Service determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to him expedient to provide for the purpose of assisting the commission in the discharge of their functions.

(4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.

1957 c. 20.

(5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (commissions, tribunals and other bodies all members of which are disqualified under that Act), in its application to the House of Commons of the Parliament of the United Kingdom, the following entry shall be inserted at the appropriate place in alphabetical order:—

“ A Planning Inquiry Commission constituted under Part III of the Town and Country Planning (Scotland) Act 1972 ”.

References
to a Planning
Inquiry
Commission.

45.—(1) The following matters may, in the circumstances mentioned in subsection (2) of this section, be referred to a Planning Inquiry Commission, that is to say—

(a) an application for planning permission which the Secretary of State has under section 32 of this Act directed to be referred to him instead of being dealt with by a local planning authority;

(b) an appeal under section 33 of this Act (including that section as applied by or under any other provision of this Act);

- (c) a proposal that a government department should give a direction under section 37 of this Act that planning permission shall be deemed to be granted for development by a local authority or by statutory undertakers which is required by any enactment to be authorised by that department ;
- (d) a proposal that development should be carried out by or on behalf of a government department.

(2) Any of the matters mentioned in subsection (1) of this section may be referred to any such commission under this section if it appears expedient to the responsible Minister or Ministers that the question whether the proposed development should be permitted to be carried out should be the subject of a special inquiry on either or both of the following grounds—

- (a) there are considerations of national or regional importance which are relevant to the determination of that question and require evaluation, but a proper evaluation thereof cannot be made unless there is a special inquiry for the purpose ;
- (b) the technical or scientific aspects of the proposed development are of so unfamiliar a character as to jeopardise a proper determination of that question unless there is a special inquiry for the purpose.

(3) Two or more of the matters mentioned in subsection (1) of this section may be referred to the same commission under this section if it appears to the responsible Minister or Ministers that they relate to proposals to carry out development for similar purposes on different sites.

(4) Where a matter referred to a commission under this section relates to a proposal to carry out development for any purpose at a particular site, the responsible Minister or Ministers may also refer to the commission the question whether development for that purpose should instead be carried out at an alternative site.

(5) The responsible Minister or Ministers shall, on referring a matter to a commission under this section, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to him or them to be relevant to their inquiry.

(6) A commission inquiring into a matter referred to them under this section shall—

- (a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the question

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whether the proposed development should be permitted to be carried out and assess the importance to be attached to those considerations or aspects ;

- (b) thereafter, if the applicant, in the case of a matter mentioned in subsection (1)(a), (b) or (c) of this section, or the local planning authority in any case so desire, afford to each of them, and, in the case of an application or appeal mentioned in the said subsection (1)(a) or (b), to any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 26(2) or (3) of this Act, an opportunity of appearing before and being heard by one or more members of the commission ;
- (c) report to the responsible Minister or Ministers on the matter referred to them.

(7) Any such commission may, with the approval of the Secretary of State and at his expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to them to be relevant to a matter referred to them for inquiry and report.

(8) Schedule 8 to this Act shall have effect for the construction of references in this section and in section 46 of this Act to " the responsible Minister or Ministers " .

Procedure on
reference to
a Planning
Inquiry
Commission.

46.—(1) A reference to a Planning Inquiry Commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time and a reference of any other matter mentioned in section 45 of this Act may be made at any time before, but not after, the determination of the relevant application referred under section 32 of this Act or the relevant appeal under section 33 of this Act or, as the case may be, the giving of the relevant direction under section 37 of this Act, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.

(2) Notice of the making of a reference to any such commission shall be published in the prescribed manner, and a copy of the notice shall be served on the local planning authority for the area in which it is proposed that the relevant development shall be carried out, and—

- (a) in the case of an application for planning permission referred under section 32 of this Act or an appeal under section 33 of this Act, on the applicant and any person who has made representations relating

to the subject matter of the application or appeal which the authority are required to take into account under section 26(2) or (3) of this Act ;

(b) in the case of a proposal that a direction should be given under section 37 of this Act with respect to any development, on the local authority or statutory undertakers applying for sanction to carry out that development.

(3) A Planning Inquiry Commission shall, for the purpose of complying with section 45(6)(b) of this Act, hold a local inquiry ; and they may hold such an inquiry, if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the local planning authority desire an opportunity of appearing and being heard.

(4) Where a Planning Inquiry Commission are to hold a local inquiry under subsection (3) of this section in connection with a matter referred to them, and it appears to the responsible Minister or Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this section to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, he or, as the case may be, they may direct that the two inquiries be held concurrently or combined as one inquiry.

(5) An inquiry held by such a commission under this section shall be treated for the purposes of the Tribunals and Inquiries Act 1971 as one held by a Minister in pursuance of a duty imposed by a statutory provision. 1971 c. 62.

(6) Subsections (4) to (9) of section 267 of this Act (power to summon and examine witnesses, and expenses at inquiries) shall apply to an inquiry held under subsection (3) of this section as they apply to an inquiry held under that section.

(7) Subject to the provisions of this section and to any directions given to them by the responsible Minister or Ministers, a Planning Inquiry Commission shall have power to regulate their own procedure.

47.—(1) The Ministers may constitute a Joint Planning Commissions Inquiry Commission to inquire into and report on any matter referred to them under this section ; and the matters which may be so referred are those which may, under section 45 of this Act or section 48 of the Town and Country Planning Act 1971, be referred to a Planning Inquiry Commission but which appear to the Ministers to involve considerations affecting both Scotland and England. to inquire into planning matters affecting Scotland and England. 1971 c. 78.

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(2) A Joint Planning Inquiry Commission shall consist of a chairman and not less than two nor more than four other members appointed by the Ministers.

(3) The Ministers may pay to the members of any such commission such remuneration and allowances as they may with the consent of the Minister for the Civil Service determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to them expedient to provide for the purpose of assisting the commission in the discharge of their functions.

(4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.

1957 c. 20.

(5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (commissions, tribunals and other bodies all members of which are disqualified under that Act), in its application to the House of Commons of the Parliament of the United Kingdom, the following entry shall be inserted at the appropriate place in alphabetical order:—

“ A Joint Planning Inquiry Commission constituted under Part III of the Town and Country Planning (Scotland) Act 1972 ”.

(6) In this section “ the Ministers ” means the Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England acting jointly ; but their functions under subsection (3) of this section may, by arrangements made between them, be exercised by either acting on behalf of both.

(7) Schedule 9 to this Act shall have effect with respect to the Joint Planning Inquiry Commissions and references to them under this section, and with respect to the proceedings of a commission on any such reference.

Appeal to independent tribunal.

48.—(1) Provision may be made by a development order for securing that, in the case of decisions of a local planning authority of such classes as may be prescribed by the order, being decisions relating to the design or external appearance of buildings or other similar matters, any appeal under section 33 of this Act shall lie to an independent tribunal constituted in accordance with the provisions of that order, instead of to the Secretary of State ; and in relation to any such appeal the provisions of that section (except, in subsection (5) thereof, the references to sections 24 and 26(3) of this Act) and the provisions of section 34 of this Act shall apply, subject to such adaptations and modifications as may be specified in the order as they apply

in relation to appeals to the Secretary of State under the said section 33.

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(2) If any tribunal is constituted in accordance with subsection (1) of this section, the Secretary of State may pay to the chairman and members of the tribunal such remuneration, whether by way of salaries or by way of fees, and such reasonable allowances in respect of expenses properly incurred in the performance of their duties, as the Minister for the Civil Service may determine.

Additional powers of control

49.—(1) If it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity), regard being had to the development plan and to any other material considerations—

Orders requiring discontinuance of use or alteration or removal of buildings or works.

- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance of a use of land ; or
- (b) that any buildings or works should be altered or removed,

the local planning authority may by order require the discontinuance of that use, or impose such conditions as may be specified in the order on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be.

(2) An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order ; and the provisions of section 42 of this Act shall apply in relation to any planning permission granted by an order under this section as they apply in relation to planning permission granted by the local planning authority on an application made under this Part of this Act.

(3) The power conferred by subsection (2) of this section shall include power, by an order under this section, to grant planning permission, subject to such conditions as may be specified in the order—

- (a) for the retention, on the land to which the order relates, of buildings or works constructed or carried out before the date on which the order was submitted to the Secretary of State ; or
- (b) for the continuance of a use of that land instituted before that date ;

and subsection (3) of section 29 of this Act shall apply to planning permission granted by virtue of this subsection as it

PART III applies to planning permission granted in accordance with subsection (2) of that section.

(4) An order under this section shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.

(5) Where a local planning authority submit an order to the Secretary of State for his confirmation under this section, that authority shall serve notice on the owner, on the lessee and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within the period specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the local planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) Where an order under this section has been confirmed by the Secretary of State, the local planning authority shall serve a copy of the order on the owner, on the lessee and on the occupier of the land to which the order relates.

(7) Where the requirements of an order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the local planning authority, in so far as there is no 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 displacement.

(8) In the case of planning permission granted by an order under this section, the authority referred to in sections 38(1)(b) and 39(4) of this Act is the local planning authority making the order.

Agreements
regulating
development
or use of land.

50.—(1) A local planning authority may enter into an agreement with any person interested in land in their area (in so far as the interest of that person enables him to bind the land) for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement; and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the local planning authority to be necessary or expedient for the purposes of the agreement.

(2) An agreement made under this section with any person interested in land, may, if the agreement shall have been recorded

in the appropriate Register of Sasines, be enforceable at the instance of the local planning authority against persons deriving title to the land from the person with whom the agreement was entered into :

Provided that no such agreement shall at any time be enforceable against a third party who shall have in bona fide onerously acquired right (whether completed by infestment or not) to the land prior to the agreement being recorded as aforesaid or against any person deriving title from such third party.

(3) Nothing in this section or in any agreement made thereunder shall be construed—

- (a) as restricting the exercise, in relation to land which is the subject of any such agreement, 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 as to the provisions to be included in such a plan ; or
- (b) as requiring the exercise of any such powers otherwise than as mentioned in paragraph (a) of this subsection.

Determination whether planning permission required

51.—(1) If any person who proposes to carry out any operations on land, or to make any change in the use of land, wishes to have it determined whether the carrying out of those operations, or the making of that change, would constitute or involve development of the land, he may, either as part of an application for planning permission, or without any such application, apply to the local planning authority to determine that question.

Applications to determine whether planning permission required.

(2) The provisions of sections 21, 26(1), 28(1), 31(2) and (4) and 32 to 34 of this Act shall, subject to any necessary modifications, apply in relation to any application under this section, and to the determination thereof, as they apply in relation to applications for planning permission and to the determination of such applications.

(3) Where it is decided by the Secretary of State under any of the said provisions that any operations or use to which an application under this section relates would constitute or involve development, that decision shall not be final for the purposes of any appeal under the provisions of this Act relating to the enforcement of planning control, in relation to those operations or that use.

PART IV

ADDITIONAL CONTROL IN SPECIAL CASES

Buildings of special architectural or historic interest

Lists of buildings of special architectural or historic interest.

52.—(1) For the purposes of this Act and with a view to the guidance of local planning authorities in the performance of their functions under this Act in relation to buildings of special architectural or historic interest, the Secretary of State shall compile lists of such buildings, or approve, with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list so compiled or approved.

(2) In considering whether to include a building in a list compiled or approved under this section, the Secretary of State may take into account not only the building itself but also—

- (a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part ; and
- (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.

(3) Before compiling or approving, with or without modifications, any list under this section, or amending any list thereunder the Secretary of State shall consult with such persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.

(4) As soon as may be after any list has been compiled or approved under this section, or any amendments of such a list have been made, a copy of so much of the list as relates to the district of any local authority being the local planning authority or the local authority for the purposes of the Housing (Scotland) Acts 1966 to 1969, or of so much of the amendments as relates thereto, as the case may be, certified by or on behalf of the Secretary of State to be a true copy thereof, shall be deposited with the clerk of that authority.

(5) As soon as may be after the inclusion of any building in a list under this section, whether on the compilation or approval of the list or by the amendment thereof, or as soon as may be after any such list has been amended by the exclusion of any building therefrom, the local planning authority concerned in whose district the building is situated, on being informed of the fact by the Secretary of State, shall serve a

notice in the prescribed form on every owner, lessee and occupier of the building, stating that the building has been included in, or excluded from, the list, as the case may be.

(6) The Secretary of State shall keep available for public inspection, free of charge at reasonable hours and at a convenient place, copies of all lists and amendments of lists compiled, approved or made by him under this section ; and every authority with whose clerk copies of any list or amendments are deposited under this section shall similarly keep available copies of so much of any such list or amendment as relates to buildings within their area.

(7) In this Act “ listed building ” means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section ; and, for the purposes of the provisions of this Act relating to listed buildings and building preservation notices, any object or structure fixed to a building, or forming part of the land and comprised within the curtilage of a building, shall be treated as part of the building.

(8) Every building which immediately before 3rd August 1970 was subject to a building preservation order under section 27 of the Act of 1947 but was not then included in a list compiled or approved under section 28 of that Act, shall be deemed to be a listed building ; but the Secretary of State may at any time direct, in the case of any building, that this subsection shall no longer apply to it and the local planning authority in whose district the building is situated, on being notified of the Secretary of State’s direction, shall give notice of it to the owner, lessee and occupier of the building.

(9) Before giving a direction under subsection (8) of this section in relation to a building, the Secretary of State shall consult with the local planning authority and with the owner, lessee and occupier of the building.

53.—(1) Subject to this Part of this Act, if a person executes or causes to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised under this Part of this Act, he shall be guilty of an offence. Control of works for demolition, alteration or extension of listed buildings

(2) Works for the demolition of a listed building, or for its alteration or extension, are authorised under this Part of this Act only if—

- (a) the local planning authority or the Secretary of State have granted written consent (in this Act referred to as “ listed building consent ”) for the execution of the

PART IV

works and the works are executed in accordance with the terms of the consent and of any conditions attached to the consent under section 54 of this Act ; and

(b) in the case of demolition, notice of the proposal to execute the works has been given to the Royal Commission and thereafter either—

(i) for a period of at least three months following the grant of listed building consent, and before the commencement of the works, reasonable access to the building has been made available to members or officers of the Commission for the purpose of recording it ; or

(ii) the Commission have, by their Secretary or other officer of theirs with authority to act on the Commission's behalf for the purposes of this section, stated in writing that they have completed their recording of the building or that they do not wish to record it.

(3) In subsection (2) of this section “ the Royal Commission ” means the Royal Commission on the Ancient and Historical Monuments of Scotland ; but the Secretary of State may, by order provide that the said subsection shall, in the case of works executed or to be executed on or after such date as may be specified in the order, have effect with the substitution for the reference to the Royal Commission of a reference to such other body as may be so specified.

(4) Without prejudice to subsection (1) of this section, if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent under section 54 of this Act, he shall be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable—

(a) on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £250, or both ; or

(b) on conviction on indictment to imprisonment for a term not exceeding twelve months or a fine, or both ;

and, in determining the amount of any fine to be imposed on a person convicted on indictment, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

(6) In proceedings for an offence under this section it shall be a defence to prove that the works were urgently necessary

in the interests of safety or health, or for the preservation of the building, and that notice in writing of the need for the works was given to the local planning authority as soon as reasonably practicable.

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54.—(1) Section 53 of this Act shall not apply to works for the demolition, alteration or extension of—

Provisions supplementary to s. 53.

- (a) an ecclesiastical building which is for the time being used for ecclesiastical purposes or would be so used but for the works ; or
- (b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments ; or
- (c) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.

For the purposes of this subsection, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.

(2) Where, on an application in that behalf, planning permission is granted, or has been granted on or after 3rd August 1970, and—

- (a) the development for which the permission is or was granted includes the carrying out of any works for the alteration or extension of a listed building ; and
- (b) the planning permission or any condition subject to which it is or was granted is or was so framed as expressly to authorise the execution of the works (describing them),

the planning permission shall operate as listed building consent in respect of those works ; but, except as provided by this subsection, the grant of planning permission for any development shall not make it unnecessary for such consent to be obtained in respect of any works to which section 53 of this Act applies.

(3) In considering whether to grant planning permission for development which consists in or includes works for the alteration or extension of a listed building, and in considering whether to grant listed building consent for any works, the local planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses.

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(4) Without prejudice to subsection (1) of section 26 of this Act, the conditions which may under that subsection be attached to a grant of planning permission shall, in the case of such development as is referred to in subsection (2) of this section, include conditions with respect to—

- (a) the preservation of particular features of the building, either as part of it or after severance therefrom ;
- (b) the making good, after the works are completed, of any damage caused to the building by the works ;
- (c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.

(5) Listed building consent may be granted either unconditionally or subject to conditions, which may include such conditions as are mentioned in subsection (4) of this section.

(6) Part I of Schedule 10 to this Act shall have effect with respect to applications to local planning authorities for listed building consent, the reference of such applications to the Secretary of State and appeals against decisions on such applications ; and Part II of that Schedule shall have effect with respect to the revocation of listed building consent by a local planning authority or the Secretary of State.

Acts causing or likely to result in damage to listed buildings.

55.—(1) Where a building, not being a building excluded by section 54(1) of this Act from the operation of section 53 of this Act, is included in a list compiled or approved under section 52 of this Act, then, if any person who, but for this section, would be entitled to do so, does or permits the doing of any act which causes or is likely to result in damage to the building (other than an act for the execution of excepted works) and he does or permits it with the intention of causing such damage, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(2) In subsection (1) of this section “ excepted works ” means works authorised by planning permission granted or deemed to be granted in pursuance of an application under this Act and works for which listed building consent has been given under this Act.

(3) Where a person convicted of an offence under this section fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £20 for each day on which the failure continues.

56.—(1) If it appears to the local planning authority, in the case of a building in their district which is not a listed building, that it is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as such, they may (subject to subsection (2) of this section) serve on the owner, lessee and occupier of the building a notice (in this section referred to as a “building preservation notice”)—

PART IV
Building
preservation
notice in
respect of
building
not listed.

(a) stating that the building appears to them to be of special architectural or historic interest and that they have requested the Secretary of State to consider including it in a list compiled or approved under section 52 of this Act; and

(b) explaining the effect of subsections (3) and (4) of this section.

(2) A building preservation notice shall not be served in respect of an excepted building, that is to say—

(a) an ecclesiastical building which is for the time being used for ecclesiastical purposes; or

(b) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments; or

(c) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.

For the purposes of this subsection, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.

(3) A building preservation notice shall come into force as soon as it has been served on the owner, lessee and occupier of the building to which it relates and shall remain in force for six months from the date when it is served or, as the case may be, last served; but it shall cease to be in force if, before the expiration of that period, the Secretary of State either includes the building in a list compiled or approved under section 52 of this Act or notifies the local planning authority in writing that he does not intend to do so.

(4) While a building preservation notice is in force with respect to a building, the provisions of this Act (other than section 55) shall have effect in relation to it as if the building were a listed building; and if the notice ceases to be in force (otherwise than by reason of the building being included in a list compiled or approved under the said section 52), the provisions of Part III of Schedule 10 to this Act shall have effect with respect to things done or occurring under the notice or with reference to the building being treated as listed.

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(5) If, following the service of a building preservation notice, the Secretary of State notifies the local planning authority that he does not propose to include the building in a list compiled or approved under section 52 of this Act, the authority—

- (a) shall forthwith give notice of the Secretary of State's decision to the owner, lessee and occupier of the building ; and
- (b) shall not, within the period of twelve months beginning with the date of the Secretary of State's notification, serve another such notice in respect of the said building.

(6) If it appears to the local planning authority to be urgent that a building preservation notice should come into force, they may, instead of serving the notice on the owner, lessee and occupier of the building to which it relates, affix the notice conspicuously to some object on the building ; and this shall be treated for all the purposes of this section and of Schedule 10 to this Act as service of the said notice, in relation to which subsection (1)(b) of this section shall be taken to include a reference to this subsection.

Trees

57. It shall be the duty of the local planning authority—

- (a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees ; and
- (b) to make such orders under section 58 of this Act as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

58.—(1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their district, they may for that purpose make an order (in this Act referred to as a "tree preservation order") with respect to such trees, groups of trees or woodlands as may be specified in the order ; and, in particular, provision may be made by any such order—

- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions ;
- (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order ;

Planning permission to include appropriate provision for preservation and planting of trees.

Tree preservation orders.

- (c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act falling within subsection (2) of this section, subject to such adaptations and modifications as may be specified in the order.

(2) References in this Act to provisions thereof falling within this subsection are references to—

- (a) the provisions of Part III of this Act relating to planning permission and to applications for planning permission, except sections 22, 23, 24, 25, 26(2) to (6), 31(3), 35, 36, 38 to 41 and 44 to 47 of this Act ; and
- (b) such of the provisions of Part IX of this Act as are therein stated to be provisions falling within this subsection ;
- (c) section 256 of this Act.

(3) A tree preservation order may be made so as to apply, in relation to trees to be planted pursuant to any such conditions as are mentioned in section 57(a) of this Act, as from the time when those trees are planted.

(4) Except as provided under subsection (5)(c) of this section and in section 59 of this Act, a tree preservation order shall not take effect until it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order either without modification or subject to such modifications as he considers expedient. As soon as may be after a tree preservation order is so confirmed, it shall be recorded in the appropriate Register of Sasines by the local planning authority.

(5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in connection with the submission and confirmation of such orders ; and the regulations may (without prejudice to the generality of this subsection) make provision as follows—

- (a) that, before a tree preservation order is submitted to the Secretary of State for confirmation, notice of the making of the order shall be given to the owners, lessees and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations ;
- (b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the Secretary of State ;
- (c) that, if no objections or representations are so made, or if any so made are withdrawn, the order, instead of requiring the confirmation of the Secretary of State in accordance with subsection (4) of this section, may be confirmed (but without any modification), as an unopposed order, by the authority who made it ; and

PART IV

(d) that copies of the order, when confirmed by the Secretary of State or the authority, shall be served on such persons as may be specified in the regulations.

(6) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, nothing in a tree preservation order shall prohibit the felling or lopping of any tree if such felling or lopping is urgently necessary in the interests of safety, or is necessary for the prevention or abatement of a nuisance, so long as notice in writing of the proposed operations is given to the local planning authority as soon as may be after the necessity for the operations arises, or if such felling or lopping is carried out in compliance with any obligation imposed by or under any Act of Parliament.

1967 c. 10

(7) In relation to land in respect of which the Forestry Commissioners have made advances under section 4 of the Forestry Act 1967 or in respect of which there is in force a forestry dedication agreement entered into with the Commissioners under section 5 of that Act, a tree preservation order may be made only if—

(a) there is not in force in respect of the land a plan of operations or other working plan approved by the Commissioners under such an agreement; and

(b) the Commissioners consent to the making of the order.

(8) Where a tree preservation order is made in respect of land to which subsection (7) of this section applies, the order shall not have effect so as to prohibit, or to require any consent for, the cutting down of a tree in accordance with a plan of operations or other working plan approved by the Forestry Commissioners, and for the time being in force, under such an agreement as is mentioned in that subsection or under a woodlands scheme made under the powers contained in the said Act of 1967.

(9) In the preceding provisions of this section references to provisions of the Forestry Act 1967 include references to the corresponding provisions (replaced by that Act) in the Forestry Acts 1919 to 1951.

(10) The preceding provisions of this section shall have effect subject to the provisions—

1958 c. 69.

(a) of section 2(4) of the Opencast Coal Act 1958 (land comprised in an authorisation under that Act which is affected by a tree preservation order); and

1967 c. 10.

(b) of section 15 of the Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).

(11) Until subsection (5) of this section comes into operation under section 279 of this Act, the provisions of paragraphs 1 and 2 of Schedule 11 to this Act shall have effect; and on the coming into operation of subsection (5) of this section as aforesaid the said provisions shall accordingly cease to have effect.

59.—(1) If it appears to a local planning authority that a tree preservation order proposed to be made by that authority should take effect immediately without previous confirmation, they may include in the order as made by them a direction that this section shall apply to the order. PART IV
Provisional
tree
preservation
orders.

(2) Notwithstanding section 58(4) of this Act, an order which contains such a direction shall take effect provisionally on such date as may be specified therein and shall continue in force by virtue of this section until—

- (a) the expiration of a period of six months beginning with the date on which the order was made; or
- (b) the date on which the order is confirmed or, in the case of an order which can be confirmed only by the Secretary of State, on which he notifies the authority who made the order that he does not propose to confirm it.

whichever first occurs.

(3) Provision shall be made by regulations under this Act for securing—

- (a) that the notices to be given of the making of a tree preservation order containing a direction under this section shall include a statement of the effect of the direction; and
- (b) that where the Secretary of State, in the case of an order which can be confirmed only by him, within the period of six months referred to in subsection (2) of this section, notifies the authority that he does not propose to confirm the order, copies of that notice shall be served on the owners, lessees and occupiers of the land to which the order related.

(4) Until subsections (1) to (3) of this section come into operation under section 279 of this Act, the provisions of paragraph 3 of Schedule 11 to this Act shall have effect; and on the coming into operation of subsections (1) to (3) of this section as aforesaid the said provisions shall accordingly cease to have effect.

60.—(1) If any tree in respect of which a tree preservation order is for the time being in force, other than a tree to which the order applies as part of a woodland, is removed or destroyed in contravention of the order or is removed or destroyed or dies at a time when its felling is authorised only by virtue of the provisions of section 58(6) of this Act relating to felling where urgently necessary in the interests of safety, it shall be the duty of the owner of the land, unless on his application the local planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can. Replacement
of trees.

PART IV

(2) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.

(3) The duty imposed by subsection (1) of this section on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 99 of this Act and not otherwise.

Advertisements

Control of
advertisements.

61.—(1) Subject to the provisions of this section, provision shall be made by regulations under this Act for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety.

(2) Without prejudice to the generality of subsection (1) of this section, any such regulations may provide—

- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed, and the manner in which they are to be affixed to the land ;
- (b) for requiring the consent of the local planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations ;
- (c) for applying, in relation to any such consent and to applications for such consent, any of the provisions of this Act falling within section 58(2) thereof, subject to such adaptations and modifications as may be specified in the regulations ;
- (d) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed, by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.

(3) Regulations made for the purposes of this section may make different provision with respect to different areas, and in particular may make special provision with respect to areas defined for the purposes of the regulations as areas of special control, being either rural areas or areas other than rural areas which appear to the Secretary of State to require special protection on grounds of amenity ; and, without prejudice to the generality of the preceding provisions of this subsection, the regulations may prohibit the display in any such area of all advertisements except advertisements of such classes (if any) as may be specified in the regulations.

(4) Areas of special control for the purposes of regulations under this section may be defined by means of orders made or approved by the Secretary of State in accordance with the provisions of the regulations.

(5) Where the Secretary of State is authorised by the regulations to make or approve any such order as is mentioned in subsection (4) of this section, the regulations shall provide for the publication of notice of the proposed order in such manner as may be prescribed by the regulations, for the consideration of objections duly made thereto, and for the holding of such inquiries or other hearings as may be so prescribed, before the order is made or approved.

(6) Regulations made under this section may be made so as to apply to advertisements which are being displayed on the date on which the regulations come into force, or to the use for the display of the advertisements of any site which was being used for that purpose on that date; but any regulations made in accordance with this subsection shall provide for exempting therefrom—

- (a) the continued display of any such advertisement; and
- (b) the continued use for the display of advertisements of any such site,

during such period as may be prescribed in that behalf by the regulations, and different periods may be so prescribed for the purposes of different provisions of the regulations.

(7) Without prejudice to the generality of the powers conferred by the preceding provisions of this section, regulations made for the purposes of this section may provide that any appeal from the decision of the local planning authority, on an application for their consent under the regulations, shall be to an independent tribunal constituted in accordance with the regulations, instead of being an appeal to the Secretary of State; and subsection (2) of section 48 of this Act shall apply to any tribunal so constituted as it applies to any tribunal constituted in accordance with subsection (1) of that section.

(8) Nothing in this section or in any regulations made thereunder shall be construed as authorising the restriction or regulation of the display of any advertisement by reason only of the subject matter or wording thereof.

62. Where the display of advertisements in accordance with regulations made under section 61 of this Act involves development of land, planning permission for that development shall be deemed to be granted by virtue of this section, and no application shall be necessary in that behalf under Part III of this Act. Application for planning permission not needed for advertisements complying with regulations.

PART IV

Waste land

Proper
maintenance
of waste land.

63.—(1) If it appears to a local planning authority that the amenity of any land is seriously injured by reason of the ruinous or dilapidated condition of any building in their district or by the condition of any derelict, waste, neglected or other land in their district, then, subject to any directions given by the Secretary of State, the authority may serve on the owner, lessee and occupier of the building or land a notice requiring such steps for abating the injury as may be specified in the notice to be taken within such period as may be so specified.

(2) No notice may be served under subsection (1) of this section with reference to any building which is—

- (a) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments, or
- (b) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment as aforesaid.

(3) The provisions of section 88 of this Act shall, subject to any necessary modifications, apply in respect of a notice served under this section as they apply in respect of an enforcement notice served under section 84 of this Act.

Industrial development

Meaning of
“ industrial
building ”.

64.—(1) In this Part of this Act “ industrial building ” means a building used or designed for use—

- (a) for the carrying on of any process for or incidental to any of the following purposes, that is to say—
 - (i) the making of any article or of part of any article ; or
 - (ii) the altering, repairing, ornamenting, finishing, cleaning, washing, freezing, packing or canning, or adapting for sale, or breaking up or demolition, of any article ; or
 - (iii) without prejudice to the preceding sub-paragraphs, the getting, dressing or preparation for sale of minerals or the extraction or preparation for sale of oil or brine ;

(b) for the carrying on of scientific research, being a process or research carried on in the course of a trade or business.

(2) For the purposes of subsection (1) of this section, premises which—

- (a) are used or designed for use for providing services or facilities ancillary to the use of other premises for the

carrying on of any such process or research as is mentioned in that subsection ; and PART IV

(b) are or are to be comprised in the same building or the same curtilage as those other premises,

shall themselves be treated as used or designed for use for the carrying on of such a process or, as the case may be, of such research.

(3) In this section—

“ article ” means an article of any description, including a ship or vessel ;

“ building ” includes a part of a building ;

“ scientific research ” means any activity in the fields of natural or applied science for the extension of knowledge.

65.—(1) Subject to the provisions of this section and of section 66 of this Act, an application to the local planning authority for permission to develop land by— Industrial development certificates.

(a) the erection thereon of an industrial building of one of the prescribed classes ; or

(b) a change of use whereby premises, not being an industrial building of one of the prescribed classes, will become such an industrial building,

shall be of no effect unless a certificate (in this Act referred to as an “ industrial development certificate ”) is issued under this section by the Secretary of State, certifying that the development in question can be carried out consistently with the proper distribution of industry, and a copy of the certificate is furnished to the local planning authority together with the application.

(2) An industrial development certificate shall be required for the purposes of an application for planning permission made as mentioned in section 29(1) of this Act if the circumstances are such that, in accordance with subsection (1) of this section, such a certificate would have been required if the application had been for planning permission to construct the building, or to institute the use of land, which the application seeks permission to retain or continue, and the provisions of this section shall have effect in relation to that application accordingly.

(3) In considering whether any development for which an industrial development certificate is applied for can be carried out consistently with the proper distribution of industry, the Secretary of State shall have particular regard to the need for providing appropriate employment in development areas.

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(4) An industrial development certificate shall not be required for the extension of an industrial building if the extension, taken by itself, would not be an industrial building of one of the prescribed classes, but (subject to the provisions of section 66 of this Act) an industrial development certificate shall be required for the extension of any building if the extension, taken by itself, would be such an industrial building.

(5) The preceding provisions of this section shall have effect without prejudice to any provisions for restricting the granting of planning permission by local planning authorities which are included in a development order by virtue of section 28(1) of this Act.

(6) In this section—

“the prescribed classes” means such classes or descriptions of industrial buildings as may be prescribed by regulations made for the purposes of this section by the Secretary of State ;

“development area” means any area specified as such by an order made or having effect under section 1 of the Local Employment Act 1972 and any locality treated by virtue of subsection (5) of that section as included in a development area.

1972 c. 5.

Exemption
of certain
classes of
development.

66.—(1) Notwithstanding anything in section 65 of this Act, but subject to section 67 of this Act, an industrial development certificate shall not be required if the industrial floor space to be created by the development in question (in this section referred to as “the proposed development”), together with any other industrial floor space created or to be created by any related development, does not exceed 5,000 square feet, excluding, where an industrial development certificate has been issued in respect of any related development, any floor space created or to be created by that development or by development carried out, or for which planning permission has been granted, before the issue of that certificate.

(2) Regulations made for the purposes of section 65 of this Act by the Secretary of State may direct that no industrial development certificate shall be required in respect of the erection, in any area prescribed by or under the regulations, of industrial buildings of any such class or description as may be so prescribed, or in respect of a change of use whereby premises in any such area, not being an industrial building of a class or description so prescribed, will become an industrial building of such a class or description.

(3) In this section “ industrial floor space ” means floor space comprised in an industrial building or industrial buildings of any of the prescribed classes.

(4) For the purposes of subsection (1) of this section development shall, in relation to an application for planning permission (in this section referred to as “ the relevant application ”), be taken to be “ related development ” if—

- (a) it related, or is to relate, to the same building as that to which the proposed development is to relate (in this subsection referred to as the “ relevant building ”);
or
- (b) it related, or is to relate, to a building which is, or is to be, contiguous or adjacent to the relevant building, and it was, or is to be, development comprised in, or for the purposes of, the same scheme or project or for the purposes of the same undertaking as the proposed development,

and (in either case) it fulfils one or other of the conditions mentioned in subsection (5) of this section.

(5) The said conditions are—

- (a) that it is development for which, before the date of the relevant application, planning permission has been granted by a planning decision made on or after 1st April 1960 ;
- (b) that it is development which has been initiated on or after 1st April 1960 but before the date of the relevant application and is not development for which planning permission has been granted by a planning decision made on or after 1st April 1960 ;
- (c) that it is development in respect of which an application to the local planning authority for planning permission either is pending on the date of the relevant application or is made on that date.

(6) For the purposes of subsection (5)(c) of this section, an application is pending on a particular date if—

- (a) it is made before that date and not withdrawn ; and
- (b) no planning decision on that application has been made before that date.

(7) In subsection (4) of this section and in this subsection “ building ” does not include a part of a building ; and any reference in subsection (4) of this section to development relating to a building is a reference to the erection, extension, alteration or re-erection of the building or a change of use of the whole or part of the building.

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(8) In this section “the prescribed classes” has the same meaning as in section 65 of this Act.

Power to vary exemption limit as to industrial floor space.

67.—(1) The Secretary of State may by order direct that subsection (1) of section 66 of this Act shall be amended by substituting, for the number of square feet specified in that subsection as originally enacted or as previously amended under this subsection, such number of square feet as may be specified in the order being not less than 1,000 square feet.

(2) Any amendment made by an order under this section may be made so as to have effect either in relation to the whole of Scotland or in relation only to a part of Scotland specified in the order.

(3) Any amendment made by such an order shall have effect—

(a) in relation to applications for planning permission relating to land in any area to which the order applies which are made on or after the date on which the order comes into operation ; and

(b) in relation to applications relating to land in such an area which have been made before that date, other than any application on which a planning decision has been made before that date.

(4) Where in accordance with subsection (3) of this section an amendment made by such an order has effect in relation to an application for planning permission made before the date on which the order comes into operation, so much of section 65(1) of this Act as requires a copy of an industrial development certificate to be furnished to the local planning authority together with the application shall have effect in relation to that application with the substitution, for the words “together with the application”, of the words “as soon as practicable after the certificate is issued”

(5) In this section any reference to land in any area to which an order under this section applies shall be construed as a reference to land of which any part is in that area.

Restrictions or conditions attached to certificates.

68.—(1) An industrial development certificate in respect of any development may be issued subject to such restrictions on the making of an application for planning permission for that development (whether as to the period within which, or the persons by whom, such an application may be made, or otherwise) as the Secretary of State considers appropriate having regard to the proper distribution of industry ; and where an industrial development certificate in respect of any development

is issued subject to any such restrictions, and an application for planning permission for that development is made which does not comply with those restrictions, the provisions of section 65 of this Act shall apply in relation to that application as if no such certificate had been issued.

(2) Without prejudice to subsection (1) of this section, an industrial development certificate may be issued either unconditionally or subject to such conditions as the Secretary of State considers appropriate having regard to the proper distribution of industry; and any reference in this section to conditions attached to an industrial development certificate is a reference to conditions subject to which such a certificate is issued.

(3) Without prejudice to the generality of subsection (2) of this section, conditions may be attached to an industrial development certificate—

- (a) for requiring the removal of any building or the discontinuance of any use of land to which the certificate relates at the end of a specified period and the carrying out of any works required for the reinstatement of land at the end of that period;
- (b) restricting the amount of office floor space (as defined in section 82 of this Act whether or not that section has ceased to have effect) to be contained in any building to which the certificate relates, or precluding it from containing any office floor space (as so defined);

and conditions of the kind mentioned in paragraph (b) of this subsection may be framed so as to apply (either or both) to the building as originally erected or as subsequently extended or altered.

(4) In so far as any of the conditions attached to an industrial development certificate are of such a description that (apart from this section) they could not have been imposed under this Act, this Act shall apply in relation to any application for planning permission for the purposes of which that certificate is required, and to any planning permission granted on such an application, as if the powers conferred by this Act included power to impose conditions of that description.

(5) Where conditions are attached to an industrial development certificate, and, on an application for planning permission for the purposes of which that certificate is required, planning permission is granted, the authority granting the permission shall grant it subject to those conditions, with or without other conditions.

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(6) Planning permission to which subsection (5) of this section applies shall not be invalid by reason only that the requirements of that subsection are not complied with; but where any such planning permission is granted without complying with the requirements of that subsection the planning permission shall be deemed to have been granted subject to the conditions attached to the industrial development certificate, or (if any other conditions were imposed by the authority granting the permission) to have been granted subject to the conditions attached to the certificate in addition to the other conditions.

Provisions as to conditions imposed under s. 68.

69.—(1) This section applies to any condition subject to which planning permission is granted in accordance with the provisions of section 68 of this Act, or subject to which planning permission is by virtue of that section deemed to have been granted, whether it is a condition which could have been imposed apart from that section or not.

(2) If the planning permission is or was granted by the local planning authority, the Secretary of State shall not be required to entertain an appeal under section 33 of this Act from the decision of the local planning authority, in so far as that decision relates or related to any condition to which this section applies.

(3) If any condition imposed by an authority granting planning permission is inconsistent with any condition to which this section applies, the last-mentioned condition shall prevail so far as it is inconsistent with the condition so imposed.

Provision for cases where certificate withheld.

70.—(1) Where such an application as is mentioned in subsection (1) or (2) of section 65 of this Act is, by virtue of those subsections, of no effect by reason that the requirements of those subsections are not fulfilled, the local planning authority shall consider whether, if those requirements had been fulfilled, they would nevertheless have refused the permission sought by the application, either in respect of the whole or in respect of part of the land to which the application relates; and if they are of the opinion that they would so have refused that permission, they shall serve on the applicant a notice in writing to that effect.

(2) Where a notice is served under subsection (1) of this section in respect of the whole or part of any land, it shall operate, for the purposes of sections 35 and 36 of this Act, as if the application for planning permission had been an effective application and the notice had been a planning decision of the local planning authority refusing that permission in respect of that

land or that part thereof, as the case may be ; and the provisions of those sections (if in those circumstances they would have been applicable) shall have effect accordingly.

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Office development

71.—(1) Subject to the provisions of this section, in these provisions, “office premises” means premises falling within either of the following descriptions, that is to say—

Meaning of “office premises”.

- (a) premises whose sole or principal use is to be use as an office or for office purposes ;
- (b) premises to be occupied together with premises falling within the preceding paragraph and to be so occupied wholly or mainly for the purposes of the activities to be carried on in the last-mentioned premises.

(2) Where, in relation to an application for planning permission for the erection of a building, or in relation to a grant of such planning permission, it falls to be determined, for the purposes of subsection (1) of this section, what is to be the sole or principal use of any premises to be contained in the building, regard shall be had—

- (a) in the case of an application for planning permission, to the proposed use (as indicated in the application) of the building or of different parts of the building ; and
- (b) in the case of a grant of planning permission, to the purposes specified in the planning permission as those for which the building, or different parts of the building, may be used.

(3) Where, in relation to an application for planning permission for the extension or alteration of a building, or in relation to a grant of such planning permission, it falls to be determined, for the purposes of subsection (1) of this section, what is to be the sole or principal use of any premises which are to be added to the building or altered within it (in this subsection referred to as “the new premises”), regard shall be had—

- (a) in the case of an application for planning permission, to the proposed use (as indicated in the application) of the new premises ; and
- (b) in the case of a grant of planning permission, to the purposes specified in the planning permission as those for which the new premises may be used.

(4) For the purposes of the application of these provisions in relation to development in so far as it consists of a change in the use of land, “office premises” (subject to the following

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provisions of this section) means premises falling within either of the following descriptions, that is to say—

- (a) premises whose sole or principal use is as an office or for office purposes ;
- (b) premises occupied together with premises falling within the preceding paragraph and so occupied wholly or mainly for the purposes of the activities carried on in the last-mentioned premises ;

and for the purposes of paragraph (a) of this subsection any question as to sole or principal use, in relation to premises contained in a building, shall be determined by reference to those premises alone and not by reference to the building taken as a whole.

(5) In this section “ office purposes ” includes the purposes of administration, clerical work, handling money, telephone and telegraph operating and the operation of computers, and “ clerical work ” includes writing, book-keeping, sorting papers, filing, typing, duplicating, punching cards or tapes, machine calculating, drawing and the editorial preparation of matter for publication.

(6) The Secretary of State may by order provide that premises of any description specified in the order, or premises used or to be used for any purposes so specified, shall not be office premises for the purposes of these provisions.

(7) In this section and in sections 72 to 83 of this Act “ these provisions ” means the provisions of this section and of those sections.

Office
development
permits.

72.—(1) Subject to these provisions, an application to the local planning authority for planning permission to carry out, on land within an area to which these provisions apply, any development to which these provisions apply, that is to say, any development of land which consists of or includes—

- (a) the erection of a building containing office premises ; or
- (b) the extension or alteration of a building by the addition of, or the conversion of premises into, office premises ;
or
- (c) a change of use whereby premises which are not office premises become office premises,

shall be of no effect unless a permit (in these provisions referred to as an “ office development permit ”) in respect of that development is issued under these provisions by the Secretary of State, and a copy of the permit is furnished to the local planning authority together with the application.

(2) An office development permit shall be required for the purposes of an application for planning permission made as mentioned in section 29(1) of this Act if the circumstances are such that, in accordance with subsection (1) of this section, such a permit would have been required if the application had been for planning permission to construct or carry out the building or works, or to institute the use of land, which the application seeks permission to retain or continue or (as the case may be) seeks permission to retain or continue without complying with a condition previously imposed, and subsections (1) and (3) of this section shall have effect in relation to that application accordingly.

(3) In exercising his discretion to issue or withhold office development permits, the Secretary of State shall have particular regard to the need for promoting the better distribution of employment in Great Britain.

(4) The areas to which these provisions apply are any area which is for the time being designated for the purposes of this subsection by an order made by the Secretary of State.

73.—(1) Notwithstanding anything in section 72 of this Act, an office development permit shall not be required for the purposes of an application for planning permission to carry out any development (in this section referred to as “the proposed development”) if the office floor space to be created by the proposed development, together with any office floor space created or to be created by any related development, does not exceed the prescribed exemption limit. Exemption by reference to office floor space.

(2) For the purposes of subsection (1) of this section development shall, in relation to an application for planning permission (in this section referred to as “the relevant application”), be taken to be “related development” if—

- (a) it related, or is to relate, to the same building as that to which the proposed development is to relate (in this subsection referred to as the “relevant building”); or
- (b) it related, or is to relate, to a building which is, or is to be, contiguous or adjacent to the relevant building, and it was, or is to be, development comprised in, or for the purposes of, the same scheme or project or for the purposes of the same undertaking as the proposed development,

and (in either case) it fulfils one or other of the conditions mentioned in subsection (3) of this section and is not excluded by subsection (4) or (5) of this section.

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(3) The said conditions, in relation to land within an area to which these provisions apply, are—

- (a) that it is development for which, before the date of the relevant application, planning permission has been granted by a planning decision made on or after the specified date ;
- (b) that it is development (not falling within the preceding paragraph) which has been initiated on or after the specified date but before the date of the relevant application and is not development for which planning permission was (whether before or after the passing of this Act) granted by a planning decision made before the specified date ;
- (c) that it is development in respect of which an application to the local planning authority for planning permission either is pending on the date of the relevant application or is made on that date,

and in this subsection “the specified date”, in relation to an area, means such date (not being earlier than the date on which the order comes into operation) as may be specified in the order designating that area as an area to which these provisions apply.

(4) Where, before the date of the relevant application, an office development permit has been issued in respect of development which, apart from this subsection, would be related development for the purposes of subsection (1) of this section—

- (a) the development in respect of which the permit was issued ; and
- (b) any other development which was carried out before the issue of that permit, or for which planning permission was granted by a planning decision made before the issue of that permit,

shall not be taken to be related development for those purposes.

(5) Development in respect of which there has been issued by the Secretary of State an industrial development certificate with conditions attached to it by virtue of section 68(3)(b) of this Act shall not be taken to be related development for the purposes of subsection (1) of this section.

(6) In this section “the prescribed exemption limit”, subject to subsection (7) of this section, means 3,000 square feet ; any reference to development relating to a building is a reference to development consisting of or including the erection, extension or alteration of the building or a change of use of the whole or part of the building ; and any reference to an application pending on a particular date is a reference to an application

made before that date and not withdrawn, where no planning decision on that application has been made before that date.

(7) The Secretary of State may by order direct that such number of square feet (whether greater or less than 3,000 but not less than 1,000) as may be specified in the order shall be the prescribed exemption limit for the purposes of this section, either generally or in relation to any particular area to which these provisions apply in accordance with section 72(4) of this Act or in relation to any particular part of such an area.

74.—(1) Subject to subsection (2) of this section, these provisions shall have effect without prejudice to the operation of sections 65 and 66 of this Act; and, where these provisions and those sections are applicable to the same application for planning permission, the requirements of both must be complied with. Mixed industrial and office development.

(2) Compliance with section 72(1) of this Act shall not be required in respect of an application for planning permission for the development of land in any manner specified in section 65(1) of this Act if—

- (a) no office premises will result from the development except such as are comprised within the curtilage of an industrial building and are used or designed for use for providing services or facilities ancillary to the use of other premises in the same building or curtilage; and
- (b) there has been issued by the Secretary of State and furnished to the local planning authority with the application a copy of an industrial development certificate with conditions attached to it by virtue of section 68(3)(b) of this Act.

75.—(1) An office development permit in respect of any development may be issued subject to such restrictions on the making of an application for planning permission for that development (whether as to the period within which, or the persons by whom, such an application may be made, or otherwise) as the Secretary of State considers appropriate in the exercise of his discretion as mentioned in section 72(3) of this Act; and, where an office development permit in respect of any development is issued subject to any such restrictions, and an application for planning permission for that development is made which does not comply with those restrictions, these provisions shall apply in relation to that application as if no such permit had been issued. Restrictions or conditions attached to office development permits.

(2) Without prejudice to subsection (1) of this section, an office development permit may be issued either unconditionally or

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subject to such conditions as the Secretary of State considers appropriate in the exercise of his discretion as mentioned in section 72(3) of this Act ; and any reference in these provisions to conditions attached to an office development permit is a reference to conditions subject to which such a permit is issued.

(3) In so far as any of the conditions attached to an office development permit are of such a description that (apart from this section) they could not have been imposed under this Act, this Act shall apply in relation to any application for planning permission for the purposes of which that permit is required, and to any planning permission granted on such an application, as if the powers conferred by this Act included power to impose conditions of that description.

(4) Where conditions are attached to an office development permit, and, on an application for planning permission for the purposes of which that permit is required, planning permission is granted, the authority granting the permission shall grant it subject to those conditions, with or without other conditions.

(5) Planning permission to which subsection (4) of this section applies shall not be invalid by reason only that the requirements of that subsection are not complied with ; but where any such planning permission is granted without complying with the requirements of that subsection the planning permission shall be deemed to have been granted subject to the conditions attached to the office development permit, or (if any other conditions were imposed by the authority granting the permission) to have been granted subject to the conditions attached to the permit in addition to the other conditions.

Planning permission for erection of building where no office development permit required.

76.—(1) The provisions of this section shall, subject to subsection (4) of this section, have effect with respect to any planning permission for the erection of a building on land which is within a controlled area when the planning permission is granted and was also within such an area when the application for planning permission was made.

(2) If the case is the following, that is to say—

(a) either the proposed erection of the building is not development to which these provisions apply or it is such development but no office development permit is required for it ; and

(b) the building will have a floor space of twice, or more than twice, the prescribed exemption limit,

the planning permission for the erection of the building shall be granted subject to the condition specified in subsection (3)

of this section (in addition to any other conditions imposed by the authority granting the permission).

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(3) The said condition is that the use of the building, whether as originally erected or as subsequently extended or altered, shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate office floor space which exceeds the prescribed exemption limit.

(4) In the following two cases this section shall not apply—

- (a) where the planning permission is in respect of a building which is wholly residential ; and
- (b) where the planning permission is subject to conditions by virtue of section 68(5) or (6) of this Act and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.

77.—(1) The provisions of this section shall, subject to subsection (4) of this section, have effect with respect to any planning permission for the alteration or extension of a building on land which is within a controlled area when the planning permission is granted and was also within such an area when the application for planning permission was made, but shall have effect only in the case of a building erected under a planning permission granted on or after 8th December 1969.

Planning permission for alteration or extension of building where no office development permit required.

(2) If the case is the following, that is to say—

- (a) either the erection of the building was not development to which these provisions (or Part I of the Act of 1965) applied, or it was such development but no office development permit was required for it ; and
- (b) either the proposed alteration or extension is not development to which these provisions apply or it is such development but no office development permit is required for it ; and
- (c) there will result from the proposed alteration or extension a building with an aggregate floor space of twice, or more than twice, the prescribed exemption limit,

the planning permission for the alteration or extension shall be granted subject to the condition specified in subsection (3) of this section (in addition to any other conditions imposed by the authority granting the permission).

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(3) The said condition is that the use of the building as altered or extended, or as subsequently further altered or extended, shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate office floor space which exceeds the prescribed exemption limit.

(4) In the following two cases this section shall not apply—

- (a) where the planning permission is in respect of a building which, after its alteration or extension, will be wholly residential ; and
- (b) where the planning permission is subject to conditions by virtue of section 68(5) or (6) of this Act and those conditions either restrict the office floor space which the building as extended or altered may contain or preclude it from containing any office floor space.

Planning permission for erection of two or more buildings where no office development permit required.

78.—(1) The provisions of this section shall have effect with respect to any planning permission for development involving the erection of two or more buildings on land which is within a controlled area when the planning permission is granted and was also within such an area when the application for planning permission was made, except in a case where all the buildings are exempt from this section.

(2) Any one of the said buildings shall be exempt from this section if—

- (a) it is wholly residential ; or
- (b) the planning permission is subject to conditions by virtue of section 68(5) or (6) of this Act and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.

(3) If the aggregate floor space of the buildings proposed to be erected (leaving out of account any which are exempt from this section) is twice, or more than twice, the prescribed exemption limit, and either the erection of the buildings is not development to which these provisions apply or it is such development but no office development permit is required for it, the planning permission shall be granted subject to the condition specified in subsection (4) of this section (in addition to any other conditions imposed by the authority granting the permission).

(4) The said condition is that the use of each one of the buildings (excluding any which are exempt from this section) shall be restricted so that (whether in consequence of a change

of use or otherwise) it does not at any time contain office premises having an aggregate floor space which exceeds the limit for that building specified in the condition, which limit shall (subject to subsection (5) of this section) be a floor space bearing such proportion to the building's total floor space as the prescribed exemption limit bears to the aggregate floor space of all the buildings (excluding any which are exempt from this section) for whose erection the planning permission is granted.

(5) The authority granting the planning permission may in doing so specify in the said condition, as it applies to any building, a limit differing from the one provided by subsection (4) of this section, but not so that the total of the limits for all the buildings to which the condition applies exceeds the prescribed exemption limit.

(6) If after the grant of the planning permission a further application for planning permission is made in respect of all or any of the buildings to which the condition specified in subsection (4) of this section applies, and the further application involves a departure from the terms of the said condition as applying to any building, the application shall be subject to section 72(1) of this Act notwithstanding anything in these provisions exempting development from the requirements of that section in particular cases.

79.—(1) Any planning permission with respect to which section 76, 77 or 78 of this Act has effect shall not be invalid by reason only that the requirements of section 76(2), 77(2) or 78(3) of this Act, as the case may be, are not complied with; but in that case the planning permission shall be deemed to have been granted subject to the condition specified in section 76(3), 77(3) or 78(4) of this Act, as the case may be, or (if any other conditions are imposed by the authority granting the permission) to have been granted subject to the condition so specified in addition to the other conditions, and references in those sections to a condition imposed thereunder shall be construed accordingly as including references to a condition deemed to be imposed.

Provisions supplementary to ss. 76 to 78.

(2) In sections 76, 77 and 78 of this Act—

“controlled area” means an area to which these provisions apply, or, as respects any time before the commencement of this Act, Part I of the Act of 1965 applied;

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“ the prescribed exemption limit ” means that number of square feet which, at the time when the planning permission in question is granted, is for the purposes of section 73 of this Act the prescribed exemption limit in relation to the land to which the planning permission relates, whether—

(a) by virtue of subsection (6) of that section ; or

(b) if an order under subsection (7) of that section is for the time being in force and applies to the area, or part of an area, in which that land is situated, by virtue of that order ;

“ wholly residential ” in relation to a building, means for use exclusively as a dwellinghouse or comprising only units of accommodation for such use.

Provisions as to conditions imposed or implied in pursuance of these provisions.

80.—(1) This section applies to any condition subject to which planning permission is granted in accordance with these provisions or subject to which planning permission is by virtue of these provisions deemed to have been granted, whether or not is it a condition which could have been imposed apart from these provisions.

(2) If the planning permission is or was granted by the local planning authority, the Secretary of State shall not be required to entertain an appeal under section 33 of this Act from the decision of the local planning authority, in so far as that decision relates or related to any condition to which this section applies.

(3) Where planning permission is granted subject to a condition to which this section applies, and it appears to the authority granting the permission that the condition could have been imposed apart from these provisions and would have been imposed if these provisions had not been enacted, the decision granting the permission may include a certificate to that effect ; and, where such a certificate is included in a decision of the local planning authority—

(a) the Secretary of State shall not be required to entertain an appeal from the decision in so far as it includes the certificate ; but

(b) subject to the preceding paragraph, section 33 of this Act shall have effect in relation to the certificate as it has effect in relation to any other part of the decision.

(4) If any condition imposed by an authority granting planning permission is inconsistent with any condition to which

this section applies, the last-mentioned condition shall prevail in so far as it is inconsistent with the condition so imposed.

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(5) Where on an application made as mentioned in section 29(1) of this Act (as modified by section 72(2) of this Act) planning permission is granted (either unconditionally or subject to conditions) for a building to be retained, or a use of a building to be continued, without complying with a condition to which this section applies (that condition being one subject to which a previous planning permission was granted or is deemed to have been granted), nothing in sections 75 to 79 of this Act or in the preceding provisions of this section shall be construed as preventing the subsequent planning permission from operating so as to extinguish or modify that condition, as the case may be.

81. As soon as may be after the end of March in each year the Secretary of State shall prepare a report on the performance of his functions under these provisions, and shall lay the report before Parliament. Annual report.

82.—(1) In these provisions—

“the Act of 1965” means the Control of Office and Industrial Development Act 1965;

Interpretation
of these
provisions.

“building” includes any structure;

“building contract” means a contract (other than a lease) which is made in relation to land whereby a person undertakes to erect or extend a building on that land in the course of the carrying on by him of a business consisting wholly or mainly of the execution of building operations, or of building operations and engineering operations;

“erection”, in relation to a building, includes re-erection;

“premises” means a part of a building;

“these provisions” has the meaning assigned to it by section 71(7) of this Act.

(2) In these provisions “office floor space” means gross floor space comprised in office premises; and for the purposes of these provisions the amount of any such space shall be ascertained by external measurement of that space, whether the office premises in question are or are to be bounded (wholly or partly) by external walls of a building or not.

(3) In these provisions any reference to the granting of planning permission for the carrying out of any development

PART IV of land is a reference to the granting of planning permission for that development—

- (a) either in respect of that land taken by itself or in respect of that land together with other land ; and
- (b) either on an ordinary application or on an outline application (that is to say, an application for planning permission subject to subsequent approval on any matters).

(4) In these provisions any reference to a building containing office premises includes a reference to a building of which every part consists or is to consist of office premises ; and in these provisions any reference to the addition of office premises includes a reference to the addition of office premises together with other premises.

(5) In these provisions any reference to land within any area to which these provisions apply or, as respects any time before the commencement of this Act, the Act of 1965 applied, shall be construed as a reference to land of which any part is within the area in question.

(6) In these provisions any reference to an application made as mentioned in section 29(1) of this Act includes a reference to an application which by virtue of section 85(7) or 91(6) of this Act is deemed to have been made for such planning permission as is mentioned in the said section 85(7) or, as the case may be, the said section 91(6).

Temporary
operation
of these
provisions.

83.—(1) Unless Parliament otherwise determines, these provisions (other than this section) shall cease to have effect at the end of the period of seven years beginning with 5th August 1965.

(2) Where immediately before the end of that period any planning permission has effect subject to a condition subject to which the planning permission is by virtue of these provisions deemed to have been granted, the planning permission shall, as from the end of that period, have effect free from that condition.

(3) Where immediately before the end of that period any planning permission has effect subject to a condition imposed by the authority granting the permission in circumstances where that authority was required by these provisions to impose that condition, then unless the condition is the subject of a certificate under section 80(3) of this Act, the planning permission shall, as from the end of that period, have effect free from that condition.

(4) Subject to the preceding provisions of this section, at the end of that period section 38(2) of the Interpretation Act 1889 (effect of repeals) shall apply as if these provisions had, as from the end of that period, been repealed by another Act. PART IV
1889 c. 63.

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ENFORCEMENT OF CONTROL UNDER PARTS III AND IV

Development requiring planning permission

64.—(1) Where it appears to the local planning authority that there has been a breach of planning control after the end of 1964, then, subject to any directions given by the Secretary of State and to the following provisions of this section, the authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may serve a notice under this section (in this Act referred to as an “enforcement notice”) requiring the breach to be remedied. Power to
serve
enforcement
notice.

(2) There is a breach of planning control if development has been carried out, whether before or after the commencement of this Act, without the grant of planning permission required in that behalf in accordance with Part III of this Act, or if any conditions or limitations subject to which planning permission was granted have not been complied with.

(3) Where an enforcement notice relates to a breach of planning control consisting in—

- (a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land ; or
- (b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land ; or
- (c) the making without planning permission of a change of use of any building to use as a single dwelling-house,

it may be served only within the period of four years from the date of the breach.

(4) If any dispute arises under subsection (3) of this section as to the date on which the breach of planning control occurred, the onus of proof as to that date shall rest on the person claiming the benefit of that subsection.

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(5) An enforcement notice shall be served on the owner, lessee and occupier of the land to which it relates and on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.

(6) Where planning permission has effect subject to a condition to which section 80 of this Act applies, and by reason of anything done in a particular part of a building that condition is contravened, any enforcement notice relating to the contravention shall be taken to be served on the owner, lessee and occupier of the land to which it relates if it is served on the owner, lessee and occupier of that part of the building, whether it is also served on any other person or not.

(7) An enforcement notice shall specify—

- (a) the matters alleged to constitute a breach of planning control ;
- (b) the steps required by the authority to be taken in order to remedy the breach, that is to say steps for the purpose of restoring the land to its condition before the development took place or (according to the particular circumstances of the breach) of securing compliance with the conditions or limitations subject to which planning permission was granted ; and
- (c) the period for compliance with the notice, that is to say the period (beginning with the date when the notice takes effect) within which those steps are required to be taken.

(8) The steps which may be required by an enforcement notice to be taken include the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.

(9) Subject to section 85 of this Act, an enforcement notice shall take effect at the end of such period, not being less than twenty-eight days after the service of the notice, as may be specified in the notice.

(10) The local planning authority may withdraw an enforcement notice (without prejudice to their power to serve another) at any time before it takes effect ; and, if they do so, they shall forthwith give notice of the withdrawal to every person who was served with the notice.

(11) The validity of a notice purporting to be an enforcement notice shall not depend on whether any non-compliance to which the notice relates was a non-compliance with conditions, or with limitations, or with both ; and any reference in such a notice to non-compliance with conditions or limitations (whether both

expressions are used in the notice or only one of them) shall be construed as a reference to non-compliance with conditions, or with limitations, or both with conditions and limitations, as the case may require.

85.—(1) A person on whom an enforcement notice is served, or any other person having an interest in the land may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds—

Appeal against enforcement notice.

- (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged ;
- (b) that the matters alleged in the notice do not constitute a breach of planning control ;
- (c) in the case of a notice which, by virtue of section 84(3) of this Act, may be served only within the period of four years from the date of the breach of planning control to which the notice relates, that that period has elapsed at the date of service ;
- (d) in the case of a notice not falling within paragraph (c) of this subsection, that the breach of planning control alleged by the notice occurred before the beginning of 1965 ;
- (e) that the enforcement notice was not served as required by section 84(5) of this Act ;
- (f) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control ;
- (g) that the specified period for compliance with the notice falls short of what should reasonably be allowed.

(2) An appeal under this section shall be made by notice in writing to the Secretary of State, which shall indicate the grounds of the appeal and state the facts on which it is based ; and on any such appeal the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(3) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

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(4) On an appeal under this section—

- (a) the Secretary of State may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not material ;
- (b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by section 84(5) of this Act to be served with the notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

(5) On the determination of an appeal under this section, the Secretary of State shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the enforcement notice or for varying the terms of the notice in favour of the appellant ; and the Secretary of State may—

- (a) grant planning permission for the development to which the enforcement notice relates or, as the case may be, discharge any condition or limitation subject to which planning permission for that development was granted ;
- (b) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use thereof and to any planning permission relating to the land.

(6) In considering whether to grant planning permission under subsection (5) of this section, the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject-matter of the enforcement notice, and to any other material considerations ; and any planning permission granted by him under that subsection may—

- (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission ;
- (b) be granted subject to such conditions as the Secretary of State thinks fit ;

and where under that subsection he discharges a condition or limitation, he may substitute for it any other condition or limitation.

(7) Where an appeal against an enforcement notice is brought under this section, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the

Secretary of State of his powers under subsection (5) of this section, the following provisions shall have effect— **PART V**

- (a) any planning permission granted thereunder shall be treated as granted on the said application ;
- (b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final ; and
- (c) for the purposes of section 31 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.

(8) On an appeal under this section against an enforcement notice relating to anything done in contravention of a condition to which section 69 or 80 of this Act applies, the Secretary of State shall not be required to entertain the appeal in so far as the appellant claims that planning permission free from that condition ought to be granted.

(9) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.

(10) The validity of an enforcement notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds specified in paragraphs (b) to (e) of subsection (1) of this section.

(11) Subsection (10) of this section shall not apply to proceedings brought under section 86 of this Act against a person who—

- (a) has held an interest in the land since before the enforcement notice was served under section 84 of this Act ; and
- (b) did not have the enforcement notice served on him thereunder ; and
- (c) satisfies the court that—
 - (i) he did not know and could not reasonably have been expected to know that the enforcement notice had been served ; and
 - (ii) his interests have been substantially prejudiced by the failure to serve him.

86. Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person, without the grant of planning permission, uses the land Penalties for non-compliance with enforcement notices.

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or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine; and if the use is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £50 for each day on which the use is so continued, or on conviction on indictment to a fine.

Power to stop further development pending proceedings on enforcement notice.

87.—(1) Where in respect of any land the local planning authority have served an enforcement notice, they may at any time before the notice takes effect serve a further notice (in this Act referred to as a “stop notice”) referring to, and having annexed to it a copy of, the enforcement notice and prohibiting any person on whom the stop notice is served from carrying out or continuing any specified operations on the land, being operations either alleged in the enforcement notice to constitute a breach of planning control or so closely associated therewith as to constitute substantially the same operations.

(2) The operations which may be the subject of a stop notice shall include the deposit of refuse or waste materials on land where that is a breach of planning control alleged in the enforcement notice.

(3) A stop notice may be served by the local planning authority on any person who appears to them to have an interest in the land or to be concerned with the carrying out or continuance of any operations thereon.

(4) A stop notice—

- (a) shall specify the date (not being earlier than three nor later than fourteen days from the day on which the notice is first served on any person) when it is to take effect;
- (b) in relation to any person served with it, shall have effect as from that date or the third day after the date of service on him, whichever is the later; and
- (c) shall, without prejudice to subsection (7) of this section, cease to have effect when the enforcement notice takes effect or is withdrawn or quashed.

(5) If while a stop notice has effect in relation to him a person carries out, or causes or permits to be carried out, any operations prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine; and if the offence is continued after conviction he shall be guilty of a further

offence and liable on summary conviction to a fine not exceeding £50 for each day on which the offence is continued, or on conviction on indictment to a fine.

(6) A stop notice shall not be invalid by reason that the enforcement notice to which it relates was not served as required by section 84(5) of this Act if it is shown that the local planning authority took all such steps as were reasonably practicable to effect proper service.

(7) The local planning authority may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on persons who were served with the stop notice; and the stop notice shall cease to have effect as from the date of service of the notice under this subsection.

(8) Where a person (in this subsection called "the contractor") is under contract to another person (in this subsection called "the developer") to carry out any operations on land and—

(a) a stop notice takes effect (whether in relation to the developer or the contractor, or both) prohibiting the carrying out or continuance of those operations; and

(b) the operations are countermanded, or discontinued by the contractor accordingly,

then, unless and in so far as the contract makes provision explicitly to the contrary of this subsection, the developer shall be under the same liability in contract as if the operations had been countermanded or discontinued on instructions given by him in breach of the contract.

This subsection applies only to contracts entered into before the end of 1969.

88.—(1) If, within the period specified in an enforcement notice for compliance therewith, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, the local planning authority may enter on the land and take those steps, and may recover from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in doing so; and if that person, having been entitled to appeal to the Secretary of State failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken in accordance with the notice by the local planning authority.

Execution and cost of works required by enforcement notice.

(2) Any expenses incurred by the owner, lessee or occupier of any land for the purpose of complying with an enforcement notice served in respect of any breach of planning control (as

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defined in section 84(2) of this Act) and any sums paid by the owner or lessee of any land under subsection (1) of this section in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken, shall be recoverable from the person by whom the breach of planning control was committed.

(3) Regulations made under this Act may provide that, in relation to any steps required to be taken by an enforcement notice, either or both of the enactments specified in subsection (4) of this section shall apply, subject to such adaptations and modifications as may be specified in the regulations.

1946 c. 42.

(4) The said enactments are the following provisions of the Water (Scotland) Act 1946, that is to say—

- (a) section 57 (which limits the liability of persons holding premises as agents or trustees in respect of the expenses recoverable under Part III of that Act); and
- (b) section 68 (which confers power to require the occupier of premises to permit works to be executed by the owner of the premises).

Enforcement
notice to
have effect
against
subsequent
development.

89.—(1) Compliance with an enforcement notice, whether in respect of—

- (a) the demolition or alteration of any building or works ;
or
- (b) the discontinuance of any use of land,

or in respect of any other requirements contained in the enforcement notice, shall not discharge the enforcement notice.

(2) Without prejudice to subsection (1) of this section, any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III of this Act; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(3) Without prejudice to subsection (1) of this section, if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered.

(4) A person who, without the grant of planning permission in that behalf, carries out any development on land by way

of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £100.

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90.—(1) For the purposes of this Part of this Act, a use of land is established if—

Certification
of established
use.

- (a) it was begun before the beginning of 1965 without planning permission in that behalf and has continued since the end of 1964; or
- (b) it was begun before the beginning of 1965 under a planning permission in that behalf granted subject to conditions or limitations, which either have never been complied with or have not been complied with since the end of 1964; or
- (c) it was begun after the end of 1964 as the result of a change of use not requiring planning permission and there has been, since the end of 1964, no change of use requiring planning permission.

(2) Where a person having an interest in land claims that a particular use of it has become established, he may apply to the local planning authority for a certificate (in this Act referred to as an “established use certificate”) to that effect:

Provided that no such application may be made in respect of the use of land as a single dwellinghouse, or of any use not subsisting at the time of the application.

(3) An established use certificate may be granted (either by the local planning authority or, under section 91 of this Act, by the Secretary of State)—

- (a) either for the whole of the land specified in the application, or for a part of it;
- (b) in the case of an application specifying two or more uses, either for all those uses or for some one or more of them.

(4) On an application to them under this section, the local planning authority shall, if and so far as they are satisfied that the applicant’s claim is made out, grant to him an established use certificate accordingly; and if and so far as they are not so satisfied, they shall refuse the application.

(5) Where an application is made to a local planning authority for an established use certificate, then unless within such period as may be prescribed by a development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority, the authority give notice to the applicant of their decision on the

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application, then, for the purposes of section 91(2) of this Act, the application shall be deemed to be refused.

(6) Schedule 12 to this Act shall have effect with respect to established use certificates and applications therefor and to appeals under section 91 of this Act.

(7) An established use certificate shall, as respects any matters stated therein, be conclusive for the purposes of an appeal to the Secretary of State against an enforcement notice served in respect of any land to which the certificate relates, but only where the notice is served after the date of the application on which the certificate was granted.

(8) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for an established use certificate or on an appeal arising out of such an application—

- (a) knowingly or recklessly makes a statement which is false in a material particular; or
- (b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any document which is false in a material particular; or
- (c) with intent to deceive, withholds any material information,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

Grant of certificate by Secretary of State on referred application or appeal against refusal.

91.—(1) The Secretary of State may give directions requiring applications for established use certificates to be referred to him instead of being dealt with by local planning authorities; and, on any such application being referred to him in accordance with such directions, section 90(4) of this Act shall apply in relation to the Secretary of State as it applies in relation to the local planning authority in the case of an application determined by them.

(2) Where an application is made to a local planning authority for an established use certificate and is refused, or is refused in part, the applicant may by notice under this subsection appeal to the Secretary of State; and on any such appeal the Secretary of State shall—

- (a) if and so far as he is satisfied that the authority's refusal is not well-founded, grant to the appellant an established use certificate accordingly or, as the case may be, modify the certificate granted by the authority on the application; and

(b) if and so far as he is satisfied that the authority's refusal is well-founded, dismiss the appeal.

(3) On an application referred to him under subsection (1) of this section or on an appeal to him under subsection (2) of this section, the Secretary of State may, in respect of any use of land for which an established use certificate is not granted (either by him or by the local planning authority), grant planning permission for that use or, as the case may be, for the continuance of that use without complying with some condition subject to which a previous planning permission was granted.

(4) Before determining an application or appeal under this section the Secretary of State shall, if either the applicant or appellant (as the case may be) or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) In the case of any use of land for which the Secretary of State has power to grant planning permission under this section, the applicant or appellant shall be deemed to have made an application for such planning permission; and any planning permission so granted shall be treated as granted on the said application.

(6) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section.

Listed buildings

92.—(1) Where it appears to the local planning authority that any works have been, or are being, executed to a listed building in their district and are such as to involve a contravention of section 53(1) or (4) of this Act, then, subject to any directions given by the Secretary of State, they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, serve a notice—

Power to serve listed building enforcement notice.

(a) specifying the alleged contravention; and

(b) requiring such steps as may be specified in the notice for restoring that building to its former state or, as the case may be, for bringing it to the state it would have been in if the terms and conditions of any listed building consent for the works had been complied with, to be taken within such period as may be so specified.

(2) A notice under this section is in this Act referred to as a "listed building enforcement notice".

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(3) A listed building enforcement notice shall be served on the owner, on the lessee and on the occupier of the building to which it relates and on any other person having an interest in the building, being an interest which in the opinion of the authority is materially affected by the notice.

(4) Subject to section 93 of this Act, a listed building enforcement notice shall take effect at the end of such period, not being less than twenty-eight days after the service of the notice, as may be specified in the notice.

(5) The local planning authority may withdraw a listed building enforcement notice (without prejudice to their power to serve another) at any time before it takes effect ; and if they do so, they shall forthwith give notice of the withdrawal to every person who was served with the notice.

(6) Every local planning authority shall keep available for public inspection free of charge at reasonable hours and at a convenient place a list containing particulars of any building in their district in respect of which a listed building enforcement notice has been served.

Appeal
against listed
building
enforcement
notice.

93.—(1) A person on whom a listed building enforcement notice is served, or any other person having an interest in the building to which it relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds—

- (a) that the building is not of special architectural or historic interest ;
- (b) that the matters alleged to constitute a contravention of section 53 of this Act do not involve such a contravention ;
- (c) that the works were urgently necessary in the interests of safety or health, or for the preservation of the building ;
- (d) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted ;
- (e) that the notice was not served as required by section 92(3) of this Act ;
- (f) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out ;

- (g) that the period specified in the notice as the period within which any steps required thereby are to be taken falls short of what should reasonably be allowed ;
- (h) that the steps required by the notice to be taken would not serve the purpose of restoring the character of the building to its former state.

(2) An appeal under this section shall be made by notice in writing to the Secretary of State, which shall indicate the grounds of appeal and state the facts on which it is based ; and on any such appeal the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(3) Where an appeal is brought under this section the notice shall be of no effect pending the final determination or withdrawal of the appeal.

(4) On an appeal under this section,—

- (a) the Secretary of State may correct any informality, defect or error in the notice if he is satisfied that the informality, defect or error is not material ;
- (b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by section 92(3) of this Act to be served with the notice was not served, the Secretary of State may disregard that fact if he is satisfied that the person has not been substantially prejudiced by the failure to serve him.

(5) On the determination of an appeal under this section the Secretary of State shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the listed building enforcement notice or for varying the terms of the notice in favour of the appellant, and the Secretary of State may—

- (a) grant listed building consent for the works to which the notice relates or, as the case may be, discharge any condition subject to which such consent was granted and substitute any other condition, whether more or less onerous ;
- (b) in so far as any works already executed constitute development for which planning permission is required, grant such permission in respect of the works ;
- (c) if he thinks fit, exercise his power under section 52 of this Act to amend any list compiled or approved thereunder by removing from it the building to which the

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appeal relates or his power under subsection (8) of that section to direct that that subsection shall no longer apply to the building.

(6) Any planning permission granted by the Secretary of State under subsection (5) of this section shall be treated as granted on an application for the like permission under Part III of this Act, and any listed building consent granted by him thereunder shall be treated as granted on an application for the like consent under Part I of Schedule 10 to this Act; and—

(a) in relation to the grant thereunder either of planning permission or of listed building consent, the Secretary of State's decision shall be final;

(b) for the purposes of section 31 of this Act a decision of the Secretary of State to grant planning permission shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.

(7) The validity of a listed building enforcement notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds specified in paragraphs (b) or (e) of subsection (1) of this section.

(8) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section.

Penalties
for non-
compliance
with listed
building
enforcement
notice.

94.—(1) Subject to the provisions of this section, where a listed building enforcement notice has been served in respect of any building and any steps required by the notice to be taken have not been taken within the period allowed for compliance with the notice, the person responsible for the contravention mentioned in section 92(1) of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine.

(2) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and be liable—

(a) on summary conviction to a fine not exceeding £50 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled; or

(b) on conviction on indictment to a fine.

(3) Any reference in this or the next following section to the period allowed for compliance with a listed building enforcement notice is a reference to the period specified in the notice as that within which the steps specified in the notice are required thereby to be taken, or such extended period as the local planning authority may allow for taking them.

95.—(1) If, within the period allowed for compliance with a listed building enforcement notice, any steps required by the notice to be taken have not been taken, the authority may enter on the land and take those steps, and may recover from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in doing so.

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Execution and
cost of works
required by
listed building
enforcement
notice.

(2) Any expenses incurred by the owner, lessee or occupier of a building for the purpose of complying with a listed building enforcement notice, and any sums paid by the owner or lessee of a building under subsection (1) of this section in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

(3) The provisions of section 88(3) and (4) of this Act shall apply in relation to a listed building enforcement notice as they apply in relation to an enforcement notice; and any regulations made by virtue of this subsection may provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection (1) of this section.

96.—(1) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that a listed building enforcement notice should be served in respect of any land, he may give directions to the local planning authority requiring them to serve such a notice, or may himself serve such a notice; and any notice so served by the Secretary of State shall have the like effect as a notice served by the local planning authority.

Enforcement
by, or by
direction of,
the Secretary
of State.

(2) In relation to a listed building enforcement notice served by the Secretary of State, the provisions of sections 94(3) and 95 of this Act shall apply as if for any reference therein to the local planning authority there were substituted a reference to the Secretary of State.

97. If it appears to a local planning authority that any works are urgently necessary for the preservation of any unoccupied building situated in their district which—

Works for
preservation of
unoccupied
listed building
in cases of
urgency.

(a) is included in a list compiled or approved under section 52 of this Act; and

(b) is not an excepted building as defined in section 56(2) of this Act,

they may, after giving to the owner of the building not less than seven days' notice in writing of the proposed execution of the works, take such steps as they consider appropriate for executing the works.

PART V

Trees

Penalties for non-compliance with tree preservation order.

98.—(1) If any person, in contravention of a tree preservation order, cuts down or wilfully destroys a tree, or tops or lops a tree in such a manner as to be likely to destroy it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £250 or twice the sum which appears to the court to be the value of the tree, whichever is the greater.

(2) If any person contravenes the provisions of a tree preservation order otherwise than as mentioned in subsection (1) of this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(3) If, in the case of a continuing offence under this section, the contravention is continued after the conviction, the offender shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding £2 for each day on which the contravention is so continued.

Enforcement of duties as to replacement of trees.

99.—(1) If it appears to the local planning authority that the provisions of section 60 of this Act, or any conditions of a consent given under a tree preservation order which require the replacement of trees, are not complied with in the case of any tree or trees, that authority may, at any time within two years from the date on which the failure to comply with the said provisions or conditions came to their knowledge, serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified.

(2) Subject to the following provisions of this section, a notice under this section shall take effect at the end of such period, not being less than twenty-eight days after the service of the notice, as may be specified in the notice.

(3) A person on whom a notice under this section is served may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds—

- (a) that the provisions of the said section 60 or the conditions aforesaid are not applicable or have been complied with ;
- (b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified therein ;
- (c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry ;

(d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose ;

and the provisions of section 85(2), (3) and (4)(a) of this Act, and of so much of section 85(5) of this Act as enables the Secretary of State to give directions, shall apply in relation to any such appeal as they apply in relation to an appeal against an enforcement notice.

(4) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under subsection (3) of this section.

(5) In section 88 of this Act, and in regulations in force under that section, references to an enforcement notice and an enforcement notice served in respect of any breach of planning control shall include references to a notice under this section ; and in relation to such a notice the reference in subsection (2) of that section to the person by whom the breach of planning control was committed shall be construed as a reference to any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

Other controls

100.—(1) Where, by virtue of an order under section 49 of this Act, the use of land for any purpose is required to be discontinued, or any conditions are imposed on the continuance thereof, then if any person, without the grant of planning permission in that behalf, uses the land for that purpose or, as the case may be, uses the land for that purpose in contravention of those conditions, or causes or permits the land to be so used, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to a fine ; and if the use is continued after the conviction, he shall be guilty of a further offence and liable—

Enforcement of orders under s. 49.

- (a) on summary conviction to a fine not exceeding £50 for each day on which the use is so continued ; or
- (b) on conviction on indictment to a fine.

(2) If, within the period specified in that behalf in an order under section 49 of this Act, any steps required by that order to be taken for the alteration or removal of any buildings or works have not been taken, the local planning authority may, and shall if so required by directions of the Secretary of State, enter on the land and take those steps.

101.—(1) The matters for which provision may be made by regulations under section 61 of this Act shall include provision for enabling the local planning authority to require the removal of any advertisement which is being displayed in contravention

Enforcement of control as to advertisements.

PART V

of the regulations, or the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations, and for that purpose for applying any of the provisions of this Part of this Act with respect to enforcement notices or the provisions of section 166 of this Act, subject to such adaptations and modifications as may be specified in the regulations.

(2) Without prejudice to any provisions included in regulations made under section 61 of this Act by virtue of subsection (1) of this section, if any person displays an advertisement in contravention of the provisions of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed by the regulations, not exceeding £100 and, in the case of a continuing offence, £5 for each day during which the offence continues after conviction.

(3) For the purposes of subsection (2) of this section, and without prejudice to the generality thereof, a person shall be deemed to display an advertisement if—

- (a) the advertisement is displayed on land of which he is the owner or occupier ; or
- (b) the advertisement gives publicity to his goods, trade, business or other concerns :

Provided that a person shall not be guilty of an offence under that subsection by reason only that an advertisement is displayed on land of which he is the owner or occupier, or that his goods, trade, business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

PART VI

ACQUISITION AND APPROPRIATION OF LAND AND RELATED PROVISIONS

Acquisition and appropriation of land

Compulsory acquisition of land in connection with development and for other planning purposes.

102.—(1) The Secretary of State may authorise a local authority to whom this section applies to acquire compulsorily any land within their area if he is satisfied—

- (a) that the land is required in order to secure or assist the treatment as a whole, by development, redevelopment or improvement, or partly by one and partly by another method, of the land or of any area in which the land is situated ; or

- (b) that it is expedient in the public interest that the land should be held together with land so required ; or
- (c) that the land is required for development or redevelopment, or both, as a whole for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the redevelopment or improvement, or both, of another area as a whole ; or
- (d) that it is expedient to acquire the land immediately for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

(2) Where under subsection (1) of this section the Secretary of State has power to authorise a local authority to whom this section applies to acquire any land compulsorily he may, after the requisite consultation, authorise the land to be so acquired by another authority, being a local authority within the meaning of this Act.

(3) Before giving an authorisation under subsection (2) of this section, the Secretary of State shall—

- (a) where the land is in a county, consult with the county council ;
- (b) where the land is in a large burgh, consult with the town council ;
- (c) where the land is in a small burgh, consult with the town council and with the county council within whose area the burgh is situated.

(4) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act. 1947 c. 42.

(5) The local authorities to whom this section applies are the councils of counties, large burghs and small burghs.

103.—(1) The Secretary of State for the Environment may acquire compulsorily any land necessary for the public service. Compulsory acquisition of land by Secretary of State for the Environment

(2) The power of acquiring land compulsorily under this section shall include power to acquire a servitude or other right over land by the grant of a new right: Secretary of State for the Environment

Provided that this subsection shall not apply to a servitude or other right over any land which would for the purposes of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 form part of a common or open space.

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(3) The said Act of 1947 shall apply to any compulsory acquisition by the Secretary of State for the Environment under this section as it applies to a compulsory acquisition by another Minister in a case falling within section 1(1) of that Act.

Compulsory acquisition of listed building in need of repair.

104.—(1) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, the Secretary of State may authorise the local planning authority for the district in which the building is situated to acquire compulsorily under this section the building and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

(2) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, he may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required for the purpose mentioned in subsection (1) of this section.

(3) This section applies to any listed building, not being an excepted building as defined in section 56(2) of this Act.

(4) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.

1947 c. 42.

(5) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect—

- (a) as if this section had been in force immediately before the commencement of that Act; and
- (b) as if references therein to the Minister of Transport and to the enactments specified in section 1(1)(b) of that Act included respectively references to the Secretary of State and to the provisions of this section.

(6) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the notice required to be served under paragraph 3(b) of Schedule 1 to the said Act of 1947, apply to the sheriff for an order prohibiting further proceedings on the compulsory purchase order; and, if the sheriff is satisfied that reasonable steps have been taken for properly preserving the building, he shall make an order accordingly.

(7) Any person aggrieved by the decision of the sheriff on an application under subsection (6) of this section may appeal against the decision to the Court of Session, but on a question of law only.

105.—(1) Neither a local planning authority nor the Secretary of State shall start the compulsory purchase of a building under section 104 of this Act unless at least two months previously they have served on the owner of the building, and not withdrawn, a notice under this section (in this section referred to as a “repairs notice”)—

Repairs notice as preliminary to compulsory acquisition under s. 104.

- (a) specifying the works which they consider reasonably necessary for the proper preservation of the building ; and
- (b) explaining the effect of sections 104 to 107 of this Act.

(2) Where a local planning authority or the Secretary of State have served a repairs notice, the demolition of the building thereafter shall not prevent them from being authorised under section 104 of this Act to acquire compulsorily the site of the building, if the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished.

(3) A local planning authority or the Secretary of State may at any time withdraw a repairs notice served by them ; and if they do so, they shall forthwith give notice of the withdrawal to the person who was served with the notice.

(4) For the purposes of this section a compulsory acquisition is started when the local planning authority or the Secretary of State, as the case may be, serve the notice required by paragraph 3(b) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947. 1947 c. 42.

106. Subject to section 107 of this Act, for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which, immediately before the date of the compulsory purchase order, was listed, it shall be assumed that listed building consent would be granted for any works for the alteration or extension of the building, or for its demolition, other than works in respect of which such consent has been applied for before the date of the order and refused by the Secretary of State, or granted by him subject to conditions, the circumstances having been such that compensation thereupon became payable under section 160 of this Act.

Compensation on compulsory acquisition of listed building.

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Minimum
compensation
in case of
listed building
deliberately
left derelict.

107.—(1) A local planning authority proposing to acquire a building compulsorily under section 104 of this Act, if they are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or re-development of the site or any adjoining site, may include in the compulsory purchase order as submitted to the Secretary of State for confirmation an application for a direction for minimum compensation ; and the Secretary of State, if he is so satisfied, may include such a direction in the order as confirmed by him.

(2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 104 of this Act, he may, if he is satisfied as mentioned in subsection (1) of this section, include a direction for minimum compensation in the compulsory purchase order.

1947 c. 42.

(3) The notice required to be served in accordance with paragraph 3(b) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (notices stating effect of compulsory purchase order or, as the case may be, draft order) shall, without prejudice to so much of that paragraph as requires the notice to state the effect of the order, include a statement that the authority have made application for a direction for minimum compensation or, as the case may be, that the Secretary of State has included such a direction in the draft order prepared by him in accordance with paragraph 7 of that Schedule and shall in either case explain the meaning of the expression “ direction for minimum compensation ”.

1963 c. 51.

(4) A direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the Land Compensation (Scotland) Act 1963 or this Act, that planning permission would not be granted for any development or re-development of the site of the building and that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to, and maintaining it in, a proper state of repair ; and if a compulsory purchase order is confirmed or made with the inclusion of such a direction, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.

(5) Where a local planning authority include in a compulsory purchase order made by them an application for a direction for minimum compensation, or the Secretary of State includes such a direction in a draft compulsory purchase order prepared by him, any person having an interest in the building may, within

twenty-eight days after the service of the notice required by paragraph 3(b) of Schedule 1 to the said Act of 1947, apply to the sheriff for an order that the local planning authority's application for a direction for minimum compensation be refused or, as the case may be, that such a direction be not included in the compulsory purchase order as made by the Secretary of State; and if the sheriff is satisfied that the building has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1) of this section, he shall make the order applied for.

(6) A person aggrieved by the decision of the sheriff on an application under subsection (5) of this section may appeal against the decision to the Court of Session, but on a question of law only.

(7) The rights conferred by subsections (5) and (6) of this section shall not prejudice those conferred by section 104(6) and (7) of this Act.

108.—(1) Subject to the provisions of this section, upon the completion by the acquiring authority of a compulsory acquisition of land under this Part of this Act, 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 acquiring authority.

Extinguishment of rights over land compulsorily acquired.

(2) Subsection (1) of this section shall not apply to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking.

(3) In respect of any right or apparatus not falling within subsection (2) of this section, subsection (1) of this section shall have effect subject—

- (a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) of this section shall not apply to any right or apparatus specified in the direction; and
- (b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.

(4) Any person who suffers loss by the extinguishment of a right or servitude or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.

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1963 c. 51.

(5) Any compensation payable under this section shall be determined in accordance with the Land Compensation (Scotland) Act 1963.

Acquisition
of land by
agreement.

109.—(1) A local planning authority may, with the consent of the Secretary of State, acquire by agreement—

- (a) any land which they require for any purpose for which a local planning authority may be authorised to acquire land under section 102 of this Act ;
- (b) any building appearing to them to be of special architectural or historic interest ; and
- (c) any land comprising or contiguous or adjacent to such a building which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

1845 c. 19.
1845 c. 33.

1923 c. 20.

(2) The Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845) and sections 6 and 70 of the Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act, as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923, shall be incorporated with this section, and in construing those Acts as so incorporated this section shall be deemed to be the special Act and references to the promoters of the undertaking or to the company shall be construed as references to the authority authorised to acquire the land under this section.

Acquisition
of land for
purposes of
exchange.

110. Without prejudice to the generality of the powers conferred by the preceding provisions of this Part of this Act, any power of a local authority to acquire land thereunder, whether compulsorily or by agreement, shall include power to acquire land required for giving in exchange for land appropriated under section 111 of this Act.

Appropriation
of land
forming
part of
common or
open space.

111.—(1) Any local authority may be authorised, by an order made by that authority and confirmed by the Secretary of State, to appropriate for any purpose for which that authority can be authorised to acquire land under any enactment any land for the time being held by them for other purposes, being land which is or forms part of a common or open space (including any such land which is specially regulated by any enactment, whether public general or local or private).

(2) Paragraph 11 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (special provision with respect to compulsory purchase orders under that Act relating to land forming part of a common or open space) shall apply to an order under this section authorising the appropriation of land as it applies to a compulsory purchase order under that Act. PART VI
1947 c. 42.

(3) Section 163 of the Local Government (Scotland) Act 1947 (general provisions as to the appropriation of land by local authorities) shall not apply to land which a local authority have power to appropriate under subsection (1) of this section. 1947 c. 43.

(4) Where land appropriated under this section was acquired under an enactment incorporating the Lands Clauses Acts, any works executed on the land after the appropriation has been effected shall, for the purposes of section 6 of the Railways Clauses Consolidation (Scotland) Act 1845, be deemed to have been authorised by the enactment under which the land was acquired. 1845 c. 33.

(5) On an appropriation of land by a local authority under this section, where—

(a) the authority is not an authority to whom Part II of the Act of 1959 applies; or

(b) the land was immediately before the appropriation held by the authority for the purposes of a grant-aided function within the meaning of the Act of 1959, or is appropriated by the authority for the purposes of such a function,

there shall be made in the accounts of the local authority such adjustments as the Secretary of State may direct.

(6) On an appropriation under this section which does not fall within subsection (5) of this section, there shall be made such adjustment of accounts as is required by section 25(1) of the Act of 1959.

Powers exercisable in relation to land held for planning purposes, and other related powers

112.—(1) Where any land has been acquired or appropriated by a local planning authority for planning purposes and is for the time being held by the authority for the purposes for which it was so acquired or appropriated, the authority (subject to the following provisions of this section) may appropriate the 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 not contained in this Part of this Act. Appropriation of land held for planning purposes.

PART VI

(2) The consent of the Secretary of State shall be requisite to any appropriation under this section by an authority which is not an authority to whom Part II of the Act of 1959 applies; and any such consent may be given either in respect of a particular appropriation or in respect of appropriations of any class, and may be given either subject to or free from any conditions or limitations.

(3) For the purposes of subsection (2) of section 24 of the Act of 1959 (consent of Ministers to appropriations in certain cases) the power of appropriation conferred by subsection (1) of this section shall (except in respect of any exercise thereof in circumstances falling within subsection (2) of this section) be deemed to be a power in relation to which subsection (1) of that section has effect.

(4) In relation to any appropriation under this section subsections (5) and (6) of section 111 of this Act shall have effect as they have effect in relation to appropriations under those sections respectively.

(5) 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 this Act, by virtue of or under which the local planning authority are or may be authorised to appropriate land held by them.

Disposal of
land held
for planning
purposes.

113.—(1) Where any land has been acquired or appropriated by a local planning authority for planning purposes, and is for the time being held by the authority for the purposes for which it was so acquired or appropriated, the authority may dispose of the 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 any 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.

(2) The consent of the Secretary of State shall be requisite to any disposal under this section—

(a) by an authority which is not an authority to whom Part II of the Act of 1959 applies; or

(b) of land acquired or appropriated for planning purposes for a reason mentioned in section 102(1)(a) to (c) of this Act;

and any such consent may be given either in respect of a particular disposal or in respect of disposals of any class, and

may be given either subject to or free from any conditions or limitations.

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(3) Subject to the provisions of subsection (6) of this section, any land disposed of under this section 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.

(4) For the purposes of subsections (2) and (3) of section 27 of the Act of 1959 (consent of Ministers to disposals in certain cases), any disposal of land under this section shall be deemed to be a disposal which, apart from that section, could not be effected except with the consent of a Minister; and for the purposes of subsection (4) of that section (disposals for a price less than the best reasonably obtainable) the power of disposal conferred by subsection (1) of this section shall (except in respect of any exercise thereof in circumstances falling within subsection (2) of this section) be deemed to be a power in relation to which subsection (1) of that section has effect.

(5) 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 (1) 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.

(6) In relation to land acquired or appropriated for planning purposes for a reason mentioned in section 102(1)(a) to (c) of this Act the powers conferred by this section on a local planning authority, and on the Secretary of State in respect of the giving of consent to disposals under this section, shall 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

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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.

In this subsection "development" includes redevelopment.

(7) 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.

(8) 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 this Act, by virtue of or under which the local planning authority are or may be authorised to dispose of land held by them.

Development of land held for planning purposes.

114.—(1) The functions of a local planning authority shall include power for the authority, notwithstanding any limitation imposed by law on the capacity of the authority by virtue of its constitution, to erect, construct or carry out any building or work on any land to which this section applies, not being a building or work for the erection, construction or carrying out of which, whether by that authority or by any other person, statutory power exists by virtue of, or could be conferred under, an alternative enactment.

(2) This section applies to any land which has been acquired or appropriated by a local planning authority for planning purposes and is for the time being held by the authority for the purposes for which it was so acquired or appropriated.

(3) 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 subsection (1) of this section; and any such consent may be given either in respect of a particular operation or in respect of 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 (3) 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 land to which this section applies, and generally to deal therewith in a proper course of management.

(6) 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 a limitation as is mentioned in subsection (1) of this section.

(7) In this section “ alternative enactment ” means any enactment which is not contained in this Part of this Act or in section 5, 8, 13(1) or 14 of the Local Employment Act 1972.

1972 c. 5.

115.—(1) In the exercise of the powers of appropriation, disposal and development conferred by the provisions of sections 112, 113 and 114(1) of this Act, a local planning authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings; and the Secretary of State shall not give his consent to the appropriation or disposal thereunder of any land comprising a listed building, or to the erection, construction or carrying out of any building or work on any such land, unless either—

Special provisions as to features and buildings of architectural and historic interest.

- (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 listed building; or
- (b) the Secretary of State, after giving the requisite notice of the application for his consent, is satisfied that the purpose which the local planning authority seek to achieve by the proposed exercise of their powers is one which ought in the public interest to be carried out, and that the carrying out of that purpose, whether by the use of the land in question or otherwise, either—

- (i) would be prevented by the preservation of the listed building; or
- (ii) would be so affected by the preservation thereof that, notwithstanding the desirability of preserving the building, it is inexpedient to do so.

(2) For the purposes of subsection (1)(b) of this section the requisite notice of an application for the consent of the Secretary of State is a notice which—

- (a) contains such particulars of the appropriation, disposal or operation for which his consent is sought as appear to him to be requisite; and

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(b) not less than twenty-eight days before he gives his decision on the application, is published 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.

(3) In this section "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, and "development" includes redevelopment.

(4) This section is without prejudice to the provisions of section 262(5) of this Act.

Management etc. of listed buildings acquired by local planning authority or Secretary of State.

1953 c. 49.

116.—(1) Where a local planning authority acquire any building or other land under section 104(1) or 109(1)(b) of this Act, they may make such arrangements as to its management, use or disposal as they consider appropriate for the purpose of its preservation.

(2) Where the Secretary of State acquires any building or other land under section 104(2) of this Act, subsection (3) of section 5 of the Historic Buildings and Ancient Monuments Act 1953 (management, custody and disposal), except so much of it as refers to subsection (4) of that section, shall apply in relation thereto as it applies in relation to property acquired under that section.

Power to override servitudes and other rights.

117.—(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 for planning purposes, whether done by the local planning authority or by a person deriving title from them, is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this section applies, or involves a breach of a restriction as to the use of land arising by virtue of any deed or contract:

Provided that nothing in this subsection shall authorise interference with any right of way or right of laying down, erecting continuing or maintaining apparatus on, under or over land, being a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking.

(2) This section applies to the following interests and rights, that is to say, any servitude, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(3) In respect of any interference or breach in pursuance of subsection (1) of this section, compensation shall be payable under section 61 of the Lands Clauses Consolidation (Scotland) Act 1845 or under section 6 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.

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1845 c. 19.

1845 c. 33.

(4) Where a person deriving title from the local planning authority by whom the land in question was acquired or appropriated is liable to pay compensation by virtue of subsection (3) of this section, and fails to discharge that liability, the liability shall be enforceable against the local planning authority:

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

(5) Nothing in this section shall be construed 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 an interference or breach as is mentioned in subsection (1) of this section.

118.—(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, which has been acquired by a Minister, a local planning authority or statutory undertakers under this Part of this Act or compulsorily under any other enactment, or which has been appropriated by a local planning authority for planning purposes, may, subject to the following provisions of this section—

Provisions as to churches and burial grounds.

- (a) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and
- (b) in any other case, be used by any person in any manner in accordance with planning permission,

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:

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 reinterment of human remains,

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and the disposal of monuments, 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 subsection (1) of this section—

- (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 monuments ;
- (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased, and the disposal of any monument commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal, not exceeding such amount as may be prescribed ;
- (c) 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 monuments ;
- (d) with regard to such incidental and consequential matters (including the closing of registers) as appear to the Secretary of State to be expedient for the purposes of the regulations.

(3) Subject to the provisions of any such regulations, no authority shall be required for the removal and reinterment in accordance with the regulations of any human remains, or for the removal or disposal of any monuments.

(4) Nothing in this section shall be construed 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 contravention of any such enactment, obligation or restriction as is mentioned in subsection (1) of this section.

(5) In this section “burial ground” includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment, and includes part of a burial ground ; and “monument” includes a tombstone or other memorial and any fixtures or furnishings.

Use and
development
of land for
open spaces.

119.—(1) Any land being, or forming part of, a common or open space, which has been acquired by a Minister, a local authority or statutory undertakers under this Part of this Act or compulsorily under any other enactment, or which has been

appropriated by a local planning authority for planning purposes, PART VI
may—

- (a) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land ; and
- (b) in any other case, be used by any person in any manner in accordance with planning permission,

notwithstanding anything in any enactment relating to land of that kind, or in any enactment by which the land is specially regulated.

(2) Nothing in this section shall be construed 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 contravention of any such enactment as is mentioned in subsection (1) of this section.

120.—(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local planning authority for the purposes for which it was acquired or appropriated, and the carrying out of redevelopment on the land will involve the displacement of persons residing in premises thereon, it shall be the duty of the authority, in so far as there is no 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. Displacement of persons from land acquired or appropriated.

(2) Section 168 of the Housing (Scotland) Act 1966 (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 102 of this Act. 1966 c. 49.

(3) If the Secretary of State certifies that possession of a house which has been acquired or appropriated by a local planning authority for planning purposes, and is for the time being held by the authority for the purposes for which it was acquired or appropriated, is immediately required for those purposes, nothing in the Rent (Scotland) Act 1971 shall prevent the acquiring or appropriating authority from obtaining possession of the house. 1971 c. 28.

(4) Where any land has been acquired by a Minister or a local planning authority under this Part of this Act, or has been appropriated by a local planning authority for planning purposes, and possession of any building on the land is required by that Minister or the local planning authority in question, as the case may be, for the purposes for which the land was

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acquired or appropriated, then, at any time after the tenancy of the occupier has expired or has been determined, the Minister or local planning authority in question may serve a notice on the occupier 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) Where any land has been acquired by a Minister or a local planning authority under this Part of this Act, or has been appropriated by a local planning authority for planning purposes, that Minister, or the local planning authority in question, as the case may be—

- (a) may pay to any person who is displaced in the carrying out of redevelopment on the land such reasonable allowance as he or they think fit towards his expenses in removing; and
- (b) may pay to a person carrying on any business in a building from which he is so displaced such reasonable allowance as he or they think fit towards the loss which, in his or their opinion, that person will sustain by reason of the disturbance to his business consequent on his having to quit the building.

(6) In estimating loss for the purposes of paragraph (b) of subsection (5) of this section, the Minister or local planning authority in question shall have regard to the period for which the premises occupied by the person referred to in that paragraph might reasonably have been expected to be available for the purpose of that person's business, and to the availability of other premises suitable for that purpose.

Supplementary provisions

Modification
of incorporated
enactments
for purposes
of Part VI.
1947 c. 42.

121.—(1) Where it is proposed that land should be acquired compulsorily under section 102 or 103 of this Act, and a compulsory purchase order relating to that land is submitted to the confirming authority in accordance with Part I of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, or, as the case may be, is made in draft by the Secretary of State for the Environment in accordance with Part II of that Schedule, the confirming authority or that Secretary of State, as the case may be, may disregard for the purposes of that Schedule any objection to the order or draft which, in the opinion of that authority or Secretary of State, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.

(2) Where a compulsory purchase order authorising the acquisition of any land under section 102 of this Act is submitted

to the Secretary of State in accordance with Part I of Schedule 1 to the said Act of 1947, then if the Secretary of State—

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- (a) is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised therein ; but
- (b) has not for the time being determined whether it ought to be confirmed so far as it relates to any other such land,

he may confirm the order so far as it relates to the land mentioned in paragraph (a) of this subsection, and give directions postponing consideration of the order, so far as it relates to any other land specified in the directions, until such time as may be so specified.

(3) Where the Secretary of State gives directions under subsection (2) of this section, the notices required by paragraph 6 of Schedule 1 to the said Act of 1947 to be published and served shall include a statement of the effect of the directions.

(4) In construing the Lands Clauses Acts and section 6 of the Railways Clauses Consolidation (Scotland) Act 1845, as incorporated by virtue of paragraph 1 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, in relation to any of the provisions of this Part of this Act—

- (a) references to the execution of the works or to the construction of the railway shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by section 117 of this Act ;
- (b) in relation to the erection, construction or carrying out of any buildings or works so authorised, references in section 6 of the said Act of 1845 to the company shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out ; and
- (c) references to the execution of the works shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of a Minister or statutory undertakers on land acquired by that Minister or those undertakers, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

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Interpretation
of Part VI.

122.—(1) In this Part of this Act any reference to the acquisition of land for planning purposes is a reference to the acquisition thereof under section 102 or 109 of this Act and any reference to the appropriation of land for planning purposes is a reference to the appropriation thereof for purposes for which land can be or could have been acquired under those sections.

(2) In relation to a local planning authority or body corporate, nothing in sections 117 to 119 of this Act shall be construed as authorising any act or omission on their part in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the authority or body.

(3) Any power conferred by section 118 or 119 of this Act to use land in a manner therein mentioned shall be construed as a power so to use the land, whether it involves the erection, construction or carrying out of any building or work, or the maintenance of any building or work, or not.

PART VII

COMPENSATION FOR PLANNING DECISIONS RESTRICTING NEW DEVELOPMENT

Unexpended balance of established development value

Scope of
Part VII.

123.—(1) The provisions of this Part of this Act shall have effect for enabling compensation to be claimed in respect of planning decisions whereby permission for the carrying out of new development of land to which this section applies is refused or is granted subject to conditions.

(2) This section applies to any land in respect of which planning permission is refused or is granted subject to conditions, by a planning decision if, at the time of the planning decision, that land, or part of that land, has an unexpended balance of established development value.

(3) In accordance with the proviso to subsection (2) of section 29 of this Act, that subsection does not apply for the purposes of this Part of this Act.

Derivation of
unexpended
balance from
claims under
Part V of
Act of 1947.
1953 c. 16.

124.—(1) In determining, for the purposes of this Part of this Act, whether land has an unexpended balance of established development value, regard shall be had to claims made, in pursuance of Part V of the Act of 1947, for payments under the scheme provided for by section 55 of that Act (that is to say, the scheme which, but for the provisions of section 2 of the

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Town and Country Planning Act 1953, would have fallen to be made under the said section 55, providing for payments in respect of interests in land depreciated in value by virtue of the provisions of the Act of 1947).

(2) Where such a claim was made in respect of an interest in land, that claim shall for the purposes of this Part of this Act be taken to have been established in respect of that land under Part V of the Act of 1947 if an amount was determined under the said Part V as being the development value of the interest to which the claim related, and payment in respect of that interest would not have been excluded—

- (a) by section 60 of the Act of 1947 (which excluded claims where the development value was small in proportion to the area, or to the restricted value, of the land); or
- (b) by any of sections 79 to 82 of that Act (which related to certain land belonging to local authorities, development corporations and statutory undertakers, and to land held on charitable trusts); or
- (c) by section 81 of that Act as applied by regulations under section 86 of that Act (which related to the National Coal Board).

(3) In this Part of this Act “ established claim ” means a claim which by virtue of subsection (2) of this section is to be taken to have been established as therein mentioned, and references to the establishment of a claim shall be construed accordingly; and “ the claim area ”, in relation to an established claim, means the land in respect of which the claim is by virtue of that subsection to be taken to have been established.

(4) References in this Part of this Act to the benefit of an established claim—

- (a) in relation to any time before the passing of the Town and Country Planning Act 1953, whether before or after the making of the claim, or before or after the establishment thereof, shall be construed as references to the prospective right, under and subject to the provisions of the scheme referred to in subsection (1) of this section, to receive a payment in respect of the interest in land to which the claim related; and
- (b) in relation to any time after the passing of the said Act of 1953, shall be construed as references to such prospective right to the satisfaction of the claim as subsisted by virtue of section 2 of that Act immediately before 1st January 1955 (being the date of the commencement of the Act of 1954);

and references to part of the benefit of an established claim shall be construed accordingly.

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(5) References in this Part of this Act to the amount of an established claim are references to the amount determined under Part V of the Act of 1947 as being the development value of the interest in land to which the claim related.

(6) In this section any reference to Part V of the Act of 1947 includes a reference to the provisions of the said Part V as modified by Schedule 1 to the Act of 1954.

Original unexpended balance of established development value.

125.—(1) In this Part of this Act “original unexpended balance of established development value”, in relation to any land, means the unexpended balance of established development value which that land had immediately after the time when, in accordance with section 127 of this Act, the adjustment of claim holdings is deemed to have been completed.

(2) For the purposes of this Part of this Act land shall be taken to have had such a balance if, immediately after the time referred to in subsection (1) of this section—

- (a) there were subsisting one or more claim holdings whose area consisted of that land, or included that land together with other land; and
- (b) there was not subsisting any claim holding whose area consisted of part only of that land, whether with or without other land.

(3) Where subsection (2) of this section applies, there shall be attributed to the land referred to in that subsection—

- (a) the value of any claim holding having an area consisting of that land; and
- (b) such fraction of the value of any claim holding whose area included that land as attached to that land,

and the original unexpended balance of established development value of that land shall be taken to have been an amount equal to eight-sevenths of the amount or aggregate amount so attributed.

Claim holdings, their areas and values.

126.—(1) Subject to the provisions of this section and of section 127 of this Act, in this Part of this Act—

- (a) “claim holding” means the benefit of an established claim, references to the area of a claim holding are references to the land which, in relation to the established claim constituting that holding, is the claim area, and references to the value of a claim holding are references to the amount of the established claim constituting that holding; and

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- (b) references to the fraction of the value of a claim holding which attached to a part of the area of the holding are references to so much of the amount of the established claim of which that holding represents the benefit or part of the benefit (in this section referred to as "the relevant established claim") as was properly attributable to that part of the area of the holding.

(2) In the case of a claim holding where—

- (a) the area of the holding is the same as the claim area of the relevant established claim ; but
- (b) the value of the claim holding is, by virtue of the adjustment of claim holdings, less than the amount of the relevant established claim,

the amount of any such fraction as is referred to in subsection (1)(b) of this section shall be treated as reduced proportionately.

(3) In the case of a claim holding where—

- (a) the area of the holding consists of part only of the claim area of the relevant established claim ; and
- (b) the value of the holding is, by virtue of the adjustment of claim holdings, less or greater than so much of the amount of the relevant established claim as was properly attributable to the area of the holding.

the amount of any such fraction as is referred to in subsection (1)(b) of this section shall be treated as reduced, or (as the case may be) increased, proportionately.

(4) For the purposes of this section, the part of the amount of the relevant established claim which was properly attributable to any land forming part of the claim area shall be taken to have been so much of the amount of that claim as might reasonably be expected to have been attributed to that land if the authority determining that amount had been required to apportion it, in accordance with the same principles as applied to its determination, between that land and the residue of the claim area.

127.—(1) The provisions of Schedule 13 to this Act shall have effect for the purposes of this Part of this Act ; and any reference in this Part of this Act to the adjustment of claim holdings is a reference to the operation of those provisions. Adjustment
of claim
holdings.

(2) For the purposes of this Part of this Act the adjustment of claim holdings shall be deemed to have been completed on 1st January 1955.

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 General provision for continuance of original unexpended balance.

128. Where in accordance with section 125 of this Act land had an original unexpended balance of established development value, then, subject to the following provisions of this Part of this Act, that land shall be taken—

- (a) to have continued to have that balance until the commencement of this Act ; and
- (b) to continue to have that balance at all times thereafter.

Reduction or extinguishment of balance in consequence of compensation.

129.—(1) Where at any time compensation becomes payable under this Part of this Act, or became payable under Part II of the Act of 1954, in respect of depreciation of the value of an interest in land by a planning decision, then, for the purpose of determining whether that land or any part thereof has or had an unexpended balance of established development value at any subsequent time, the amount of the compensation shall be deducted from the original unexpended balance of established development value of that land, and the original unexpended balance of that land or that part thereof shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

(2) Subsection (1) of this section shall have effect subject to the provisions of this Part of this Act relating to the recovery of compensation on subsequent development.

Reduction or extinguishment of balance on initiation of new development.

130.—(1) Where in accordance with section 125 of this Act land had an original unexpended balance of established development value, and at any time on or after 1st July 1948 (whether before or after the commencement of this Act) any new development of that land is or was initiated, then (subject to the following provisions of this section) for the purpose of determining whether that land or any part thereof has or had an unexpended balance of established development value at any subsequent time—

- (a) if the development relates or related only to that land, the value of that development (ascertained, with reference to that subsequent time, in accordance with the provisions of Schedule 14 to this Act) ; or
- (b) if the development relates or related to that land together with other land, so much of the value of that development (so ascertained) as is or was attributable to that land,

shall be deducted from the original unexpended balance of established development value of that land, and the original unexpended balance of that land or that part thereof shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

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(2) Subsection (1) of this section shall not apply to any land if, in respect of any interest therein, a payment has become or becomes payable under section 56 of the Act of 1947 (which provided for payments in respect of certain war-damaged land).

(3) For the purposes of subsection (1) of this section no account shall be taken of any development initiated before 1st January 1955, if a development charge under Part VI of the Act of 1947 was determined to be payable in respect thereof, or would have fallen to be so determined but for any exemption conferred by regulations under that Part of that Act, or by any provisions of Part VII of that Act.

131.—(1) Where in the case of—

- (a) a compulsory acquisition to which this section applies ; or
- (b) a sale of an interest in land by agreement in circumstances corresponding to such an acquisition,

Reduction or extinguishment of balance on acquisition of land under compulsory powers.

any of the land in which the interest acquired or sold subsists or subsisted has or had an unexpended balance of established development value immediately before the relevant date (in this section referred to as “ the relevant balance ”) the following provisions of this section shall have effect for the purpose of determining whether that land or any part thereof has or had an unexpended balance of established development value at any subsequent time.

(2) This section applies—

- (a) to every compulsory acquisition of an interest in land in pursuance of a notice to treat served on or after 30th October 1958, whether before or after the commencement of this Act ; and
- (b) to every compulsory acquisition of an interest in land, in pursuance of a notice to treat served on or after 1st January 1955 but before the said 30th October, by an authority possessing compulsory purchase powers, being at that time a government department or local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act 1919, or a person or body of persons to whom that Act applied as it applied to such a department or authority.

1919 c. 57.

(3) Unless, immediately after the acquisition or sale, there is or was outstanding some interest (other than an excepted interest) in the land to which some person other than the acquiring authority is or was entitled, the original unexpended balance of

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established development of that land shall be treated as having been extinguished immediately before the subsequent time referred to in subsection (1) of this section.

(4) If, immediately after the acquisition or sale, there is or was such an outstanding interest (other than an excepted interest) as is mentioned in subsection (3) of this section, there shall be deducted from the said original balance an amount equal to any part of the relevant balance which is or was not attributable to any such outstanding interest, and the original unexpended balance of established development value of the land or the part thereof in question shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

(5) For the purposes of this section any question as to the portion of the relevant balance which is or was attributable to an interest in land—

- (a) in relation to a compulsory acquisition to which this section applies, shall be determined in accordance with the provisions of Schedule 15 to this Act ; and
- (b) in relation to a sale of an interest in land by agreement in circumstances corresponding to such an acquisition, shall be determined in accordance with the provisions of that Schedule as those provisions would apply if the sale had been a compulsory acquisition in pursuance of a notice to treat served on the relevant date.

(6) Any reference in this section or in section 132 of this Act to a sale of an interest in land by agreement in circumstances corresponding to a compulsory acquisition to which this section applies is a reference to a sale thereof—

- (a) to an authority possessing compulsory purchase powers, in pursuance of a contract made on or after 30th October 1958, whether before or after the commencement of this Act ; or
- (b) to such an authority possessing compulsory purchase powers as is mentioned in subsection (2)(b) of this section, in pursuance of a contract made on or after 1st January 1955 but before the said 30th October.

(7) In this section “ the relevant date ” means the date of service of the notice to treat or the date of the contract in pursuance of which the interest was sold, as the case may be, and “ excepted interest ” means the interest of any such person as is mentioned in section 114 of the Lands Clauses Consolidation (Scotland) Act 1845 (which relates to persons having no greater interest than as tenant for a year or from year to year).

132.—(1) Where in connection with—

(a) a compulsory acquisition to which section 131 of this Act applies ; or

(b) a sale of an interest in land by agreement in circumstances corresponding to such an acquisition,

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Reduction or extinguishment of balance in consequence of severance or injurious affection.

compensation is or was payable, or an amount is or was included in the purchase price, in respect of an interest in land other than the relevant land (in this section referred to as “ the interest affected ”), for damage sustained by reason that the relevant land is or was severed from other land held therewith, or that any other land (whether held with the relevant land or not) is or was injuriously affected, then (subject to the following provisions of this section) for the purpose of determining whether that other land or any part thereof has or had an unexpended balance of established development value at any subsequent time, there shall be deducted from the original unexpended balance of established development value of that other land an amount calculated in accordance with the following provisions of this section, and the original unexpended balance of that land, or of the part thereof in question, as the case may be, shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

(2) In the case of an acquisition or sale in pursuance of a notice to treat served, or contract made, on or after 30th October 1958, the amount to be deducted, as mentioned in subsection (1) of this section, shall be the amount (if any) by which the compensation payable, or amount included in the purchase price, as therein mentioned exceeds or exceeded the compensation which would have been so payable, or the amount which would have been so included, if the extent of the damage sustained in respect of the other land in question had fallen to be ascertained on the assumption that planning permission would not be granted for any new development of that land, but would be granted for any development thereof other than new development.

(3) The following provisions of this section shall have effect with respect to any such acquisition or sale as is mentioned in subsection (1) of this section, being an acquisition or sale in pursuance of a notice to treat served, or contract made, before 30th October 1958 ; and any such acquisition or sale is hereinafter referred to as an acquisition or sale to which this subsection applies.

(4) No such deduction as is mentioned in subsection (1) of this section shall be made in the case of an acquisition or sale to which subsection (3) of this section applies unless—

(a) where it was a compulsory acquisition, an amount was

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paid by way of compensation as mentioned in the said subsection (1) ;

- (b) the amount which was so paid, or, in the case of a sale by agreement, was included in the purchase price as mentioned in the said subsection (1) (hereafter in this section referred to as "the sum paid for severance or injurious affection") exceeded the loss of immediate value of the interest affected ; and
- (c) where it was a sale by agreement, the other land in question was held with the relevant land.

(5) Subject to subsection (4) of this section, the amount to be deducted as mentioned in subsection (1) of this section, in the case of an acquisition or sale to which subsection (3) of this section applies, shall be the amount by which the sum paid for severance or injurious affection exceeded the loss of immediate value of the interest affected.

(6) The following provisions of this subsection shall have effect, in the case of an acquisition or sale to which subsection (3) of this section applies, where so much (if any) of the sum paid for severance or injurious affection as was attributable to the loss of immediate value of the interest affected was less than the depreciation in restricted value of that interest, that is to say—

- (a) the amount of the difference shall be ascertained ; and
- (b) for the purpose of determining whether, at any time after the acquisition or sale, the land in which the interest affected subsisted or any part thereof had or has an unexpended balance of established development value (whether or not that land or any part thereof would apart from this subsection have had an original unexpended balance of established development value) a claim holding with an area consisting of that land and a value equal to seven-eighths of the amount of the difference shall be deemed to have subsisted immediately after the time when the adjustment of claim holdings was completed.

(7) In this section—

"the loss of immediate value" means the amount (if any) by which the difference in the value of the interest affected, immediately before and immediately after the acquisition or sale, exceeded the loss of development value ;

"the loss of development value" means the amount (if any) by which the value of the interest affected immediately before the acquisition or sale, if calculated on the assumption that, until such time as the land in which that interest subsisted might reasonably be expected

to become ripe for new development, no use whatever could be made of that land, would have exceeded the value of that interest immediately after the acquisition or sale if calculated on the like assumption ;

“ the depreciation in restricted value ” means the amount (if any) by which the value of the interest affected, immediately after the acquisition or sale, would have been less than the value of that interest immediately before the acquisition or sale, if both values were calculated on the assumption that planning permission would not be granted for any new development of that land, but would be granted for any development thereof other than new development ;

“ the relevant land ”, in relation to an acquisition or sale, means the land in which the interest acquired or sold subsisted.

133.—(1) Where, immediately after the time when the adjustment of claim holdings was completed, any land taken as a whole had an original unexpended balance of established development value, and at any time thereafter (whether before or after the commencement of this Act) an act or event occurs or has occurred in relation to part of that land such that, in accordance with any of the preceding provisions of this Part of this Act, an amount is required to be deducted from the original unexpended balance of that part of that land for the purpose of determining whether it has or had an unexpended balance of established development value at any subsequent time, then (without prejudice to the operation of any of the preceding provisions of this Part of this Act with respect to any part of the land taken separately) the land taken as a whole shall be treated as not having (or as not having had) any such balance at that subsequent time.

Supplementary provisions as to deductions from original balance.

(2) Where in accordance with any of the preceding provisions of this Part of this Act an amount is required to be deducted from the original unexpended balance of established development value of any land, there shall be attributed to the various parts of that land so much of that amount as might reasonably be expected to have been attributed thereto if the authority determining the amount had been required to apportion it between those parts in accordance with the same principles as applied to its determination.

(3) Where two or more acts or events occur or have occurred in relation to the same land (whether before or after the commencement of this Act) such that, in accordance with any of the preceding provisions of this Part of this Act, an amount is required to be deducted from the original unexpended balance

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of established development value of that land or any part thereof, those provisions shall apply cumulatively, and the requisite deduction from the original unexpended balance of established development value of that land shall be made by reference to each of those acts or events.

Provision of information relating to unexpended balance.

134.—(1) Subject to the provisions of this section, the Secretary of State shall, on application being made to him by any person, and may if he thinks fit without any such application, issue a certificate in the prescribed form with respect to any land stating whether any of that land had an original unexpended balance of established development value, and, if so—

- (a) giving a general statement of what was taken by the Central Land Board, for the purposes of Part V of the Act of 1947, to be the state of that land on 1st July 1948; and
- (b) specifying (subject to any outstanding claims under Part I or Part V of the Act of 1954) the amount of that original balance.

(2) Any such certificate issued with respect to any land may, if the Secretary of State thinks fit, contain additional information with respect to acts or events in consequence of which, in accordance with any of the preceding provisions of this Part of this Act, an amount is required to be deducted from the original unexpended balance of established development value of any of that land.

(3) Where, at any time on or after 1st January 1955 (whether before or after the commencement of this Act), a notice to treat has been served with a view to the compulsory acquisition of an interest in land by an authority possessing compulsory purchase powers, that authority may apply to the Secretary of State for, and shall be entitled to the issue of, a certificate showing the unexpended balance of established development value (if any) of any of that land immediately before the service of that notice.

(4) Where the issue of a certificate under this section with respect to any land involves a new apportionment, or, in the case of a certificate under subsection (3) of this section, involves the calculation of a deduction from the original unexpended balance of established development value by virtue of section 130 of this Act, then—

- (a) except in the case of a certificate under subsection (3) of this section, or of a certificate which the Secretary of State proposes to issue without any application being made for it, the certificate shall not be issued otherwise than on the application of a person who is for the time being entitled to an interest in that land;

- (b) before issuing the certificate, the Secretary of State shall give notice in writing to any person entitled to an interest in land appearing to him to be an interest which will be substantially affected by the apportionment or calculation, giving particulars of the proposed apportionment or calculation, and stating that objections or other representations with respect thereto may be made to the Secretary of State within the period of thirty days from the date of the notice ; and
- (c) the certificate shall not be issued before the end of that period, and if within that period an objection to the proposed apportionment or calculation has been made by any person to whom notice has been given under paragraph (b) of this subsection, or by any other person who establishes that he is entitled to an interest in land which is substantially affected by the apportionment or calculation, and that objection has not been withdrawn, subsection (5) of this section shall have effect.

(5) Where by virtue of subsection (4)(c) of this section this subsection is to have effect, then—

- (a) if within a further period of thirty days the person by whom any such objection was made requires the dispute to be referred to the Lands Tribunal, the dispute shall be so referred, and the certificate shall not be issued until either the Tribunal has decided the matter or the reference to the Tribunal has been withdrawn ;
- (b) the certificate may be issued before the end of the said further period if every such objection has been withdrawn ;
- (c) the certificate shall be issued at the end of that further period, notwithstanding that every such objection has not been withdrawn, if no requirement has within that period been made under paragraph (a) of this subsection.

(6) Where, on a reference to the Lands Tribunal under this section, it is shown that a new apportionment relates partly to the same matters as a previous apportionment, and is consistent with that previous apportionment in so far as it relates to those matters, the Tribunal shall not vary the new apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.

(7) A certificate under subsection (3) of this section shall be conclusive evidence of the unexpended balance shown there-

PART VII in ; and a certificate under subsection (1) of this section shall be sufficient proof of any facts stated therein unless the contrary is shown.

(8) An application for a certificate under this section shall be made in such form and manner as may be prescribed, and shall be accompanied by sufficient particulars, including a map if necessary, to enable the land to be identified, and, where a new apportionment will be involved, particulars of the nature of the applicant's interest, and such information as to the nature of any other interest in the land, and as to the name and address of the person entitled to that other interest, as may be known to the applicant.

(9) On any application under subsection (1) of this section the applicant shall pay in the prescribed manner a fee of twenty-five new pence, and, if the application involves a new apportionment, the certificate shall not be issued until the applicant has paid in the prescribed manner a further fee of seventy-five new pence.

(10) In this section "new apportionment" means an apportionment which relates wholly or partly to any matter to which no previous apportionment related.

Right to compensation

General provision as to right to compensation.

135. Subject to the provisions of this Part of this Act, a person shall be entitled to compensation under this Part of this Act in respect of a planning decision whereby planning permission for the carrying out of new development of land is refused, or is granted subject to conditions, if—

- (a) at the time of the decision he is entitled to an interest in any land to which the decision relates which has an unexpended balance of established development value ; and
- (b) the value of that interest, or, in the case of an interest extending to other land, the value of that interest in so far as it subsists in such land as is referred to in the preceding paragraph, is depreciated by the decision.

Planning decisions not ranking for compensation.

136.—(1) Compensation under this Part of this Act shall not be payable—

- (a) in respect of the refusal of planning permission for any development which consists of or includes the making of any material change in the use of any buildings or other land ; or
- (b) in respect of any decision made on an application in pursuance of regulations under section 61 of this Act for consent to the display of advertisements.

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(2) Compensation under this Part of this Act shall not be payable in respect of the imposition, on the granting of planning permission to develop land, of any condition relating to—

- (a) the number or disposition of buildings on any land ;
- (b) the dimensions, design, structure or external appearance of any building, or the materials to be used in its construction ;
- (c) the manner in which any land is to be laid out for the purposes of the development, including the provision of facilities for the parking, loading, unloading or fuelling of vehicles on the land ;
- (d) the use of any buildings or other land ; or
- (e) the location or design of any means of access to a highway, or the materials to be used in the construction of any such means of access,

or in respect of any conditions subject to which permission is granted for the winning and working of minerals.

In this subsection “ means of access to a highway ” does not include a service road.

(3) Compensation under this Part of this Act shall not be payable in respect of the application to any planning permission of any of the conditions referred to in sections 38 and 39 of this Act or in respect of the imposition of any condition to which section 69 or 80 of this Act applies.

(4) Compensation under this Part of this Act shall not be payable in respect of the refusal of permission to develop land, if the reason or one of the reasons stated for the refusal is that development of the kind proposed would be premature by reference to either or both of the following matters, that is to say—

- (a) the stages indicated, in the structure plan or local plan for the area in which the land is situated, as the stages by which development is to be carried out ;
- (b) any existing deficiency in the provision of water supplies or sewerage services, and the period within which any such deficiency may reasonably be expected to be made good :

Provided that this subsection shall not apply if the planning decision refusing the permission is made on an application made more than seven years after the date of a previous planning decision whereby permission to develop the same land was refused for the same reason, or for reasons which included the same reason.

In this subsection, the reference to the structure plan or local plan for the area in which the land is situated is a reference to

PART VII the structure plan or local plan for that area as approved by the Secretary of State, or, if the plan so approved has been amended by the Secretary of State, to that plan as so amended.

(5) Compensation under this Part of this Act shall not be payable in respect of the refusal of permission to develop land, if the reason or one of the reasons stated for the refusal is that the land is unsuitable for the proposed development on account of its liability to flooding or to subsidence.

(6) For the purposes of this section, a planning decision whereby permission to develop land is granted subject to a condition prohibiting development on a specified part of that land shall be treated as a decision refusing the permission with respect to that part of the land.

No compensation if certain other development permitted.

137.—(1) Compensation under this Part of this Act shall not be payable in respect of a planning decision whereby permission is refused for the development of land if, notwithstanding that refusal, there is available with respect to that land planning permission for development to which this section applies:

Provided that, where such permission is available with respect to part only of the land, this section shall have effect only in so far as the interest subsists in that part.

(2) Where a claim for compensation under this Part of this Act is made in respect of an interest in any land, planning permission for development to which this section applies shall be taken for the purposes of this section to be available with respect to that land or a part thereof if, immediately before the Secretary of State gives notice of his determination in respect of that claim, there is in force with respect to that land, or that part thereof, a grant of, or an undertaking by the Secretary of State to grant, planning permission for some such development, subject to no conditions other than such as are mentioned in section 136(2) of this Act.

(3) This section applies to any development of a residential, commercial or industrial character, being development which consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination thereof.

Further exclusions from compensation.

138.—(1) Where an interest in any land has (whether before or after the commencement of this Act) been compulsorily acquired by, or sold to, an authority possessing compulsory purchase powers (not being statutory undertakers or the National

Coal Board), that authority, and any person deriving title from that authority under a conveyance made by that authority on or at any time after 1st July 1948, shall not be entitled to compensation under this Part of this Act in respect of a planning decision made after the service of the notice to treat, or after the making of the contract of sale, as the case may be, by reason that the value of that interest, or of any interest created (whether directly or indirectly) out of that interest, is depreciated by the decision.

(2) Subsection (1) of this section shall apply to land which has at any time on or after 1st July 1948 (whether before or after the commencement of this Act) been appropriated by a local authority for a purpose for which the authority could have been authorised to acquire the land compulsorily, as it applies to land in which an interest has been acquired as mentioned in that subsection, with the substitution, for the reference to the service of the notice to treat, of a reference to the appropriation.

(3) Where at the relevant date any land was or is operational land of statutory undertakers, or land of the National Coal Board of a class specified in regulations made under section 86 of the Act of 1947 or under section 259 of this Act, the statutory undertakers or the National Coal Board, as the case may be, and any person deriving title from those undertakers or that Board, shall not be entitled to compensation under this Part of this Act, in respect of a planning decision made after the relevant date, by reason that the value of any interest in that land is depreciated by that decision.

In this subsection "the relevant date", in relation to land which was such operational land or land of the National Coal Board as is mentioned in this subsection on 1st January 1955, means that day, and, in relation to land which (whether before or after the commencement of this Act) became or becomes such operational land or land of the National Coal Board on a date subsequent to the said 1st January, means that subsequent date.

(4) A person shall not be entitled to compensation under this Part of this Act in respect of depreciation of the value of an interest in land by a planning decision if he is entitled to compensation by virtue of section 154 of this Act in respect of depreciation of the value of that interest by that decision.

(5) A creditor in a heritable security shall not be entitled to compensation under this Part of this Act in respect of his interest as creditor :

Provided that this subsection shall be without prejudice to the operation of any regulations made under section 151 of this Act.

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Grant of
planning
permission
treated as
subject to
notional
condition.

139.—(1) The provisions of this section shall have effect where—

- (a) on an application for planning permission for the carrying out of new development of land, a planning decision is made whereby the permission is granted, whether unconditionally or subject to conditions ; and
- (b) the Secretary of State certifies that he is satisfied that particular buildings or works to which the application related were included therein only because the applicant had reason to believe that permission for the other development to which the application related (in this section referred to as “the principal development”) would not have been granted except subject to a condition requiring the erection or construction of those buildings or works.

(2) Where subsection (1) of this section applies, then for the purposes of this Part of this Act—

- (a) the application shall be deemed to have included, in place of those buildings or works, such other development of the land on which the buildings or works were to be erected or constructed as might reasonably have been expected to have been included having regard to the principal development ; and
- (b) the permission shall be deemed to have been granted for the principal development subject to a condition requiring the erection or construction of those buildings or works.

Notice under
s. 70 treated
as planning
decision.

140. Where a notice under section 70(1) of this Act is served in respect of the whole or part of any land, the provisions of this Part of this Act shall have effect as if the application, in consequence of which the notice is served, had been an effective application for planning permission, and as if the notice had been a planning decision of the local planning authority refusing that permission in respect of that land or that part thereof, as the case may be.

Measure of compensation

General
provisions as
to amount of
compensation.

141.—(1) Where a person is entitled to compensation under this Part of this Act in respect of depreciation by a planning decision of the value of an interest in land, the amount of the compensation, subject to the following provisions of this section, shall be whichever is the lesser of the following amounts, that is to say—

- (a) the amount by which the value of that interest (if it is an interest subsisting only in land to which this section

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applies), or (if it is an interest extending to other land) the amount by which the value of the interest in so far as it subsists in land to which this section applies, is depreciated by the decision ; and

- (b) the amount of the unexpended balance of established development value, immediately before the decision, of so much of the land in which the interest subsists as is land to which this section applies.

(2) Land to which this section applies, in relation to a planning decision, is land which—

- (a) constitutes or forms part of the decision area ; and
- (b) at the time of the decision has an unexpended balance of established development value.

(3) If, in the case of any land to which this section applies, compensation is payable under this Part of this Act in respect of two or more interests in that land by reason of the same planning decision, and the aggregate amount of compensation payable apart from this subsection in respect of those interests would exceed the amount mentioned in paragraph (b) of subsection (1) of this section, the amount mentioned in that paragraph shall be allocated between those interests in proportion to the depreciation of the value of each of them respectively, and the amount of the compensation payable in respect of any of those interests shall be the sum so allocated to that interest.

(4) Where the land constituting the decision area, taken as a whole, does not satisfy both of the following conditions, that is to say—

- (a) that at the time of the decision it has an unexpended balance of established development value ; and
- (b) that every interest subsisting therein, the value of which is depreciated by the decision, subsists in the whole of that land,

the provisions of subsection (5) of this section shall have effect for the purpose of assessing the compensation payable under this Part of this Act in respect of any interest subsisting in that land or any part thereof.

(5) Where this subsection applies in relation to an interest in land—

- (a) the depreciation of the value of the interest by the planning decision shall first be ascertained with reference to the whole of the land which constitutes or forms part of the decision area and is land in which that interest subsists ;
- (b) the land referred to in paragraph (a) of this subsection shall then be treated as divided into as many parts

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as may be requisite to ensure that each such part consists of land which either satisfies both of the conditions mentioned in subsection (4) of this section or is not land which, at the time of the decision, has an unexpanded balance of established development value ; and

- (c) the depreciation of the value of the interest, ascertained in accordance with paragraph (a) of this subsection, shall then be apportioned between those parts, according to the nature of those parts and the effect of the planning decision in relation to each of them,

and the amount of the compensation shall be the aggregate of the amounts which would be payable by virtue of the preceding provisions of this section if the planning decision had been made separately with respect to each of those parts.

(6) In this section "the decision area" in relation to a planning decision means the aggregate of the land to which the decision relates.

Assessment of depreciation.

142.—(1) For the purposes of this Part of this Act, the value of an interest in land, or of an interest in so far as it subsists in particular land, shall be taken to be depreciated by a planning decision (in this section referred to as "the relevant decision") if, and to the extent to which, that value, calculated in accordance with the following provisions of this section, falls short of what that value, so calculated, would have been if the relevant decision had been a decision to the contrary effect.

(2) Subject to the following provisions of this section, any such value shall for the purposes of this section be calculated—

- (a) as at the time of the relevant decision ; but
 (b) as affected by that decision, by any grant of planning permission made after that decision and in force immediately before the Secretary of State gives notice of his determination on the claim for compensation in respect of that decision, and by any undertaking to grant planning permission so in force ; and
 (c) on the assumption that, after the relevant decision, and apart from any such permission or undertaking as is mentioned in paragraph (b) of this subsection, planning permission would not be granted for any new development of the land in question, but would be granted for any development thereof other than new development.

(3) If in consequence of another planning decision or of an order, being a decision or order made—

- (a) before the relevant decision ; and

(b) either in respect of the whole or part of the land to which the relevant decision relates, or in respect of land which includes the whole or part of that land, compensation to which this subsection applies has become or becomes payable in respect of that other planning decision or that order, the calculation to be made under this section shall be made as if that other planning decision had been a decision to the contrary effect, or that order had not been made, as the case may be.

(4) Subsection (3) of this section applies—

(a) to any compensation payable under this Part of this Act, or under Part II or Part V of the Act of 1954; and

(b) to so much of any compensation payable under section 153 of this Act or under the provisions of that section as applied by section 154 of this Act, and so much of any compensation to which Part IV of the Act of 1954 applied, as is or was payable in respect of loss or damage consisting of depreciation of the value of an interest in land.

(5) In this section “ a decision to the contrary effect ”—

(a) in relation to a decision refusing permission, means a decision granting the permission subject to such condition (if any) of a description falling within subsection (2) of section 136 of this Act as the authority making the decision might reasonably have been expected to impose if the permission had not been refused; and

(b) in relation to a decision granting the permission subject to conditions, means a decision granting the permission applied for subject only to such of those conditions (if any) as fell within subsection (2) of that section.

Claims for, and payment of, compensation

143.—(1) Compensation under this Part of this Act shall not be payable unless a claim for it is duly made to the Secretary of State in accordance with the provisions of this section. General provisions as to claims for compensation.

(2) A claim for compensation under this Part of this Act shall not have effect unless it is made before the end of the period of six months beginning with the date of the planning decision to which it relates:

Provided that the Secretary of State may in any particular case (either before, on or after the date on which the time for claiming would otherwise have expired) allow an extended, or further extended, period for making such a claim.

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(3) Regulations made under this section may—

- (a) require claims for compensation under this Part of this Act to be made in such manner as may be prescribed ;
- (b) require a claimant to provide such evidence in support of the claim, and such information as to the interest of the claimant in the land to which the claim relates, and as to the interests of other persons therein which are known to the claimant, as may be so prescribed ;
- (c) require the local planning authority to furnish the Secretary of State with such information (if any) as may be specified in, or in accordance with, the regulations, being information appearing to the Secretary of State to be relevant to the exercise of his powers under the provisions of Part III of this Act relating to the review of planning decisions where compensation is claimed.

(4) Where a claim is received by the Secretary of State under this section—

- (a) if it appears to the Secretary of State that the development to which the planning decision related was not new development, or that at the time of the planning decision no part of the land to which the claim relates had an unexpended balance of established development value, or that compensation is excluded by section 136 or 137 of this Act, the Secretary of State shall notify the claimant accordingly, stating on which of those grounds it appears to him that compensation is not payable ;
- (b) unless the claim is withdrawn, the Secretary of State shall give notice of the claim to every other person (if any) appearing to him to have an interest in the land to which the planning decision related.

Effect on
claims of
direction
under s. 35

144.—(1) Where, in accordance with section 36(3) of this Act, the Secretary of State gives notice of a direction under section 35 of this Act to a person who has made a claim for compensation in respect of the planning decision to which that direction relates, that person, if he does not withdraw the claim, may, at any time within thirty days after the service on him of the Secretary of State's notice, give notice to the Secretary of State modifying the claim.

(2) Subject to any modification by virtue of a notice given by a claimant under subsection (1) of this section, where the Secretary of State gives a direction under section 35 of this Act in respect of a decision of a local planning authority, any claim

made in respect of that decision shall have effect as if it had been made in respect of the decision which, by virtue of the direction, is substituted for the decision of the authority, or, as the case may be, as if it had been made in respect of the decision of the authority as modified by the direction.

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145.—(1) Provision shall be made by regulations under this section— Determination of claims.

- (a) for requiring claims for compensation under this Part of this Act to be determined by the Secretary of State in such manner as may be prescribed by the regulations ;
- (b) for regulating the practice and procedure to be followed in connection with the determination of such claims ;
- (c) for requiring the Secretary of State, on determining any such claim, to give notice of his determination to the claimant, and to every other person (if any) who has made, and not withdrawn, a claim for compensation under this Part of this Act in respect of the same planning decision, and, if his determination includes an apportionment, to give particulars of the apportionment to any other person entitled to an interest in land appearing to the Secretary of State to be an interest substantially affected by the apportionment.

(2) Subject to subsection (3) of this section, provision shall be made by regulations under this section—

- (a) for enabling the claimant or any other person to whom notice of the Secretary of State's determination has been given in accordance with subsection (1) of this section, if he wishes to dispute the determination, and any other person to whom particulars of an apportionment included in that determination have been so given, or who establishes that he is entitled to an interest in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require the determination, or, as the case may be, the apportionment, to be referred to the Lands Tribunal ;
- (b) for enabling the claimant and every other person to whom notice of any determination or apportionment has been given as mentioned in paragraph (a) of this subsection to be heard by the Tribunal on any reference under this section of that determination or apportionment, as the case may be ; and

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(c) for requiring the Tribunal, on any such reference, either to confirm or to vary the Secretary of State's determination or the apportionment, as the case may be, and to notify the parties of the decision of the Tribunal.

(3) Where on a reference to the Lands Tribunal under this section it is shown that an apportionment relates wholly or partly to the same matters as a previous apportionment, and is consistent with that previous apportionment in so far as it relates to those matters, the Tribunal shall not vary the apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.

Payment of compensation.

146. Where compensation is determined under section 145 of this Act to be payable, the Secretary of State shall pay the compensation to the person entitled thereto in accordance with the preceding provisions of this Part of this Act.

Subsequent recovery of compensation

Apportionment of, and recording of notice relating to, compensation.

147.—(1) Where, on a claim for compensation under this Part of this Act in respect of a planning decision, the Secretary of State determines that compensation is payable and that the amount of the compensation exceeds £20, the Secretary of State shall (if it appears to him to be practicable to do so) apportion the amount of the compensation between different parts of the land to which the claim for compensation relates, and shall include particulars of the apportionment in the notice of his determination under section 145 of this Act.

(2) In carrying out an apportionment under subsection (1) of this section the Secretary of State shall divide the land into parts, and shall distribute the compensation between those parts, according to the way in which the different parts of the land appear to him to be differently affected by the planning decision.

(3) On a reference to the Lands Tribunal under section 145 of this Act, unless the decision of the Tribunal will not affect the amount of the compensation or any apportionment thereof by the Secretary of State, the preceding provisions of this section shall apply with the substitution, for references to the Secretary of State, of references to the Lands Tribunal.

(4) Where, on a claim for compensation under this Part of this Act in respect of a planning decision, compensation has become payable of an amount exceeding £20, the Secretary of State shall cause notice of that fact, specifying the planning decision and the land to which the claim for compensation

relates, and the amount of the compensation and any apportionment thereof under this section and referring to the provisions of sections 148 to 150 of this Act, to be recorded in the appropriate Register of Sasines, and shall send a copy of the notice to the local planning authority.

(5) In relation to compensation specified in a notice recorded under this section, references in this Part of this Act to so much of the compensation as is attributable to a part of the land to which the notice relates shall be construed in accordance with the following provisions, that is to say—

- (a) if the notice does not include an apportionment under the preceding provisions of this section, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the notice relates ;
- (b) if the notice includes such an apportionment, the compensation shall be treated as distributed in accordance with that apportionment as between the different parts of the land by reference to which the apportionment is made ; and so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part of the land.

148.—(1) No person shall carry out any new development to which this section applies, on land in respect of which a notice (hereafter in this Part of this Act referred to as a “ compensation notice ”) is recorded under section 147 of this Act, until such amount (if any) as is recoverable under this section in respect of the compensation specified in the notice has been paid or secured to the satisfaction of the Secretary of State.

Recovery of compensation on subsequent development.

(2) Subject to the following provisions of this section, this section applies to any new development—

- (a) which is development of a residential, commercial or industrial character and consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination thereof ; or
- (b) which consists in the winning and working of minerals ; or
- (c) to which, having regard to the probable value of the development, it is in the opinion of the Secretary of State reasonable that this section should apply.

(3) This section shall not apply to any development by virtue of subsection (2)(c) of this section if, on an application made to

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him for the purpose, the Secretary of State has certified that, having regard to the probable value of the development, it is not in his opinion reasonable that this section should apply thereto.

(4) Where the compensation specified in the compensation notice became payable in respect of the imposition of conditions on the granting of permission to develop land, this section shall not apply to the development for which that permission was granted.

Amount recoverable, and provisions for payment or remission thereof.

149.—(1) Subject to the following provisions of this section, the amount recoverable under section 148 of this Act in respect of the compensation specified in a compensation notice—

- (a) if the land on which the development is to be carried out (in this subsection referred to as “the development area”) is identical with, or includes (with other land) the whole of, the land comprised in the compensation notice, shall be the amount of compensation specified in that notice ;
- (b) if the development area forms part of the land comprised in the compensation notice, or includes part of that land together with other land not comprised in that notice, shall be so much of the amount of the compensation specified in that notice as is attributable to land comprised in that notice and falling within the development area.

(2) Where, in the case of any land in respect of which a compensation notice has been recorded, the Secretary of State is satisfied, having regard to the probable value of any proper development of that land, that no such development is likely to be carried out unless he exercises his powers under this subsection, he may, in the case of any particular development, remit the whole or part of any amount otherwise recoverable under section 148 of this Act.

(3) Where, in connection with the development of any land, an amount becomes recoverable under section 148 of this Act in respect of the compensation specified in a compensation notice, then, except where, and to the extent that, payment of that amount has been remitted under subsection (2) of this section, no amount shall be recoverable under section 148 of this Act in respect of that compensation, in so far as it is attributable to that land, in connection with any subsequent development thereof.

(4) No amount shall be recoverable under section 148 of this Act in respect of any compensation by reference to which a sum has become recoverable by the Secretary of State under section 244 of this Act.

PART VII

(5) An amount recoverable under section 148 of this Act in respect of any compensation shall be payable to the Secretary of State, and—

- (a) shall be so payable either as a single capital payment or as a series of instalments of capital and interest combined, or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Secretary of State may direct, after taking into account any representations made by the person by whom the development is to be carried out; and
- (b) except where the amount is payable as a single capital payment, shall be secured by that person to the satisfaction of the Secretary of State (whether by heritable or other security, personal bond or otherwise).

(6) If any person initiates any new development to which section 148 of this Act applies in contravention of subsection (1) of that section, the Secretary of State may serve a notice on him specifying the amount appearing to the Secretary of State to be the amount recoverable under that section in respect of the compensation in question, and requiring him to pay that amount to the Secretary of State within such period, not being less than three months after the service of the notice, as may be specified in the notice.

(7) Where, after a compensation notice in respect of any land has been recorded, any amount recoverable under this section in respect of the compensation specified in the notice, or any part of such amount, has been paid to the Secretary of State, or circumstances arise under which by virtue of any provision of this Act no amount is so recoverable in respect of the land specified in the notice or any part of that land, the Secretary of State shall cause to be recorded in the appropriate Register of Sasines a notice of that fact, specifying the land to which such fact relates, and, in the case of any notice of the fact that part only of any such amount has been so paid, stating whether the balance has been secured to the satisfaction of the Secretary of State or has been remitted by him under subsection (2) of this section, and shall send a copy thereof to the local planning authority.

150.—(1) Where an amount has become recoverable under section 148 of this Act in respect of the compensation specified in a compensation notice, the following provisions of this section shall have effect for the purpose of determining any question as to the unexpended balance of established development value of any land at any subsequent time.

Amount recovered not to be deducted from unexpended balance.

(2) Except where, and to the extent that, payment of that

PART VII amount has been remitted under section 149 of this Act, so much (if any) of that compensation as is attributable to that land shall, for the purpose mentioned in subsection (1) of this section, be treated as not having become payable, and accordingly (notwithstanding anything in section 129 of this Act) shall not be deducted from that balance.

Supplementary provisions

Provision for
diversion of
payments.

151.—(1) Regulations made under this section may make provision as to the exercise of the right to claim compensation under this Part of this Act, and as to the person to whom such compensation or any part thereof is to be paid, and as to the application of any such compensation or any part thereof, in cases where, apart from this section, the right to claim the compensation is exercisable by reference to—

- (a) a claim holding which is subject to an assignation in security, or which was so subject at a time specified in the regulations ; or
- (b) an interest in land which is subject to a ground annual or a heritable security or a trust, or which was so subject at a time specified in the regulations ; or
- (c) an interest in land which is the interest of a vassal or a lessee.

(2) Any regulations made under this section may provide—

- (a) for such conditions as may be prescribed to be attached to the paying by virtue of the regulations of any such compensation as aforesaid or any part thereof ;
- (b) for the application, in a case where any compensation, or any part thereof, is by virtue of the regulations to be paid to a superior or to the creditor in a ground annual, of all or any of the provisions of section 25 of the War Damage Act, 1943 (which relates to the rights of superiors and creditors in ground annuals as to payments for war damage) subject to such adaptations and modifications as may be prescribed ; and
- (c) for any disputes, or any disputes of such classes as may be prescribed, arising out of the regulations to be referred to the Lands Tribunal for determination by that Tribunal.

(3) In this section, “ claim holding ” has the same meaning as in section 126 of this Act.

1943 c. 21.

Calculation
of value.

152. In calculating value for any of the purposes of this Part of this Act—

- (a) rules (2) to (4) of the rules set out in section 12 of the

Land Compensation (Scotland) Act 1963 shall apply with the necessary modifications ; and PART VII
1963 c. 51.

- (b) if the interest to be valued is subject to a heritable security, it shall be treated as if it were not subject to the security :

Provided that rule (3) of those rules shall not apply for the purposes of Schedule 14 to this Act and that the value of an interest, as calculated for the purposes of section 142 of this Act, may be a minus quantity.

PART VIII

COMPENSATION FOR OTHER PLANNING RESTRICTIONS

Revocation or modification of planning permission

153.—(1) Where planning permission is revoked or modified by an order under section 42 of this Act, (other than an order which takes effect by virtue of section 43 of this Act and without being confirmed by the Secretary of State), then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the land—

Compensation where planning permission revoked or modified.

- (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification ;
or
(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the local planning authority shall pay to that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to subsection (2) of this section, no compensation shall be paid under this section in respect of any work carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.

(4) In calculating, for the purposes of this section, the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted for development of the land of any class specified in Schedule 6 to this Act.

PART VIII

(5) In this Part of this Act any reference to an order under section 42 of this Act includes a reference to an order under the provisions of that section as applied by section 49(2) of this Act.

Application of s. 153 to special cases of refusal or conditional grant of planning permission.

154.—(1) The provisions of this section shall have effect where—

- (a) planning permission for the development of land has been granted by a development order ; and
- (b) that permission is withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order ; and
- (c) on an application made in that behalf under Part III of this Act, planning permission for that development is refused, or is granted subject to conditions other than those previously imposed by the development order.

(2) In any case falling within subsection (1) of this section, the provisions of section 153 of this Act shall apply as if the planning permission granted by the development order—

- (a) had been granted by the local planning authority under Part III of this Act ; and
- (b) had been revoked or modified by an order under section 42 of this Act,

and the provisions of section 155 (except subsection (5)(b) thereof) and of sections 156 and 157 of this Act shall apply as if references therein to an order under section 42 of this Act were references to the planning decision whereby the planning permission in question is refused, or is granted subject to conditions other than those previously imposed by the development order.

(3) This section shall not apply in relation to planning permission for the development of operational land of statutory undertakers.

(4) No compensation shall be payable under this section in respect of the imposition of any condition to which section 69 or 80 of this Act applies.

Recording and apportionment of compensation for depreciation.

155.—(1) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation of an amount exceeding £20, the local planning authority shall (if it appears to them to be practicable to do so) apportion the amount of the compensation for depreciation between different parts of the land to which

the claim for that compensation relates, and give particulars of any such apportionment to the claimant and to every other person (if any) entitled to an interest in land which appears to the authority to be substantially affected by the apportionment.

(2) In carrying out an apportionment under subsection (1) of this section, the local planning authority shall divide the land into parts, and shall distribute the compensation for depreciation between those parts, according to the way in which different parts of the land appear to the authority to be differently affected by the order in consequence of which the compensation is payable.

(3) Section 145(2) of this Act, and any regulations made by virtue thereof, shall have effect with respect to any such apportionment (subject to any necessary modifications) as they have effect with respect to an apportionment under section 147(1) of this Act.

(4) On a reference to the Lands Tribunal by virtue of subsection (3) of this section, subsections (1) and (2) of this section, so far as they relate to the making of an apportionment, shall apply with the substitution, for references to the local planning authority, of references to the Lands Tribunal.

(5) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation exceeding £20, the local planning authority shall cause notice of that fact in the prescribed form, specifying the land to which the compensation relates and the amount of the compensation for depreciation and any apportionment thereof under this section, to be recorded in the appropriate Register of Sasines, and shall send a copy of the notice to the Secretary of State; and subsection (5) of section 147 of this Act shall have effect with respect to such compensation for depreciation as it has effect with respect to compensation under Part VII of this Act, subject, however, to any necessary modifications, and, in particular, with the substitution for references to the compensation mentioned in that section, of references to the compensation for depreciation specified in the notice.

(6) In this section and in section 156 of this Act “compensation for depreciation” means so much of any compensation payable under the preceding provisions of this Part of this Act as is payable in respect of loss or damage consisting of depreciation of the value of an interest in land.

156.—(1) Where a copy of the notice under section 155 of this Act is given to the Secretary of State in consequence of the making of an order under section 42 of this Act, and the circumstances are such that, if the permission revoked or

Contribution by Secretary of State towards compensation in certain cases.

PART VIII modified by the order had been refused, or, as the case may be, had been granted as so modified, at the time when it was granted, compensation under Part VII of this Act could have been claimed and would have been payable by the Secretary of State, the Secretary of State may, subject to the provisions of this section, pay to the local planning authority a contribution of the amount appearing to him to be the amount of compensation which would have been so payable by him under Part VII of this Act.

(2) The amount of any such contribution shall not exceed—

- (a) the amount of the compensation for depreciation paid by the local planning authority ; or
- (b) the unexpended balance of established development value, at the date of the making of the order, of the land in respect of which that compensation was paid.

(3) Regulations made under this section shall make provision, in relation to cases where the Secretary of State proposes to pay a contribution under this section—

- (a) for requiring the Secretary of State to give notice of his proposal to persons entitled to such interests as may be prescribed in the land to which the proposal relates, and to such other persons (if any) as may be determined in accordance with the regulations to be affected by the proposal ;
- (b) for enabling persons to whom notice of the proposal is given to object to the proposal, on the grounds that compensation would not have been payable as mentioned in subsection (1) of this section, or that the amount of the compensation so payable would have been less than the amount of the proposed contribution ;
- (c) for enabling any person making such an objection to require the matter in dispute to be referred to the Lands Tribunal for determination ; and
- (d) where a contribution under this section is paid, for applying (with any necessary modifications) the provisions of Part VII of this Act as to the reduction or extinguishment of the unexpended balance of established development value of land, as if the contribution had been a payment of compensation under that Part of this Act.

157.—(1) In relation to notices recorded under the provisions of section 147 of this Act, as applied by the preceding provisions of this Part of this Act, sections 148 and 149 of this Act shall have effect as they have effect in relation to compensation notices recorded as therein mentioned:

PART VIII
 Recovery, on subsequent development, of compensation under s. 153.

Provided that, in a case where the compensation under section 153 of this Act specified in such a notice became payable in respect of an order modifying planning permission, the said sections shall not apply to development in accordance with that permission as modified by the order.

(2) Subject to subsection (3) of this section, any sum recovered by the Secretary of State under section 148 of this Act, as applied by subsection (1) of this section, shall be paid to the local planning authority who paid the compensation to which that sum relates.

(3) In paying any such sum to the local planning authority, the Secretary of State shall deduct therefrom—

- (a) the amount of any contribution paid by him under section 156 of this Act in respect of the compensation to which the sum relates ;
- (b) the amount of any grant paid by him under Part XIII of this Act in respect of that compensation ;

Provided that, if the sum recovered by the Secretary of State is an instalment of the total sum recoverable, or is recovered by reference to development of part of the land in respect of which the compensation was payable, any deduction to be made under paragraph (a) or paragraph (b) of this subsection shall be a deduction of such amount as the Secretary of State may determine to be the proper proportion of the amount referred to in that paragraph.

(4) For the purposes of sections 148 and 149 of this Act, in their application by virtue of this section to compensation calculated under section 153 of this Act, the expression “new development” shall include—

- (a) any development of a class specified in paragraph 1 or 3 of Schedule 6 to this Act which is carried out otherwise than subject to the condition set out in Schedule 16 to this Act ; and
- (b) any development excluded by subsection (2) of section 263 of this Act from that Schedule in its application to any determination to which subsection (1) of the said section 263 applies.

PART VIII

Other restrictions

Compensation
for planning
decisions
restricting
development
other than
new develop-
ment.

158.—(1) The provisions of this section shall have effect where, on an application for planning permission to carry out development of any class specified in Part II of Schedule 6 to this Act, the Secretary of State, either on appeal or on the reference of the application to him for determination, refuses the permission or grants it subject to conditions.

(2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if the permission had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation of an amount equal to the difference.

(3) In determining, for the purposes of subsection (2) of this section, whether or to what extent the value of an interest in land is less than it would have been if the permission had been granted, or had been granted unconditionally—

- (a) it shall be assumed that any subsequent application for the like planning permission would be determined in the same way ; but
- (b) if, in the case of a refusal of planning permission, the Secretary of State, on refusing that permission, undertook to grant planning permission for some other development of the land in the event of an application being made in that behalf, regard shall be had to that undertaking ; and
- (c) no account shall be taken of any prospective use which would contravene the condition set out in Schedule 16 to this Act.

(4) Where, on such an application as is mentioned in subsection (1) of this section, planning permission is granted by the Secretary of State subject to conditions for regulating the design or external appearance of buildings, or the size or height of buildings, the Secretary of State, if it appears to him to be reasonable to do so having regard to the local circumstances, may direct that those conditions shall be disregarded, either altogether or to such extent as may be specified in the direction, in assessing the compensation (if any) payable under this section.

(5) Where, in the case of an application for planning permission to carry out any such development as is mentioned in subsection (1) of this section, a notice under section 70(1) of this Act is served in respect of the whole or part of the land to which the application relates, the preceding provisions of this

section shall have effect as if the application had been an effective application for planning permission, and as if that permission had been refused, as mentioned in subsection (1) of this section, in respect of that land or that part thereof, as the case may be.

(6) For the purposes of subsection (1) of this section—

(a) paragraph 3 of Schedule 6 to this Act shall be construed as not extending to works involving any increase in the cubic content of a building erected after the appointed day (including any building resulting from the carrying out of such works as are described in paragraph 1 of that Schedule); and

(b) paragraph 7 of that Schedule shall not apply to any such building.

(7) For the purposes of this section the conditions referred to in sections 38 and 39 of this Act shall be disregarded and no compensation shall be payable under this section in respect of the imposition of any condition to which section 69 or 80 of this Act applies.

(8) No compensation shall be payable under this section in respect of an interest in land in respect of which a purchase notice is served.

159.—(1) The provisions of this section shall have effect where an order is made under section 49 of this Act, requiring a use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed.

Compensation in respect of orders under s. 49.

(2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person has suffered damage in consequence of the order by depreciation of the value of an interest in the land to which he is entitled, or by being disturbed in his enjoyment of the land, that authority shall pay to that person compensation in respect of that damage.

(3) Without prejudice to subsection (2) of this section, any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.

(4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) of

PART VIII this section shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

Compensation for refusal of consent to alteration, etc. of listed building.

160.—(1) The provisions of this section shall have effect where an application is made for listed building consent for the alteration or extension of a listed building and—

- (a) either the works do not constitute development or they do so but the development is such that planning permission therefor is granted by a development order; and
- (b) the Secretary of State, either on appeal or on the reference of the application to him, refuses such consent or grants it subject to conditions.

(2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if listed building consent had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation of an amount equal to the difference.

(3) In determining, for the purposes of subsection (2) of this section, whether or to what extent the value of an interest in land is less than it would have been if the permission had been granted, or had been granted unconditionally—

- (a) it shall be assumed that any subsequent application for the like consent would be determined in the same way; but
- (b) if, in the case of a refusal of listed building consent, the Secretary of State, on refusing that consent, undertook to grant such consent for some other works to the building in the event of an application being made in that behalf, regard shall be had to that undertaking.

(4) No compensation shall be payable under this section in respect of an interest in land in respect of which a purchase notice is served, whether under section 169, 177 or 179 of this Act, being a purchase notice which takes effect.

Compensation where listed building consent revoked or modified.

161.—(1) Where listed building consent is revoked or modified by an order under paragraph 9 of Schedule 10 to this Act (other than an order which takes effect by virtue of paragraph 11 of that Schedule and without being confirmed by the Secretary of State), then if on a claim made to the local planning authority within the time and in the manner prescribed by

regulations under this Act, it is shown that a person interested in the building— PART VIII

(a) has incurred expenditure in carrying out works which are rendered abortive by the revocation or modification ; or

(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the authority shall pay to that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out those works.

(3) Subject to subsection (2) of this section, no compensation shall be paid under this section in respect of any works carried out before the grant of the listed building consent which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that consent.

162.—(1) The provisions of this section shall have effect as respects compensation where a building preservation notice is served. Compensation for loss or damage caused by service of building preservation notice.

(2) The local planning authority shall not be under any obligation to pay compensation under section 160 of this Act, in respect of any refusal of listed building consent or its grant subject to conditions, unless and until the building is included in a list compiled or approved by the Secretary of State under section 52 of this Act ; but this subsection shall not prevent a claim for such compensation being made before the building is so included.

(3) If the building preservation notice ceases to have effect without the building having been included in a list so compiled or approved, then, subject to a claim in that behalf being made to the local planning authority within the time and in the manner prescribed by regulations under this Act, any person who at the time when the notice was served had an interest in the building shall be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.

(4) The loss or damage in respect of which compensation is payable under subsection (3) of this section shall include a sum payable in respect of a breach of contract caused by the

PART VIII necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect thereto.

Compensation in respect of tree preservation orders.

163. The matters for which provision may under section 58 of this Act be made by a tree preservation order include the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage caused or incurred in consequence of the refusal of any consent required under the order, or of the grant of any such consent subject to conditions.

Compensation in respect of requirement as to replanting of trees.

164.—(1) The provisions of this section shall have effect where a requirement is imposed by the local planning authority or the Secretary of State by or under a tree preservation order for securing the replanting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order.

1967 c. 10.

(2) If the Forestry Commissioners decide not to make any advance under section 4 of the Forestry Act 1967 in respect of the replanting and come to that decision on the ground that the requirement frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry, the local planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the requirement.

(3) The Forestry Commissioners shall, at the request of the person under a duty to comply with the requirement, give a certificate stating whether they have decided not to make any such advance and, if so, the grounds of their decision.

(4) A claim for compensation under this section must be served on the local planning authority within twelve months from the date on which the requirement was imposed, or where an application has been made to the Secretary of State for the determination of any question relating to the reasonableness of a requirement, from the date of the decision of the Secretary of State on the application, but subject in either case to such extension of that period as the local planning authority may allow.

1967 c. 86

(5) Any question of disputed compensation under this section shall be determined in accordance with section 70 of the Country-side (Scotland) Act 1967.

(6) Section 67 of the Countryside (Scotland) Act 1967 (grants to local authorities) shall have effect in relation to the expenditure of a local planning authority in or in connection with paying compensation under this section as it has effect in relation to the expenditure mentioned in that section. PART VIII
1967 c. 86.

165. Where, for the purpose of complying with any regulations made under section 61 of this Act, works are carried out by any person— Compensation for restrictions on advertising.

- (a) for removing an advertisement which was being displayed on 16th August 1948 ; or
- (b) for discontinuing the use for the display of advertisements of a site used for that purpose on that date,

that person shall, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, be entitled to recover from that authority compensation in respect of any expenses reasonably incurred by him in that behalf.

166.—(1) Where a stop notice under section 87 of this Act ceases to have effect, a person who, at the time when it was first served, had an interest in the land to which it relates shall, in any of the circumstances mentioned in subsection (2) of this section, be entitled to be compensated by the local planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice. Compensation for loss due to stop notice.

(2) A person shall be entitled to compensation under subsection (1) of this section in respect of a prohibition contained in a stop notice in any of the following circumstances:—

- (a) the enforcement notice is quashed on any of the grounds mentioned in section 85(1)(b), (c), (d) or (e) of this Act ;
- (b) the allegation in the enforcement notice on which the prohibition in the stop notice is dependent is not upheld by reason that the enforcement notice is varied on one of those grounds ;
- (c) the enforcement notice is withdrawn by the local planning authority otherwise than in consequence of the grant by them of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a condition or limitation subject to which a previous planning permission was granted ;
- (d) the stop notice is withdrawn.

(3) A prohibition in a stop notice shall be treated for the purposes of subsection (2) of this section as dependent on an

PART VIII allegation in an enforcement notice if and to the extent that the operations to which the prohibition in the stop notice relates are the same as those alleged in the enforcement notice to constitute a breach of planning control or are so closely associated therewith as to constitute substantially the same operations.

(4) A claim for compensation under this section shall be made to the local planning authority within the time and in the manner prescribed by regulations under this Act.

(5) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition or of any liability arising by virtue of section 87(8) of this Act.

Supplementary provisions

General provisions as to compensation for depreciation under Part VIII. 1963 c. 51.

167.—(1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 12 of the Land Compensation (Scotland) Act 1963 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) This section applies to any compensation which, under the preceding provisions of this Part of this Act, other than section 163, 164 or 166, is payable in respect of depreciation of the value of an interest in land.

(3) In relation to the assessment of compensation payable under section 153 of this Act, the value of any interest may be a minus quantity.

(4) Where an interest in land is subject to a heritable security—

- (a) any compensation to which this section applies, which is payable in respect of depreciation of 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 creditor in a heritable security over the interest, but without prejudice to the making of a claim by the person entitled to the interest ;
- (c) no compensation to which this section applies shall be payable in respect of the interest of the creditor in the heritable security (as distinct from the interest which is subject to the security) ; and
- (d) any compensation to which this section applies which is payable in respect of the interest which is subject

to the heritable security shall be paid to the creditor in the security, or, if there is more than one such creditor, to the creditor whose security ranks first, and shall in either case be applied by him as if it were proceeds of sale by him under the powers competent to creditors in heritable securities. PART VIII

168.—(1) Except in so far as may be otherwise provided by section 164(5) of this Act, by any tree preservation order or by any regulations made under this Act, any question of disputed compensation under this Part of this Act shall be referred to and determined by the Lands Tribunal. Determination of claims for compensation.

(2) In relation to the determination of any such question, the provisions of sections 9 and 11 of the Land Compensation (Scotland) Act 1963 shall apply, subject to any necessary modifications and to the provisions of any regulations made under this Act. 1963 c. 51.

PART IX

PROVISIONS ENABLING OWNER OR LESSEE TO REQUIRE PURCHASE OF HIS INTEREST

Interests affected by planning decisions or orders

169.—(1) Where, on an application for planning permission to develop any land, permission is refused or is granted subject to conditions, then if any owner or lessee of the land claims— Purchase notice on refusal or conditional grant of planning permission.

- (a) that the land has become incapable of reasonably beneficial use in its existing state ; and
- (b) in a case where planning permission was granted subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions ; and
- (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the local planning authority or the Secretary of State has undertaken to grant planning permission,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with the following provisions of this Part of this Act.

(2) Where, for the purpose of determining whether the conditions specified in subsection (1)(a) to (c) of this section are fulfilled in relation to any land, any question arises as to what

PART IX is or would in any particular circumstances be a reasonably beneficial use of that land, then, in determining that question for that purpose, no account shall be taken of any prospective use of that land which would involve the carrying out of new development or which would contravene the condition set out in Schedule 16 to this Act.

(3) In the application of Schedule 6 to this Act for the purposes of any determination under subsection (2) of this section—

(a) paragraph 3 of that Schedule shall be construed as not extending to works involving any increase in the cubic content of a building erected after the appointed day (including any building resulting from the carrying out of such works as are described in paragraph 1 of that Schedule); and

(b) paragraph 8 of that Schedule shall not apply to any such building.

(4) For the purposes of this section the conditions referred to in sections 38 and 39 of this Act shall be disregarded, and no account shall be taken of any condition to which section 69 or 80 of this Act applies.

(5) A person on whom there has been served a repairs notice under section 105 of this Act shall not in any case be entitled to serve a purchase notice under this section in respect of the building in question until the expiration of three months beginning with the date of the service of the repairs notice; and if during that period the local planning authority or the Secretary of State start the compulsory acquisition of the building in the exercise of their powers under section 104 of this Act, that person shall not be so entitled unless and until the compulsory acquisition is discontinued.

(6) For the purposes of subsection (5) of this section a compulsory acquisition—

(a) is started when the local planning authority or the Secretary of State, as the case may be, serve the notice required by paragraph 3(b) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; and

(b) is discontinued, in the case of acquisition by a local planning authority, when they withdraw the compulsory purchase order or the Secretary of State decides not to confirm it and, in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order.

(7) A notice under this section, or under any other provision of this Part of this Act to which this subsection is applied, is in this Act referred to as a “purchase notice”.

1947 c. 42.

170.—(1) The local planning authority on whom a purchase notice is served under section 169 of this Act shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner or lessee by whom the purchase notice was served a notice stating either—

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Action by local planning authority on whom purchase notice is served.

- (a) that the local planning authority are willing to comply with the purchase notice ; or
- (b) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place ; or
- (c) that, for reasons specified in the notice under this subsection, the local planning authority are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place, and that they have transmitted a copy of the purchase notice to the Secretary of State, on a date specified in the notice under this subsection, together with a statement of the reasons so specified.

(2) Where the local planning authority on whom a purchase notice is served by an owner or lessee have served on him a notice in accordance with subsection (1)(a) or (b) of this section, the local planning authority, or the other local authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions, and to have served a notice to treat in respect thereof on the date of service of the notice under that subsection.

(3) Where the local planning authority on whom a purchase notice is served by an owner or lessee propose to serve on him a notice in accordance with subsection (1)(c) of this section, they shall transmit a copy of the purchase notice to the Secretary of State, together with a statement of their reasons.

(4) Where the local planning authority on whom a purchase notice is served by an owner or lessee do not, within the period specified in subsection (1) of this section, serve on him a notice under that subsection, the purchase notice shall be deemed to be confirmed at the expiration of that period, and the authority shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions, and to have served a notice to treat in respect thereof at the expiration of the said period.

(5) In this section “the relevant provisions” means the provisions of Part VI of this Act or, in the case of statutory undertakers any statutory provision (however

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expressed) under which they have power, or may be authorised, to purchase land compulsorily for the purposes of their undertaking.

Procedure on reference of purchase notice to Secretary of State.

171.—(1) Where a copy of a purchase notice is transmitted to the Secretary of State under section 170(3) of this Act, the Secretary of State shall consider whether to confirm the notice or to take other action under section 172 of this Act in respect thereof.

(2) Before confirming a purchase notice or taking any other action under section 172 of this Act in respect thereof, the Secretary of State shall give notice of his proposed action—

- (a) to the person by whom the purchase notice was served ;
- (b) to the local planning authority on whom the purchase notice was served ; and
- (c) if the Secretary of State proposes to substitute any other local authority or statutory undertakers for the local planning authority on whom the purchase notice was served, to that other local authority or those statutory undertakers.

(3) If, within such period as may be specified in a notice under subsection (2) of this section, being a period of not less than twenty-eight days from the service of that notice, any of the persons, authorities or statutory undertakers on whom that notice is served so requires, the Secretary of State, before confirming the purchase notice or taking any other action under section 172 of this Act in respect thereof, shall afford to those persons, authorities and undertakers an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) Where the Secretary of State has given notice under subsection (2) of this section of his proposed action, and any of the persons, authorities and statutory undertakers concerned have appeared before and been heard by a person appointed by the Secretary of State for the purpose, or the persons, authorities and undertakers concerned have agreed to dispense with such a hearing, and it then appears to the Secretary of State to be expedient to take action under section 172 of this Act otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.

Action by Secretary of State in relation to purchase notice.

172.—(1) Subject to the following provisions of this section and to section 173 of this Act, if the Secretary of State is satisfied that the conditions specified in section 169(1)(a) to (c) of this Act are fulfilled in relation to a purchase notice, he shall confirm the notice.

(2) If it appears to the Secretary of State to be expedient to do so, he may, in lieu of confirming the purchase notice, grant

planning permission for the development in respect of which the application was made, or, where planning permission for that development was granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development.

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(3) If it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which planning permission ought to be granted, he may, in lieu of confirming the purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that planning permission for that development shall be granted in the event of an application being made in that behalf.

(4) If it appears to the Secretary of State to be expedient that another local authority or statutory undertakers should acquire the interest of the owner or lessee for the purpose of any of their functions, he may, if he confirms the notice, modify it, either in relation to the whole or in relation to any part of the land to which it relates, by substituting that other authority or, as the case may be, those statutory undertakers for the local planning authority on whom the notice was served.

(5) In section 171 of this Act, any reference to the taking of action by the Secretary of State under this section is a reference to the taking by him of any such action as is mentioned in subsections (1) to (4) of this section, or to the taking by him of a decision not to confirm the purchase notice either on the grounds that any of the conditions referred to in subsection (1) of this section are not fulfilled or by virtue of section 173 of this Act.

173.—(1) This section shall have effect where, on an application for planning permission to develop any land which has a restricted use by virtue of a previous planning permission, permission is refused or granted subject to conditions and an owner of the land serves a purchase notice under section 169 of this Act.

Power to refuse to confirm purchase notice where land has restricted use by virtue of previous planning permission.

(2) For the purposes of this section, land is to be treated as having a restricted use by virtue of a previous planning permission if it is part of a larger area in respect of which planning permission was previously granted (and has not been revoked) and either—

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- (a) it remains a condition of the planning permission (however expressed) that that part shall remain undeveloped or be preserved or laid out in a particular way as amenity land in relation to the remainder ; or
- (b) the planning permission was granted on an application which contemplated (expressly or by necessary implication) that the part should not be comprised in the development for which planning permission was sought, or should be preserved or laid out as aforesaid.

(3) If a copy of the purchase notice is transmitted to the Secretary of State under section 170(3) of this Act the Secretary of State, although satisfied that the land has become incapable of reasonably beneficial use in its existing state, shall nevertheless not be required under section 172(1) of this Act to confirm the notice if it appears to him that the land ought, in accordance with the previous planning permission, to remain undeveloped or, as the case may be, remain or be preserved or laid out as amenity land in relation to the remainder of the large area for which that planning permission was granted.

Power to refuse to confirm purchase notice in respect of office premises.

174.—(1) This section applies to any purchase notice served on or after 5th August 1965 (whether before or after the passing of this Act) in respect of land which, at the date of service of the notice, is within a controlled area as defined in section 79(2) of this Act where the purpose for which that land, or part of it, or was used at the date of service of the notice, or was last used before that date, is or was that of a building containing office premises.

(2) In relation to a purchase notice to which this section applies, the provisions of this Act shall have effect as if, after subsection (4) of section 172 of this Act, there were inserted the following subsection—

“ (4A) Where the purchase notice is one to which section 174 of this Act applies, the Secretary of State may, if he thinks fit, determine not to confirm the notice without taking any such action as is mentioned in subsections (2) to (4) of this section ”,

and as if, in subsection (5) of that section, after the words “ by virtue of ” there were inserted the words “ subsection (4A) of this section or ”.

(3) Where in pursuance of subsection (4A) of the said section 172 (as modified by subsection (2) of this section) the Secretary of State has determined not to confirm a purchase notice to which this section applies, and on a subsequent date the land to which that notice related ceases to be within an area to which section 72 of this Act applies—

(a) a further purchase notice may be served on or after that date in respect of the planning decision to which the previous notice related ; and

(b) for the purposes of any regulations made under this Act as to the time within which a purchase notice may be served, the service of such a further purchase notice shall not be treated as out of time if it is served within the period which would be applicable in accordance with those regulations if the planning decision referred to in the preceding paragraph had been made on that subsequent date.

(4) In determining, for the purposes of subsection (1)(b) of this section, for what purpose any land is used, or was last used, as the case may be, no account shall be taken—

(a) of any use in accordance with planning permission granted for a limited period ; or

(b) of any use in respect of which, before the date of service of the purchase notice, an enforcement notice had been served and had become effective ; or

(c) of any use of land at a time when it is or was not covered by a building.

(5) For the purposes of this section “ office premises ” has the meaning assigned by section 71(4) of this Act and this section shall have effect as if it were included in sections 71 to 83 of this Act.

(6) Notwithstanding subsection (5) of this section, subsection (3) of this section shall not cease to have effect at the end of the period mentioned in section 83 of this Act ; and in relation to any land which, immediately before the end of that period, is land within an area to which section 72 of this Act applies, any reference in that subsection to the date on which the land ceases to be within such an area shall be construed as a reference to the end of that period.

175.—(1) Where the Secretary of State confirms a purchase notice, the local planning authority on whom the purchase notice was served (or, if under section 172(4) of this Act the Secretary of State modified the purchase notice by substituting another local authority or statutory undertakers for that local planning authority, that other local authority or those statutory undertakers) shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct.

Effect of Secretary of State's action in relation to purchase notice.

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(2) If, before the end of the relevant period, the Secretary of State has neither confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in section 172(2) or (3) of this Act, and has not notified the owner or lessee, as the case may be by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the end of that period, and the authority on whom the notice was served shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions and to have served notice to treat in respect thereof at the end of that period.

(3) For the purposes of subsection (2) of this section the relevant period is the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Secretary of State.

(4) Where the Secretary of State has notified the owner or lessee by whom a purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice (including any decision not to confirm the notice in respect of part of the land to which it relates, and including any decision to grant any permission, or give any direction, in lieu of confirming the notice, either wholly or in part) and that decision of the Secretary of State is quashed under the provisions of Part XII of this Act, the purchase notice shall be treated as cancelled, but the owner or lessee may serve a further purchase notice in its place.

(5) For the purposes of any regulations made under this Act as to the time within which a purchase notice may be served, the service of a purchase notice under subsection (4) of this section shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with those regulations if the planning decision, in consequence of which the notice is served, had been made on the date on which the decision of the Secretary of State was quashed as mentioned in subsection (4) of this section.

(6) In this section "the relevant provisions" has the same meaning as in section 170 of this Act.

Special provisions as to compensation where purchase notice served.

176.—(1) Where by virtue of section 153 of this Act compensation is payable in respect of expenditure incurred in carrying out any work on land, then, if a purchase notice is served in respect of an interest in that land, any compensation payable in respect of the acquisition of that interest in pursuance of the purchase notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable by virtue of that section.

(2) Where a purchase notice served in respect of an interest in land does not take effect, or does not take effect in relation to a part of the land, by reason that the Secretary of State gives a direction under section 172(3) of this Act, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act it is shown that the permitted development value of that interest (or, as the case may be, of that interest so far as it relates to that part of the land) is less than its existing use value, the local planning authority shall pay to the person entitled to that interest compensation of an amount which (subject to the following provisions of this section) shall be equal to the difference.

(3) If the planning permission which, by the direction referred to in subsection (2) of this section, is required to be granted would be granted subject to conditions for regulating the design or external appearance of buildings, or the size or height of buildings, or for regulating the number of buildings to be erected on the land, the Secretary of State, if it appears to him to be reasonable to do so having regard to the local circumstances, may direct that those conditions shall be disregarded, either altogether or to such extent as may be specified in the direction, in assessing any compensation payable under subsection (2) of this section.

(4) Sections 167 and 168 of this Act shall have effect in relation to compensation under subsection (2) of this section as they have effect in relation to compensation to which those sections apply.

(5) In this section “permitted development value”, in relation to an interest in land in respect of which a direction is given under section 172(3) of this Act, means the value of that interest calculated with regard to that direction, but on the assumption that no planning permission would be granted otherwise than in accordance with that direction, and “existing use value”, in relation to such an interest, means the value of that interest as (for the purpose of ascertaining the compensation payable on an acquisition thereof in pursuance of the purchase notice) that value would have been assessed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919, as modified by the provisions of sections 48 to 51 of the Act of 1947, if no enactment repealing, modifying or superseding any of those provisions had been passed after the passing of the Act of 1947.

177.—(1) Where by an order under section 42 of this Act planning permission in respect of any land is revoked, or is modified by the imposition of conditions, then if any owner or lessee of the land claims—

Purchase notice in respect of order revoking or modifying planning permission.

(a) that the land has become incapable of reasonably beneficial use in its existing state ; and

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- (b) in a case where the planning permission was modified by the imposition of conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions; and
- (c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the local planning authority or the Secretary of State has undertaken to grant planning permission,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.

(2) Section 169(7) of this Act shall apply to this section; and, subject to subsection (3) of this section, sections 169(2), 170 to 173, 175 and 176 of this Act shall apply to a notice served by virtue of subsection (1) of this section as they apply to a notice served by virtue of section 169(1) of this Act.

(3) In the application of subsection (2) of section 169 of this Act to a purchase notice served by virtue of subsection (1) of this section, that subsection shall apply as if the words “or which would contravene the condition set out in Schedule 16 to this Act” were omitted; and in the application of section 172 of this Act, to a purchase notice served as aforesaid, that section shall apply as if the following subsection were substituted for subsection (2) thereof—

“ (2) If it appears to the Secretary of State to be expedient to do so, he may, in lieu of confirming the purchase notice, cancel the order revoking the planning permission, or, where the order modified the permission by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the development in respect of which the permission was granted ”.

178.—(1) If any person entitled to an interest in land in respect of which an order is made under section 49 of this Act claims—

- (a) that by reason of the order the land is incapable of reasonably beneficial use in its existing state, and
- (b) that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for

Purchase notice in respect of order requiring discontinuance of use or alteration or removal of buildings or works.

which planning permission has been granted, whether by that order or otherwise,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.

(2) Section 169(7) of this Act shall apply to this section; and, subject to subsection (3) of this section, sections 169(2), 170 to 173, 175 and 176 of this Act shall apply to a notice served by virtue of subsection (1) of this section as they apply to a notice served by virtue of section 169(1) of this Act.

(3) In the application of subsection (2) of section 169 of this Act to a purchase notice served by virtue of subsection (1) of this section, that subsection shall apply as if the words "or which would contravene the condition set out in Schedule 16 to this Act" were omitted; and in the application of section 172 of this Act to a purchase notice served as aforesaid, that section shall have effect subject to the following modifications, that is to say—

- (a) in subsection (1), for the reference to the conditions therein mentioned, there shall be substituted a reference to the conditions specified in subsection (1)(a) and (b) of this section; and
- (b) the following subsection shall be substituted for subsection (2)—

"(2) If it appears to the Secretary of State to be expedient to do so, he may, in lieu of confirming the purchase notice, revoke the order under section 49 of this Act, or, as the case may be, amend that order so far as appears to him to be required in order to prevent the land from being rendered incapable of reasonably beneficial use by the order".

(4) Where a purchase notice in respect of an interest in land is served in consequence of such an order as is mentioned in subsection (1) of this section, then if—

- (a) that interest is acquired in accordance with the preceding provisions of this Part of this Act; or
- (b) compensation is payable in respect of that interest under section 176(2) of this Act,

no compensation shall be payable in respect of that order under section 159 of this Act.

(5) Except as provided by this section, no purchase notice shall be served in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of such an order as is mentioned in subsection (1) of this section.

PART IX
Purchase
notice on
refusal or
conditional
grant of listed
building
consent.

179.—(1) Where, on an application for listed building consent in respect of a building, consent is refused or is granted subject to conditions or, by an order under Part II of Schedule 10 to this Act, listed building consent is revoked or modified, then if any owner or lessee of the land claims—

- (a) that the land has become incapable of reasonably beneficial use in its existing state ; and
- (b) in a case where consent was granted subject to conditions with respect to the execution of the works or, as the case may be, was modified by the imposition of such conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the works in accordance with those conditions ; and
- (c) in any case that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other works for which listed building consent has been granted or for which the local planning authority or the Secretary of State has undertaken to grant such consent,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the local planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with Schedule 17 to this Act.

(2) Where, for the purpose of determining whether the conditions specified in subsection (1)(a) to (c) of this section are satisfied in relation to the land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial use of that land, then in determining that question for that purpose, no account shall be taken of any prospective use of that land which would involve the carrying out of new development or of any works requiring listed building consent which might be executed to the building, other than works for which the local planning authority or the Secretary of State have undertaken to grant such consent.

(3) In this section and in Schedule 17 to this Act, “the land” means the building in respect of which listed building consent has been refused, or granted subject to conditions, or modified by the imposition of conditions, and in respect of which its owner or lessee serves a notice under this section, together with any land comprising the building, or contiguous or adjacent to it, and owned or occupied with it, being land as to which the owner or lessee claims that its use is substantially inseparable from that of the building and that it ought to be treated, together with the building, as a single holding.

(4) Subsections (5) and (6) of section 169 of this Act shall apply to a listed building purchase notice as they apply to a purchase notice under that section. PART IX

(5) A notice under this section is in this Act referred to as a "listed building purchase notice".

180.—(1) Sections 169 to 172, 175 and 176 of this Act are provisions falling within subsection (2) of section 58 of this Act; and subsection (1) of the said section 58 and subsection (2) of section 61 of this Act, shall have effect accordingly. Purchase notices in other cases.

(2) Where, in the case of an application for planning permission, a notice under section 70(1) of this Act is served in respect of the whole or part of the land to which the application relates, the provisions of sections 169 to 172, 175 and 176 of this Act shall have effect as if the application had been an effective application for planning permission, and as if that permission had been refused in respect of that land or that part thereof, as the case may be.

Interests of owner-occupiers affected by planning proposals

181.—(1) The provisions of sections 182 to 196 of this Act shall have effect in relation to land which— Scope of these provisions.

- (a) is land indicated in a structure plan in force either as land which may be required for the purposes of any functions of a government department, local authority or statutory undertakers, or of the National Coal Board, or as land which may be included in an action area; or
- (b) is land allocated for the purposes of any such functions by a local plan in force, or is land defined in such a plan as the site of proposed development for the purposes of any such functions; or
- (c) is land indicated in a development plan (otherwise than by being dealt with in a manner mentioned in the preceding paragraphs) as land on which a road is proposed to be constructed or land to be included in a road as proposed to be improved or altered; or
- (d) is land authorised by a special enactment to be compulsorily acquired, or land falling within the limits of deviation within which powers of compulsory acquisition conferred by a special enactment are exercisable; or
- (e) is land on or adjacent to the line of a road proposed to be constructed, improved or altered, as indicated in an order or scheme which has come into operation under the provisions of the Trunk Roads Act 1946 or 1946 c. 30.

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1949 c. 32.

1935 c. 47.

1936 c. 5.

1946 c. 30.

1949 c. 32.

the Special Roads Act 1949, being land in relation to which a power of compulsory acquisition conferred by section 13 of the Restriction of Ribbon Development Act 1935, as read with any of the following enactments, that is to say, section 4 of the Trunk Roads Act 1936, section 5 of the Trunk Roads Act 1946, and sections 9, 10 and 14 of the Special Roads Act 1949, may become exercisable, as being land required for purposes of construction, improvement or alteration as indicated in the order or scheme ; or

- (f) is land shown on plans approved by a resolution of a local highway authority as land comprised in the site of a road as proposed to be constructed, improved or altered by that authority ; or
- (g) is land in respect of which a compulsory purchase order is in force, where the appropriate authority have power to serve, but have not served, notice to treat in respect of the land ; or
- (h) is land on which the Secretary of State proposes to provide a trunk road or a special road and has given to the local planning authority written notice of his intention to provide the road, together with maps or plans sufficient to identify the proposed route of the road.

(2) Paragraph (a) of subsection (1) of this section shall not apply to land situated in an area for which a local plan is in force, where that plan—

- (a) allocates any land in the area for the purposes of such functions as are mentioned in that paragraph ; or
- (b) defines any land in the area as the site of proposed development for the purposes of any such functions.

(3) Interests qualifying for protection under these provisions are either—

- (a) interests in hereditaments or parts of hereditaments ; or
- (b) interests in agricultural units or parts of agricultural units.

(4) An interest in the whole or part of a hereditament shall be taken to be an interest qualifying for protection under these provisions if, on the date of service of a notice under section 182 of this Act in respect thereof, either—

- (a) the annual value of the hereditament does not exceed such amount as may be prescribed for the purposes of this paragraph by an order made by the Secretary of

State, and the interest in question is the interest of an owner-occupier of the hereditament ; or

- (b) in a case not falling within the preceding paragraph, the interest in question is the interest of a resident owner-occupier of the hereditament.

(5) An interest in the whole or part of an agricultural unit shall be taken to be an interest qualifying for protection under these provisions if, on the date of service of a notice under section 182 of this Act in respect thereof, it is the interest of an owner-occupier of the unit.

(6) In this section and in the said sections 182 to 196 “ these provisions ” means the provisions of this section and of those sections, “ the specified descriptions ” means the descriptions contained in subsection (1) (a) to (h) of this section and “ blight notice ” means a notice served under section 182 or 190 of this Act.

182.—(1) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions, and a person claims that— Power to serve blight notice.

- (a) he is entitled to an interest in that hereditament or unit ; and
- (b) the interest is one which qualifies for protection under these provisions ; and
- (c) since the relevant date he has made reasonable endeavours to sell that interest ; and
- (d) he has been unable to sell it except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were comprised in land of any of the specified descriptions,

he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, these provisions.

(2) Subsection (1) of this section shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the entirety of a hereditament or agricultural unit:

Provided that this subsection shall not enable any person—

- (a) if he is entitled to an interest in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of his interest in part of the hereditament or unit ; or

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- (b) if he is entitled to an interest only in part of a hereditament or agricultural unit, to make or serve any such claim or notice in respect of his interest in less than the entirety of that part.
- (3) In this section “ the relevant date ”—
- (a) in relation to land indicated, allocated or defined as mentioned in paragraph (a), (b) or (c) of subsection (1) of section 181 of this Act, means the date (whether before or after the commencement of this Act) on which the development plan, or the amendment of the development plan, by virtue of which the land was first so indicated, allocated or defined came into operation ;
- (b) in relation to land falling within paragraph (d) of that subsection, means the date (whether before or after the commencement of this Act) on which the special enactment in question came into operation ;
- (c) in relation to land falling within paragraph (e) of that subsection, means the date (whether before or after the commencement of this Act) of the coming into operation of the order or scheme by virtue of which it falls within that paragraph ;
- (d) in relation to land falling within paragraph (f) of that subsection, means the date (whether before or after the commencement of this Act) of the passing of the resolution by virtue of which it falls within that paragraph ;
- (e) in relation to land falling within paragraph (g) of that subsection, means the date (whether before or after the commencement of this Act) on which the order for its compulsory purchase was confirmed or made by the Secretary of State ;
- (f) in relation to land falling within paragraph (h) of that subsection, means the date (whether before or after the commencement of this Act) on which the Secretary of State gave to the local planning authority the written notice specified in that paragraph.
- (4) In these provisions “ the claimant ”, in relation to a blight notice, means the person who served that notice, and any reference to the interest of the claimant, in relation to such a notice, is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in subsection (1) of this section.

Objection to blight notice.

183.—(1) Where a blight notice has been served in respect of a hereditament or an agricultural unit, the appropriate authority, at any time before the end of the period of two

months beginning with the date of service of that notice, may serve on the claimant a counter-notice in the prescribed form objecting to the notice.

(2) Subject to the following provisions of this section, the grounds on which objection may be made in a counter-notice to a notice served under section 182 of this Act are—

- (a) that no part of the hereditament or agricultural unit to which the notice relates is comprised in land of any of the specified descriptions ;
- (b) that the appropriate authority (unless compelled to do so by virtue of these provisions) do not propose to acquire any part of the hereditament, or (in the case of an agricultural unit) any part of the affected area, in the exercise of any relevant powers ;
- (c) that the appropriate authority propose in the exercise of relevant powers to acquire a part of the hereditament or (in the case of an agricultural unit) a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of these provisions) do not propose to acquire any other part of that hereditament or area in the exercise of any such powers ;
- (d) that (in the case of land falling within paragraph (a) or (c) but not (e), (f) or (h) of section 181(1) of this Act) the appropriate authority (unless compelled to do so by virtue of these provisions) do not propose to acquire in the exercise of any relevant powers any part of the hereditament or (in the case of an agricultural unit) any part of the affected area during the period of fifteen years from the date of the counter-notice or such longer period from that date as may be specified in the counter-notice ;
- (e) that, on the date of service of the notice under section 182 of this Act, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates ;
- (f) that (for reasons specified in the counter-notice) the interest of the claimant is not an interest qualifying for protection under these provisions ;
- (g) that the conditions specified in paragraphs (c) and (d) of section 182(1) of this Act are not fulfilled.

(3) An objection may not be made on the grounds mentioned in paragraph (d) of subsection (2) of this section if it may be made on the grounds mentioned in paragraph (b) of that subsection.

(4) Any counter-notice served under this section in respect of a blight notice shall specify the grounds (being one or more of

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the grounds mentioned in the preceding provisions of this section or, as relevant, in section 190(6) of this Act) on which the appropriate authority object to the notice.

(5) In this section “relevant powers”, in relation to any land falling within any of the specified descriptions, means any powers under which the appropriate authority are or could be authorised—

- (a) to acquire that land compulsorily as being land falling within that description ; or
- (b) to acquire that land compulsorily for any of the relevant purposes ;

and “the relevant purposes”, in relation to any such land, means the purposes for which, in accordance with the circumstances by virtue of which that land falls within the description in question, it is liable to be acquired or is indicated as being proposed to be acquired.

Reference
of objection
to Lands
Tribunal.

184.—(1) Where a counter-notice has been served under section 183 of this Act objecting to a blight notice, the claimant, at any time before the end of the period of two months beginning with the date of service of the counter-notice, may require the objection to be referred to the Lands Tribunal.

(2) On any such reference, if the objection is not withdrawn, the Lands Tribunal shall consider the matters set out in the notice served by the claimant and the grounds of the objection specified in the counter-notice ; and, subject to subsection (3) of this section, unless it is shown to the satisfaction of the Tribunal that the objection is not well-founded, the Tribunal shall uphold the objection.

(3) An objection on the grounds mentioned in section 183(2) (b), (c) or (d) of this Act shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.

(4) If the Tribunal determines not to uphold the objection, the Tribunal shall declare that the notice to which the counter-notice relates is a valid notice.

(5) If the Tribunal upholds the objection, but only on the grounds mentioned in section 183(2)(c) of this Act, the Tribunal shall declare that the notice is a valid notice in relation to the part of the hereditament or (in the case of an agricultural unit) of the affected area specified in the counter-notice as being the part which the appropriate authority propose to acquire as therein mentioned, but not in relation to any other part of the hereditament or affected area.

(6) In any case falling within subsection (4) or subsection (5) of this section, the Tribunal shall give directions specifying the date on which notice to treat (as mentioned in section 185 of this Act) is to be deemed to have been served.

185.—(1) Where a blight notice has been served, and either— PART IX

(a) no counter-notice objecting to that notice is served in accordance with these provisions ; or Effect of valid blight notice.

(b) where such a counter-notice has been served, the objection is withdrawn, or, on a reference to the Lands Tribunal, is not upheld by the Tribunal,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in the hereditament, or (in the case of an agricultural unit) the interest of the claimant in so far as it subsists in the affected area, and to have served a notice to treat in respect thereof on the date mentioned in subsection (2) of this section.

(2) The said date—

(a) in a case where, on a reference to the Lands Tribunal, the Tribunal determines not to uphold the objection, is the date specified in directions given by the Tribunal in accordance with section 184(6) of this Act ;

(b) in any other case, is the date on which the period of two months beginning with the date of service of the blight notice comes to an end.

(3) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 183(2)(c) of this Act, then if either—

(a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired, gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the hereditament or affected area specified in the counter-notice, and withdraws his claim as to the remainder of that hereditament or area ; or

(b) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with section 184(5) of this Act in respect of that part of the hereditament or affected area,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the hereditament or affected area specified in the counter-notice (but not in so far as it subsists in any other part of that hereditament or area) and to have served a notice to treat in respect thereof on the date mentioned in subsection (4) of this section.

(4) The said date—

(a) in a case falling within paragraph (a) of subsection

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(3) of this section, is the date on which notice is given in accordance with that paragraph ; and

- (b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Lands Tribunal in accordance with section 184(6) of this Act.

Compensation for compulsory purchase of historic buildings and of land in clearance areas. 1947 c. 42.

186. Where an interest in land is acquired in pursuance of a blight notice and the interest is one—

- (a) in respect of which a compulsory purchase order is in force under section 1 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (as applied by section 104 of this Act) containing a direction for minimum compensation under section 107 of this Act ; or

- (b) in respect of which a compulsory purchase order is in force under the said section 1 as applied by section 7 of the Housing (Scotland) Act 1969 ;

1969 c. 34.

the compensation payable for the acquisition shall, in a case falling within paragraph (a) of this section, be assessed in accordance with the direction mentioned in that paragraph and, in a case falling within paragraph (b) of this section, be assessed in accordance with section 10(2) and (3) of the said Act of 1969, in either case as if the notice to treat deemed to have been served in respect of the interest under section 185 of this Act had been served in pursuance of the compulsory purchase order.

Withdrawal of blight notice.

187.—(1) Subject to subsection (2) of this section, the person by whom a blight notice has been served may withdraw the notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been determined by the Lands Tribunal, or at any time before the end of the period of six weeks beginning with the date on which the compensation is so determined ; and, where such a notice is withdrawn by virtue of this subsection, any notice to treat deemed to have been served in consequence thereof shall be deemed to have been withdrawn.

(2) A person shall not be entitled by virtue of subsection (1) of this section to withdraw a notice after the appropriate authority have exercised a right of entering and taking possession of land in pursuance of a notice to treat deemed to have been served in consequence of that notice.

(3) No compensation shall be payable in respect of the withdrawal of a notice to treat which is deemed to have been withdrawn by virtue of subsection (1) of this section.

188.—(1) The provisions of subsection (2) of this section shall have effect where the grounds of objection specified in a counter-notice served under section 183 of this Act consist of or include the grounds mentioned in paragraph (b) or (d) of subsection (2) of that section, and either—

Effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire.

(a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal, or

(b) the time for referring that objection to the Lands Tribunal expires without its having been so referred.

(2) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes the whole or part of the hereditament or agricultural unit to which the counter-notice relates, or if the land in question falls within section 181(1)(d) of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in the hereditament or agricultural unit or any part thereof shall cease to have effect.

(3) The provisions of subsection (4) of this section shall have effect where the grounds of objection specified in a counter-notice under section 183 of this Act consist of or include the grounds mentioned in paragraph (c) of subsection (2) of that section, and either—

(a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal ; or

(b) the time for referring that objection to the Lands Tribunal expires without its having been so referred ;

and in subsection (4) of this section any reference to “ the part of the hereditament or affected area not required ” is a reference to the whole of that hereditament or area except the part specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in the counter-notice.

(4) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes any of the part of the hereditament or affected area not required, or if the land in question falls within section 181(1)(d) of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in any land comprised in the part of the hereditament or affected area not required shall cease to have effect.

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Death of claimant after service of blight notice.

189.—(1) In relation to any time after the death of a person who has served a blight notice, the provisions mentioned in subsection (2) of this section shall apply as if any reference therein to the claimant were a reference to the person who, on the claimant's death, has succeeded to his interest in the hereditament or agricultural unit in question.

(2) The said provisions are sections 183(1), 184(1) and 185(3) of this Act.

Power of heritable creditor to serve blight notice.

190.—(1) Where the whole or part of a hereditament or agricultural unit is comprised in land falling within any of the specified descriptions and a person claims that—

- (a) he is entitled as heritable creditor (by virtue of a power which has become exercisable) to sell an interest in the hereditament or unit, giving immediate vacant possession of the land ; and
- (b) since the relevant date (within the meaning of section 182 of this Act) he has made reasonable endeavours to sell that interest ; and
- (c) he has been unable to sell it except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were comprised in land of any of the said descriptions,

then, subject to the provisions of this section, he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, these provisions.

(2) Subsection (1) of this section shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the entirety of a hereditament or agricultural unit:

Provided that this subsection shall not enable a person—

- (a) if his interest as heritable creditor is in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of any interest in part of the hereditament or unit ; or
- (b) if his interest as heritable creditor is only in part of a hereditament or agricultural unit, to make or serve any such notice or claim in respect of any interest in less than the entirety of that part.

(3) Notice under this section shall not be served unless one or other of the following conditions is satisfied with regard to

the interest which the heritable creditor claims he has the power to sell—

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- (a) the interest could be the subject of a notice under section 182 of this Act served by the person entitled thereto on the date of service of the notice under this section ;
or
- (b) the interest could have been the subject of such a notice served by that person on a date not more than six months before the date of service of the notice under this section.

(4) No notice under this section shall be served in respect of a hereditament or agricultural unit, or any part of a hereditament or agricultural unit, at a time when a notice already served under section 182 of this Act is outstanding with respect to the hereditament, unit or part ; and no notice shall be so served under that section at a time when a notice already served under this section is so outstanding.

(5) For the purposes of subsection (4) of this section, a notice served under this section or section 182 of this Act shall be treated as outstanding with respect to a hereditament or agricultural unit, or to part of a hereditament or agricultural unit, until—

- (a) it is withdrawn in relation to the hereditament, unit or part ; or
- (b) an objection to the notice having been made by a counter-notice under section 183 of this Act, either—
 - (i) the period of two months specified in section 184 of this Act elapses without the claimant having required the objection to be referred to the Lands Tribunal under that section ; or
 - (ii) the objection, having been so referred to the Lands Tribunal, is upheld by the Tribunal with respect to the hereditament, unit or part.

(6) The grounds on which objection may be made in a counter-notice under section 183 of this Act to a notice under this section are those specified in paragraphs (a) to (c) of subsection (2) of that section and, in a case to which it applies the grounds specified in paragraph (d) of that subsection and also the following grounds—

- (a) that, on the date of service of the notice under this section, the claimant had no interest as heritable creditor in any part of the hereditament or agricultural unit to which the notice relates ;

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- (b) that (for reasons specified in the counter-notice) the claimant had not on that date the power referred to in subsection (1)(a) of this section ;
- (c) that the conditions specified in subsection (1)(b) and (c) of this section are not fulfilled ;
- (d) that (for reasons specified in the counter-notice) neither of the conditions specified in subsection (3) of this section was, on the date of service of the notice under this section, satisfied with regard to the interest referred to in that subsection.

Saving for claimant's right to sell whole hereditament, etc.

1845 c. 19.

191.—(1) The provisions of sections 183(2)(c), 184(5), 185(3) and 188(3) and (4) of this Act relating to hereditaments shall not affect the right of a claimant under section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 to sell the whole of the hereditament, or (in the case of an agricultural unit) the whole of the affected area, which he has required the authority to purchase.

1947 c. 42.

(2) The said provisions shall not affect the right of a claimant under paragraph 4 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to sell (unless the Lands Tribunal otherwise determines) the whole of the hereditament, or (in the case of an agricultural unit) the whole of the affected area, which he has required the authority to purchase ; and accordingly in determining whether or not to uphold an objection relating to a hereditament on the grounds mentioned in section 183(2)(c) of this Act the Tribunal shall consider (in addition to the other matters which they are required to consider) whether—

- (a) in the case of a house, building or manufactory, the part proposed to be acquired can be taken without material detriment to the house, building or manufactory ; or
- (b) in the case of a park or garden belonging to a house, the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house.

Meaning of "owner-occupier" and "resident owner-occupier".

192.—(1) Subject to the following provisions of this section, in these provisions "owner-occupier", in relation to a hereditament, means a person who—

- (a) occupies the whole or a substantial part of the hereditament in right of an owner's interest therein, and has so occupied the hereditament or that part thereof

during the whole of the period of six months ending with the date of service ; or

- (b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament during the whole of a period of six months ending not more than twelve months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.

(2) Subject to the following provisions of this section, in these provisions "owner-occupier", in relation to an agricultural unit, means a person who—

- (a) occupies the whole of that unit, and has occupied it during the whole of the period of six months ending with the date of service ; or
- (b) occupied the whole of that unit during the whole of a period of six months ending not more than twelve months before the date of service,

and, at all times material for the purposes of paragraph (a) or paragraph (b) of this subsection, as the case may be, has been entitled to an owner's interest in the whole or part of that unit.

(3) In these provisions "resident owner-occupier", in relation to a hereditament, means an individual who—

- (a) occupies the whole or a substantial part of the hereditament as a private dwelling in right of an owner's interest therein, and has so occupied the hereditament or that part thereof, as the case may be, during the whole of the period of six months ending with the date of service ; or
- (b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament as a private dwelling during the whole of a period of six months ending not more than twelve months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.

(4) In this section "owner's interest", in relation to a hereditament or agricultural unit, or part thereof, includes the interest of the lessee under a lease thereof, being a lease the unexpired period of which on the date of service is not less than three years ; and "date of service", in relation to a hereditament or agricultural unit, means the date of service of a notice in respect thereof under section 182 of this Act.

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Special
provisions as
to partnerships.

193.—(1) The provisions of this section shall have effect for the purposes of the application of these provisions to a hereditament or agricultural unit occupied for the purposes of a partnership firm.

(2) Occupation for the purposes of the firm shall be treated as occupation by the firm, and not as occupation by any one or more of the partners individually, and the definitions of “owner-occupier” in section 192(1) and (2) of this Act shall apply in relation to the firm accordingly.

(3) If, after the service by the firm of a blight notice, any change occurs (whether by death or otherwise) in the constitution of the firm, upon proceedings, rights or obligations consequential upon that notice may be carried on or exercised by or against, or (as the case may be) shall be incumbent upon, the partners for the time being constituting the firm.

1889 c. 63.

(4) Nothing in this section or elsewhere in these provisions shall be construed as indicating an intention to exclude the operation of section 19 of the Interpretation Act 1889 (whereby, unless the contrary intention appears, “person” includes any body of persons corporate or unincorporate) in relation to any of these provisions.

(5) Subsection (2) of this section shall not affect the definition of “resident owner-occupier” in section 192(3) of this Act.

“Appropriate
authority”
for purposes
of these
provisions.

194.—(1) Subject to the following provisions of this section, in these provisions “the appropriate authority”, in relation to any land, means the government department, local authority or other body by whom, in accordance with the circumstances by virtue of which the land falls within any of the specified descriptions, the land is liable to be acquired or is indicated as being proposed to be acquired.

(2) If any question arises—

- (a) whether the appropriate authority in relation to any land for the purpose of these provisions is the Secretary of State or a local highway authority ; or
- (b) which of two or more local highway authorities is the appropriate authority in relation to any land for those purposes ; or
- (c) which of two or more local authorities is the appropriate authority in relation to any land for those purposes ;

that question shall be referred to the Secretary of State, whose decision shall be final.

(3) If any question arises which authority is the appropriate authority for the purposes of these provisions— PART IX

- (a) section 183(1) of this Act shall have effect as if the reference to the date of service of the blight notice were a reference to that date or the date on which that question is determined, whichever is the later ;
- (b) section 190(3)(b) of this Act shall apply with the substitution for the period of six months of a reference to that period extended by so long as it takes to obtain a determination of the question ; and
- (c) section 192(1)(b), (2)(b) and (3)(b) of this Act shall apply with the substitution for the reference to twelve months before the date of service of a reference to that period extended by so long as it takes to obtain a determination of the question.

195.—(1) Subject to the following provisions of this section, “Appropriate in these provisions “the appropriate enactment”, in relation to land falling within any of the specified descriptions, means the enactment which provides for the compulsory acquisition of land as being land falling within that description. enactment ”
for purposes
of these
provisions.

(2) In relation to land falling within the description contained in section 181(1)(b) of this Act an enactment shall, for the purposes of subsection (1) of this section be taken to be an enactment which provides for the compulsory acquisition of land as being land falling within that description if—

- (a) the enactment provides for the compulsory acquisition of land for the purposes of the functions which are indicated in the development plan as being the functions for the purposes of which the land is allocated or is proposed to be developed ; or
- (b) where no particular functions are so indicated in the development plan, the enactment provides for the compulsory acquisition of land for the purposes of any of the functions of the government department, local authority or other body for the purposes of whose functions the land is allocated or is defined as the site of proposed development.

(3) Where, in accordance with the circumstances by virtue of which any land falls within any of the specified descriptions, it is indicated that the land is proposed to be acquired for highway purposes, any enactment under which a highway authority are or (subject to the fulfilment of the relevant conditions) could be authorised to acquire that land compulsorily for highway purposes shall, for the purposes of subsection (1) of this section,

PART IX be taken to be an enactment providing for the compulsory acquisition of that land as being land falling within the description in question.

(4) In subsection (3) of this section the reference to the fulfilment of the relevant conditions is a reference to such one or more of the following as are applicable to the circumstances in question, that is to say—

- 1946 c. 30. (a) the coming into operation of any requisite order under the Trunk Roads Act 1946 ;
- 1949 c. 32. (b) the coming into operation of any requisite scheme or order under the Special Roads Act 1949 ;
- (c) the making or approval of any requisite plans.

(5) If, apart from this subsection, two or more enactments would be the appropriate enactment in relation to any land for the purposes of these provisions, the appropriate enactment for those purposes shall be taken to be that one of those enactments under which, in the circumstances in question, it is most likely that (apart from these provisions) the land would have been acquired by the appropriate authority.

(6) If any question arises as to which enactment is the appropriate enactment in relation to any land for the purposes of these provisions, that question shall be referred—

- (a) where the appropriate authority are a government department, to the Minister or Board in charge of that department ;
- (b) where the appropriate authority are statutory undertakers, to the appropriate Minister ; and
- (c) in any other case, to the Secretary of State,

and the decision of the Minister, Secretary of State or Board to whom a question is referred under this subsection shall be final.

General interpretation of these provisions.

196.—(1) Subject to the following provisions of this section, in these provisions the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“ the affected area ”, in relation to an agricultural unit, means so much of that unit as, on the date of service, consists of land falling within any of the specified descriptions ;

“ agricultural unit ” means land which is occupied as a unit for agricultural purposes, including any dwellinghouse or other building occupied by the same person for the purpose of farming the land ;

“annual value”, in relation to a hereditament, means the value which, on the date of service, is shown in the valuation roll as the rateable value of that hereditament, except that, where the rateable value differs from the net annual value, it means the value which on that date is shown in the valuation roll as the net annual value thereof ;

“the claimant” has the meaning assigned to it by section 182(4) of this Act ;

“hereditament” means the aggregate of the lands and heritages (not being agricultural lands and heritages within the meaning of section 7 of the Valuation and Rating (Scotland) Act 1956) which form the subject of a single entry in the valuation roll for the time being in force for a valuation area ; 1956 c. 60.

“special enactment” means a local enactment, or a provision contained in an Act other than a local or private Act, being a local enactment or provision authorising the compulsory acquisition of land specifically identified therein ; and in this definition “local enactment” means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure ;

“these provisions”, “the specified descriptions” and “blight notice” have the meanings assigned to them respectively by section 181(6) of this Act.

(2) Where any land is on the boundary between two or more valuation areas, and accordingly—

(a) different parts of that land form the subject of single entries in the valuation rolls for the time being in force for those areas respectively ; but

(b) if the whole of that land had been in one of those areas, it would have formed the subject of a single entry in the valuation roll for that area,

the whole of that land shall be treated, for the purposes of the definition of “hereditament” in subsection (1) of this section, as if it formed the subject of a single entry in the valuation roll for a valuation area.

(3) Land which forms the subject of an entry in the valuation roll by reason only that it is land over which any shooting, fishing or other sporting rights are exercisable, or that it is land over which a right of exhibiting advertisements is let out or reserved, shall not be taken to be a hereditament within the said definition.

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(4) Where, in accordance with subsection (2) of this section, land whereof different parts form the subject of single entries in the valuation rolls for the time being in force for two or more valuation areas is treated as if it formed the subject of a single entry in the valuation roll for a valuation area, the definition of "annual value" in subsection (1) of this section shall apply as if any reference therein to a value shown in the valuation roll were a reference to the aggregate of the values shown (as rateable values or as net annual values, as the case may be) in those valuation rolls in relation to the different parts of that land.

(5) In this section "date of service" has the same meaning as in section 192 of this Act.

Supplementary provisions

No withdrawal of constructive notice to treat. 1963 c. 51.

197. Without prejudice to the provisions of section 187(1) of this Act, the power conferred by section 39 of the Land Compensation (Scotland) Act 1963 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 any of the provisions of this Part of this Act.

PART X

HIGHWAYS

Stopping up and diversion of highways

Highways affected by development: orders by Secretary of State.

198.—(1) The Secretary of State may by order authorise the stopping up or diversion of any highway if he is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III of this Act, or to be carried out by a government department.

(2) Any order under this section may make such provision as appears to the Secretary of State to be necessary or expedient for the provision or improvement of any other highway, and may direct—

- (a) that any highway so provided or improved shall be maintained and managed by the highway authority ;
- (b) that the Secretary of State, or any local authority specified in that behalf in the order, shall be the highway authority for that highway ;
- (c) in the case of a highway for which the Secretary of State is to be the highway authority, that the highway shall, on such date as may be specified in the order,

become a trunk road within the meaning of the Trunk Roads Acts 1936 and 1946.

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(3) Any order made under this section may contain such incidental and consequential provisions as appear to the Secretary of State to be necessary or expedient, including in particular—

(a) provision for authorising the Secretary of State, or requiring any other authority or person specified in the order—

(i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is attributable to the doing of any such work ;
or

(ii) to repay, or to make contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section 1 or 2 of the Restriction of Ribbon Development Act 1935 c. 47. 1935 in relation to any highway stopped up or diverted under the order ;

(b) provision for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the highway to which the order relates.

(4) An order may be made under this section authorising the stopping up or diversion of any highway which is temporarily stopped up or diverted under any other enactment.

(5) The provisions of this section shall have effect without prejudice to—

(a) any power conferred on the Secretary of State by any other enactment to authorise the stopping up or diversion of a highway ;

(b) the provisions of section 3 of the Acquisition of Land 1947 c. 42. (Authorisation Procedure) (Scotland) Act 1947 ; or

(c) the provisions of section 203(1)(a) of this Act.

199.—(1) Subject to section 206 of this Act, a local planning authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied as mentioned in section 198(1) of this Act.

Footpaths and
bridleways
affected by
development:
orders by local
planning
authorities.

(2) An order under this section may, if the local planning authority are satisfied that it should do so, provide—

(a) for the creation of an alternative footpath or bridleway for use as a replacement for the one authorised by the

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order to be stopped up or diverted, or for the improvement of an existing path or way for such use ;

- (b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement, provision is made by the order ;
- (c) for the preservation of any rights of statutory undertakers in respect of apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway ;
- (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.

Highways crossing or entering route of proposed new highway, etc.

200.—(1) If planning permission is granted under Part III of this Act for constructing or improving, or the Secretary of State proposes to construct or improve, a highway (hereafter in this section referred to as “ the main highway ”), the Secretary of State may by order authorise the stopping up or diversion of any other highway which crosses or enters the route of the main highway or which is, or will be, otherwise affected by the construction or improvement of the main highway, if it appears to the Secretary of State expedient to do so—

- (a) in the interests of the safety of users of the main highway ; or
- (b) to facilitate the movement of traffic on the main highway.

(2) Subsections (2) to (5) of section 198 of this Act shall apply to an order under this section as they apply to an order under that section.

Conversion of highway into footpath or bridleway

Order extinguishing right to use vehicles on highway.

1909 c. 47.

201.—(1) The provisions of this section shall have effect where a competent authority by resolution adopt a proposal for improving the amenity of part of their area, being a proposal which involves a highway in that area (being a highway over which the public have a right of way with vehicles, but not a trunk road or a road classified as a principal road for the purposes of advances under section 8 of the Development and Road Improvement Funds Act 1909) being changed to a footpath or bridleway.

(2) The Secretary of State may, on an application made by a competent authority, by order provide for the extinguishment of any right which persons may have to use vehicles on that highway.

(3) An order made under subsection (2) of this section may include such provision as the Secretary of State (after consultation with the local planning authority and the highway authority, if different from the competent authority) thinks fit for permitting the use on the highway of vehicles (whether mechanically propelled or not) in such cases as may be specified in the order, notwithstanding the extinguishment of any such right as is mentioned in that subsection; and any such provision may be framed by reference to particular descriptions of vehicles, or to particular persons by whom, or on whose authority, vehicles may be used, or to the circumstances in which, or the times at which, vehicles may be used for particular purposes.

(4) No provision contained in, or having effect under, any enactment, being a provision prohibiting or restricting the use of footpaths or bridleways shall affect any use of a vehicle on a highway in relation to which an order made under subsection (2) of this section has effect, where the use is permitted in accordance with provisions of the order included by virtue of subsection (3) of this section.

(5) Any person who, at the time of an order under subsection (2) of this section coming into force, has an interest in land having lawful access to a highway to which the order relates shall be entitled to be compensated by the competent authority in respect of any depreciation in the value of his interest which is directly attributable to the order and of any other loss or damage which is so attributable.

In this subsection "lawful access" means access authorised by planning permission granted under this Act or the Act of 1947, or access in respect of which no such permission is necessary.

(6) A claim for compensation under subsection (5) of this section shall be made to the competent authority within the time and in the manner prescribed by regulations under this Act.

(7) Sections 167 and 168 of this Act shall have effect in relation to compensation under subsection (5) of this section as they have effect in relation to compensation to which those sections apply.

(8) Without prejudice to section 273(3) of this Act, the Secretary of State may, on an application made by a competent

PART X authority, by order revoke an order made by him in relation to a highway under subsection (2) of this section; and the effect of the order shall be to reinstate any right to use vehicles on the highway, being a right which was extinguished by virtue of the order under that subsection.

(9) The competent authorities for the purposes of this section are county councils and town councils, and before making an application under subsection (2) or (8) of this section a competent authority shall consult with the local planning authority and the highway authority (in a case where they are themselves not that authority).

(10) Subsections (2), (3) and (5) of section 198 of this Act shall apply to an order under this section as they apply to an order under that section.

Provision of amenity for highway reserved to pedestrians.

202.—(1) Where in relation to a highway an order has been made under section 201(2) of this Act, a competent authority may carry out and maintain any such works on or in the highway, or place on or in it any such objects or structures, as appear to them to be expedient for the purposes of giving effect to the order or of enhancing the amenity of the highway and its immediate surroundings or to be otherwise desirable for a purpose beneficial to the public.

(2) The powers exercisable by a competent authority under this section shall extend to laying out any part of the highway with lawns, trees, shrubs and flower-beds and to providing facilities for recreation or refreshment.

(3) A competent authority may so exercise their powers under this section as to restrict the access of the public to any part of the highway, but shall not so exercise them as—

- (a) to prevent persons from entering the highway at any place where they could enter it before the order under section 201 of this Act was made; or
- (b) to prevent the passage of the public along the highway; or
- (c) to prevent normal access by pedestrians to premises adjoining the highway; or
- (d) to prevent any use of vehicles which is permitted by an order made under the said section 201 and applying to the highway; or
- (e) to prevent statutory undertakers from having access to any works of theirs under, in, on, over, along or across the highway.

(4) An order under section 201(8) of this Act may make provision requiring the removal of any obstruction of the highway

resulting from the exercise by a competent authority of their powers under this section. PART X

(5) The competent authorities for the purposes of this section are county councils and town councils, but such an authority shall not exercise any powers conferred by this section unless they have obtained the consent of the local planning authority and the highway authority (in a case where they are themselves not that authority).

Extinguishment of rights of way

203.—(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated—

Extinguish-
ment of public
rights of way
over land
held for
planning
purposes.

- (a) the Secretary of State may by order extinguish any public right of way over the land if he is satisfied that an alternative right of way has been or will be provided or that the provision of an alternative right of way is not required ;
- (b) subject to section 206 of this Act, the local authority may by order extinguish any such right over the land, being a footpath or bridleway, if they are satisfied as aforesaid.

(2) In this section any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with section 122(1) of this Act as if this section were in Part VI of this Act.

Procedure for making and confirming orders

204.—(1) Before making an order under section 198, 200, 201 or 203(1)(a) of this Act the Secretary of State shall publish in at least one local newspaper circulating in the relevant area, and in the Edinburgh Gazette, a notice—

Procedure for
making of
orders by
Secretary of
State.

- (a) stating the general effect of the order ;
- (b) specifying a place in the relevant 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 twenty-eight days from the date of the publication of the notice ; and
- (c) stating that, within that period, any person may by notice to the Secretary of State object to the making of the order.

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(2) Not later than the date on which that notice is so published, the Secretary of State—

(a) shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan, on every local authority in whose area any highway or, as the case may be, any land to which the order relates is situated, and 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 or, as the case may be, any land over which a right of way is to be extinguished, under the order; and

(b) shall cause a copy of the notice 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 or, as the case may be, of the right of way proposed to be extinguished under the order.

(3) If before the end of the said period of twenty-eight days an objection is received by the Secretary of State from any local authority or undertakers on whom a notice is required to be served under subsection (2) of this section, or from any other person appearing to him to be affected by the order, and the objection is not withdrawn, the Secretary of State shall cause a local inquiry to be held:

Provided that, if the objection is made by a person other than such a local authority or undertakers, the Secretary of State 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.

(4) 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 Secretary of State (subject to subsection (5) of this section) may make the order either without modification or subject to such modifications as he thinks fit.

(5) Where the order contains a provision requiring any such payment, repayment or contribution as is mentioned in section 198(3)(a) of this Act, and objection to that provision is duly made, in accordance with subsection (3) of this section, by an authority or person who would be required thereby to make such a payment, repayment or contribution, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(6) Immediately after the order has been made, the Secretary of State shall publish, in the manner specified in subsection

(1) of this section, a notice stating that the order has been made, and naming a place where a copy of the order may be seen at all reasonable hours; and the provisions of subsection (2) of this section shall have effect in relation to any such notice as they have effect in relation to a notice under subsection (1) of this section.

(7) In this section “the relevant area”, in relation to an order, means the area in which any highway or land to which the order relates is situated, and “local authority” means a county council, town council or district council.

205.—(1) Where the Secretary of State would, if planning permission for any development had been granted under Part III of this Act, have power to make an order under section 198 or 200 of this Act authorising the stopping-up or diversion of a highway in order to enable that development to be carried out, then, notwithstanding that such permission has not been granted, the Secretary of State may, in the circumstances specified in subsections (2) to (4) of this section, publish notice of the draft of such an order in accordance with section 204 of this Act.

Procedure in anticipation of planning permission, etc.

(2) The Secretary of State may publish such a notice as aforesaid where the relevant development is the subject of an application for planning permission and either—

- (a) that application is made by a local authority or statutory undertakers or the National Coal Board; or
- (b) that application stands referred to the Secretary of State in pursuance of a direction under section 32 of this Act; or
- (c) the applicant has appealed to the Secretary of State under section 33 of this Act against a refusal of planning permission or of approval required under a development order, or against a condition of any such permission or approval.

(3) The Secretary of State may publish such a notice as aforesaid where—

- (a) the relevant development is to be carried out by a local authority, statutory undertakers or the National Coal Board and requires, by virtue of an enactment, the authorisation of a government department; and
- (b) the developers have made application to the department for that authorisation and also requested a direction under section 37 of this Act or, in the case of the National Coal Board, under section 2 of the Opencast Coal Act 1958, that planning permission be deemed to be granted for that development.

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(4) The Secretary of State may publish such a notice as aforesaid where the local planning authority certify that they have begun to take such steps, in accordance with regulations made by virtue of section 256 of this Act, as are requisite in order to enable them to obtain planning permission for the relevant development.

(5) Section 204(5) of this Act shall not be construed as authorising the Secretary of State to make an order under section 198 or 200 of this Act of which notice has been published by virtue of subsection (1) of this section until planning permission is granted for the development which occasions the making of the order.

Confirmation of orders made by other authorities.

206.—(1) An order made under section 199 or 203(1)(b) of this Act shall not take effect unless confirmed by the Secretary of State, or unless confirmed, as an unopposed order, by the authority who made it.

(2) The Secretary of State shall not confirm any such order unless satisfied as to every matter of which the authority making the order are required under section 199 or 203(1)(b) (as the case may be) to be satisfied.

(3) The time specified—

(a) in an order under section 199 as the time from which a footpath or bridleway is to be stopped up or diverted ;
or

(b) in an order under section 203(1)(b) as the time from which a right of way is to be extinguished,

shall not be earlier than confirmation of the order.

(4) Schedule 18 to this Act shall have effect with respect to the confirmation of orders under section 199 or 203(1)(b) of this Act and the publicity for such orders after they are confirmed.

Supplementary provisions

Compulsory acquisition of land in connection with highways.

207.—(1) The Secretary of State or a local highway authority may be authorised to acquire land compulsorily—

(a) for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under section 198, 200 or 201 of this Act or for any other purpose for which land is required in connection with such an order ; or

(b) 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 203(1)(a) of this Act.

1947 c. 42.

(2) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (other than section 2 thereof) shall apply to the

acquisition of land under this section, and accordingly shall have effect—

- (a) as if this section had been in force immediately before the commencement of that Act; and
- (b) as if this section were included among the enactments specified in section 1(1)(b) of that Act.

208.—(1) In relation to orders under sections 198, 200 and 201 of this Act, regulations made under this Act may make provision for securing that any proceedings required to be taken for the purposes of the acquisition of land under section 207 of this Act (as mentioned in subsection (1)(a) of that section) may be taken concurrently with any proceedings required to be taken for the purposes of the order. Concurrent proceedings in connection with highways.

(2) In relation to orders under section 203(1)(a) of this Act, regulations made under this Act may make provision for securing—

- (a) that any proceedings required to be taken for the purposes of such an order 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
- (b) that any proceedings required to be taken for the purposes of the acquisition of any other land under section 207 of this Act (as mentioned in subsection (1)(b) of that section) may be taken concurrently with either or both of the proceedings referred to in the preceding paragraph.

209.—(1) Where in pursuance of an order under section 198, 200 or 201 of this Act a highway is stopped up or diverted, and, immediately before the date on which the order became operative, there was under, in, on, over, along or across the highway a telegraphic line belonging to or used by the Post Office, the Post Office shall have the same powers in respect of that line as if the order had not become operative: Provisions as to telegraphic lines.

Provided that if any person entitled to land over which the highway subsisted requires that the telegraphic line should be altered, paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 shall apply to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered. 1878 c. 76.

(2) Where any such order provides for the improvement of a highway, other than a trunk road, and, immediately before the date on which the order became operative, there was under, in,

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on, over, along or across the highway a telegraphic line belonging to or used by the Post Office, then if the local highway authority require that that line should be altered, paragraphs (1) to (8) of the said section 7 shall apply to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the local highway authority:

1950 c. 39.

Provided that those paragraphs shall not apply by virtue of this subsection to the alteration of a telegraphic line for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.

(3) Where an order under section 203(1)(a) of this Act extinguishing a public right of way is made on the application of a local planning authority, and at the time of the publication of the notice required by section 204(1) of this Act there was under, in, on, over, along or across the land over which the right of way subsisted a telegraphic line belonging to or used by the Post Office—

- (a) the power of the Post Office to remove the line shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished, and shall be exercisable in respect of the whole or any part of the line after the end of that period if before the end of that period the Post Office has given notice to the local planning authority of its intention to remove the line or that part thereof, as the case may be;
- (b) the Post Office may by notice given in that behalf to the local planning authority not later than the end of the said period of three months abandon the telegraphic line or any part thereof;
- (c) subject to paragraph (b) of this subsection, the Post Office shall be deemed at the end of that period to have abandoned any part of the line which it has then neither removed nor given notice of its intention to remove;
- (d) the Post Office 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 Post Office may require;

(e) where under the preceding provisions of this subsection the Post Office 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 1916 shall not apply in relation to the line or that part thereof with respect to anything done or omitted after the abandonment thereof.

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(4) As soon as practicable after the making of an order under section 203(1)(a) of this Act extinguishing a public right of way in circumstances in which subsection (3) of this section applies, the Secretary of State shall give notice to the Post Office of the making of the order.

(5) In this section “ telegraphic line ” and “ alter ” have the same meanings as in the Telegraph Act 1878.

1878 c. 76.

210.—(1) In subsections (1) and (2) of section 32 of the Mineral Workings Act 1951 (temporary order for stopping up or diversion of highway)—

Application of s. 32 of Mineral Workings Act 1951 to orders under Part X. 1951 c. 60.

(a) references to section 198 of this Act (except the reference to subsection (3) of that section) shall include references to section 199 of this Act ;

(b) the reference to the said subsection (3) shall include a reference to subsection (2) of the said section 199 ; and

(c) references to the Secretary of State shall include references to a local planning authority for the purposes of the said section 199.

(2) In subsection (3) of the said section 32 (rights of statutory undertakers in respect of their apparatus where order is made under section 198 of this Act) the reference to section 198 of this Act shall include a reference to section 200 of this Act.

(3) This section has effect in lieu of the amendments of the said section 32 made by sections 90(3) and 93(4) of the Act of 1969.

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STATUTORY UNDERTAKERS

Preliminary

211. In this Act “ operational land ” means, in relation to statutory undertakers—

Meaning of “ operational land ”.

(a) land which is used for the purpose of carrying on their undertaking ; and

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(b) land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.

Cases in which land is to be treated as not being operational land.

212.—(1) Where an interest in land is held by statutory undertakers for the purpose of carrying on their undertaking and—

(a) the interest was acquired by them on or after 8th December 1969 ; or

(b) it was held by them immediately before that date but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the Act of 1947,

then subsection (2) of this section shall have effect for the purpose of determining whether the land is to be treated as operational land for the purposes of this Act and shall so have effect notwithstanding the definition of operational land in section 211 of this Act.

(2) The land shall not be treated as operational land for the purposes of this Act unless one or both of the following conditions are satisfied with respect to it, namely—

(a) there is, or at some time has been, in force with respect to the land a specific planning permission for its development and that development, if carried out, would involve or have involved the use of the land for the purpose of the carrying on of the statutory undertakers' undertaking ; or

(b) the undertakers' interest in the land was acquired by them as the result of a transfer under the provisions of the Transport Act 1968 from other statutory undertakers and the land was, immediately before transfer, operational land of those other undertakers.

(3) A specific planning permission for the purpose of subsection (2)(a) of this section is a planning permission—

(a) granted on an application in that behalf under Part III of this Act or the enactments previously in force and replaced by that Part of this Act ; or

(b) granted by provisions of a development order granting planning permission generally for development which has received specific parliamentary approval ; or

(c) granted by a special development order in respect of development specifically described in the order ; or

1968 c. 73.

(d) deemed to be granted by virtue of a direction of a government department under section 37 of this Act or section 32 of the Act of 1947 ;

and the reference in paragraph (b) of this subsection to development which has received specific parliamentary approval shall be construed as referring to development authorised by a local or private Act of Parliament or by an order approved by both Houses of Parliament or by an order which has been brought into operation in accordance with the provisions of the Statutory Orders (Special Procedure) Act 1945, being an Act or order which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out. 1945 c. 18. (9 & 10 Geo. 6).

213.—(1) In this Act “ the appropriate Minister ”—

Meaning of “ the appropriate Minister ”.

- (a) in relation to statutory undertakers carrying on an undertaking for the supply of gas or hydraulic power, means the Secretary of State for Trade and Industry ;
- (b) in relation to statutory undertakers carrying on a light-house undertaking, means the said Secretary of State or the Board of Trade ;
- (c) in relation to statutory undertakers carrying on an undertaking for the supply of electricity or water, means the Secretary of State ; and
- (d) in relation to any other statutory undertakers, means the Secretary of State for the Environment.

(2) This Act shall have effect as if references to the Secretary of State and the appropriate Minister—

- (a) were references to the Secretary of State and the appropriate Minister, if the appropriate Minister is not the one concerned as the Secretary of State ; and
 - (b) were references to the one concerned as the Secretary of State alone, if he is also the appropriate Minister ;
- and similarly with references to a Minister and the appropriate Minister and with any provision requiring the Secretary of State to act jointly with the appropriate Minister.

General provisions

214.—(1) Where—

- (a) an application for planning permission to develop land to which this subsection applies is made by statutory undertakers and is referred to the Secretary of State under Part III of this Act ; or

Applications for planning permission by statutory undertakers.

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- (b) an appeal is made to the Secretary of State under Part III of this Act from the decision on such an application ; or
- (c) such an application is deemed to be made under subsection (7) of section 85 of this Act on an appeal under that section by statutory undertakers,

the application or appeal shall be dealt with by the Secretary of State and the appropriate Minister.

(2) Subsection (1) of this section applies—

- (a) to operational land ; and
- (b) to land in which the statutory undertakers hold, or propose to acquire, an interest with a view to its being used for the purpose of carrying on their undertaking where the planning permission, if granted on the application or appeal, would be for development involving the use of the land for that purpose.

(3) An application for planning permission which is deemed to have been made by virtue of section 91(5) of this Act shall be determined by the Secretary of State and the appropriate Minister.

(4) Notwithstanding anything in Part III of this Act, planning permission to develop operational land of statutory undertakers shall not, except with their consent, 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 end of a specified period.

(5) Subject to the provisions of this Part of this Act as to compensation, the provisions of this Act shall apply to an application which is dealt with under this section by the Secretary of State and the appropriate Minister as if it had been dealt with by the Secretary of State.

Development requiring sanction of government department.

215.—(1) Where the sanction of a government department other than the Secretary of State is required in respect of any development of operational land, then, 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 planning permission under section 214(1) of this Act.

(2) The provisions of subsection (3) of section 37 of this Act shall have effect for the purposes of this section as they have effect for the purposes of that section.

216. In relation to any planning permission, granted on the application of statutory undertakers, for the development of operational land, the provisions of Part III of this Act with respect to the revocation and modification of planning permission shall have effect 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.

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Revocation or modification of permission to develop operational land.

217. The provisions of Part III 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 statutory undertakers, 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.

Order requiring discontinuance of use etc. of operational land.

218.—(1) Notwithstanding anything in paragraph 10 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 a compulsory purchase order to which this section applies may be confirmed or made without the appropriate Minister's certificate.

Acquisition of land of statutory undertakers.
1947 c. 42.

(2) This section applies to any compulsory purchase order under this Act authorising the acquisition of land which has been acquired by statutory undertakers for the purposes of their undertaking.

(3) Except where the appropriate Minister's certificate is given, a compulsory purchase order to which this section applies shall be of no effect unless it is confirmed or made by the appropriate Minister jointly with the Minister or Ministers who would apart from this subsection have power to make or confirm it.

(4) In this section "the appropriate Minister's certificate" means such a certificate as is mentioned in paragraph 10 of Schedule 1 to the said Act of 1947.

219.—(1) Where any land has been acquired by a Minister, a local planning authority or statutory undertakers under Part VI of this Act or compulsorily under any other enactment, or has been appropriated by a local planning authority for planning purposes, and—

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

(a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land; or

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- (b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking,

the acquiring or appropriating authority, if satisfied that the extinguishment of the right or, as the case may be, the removal of the apparatus, is necessary for the purpose of carrying out any development with a view to which the land was acquired or appropriated, may serve on the statutory undertakers a notice stating that, at the end of the period of twenty-eight days from the date of service of the notice or such longer period as may be specified therein, the right will be extinguished or requiring that, before the end of such period as aforesaid, the apparatus shall be removed.

(2) The statutory undertakers on whom a notice is served under subsection (1) of this section may, before the end of the period of twenty-eight days from the service of the notice, serve a counter-notice on the acquiring or appropriating authority stating that they object to all or any of the provisions of the notice and specifying the grounds of their objection.

(3) If no counter-notice is served under subsection (2) of this section—

- (a) any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice ; and
- (b) 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 acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority 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 to the service of a further notice) or may apply to the Secretary of State and the appropriate Minister for an order under this section embodying the provisions of the notice, with or without modification.

(5) If a counter-notice is served under subsection (2) of this section on a Minister, he may withdraw the notice (without prejudice to the service of a further notice) or he and the appropriate Minister may make an order under this section embodying the provisions of the notice, with or without modification.

(6) In this section any reference to the appropriation of land for planning purposes shall be construed in accordance with

section 122(1) of this Act as if this section were in Part VI of PART XI
this Act.

220.—(1) Where a Minister and the appropriate Minister ^{Orders} propose to make an order under section 219(5) of this Act, they ^{under s. 219.} shall prepare a draft of the order.

(2) Before making an order under subsection (4) or subsection (5) of section 219 of this Act, the Ministers proposing to make the order—

- (a) shall afford to the statutory undertakers on whom notice was served under subsection (1) of that section an opportunity of objecting to the application for, or proposal to make, the order ; and
- (b) if any objection is made, shall cause an inquiry to be held,

and may then, if they think fit, make the order in accordance with the application or in accordance with the draft order, as the case may be, either with or without modification.

(3) Where an order is made under section 219 of this Act—

- (a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order ; and
- (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

221.—(1) Subject to the provisions of this section, where land ^{Notice} has been acquired or appropriated as mentioned in section 219(1) ^{for same} of this Act, and— ^{purposes as}

- (a) there is on, under or over the land any apparatus vested in or belonging to statutory undertakers ; and ^{s. 219 but}
- (b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development, ^{given by}
^{statutory}
^{undertakers}
^{to developing}
^{authority.}

the undertakers may serve on the acquiring or appropriating authority a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

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(2) Where, after the land has been acquired or appropriated as aforesaid, development of the land is begun to be carried out, no notice under this section shall be served later than twenty-one days after the beginning of the development.

(3) Where a notice is served under this section, the authority on whom it is served may, before the end of the period of twenty-eight days from the date of service, serve on the statutory undertakers a counter-notice stating that they object to all or any of the provisions of the notice and specifying the grounds of their objection.

(4) If no counter-notice is served under subsection (3) of this section, the statutory undertakers shall, after the end of the period of twenty-eight days therein mentioned, have the rights claimed in their notice.

(5) If a counter-notice is served under subsection (3) of this section, the statutory undertakers who served the notice under this section may either withdraw it or may apply to the Secretary of State and the appropriate Minister for an order under this section conferring on the undertakers the rights claimed in the notice or such modified rights as the Secretary of State and the appropriate Minister think it expedient to confer on them.

(6) Where, by virtue of this section or of an order of Ministers thereunder, statutory undertakers have the right to execute works for the removal or re-siting of apparatus, they may arrange with the acquiring or appropriating authority for the works to be carried out by that authority, under the superintendence of the undertakers, instead of by the undertakers themselves.

Extension or modification of functions of statutory undertakers.

222.—(1) The powers conferred by this section shall be exercisable where, on a representation made by statutory undertakers, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—

- (a) 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 Minister may be authorised under Part VI of this Act to acquire land or in connection with which any such person may compulsorily acquire land under any other enactment; or
- (b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in subsection (2) of this section.

(2) The said acts and events are—

- (a) the acquisition under Part VI of this Act or compulsorily under any other enactment of any land in

which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers in question ;

- (b) the extinguishment of a right or the imposition of any requirement by virtue of section 219 of this Act ;
- (c) a decision on an application made by the statutory undertakers for planning permission to develop any such land as is mentioned in paragraph (a) of this subsection ;
- (d) the revocation or modification of planning permission granted on any such application ;
- (e) the making of an order under section 49 of this Act in relation to any such land.

(3) The powers conferred by this section shall also be exercisable where, on a representation made by a local planning authority or Minister, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified, in order to secure the provision of new services, or the extension of existing services, for any purpose in connection with which the local planning authority or Minister making the representation may be authorised under Part VI of this Act to acquire land or in connection with which the local authority or Minister may compulsorily acquire land under any other enactment.

(4) Where the powers conferred by this section are exercisable, the Secretary of State and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order to secure the services in question, as mentioned in subsection (1)(a) or (3) of this section, or to facilitate the adjustment in question, as mentioned in subsection (1)(b) of this section, as the case may be.

(5) Without prejudice to the generality of subsection (4) of this section, an order under this section may make provision—

- (a) for empowering the statutory undertakers 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 any such land or the construction of any such works, enactments relating to the acquisition of land and the construction of works ;
- (c) where it has been represented that the making of the order is expedient for the purposes mentioned in subsection (1)(a) or (3) of this section, for giving effect to

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such financial arrangements between the local planning authority or Minister and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order ;

- (d) for such incidental and supplemental matters as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.

Procedure in relation to orders under s. 222.

223.—(1) As soon as may be after making such a representation as is mentioned in subsection (1) or subsection (3) of section 222 of this Act—

- (a) the statutory undertakers, in a case falling within subsection (1) of that section ; or
 (b) the local planning authority or Minister making the representation, in a case falling within subsection (3) thereof,

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

(2) Orders under section 222 of this Act shall be subject to special parliamentary procedure.

Relief of statutory undertakers from obligations rendered impracticable.

224.—(1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligation incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this subsection applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment of that obligation, either absolutely or to such extent as may be specified in the order.

(2) Subsection (1) of this section applies to the following acts and events, that is to say—

- (a) the compulsory acquisition under Part VI of this Act or under any other enactment of any land in which an interest was held, or which was used, for the purpose

of the carrying on of the undertaking of the statutory undertakers ; and

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(b) the acts and events specified in section 222(2)(b) to (e) of this Act.

(3) As soon as may be after making a representation to the appropriate Minister under subsection (1) of this section, the statutory undertakers shall, as may be 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 so directed of the matters to which the representation relates, and specify 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.

(4) If any objection to the making of an order under this section is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.

(5) Immediately after an order is made under this section by the appropriate Minister, he shall publish a notice stating that the order has been made and naming a place where a copy of it may be seen at all reasonable hours, and shall serve a like notice—

(a) on any person who duly made an objection to the order and has sent to the appropriate Minister a request in writing to serve him with the notice required by this subsection, specifying an address for service ; and

(b) on such other persons (if any) as the appropriate Minister thinks fit.

(6) Subject to subsection (7) of this section, and to the provisions of Part XII of this Act, an order under this section shall become operative on the date on which the notice required by subsection (5) of this section is first published.

(7) Where in accordance with subsection (4) of this section the order is subject to special parliamentary procedure, subsection (6) of this section shall not apply.

225.—(1) For the purposes of sections 222 and 224 of this Act, an objection to the making of an order thereunder shall not be treated as duly made unless—

Objections to orders under ss. 222 and 224.

(a) the objection is made within the time and in the manner specified in the notice required by the section under which the order is proposed to be made ; and

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(b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

(2) Where an objection to the making of such an order is duly made in accordance with subsection (1) of this section and is not withdrawn, the following provisions of this section shall have effect in relation thereto :

Provided that, in the application of those provisions to an order under section 222 of this Act, any reference to the appropriate Minister shall be construed as a reference to the Secretary of State and the appropriate Minister.

(3) Unless the appropriate Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the appropriate Minister, before making a final decision, shall consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.

(4) In so far as the appropriate Minister, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision.

(5) If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the appropriate Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed 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 appropriate Minister may make a final decision without further investigation as to those matters.

(6) Subject to subsections (4) and (5) of this section, the appropriate Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the appropriate Minister ; and if the objector avails himself of that opportunity, the appropriate Minister shall afford an opportunity of appearing and being heard on the same occasion to the statutory undertakers, local planning authority or Minister on whose representation the order is proposed to be made, and to any other persons to whom it appears to the appropriate Minister to be expedient to afford such an opportunity.

(7) Notwithstanding anything in the preceding provisions of this section, if it appears to the appropriate Minister that the

matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, 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 provisions to which effect has not been given at the time of that determination shall be dispensed with.

(8) In this section any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification (if any) ought to be made.

Compensation

226.—(1) Statutory undertakers shall, subject to the following provisions of this Part of this Act, be entitled to compensation from the local planning authority—

Right to compensation in respect of certain decisions and orders.

(a) in respect of any decision made in accordance with section 214 of this Act whereby planning permission to develop operational land of those undertakers is refused or is granted subject to conditions where—

(i) planning permission for that development would have been granted by a development order but for a direction given under such an order that planning permission so granted should not apply to the development ; and

(ii) it is not development which has received specific parliamentary approval (within the meaning given to that expression by section 212(3) of this Act) ;

(b) in respect of any order under section 42 of this Act, as modified by section 216 thereof, whereby planning permission, granted on the application of those undertakers for the development of any such land, is revoked or modified.

(2) Where, by virtue of section 219 of this Act, any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.

(3) Where works are carried out for the removal or re-siting of statutory undertakers' apparatus, being works which the undertakers have the right to carry out by virtue of section 221 of this Act or an order of Ministers thereunder, the undertakers shall be entitled to compensation from the acquiring or appropriating authority.

(4) Notwithstanding anything in subsection (1) of this section, if the decision or order in question relates to land acquired by

PART XI the statutory undertakers after 7th January 1947, and the Secretary of State and the appropriate Minister are satisfied, having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that it is unreasonable that compensation should be recovered in respect of that decision or order, they may include therein a direction that subsection (1) of this section shall not apply to that decision or order.

(5) For the purposes of this section the conditions referred to in sections 38 and 39 of this Act shall be disregarded and no compensation shall be payable under this section in respect of the imposition of any condition to which section 69 or 80 of this Act applies.

Measure of compensation to statutory undertakers.

227.—(1) Where statutory undertakers are entitled to compensation—

- (a) as mentioned in subsection (1), (2) or (3) of section 226 of this Act ; or
- (b) under the provisions of section 159 in respect of an order made under section 49 of this Act as modified by section 217 thereof ; or
- (c) in respect of a compulsory acquisition of land which has been acquired by those undertakers for the purposes of their undertaking, where the first-mentioned acquisition is effected under a compulsory purchase order confirmed or made without the appropriate Minister's certificate ;

the amount of the compensation shall (subject to section 228 of this Act) be an amount calculated in accordance with the following provisions of this section.

(2) The said amount, subject to subsections (3) and (4) of this section, shall 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 ;
- (b) whichever of the following is applicable, namely—
 - (i) where such an 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 proceeding giving rise to compensation, 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 ;

(ii) 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 ;

- (c) where the compensation is under section 226(2) of this Act, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.

(3) Where any such adjustment as is mentioned in paragraph (a) of subsection (2) of this section is made, the aggregate amount mentioned in that subsection shall be reduced by such amount (if any) as appears to the tribunal referred to in subsection (2) of section 229 of this Act to be appropriate to offset—

- (a) the estimated value of any property (whether moveable or heritable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used, in so far as the value of the property has not been taken into account under paragraph (c) of that subsection ; and
- (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under paragraph (b) of that subsection and is directly attributable to the adjustment,

and by any further amount which appears to the tribunal referred to in subsection (2) of section 229 of this Act to be appropriate, having regard to any increase in the capital value of heritable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under paragraph (b) of this subsection.

(4) Where the compensation is under section 226(3) of this Act and the acquiring or appropriating authority carry out the works, then, in addition to any reduction falling to be made under subsection (3) of this section, the aggregate amount mentioned in subsection (2) of this section shall be reduced by the actual cost to the authority of carrying out the works.

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(5) References in this section 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 a balance 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.

(6) In this section—

“proceeding giving rise to compensation” means—

(a) except in relation to compensation under section 226(3) of this Act, the particular action (that is to say, the decision, order, extinguishment of a right, imposition of a requirement, or acquisition) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken;

(b) in relation to compensation under the said section 226(3), the circumstances making it necessary for the apparatus in question to be removed or re-sited;

“the appropriate Minister’s certificate” has the same meaning as in section 218 of this Act.

Exclusion
of s. 227 at
option of
statutory
undertakers.

1963 c. 51.

228.—(1) Where statutory undertakers are entitled to compensation in respect of such a compulsory acquisition as is mentioned in section 227(1)(c) of this Act, the statutory undertakers may by notice in writing under this section elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section 12 of the Land Compensation (Scotland) Act 1963) which would be applicable apart from section 227 of this Act; and if the undertakers so elect the compensation shall be ascertained accordingly.

(2) An election under this section may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of part of that land.

(3) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

229.—(1) Where the amount of any such compensation as is mentioned in subsection (1) of section 227 of this Act falls to be ascertained in accordance with the provisions of that section, the compensation shall, in default of agreement, be assessed by the tribunal referred to in subsection (2) of this section, if apart from this section it would not fall to be so assessed.

PART XI
 Procedure for assessing compensation where s. 227 applies.

(2) The tribunal referred to in this subsection 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.

(3) 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.

(4) For the purposes of any proceedings arising before the tribunal referred to in subsection (2) of this section in respect of compensation falling to be ascertained as mentioned in subsection (1) of this section, the provisions of sections 9 and 11 of the Land Compensation (Scotland) Act 1963 shall apply as they apply to proceedings on a question referred to the Lands Tribunal under section 8 of that Act, but with the substitution in section 11 of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed. 1963 c. 51.

Supplementary provisions

230.—(1) The provisions of this Part of this Act specified in subsection (2) of this section do not apply in relation to the display of advertisements on operational land of statutory undertakers.

Special provisions as to display of advertisements on operational land.

(2) The said provisions are sections 214 to 217 and 226(1) and (4) of this Act.

PART XII

VALIDITY OF PLANNING INSTRUMENTS AND DECISIONS
AND PROCEEDINGS RELATING THERETO

Validity of
development
plans and
certain
orders,
decisions and
directions.

231.—(1) Except as provided by the following provisions of this Part of this Act, the validity of—

- (a) a structure plan, a local plan or any alteration, repeal or replacement of any such plan, whether before or after the plan, alteration, repeal or replacement has been approved or adopted ; or
 - (b) an order under any provision of Part X of this Act, except section 203(1)(a), whether before or after the order has been made ; or
 - (c) an order under section 224 of this Act, whether before or after the order has been made ; or
 - (d) any such order as is mentioned in subsection (2) of this section, whether before or after it has been confirmed ; or
 - (e) any such action on the part of the Secretary of State as is mentioned in subsection (3) of this section,
- shall not be questioned in any legal proceedings whatsoever.

(2) The orders referred to in subsection (1)(d) of this section are orders of any of the following descriptions, that is to say—

- (a) any order under section 42 of this Act or under the provisions of that section as applied by or under any other provision of this Act ;
- (b) any order under section 49 of this Act ;
- (c) any tree preservation order ;
- (d) any order made in pursuance of section 61(4) of this Act ;
- (e) any order under section 203(1)(a) of this Act ;
- (f) any order under Part II of Schedule 10 to this Act.

(3) The action referred to in subsection (1)(e) of this section is action on the part of the Secretary of State of any of the following descriptions, that is to say—

- (a) any decision of the Secretary of State on an application for planning permission referred to him under section 32 of this Act ;
- (b) any decision of the Secretary of State on an appeal under section 33 of this Act ;
- (c) the giving by the Secretary of State of any direction under section 35 of this Act ;
- (d) any decision by the Secretary of State to confirm a completion notice under section 41 of this Act ;
- (e) any decision of the Secretary of State relating to an application for consent under a tree preservation order,

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or relating to an application for consent under any regulations made in accordance with section 61 of this Act, or relating to any certificate or direction under any such order or regulations, whether it is a decision of the Secretary of State on appeal or a decision on an application referred to him for determination in the first instance ;

- (f) any decision of the Secretary of State on an appeal to him under section 85(1)(a), (f) or (g) of this Act against any enforcement notice ;
- (g) any decision of the Secretary of State on an application for an established use certificate referred to him under subsection (1) of section 91 of this Act or on an appeal under subsection (2) of that section ;
- (h) any decision of the Secretary of State under subsection (5)(a) of section 93 of this Act to grant listed building consent for any works or under subsection (5)(b) of that section to grant planning permission in respect of any works ;
- (i) any decision of the Secretary of State to confirm a purchase notice or listed building purchase notice ;
- (j) any decision of the Secretary of State not to confirm a purchase notice or listed building purchase notice, including any decision not to confirm such a notice in respect of part of the land to which it relates, and including any decision to grant any permission, or give any direction, in lieu of confirming such a notice, either wholly or in part ;
- (k) any decision of the Secretary of State on an application referred to him under paragraph 4 of Schedule 10 to this Act (being an application for listed building consent for any works) or on an appeal under paragraph 8 of that Schedule or section 93 of this Act.

(4) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such action as is mentioned in subsection (3) of this section.

232.—(1) If any person aggrieved by a structure plan or local plan or by any alteration, repeal or replacement of any such plan desires to question the validity of the plan, alteration, repeal or replacement on the ground that it is not within the powers conferred by Part II of this Act, or that any requirement of the said Part II or of any regulations made thereunder has not been complied with in relation to the approval or adoption of the plan, alteration, repeal or replacement, he may, within six weeks from the date of the publication of the first notice of the

Proceedings for questioning validity of structure plans, etc.

PART XII approval or adoption of the plan, alteration, repeal or replacement required by regulations under section 16(1) of this Act, make an application to the Court of Session under this section.

(2) On any application under this section the Court of Session—

- (a) may by interim order wholly or in part suspend the operation of the plan, alteration, repeal or replacement, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ;
- (b) if satisfied that the plan, alteration, repeal or replacement is wholly or to any extent outside the powers conferred by Part II of this Act, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of the said Part II or of any regulations made thereunder, may wholly or in part quash the plan, alteration, repeal or replacement, as the case may be, either generally or in so far as it affects any property of the applicant.

Proceedings for questioning validity of other orders, decisions and directions.

233.—(1) If any person—

- (a) is aggrieved by any order to which this section applies and desires to question the validity of that order, on the grounds that the order is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to that order ; or
- (b) is aggrieved by any action on the part of the Secretary of State to which this section applies and desires to question the validity of that action, on the grounds that the action is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to that action,

he may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the Court of Session under this section.

(2) Without prejudice to subsection (1) of this section, if the authority directly concerned with any order to which this section applies, or with any action on the part of the Secretary of State to which this section applies, desire to question the validity of that order or action on any of the grounds mentioned in subsection (1) of this section, the authority may, within six weeks from the date on which the order is confirmed or the

action is taken, as the case may be, make an application to the Court of Session under this section. PART XII

(3) This section applies to any such order as is mentioned in subsection (2) of section 231 of this Act (other than an order under section 203(1)(a) of this Act) and to any such action on the part of the Secretary of State as is mentioned in subsection (3) of the said section 231.

(4) On any application under this section the Court of Session—

- (a) may by interim order suspend the operation of the order or action, the validity whereof is questioned by the application, until the final determination of the proceedings ;
- (b) if satisfied that the order or action in question is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation thereto, may quash that order or action :

Provided that paragraph (a) of this subsection shall not apply to applications questioning the validity of tree preservation orders.

(5) In relation to a tree preservation order, or to an order made in pursuance of section 61(4) of this Act, the powers conferred on the Court of Session by subsection (4) of this section shall be exercisable by way of quashing or (where applicable) suspending the operation of the order either in whole or in part, as the court may determine.

(6) References in this section to the confirmation of an order include the confirmation of an order subject to modifications as well as the confirmation of an order in the form in which it was made.

(7) In this section “ the relevant requirements ”, in relation to any order or action to which this section applies, means any requirements of this Act or of the Tribunals and Inquiries Act 1971 c. 62. Act 1971 (or any enactment replaced thereby), or of any order, regulations or rules made under this Act or under that Act (or any such enactment), which are applicable to that order or action, and any reference to the authority directly concerned with any order or action to which this section applies is a reference to the local planning authority, and, in relation to any such decision as is mentioned in section 231(3)(i) or (j) of this Act, being a decision confirming the notice in question

PART XII subject to the substitution of another local authority or statutory undertakers for the local planning authority, shall be construed as including a reference to that other local authority or those statutory undertakers.

Appeals to
Court of
Session
against
decisions
under s. 51.

234.—(1) If, in the case of any decision to which this section applies, the person who made the application to which the decision relates, or the local planning authority, is dissatisfied with the decision in point of law, that person or the local planning authority (as the case may be) may, according as rules of court may provide, either appeal against the decision to the Court of Session or require the Secretary of State to state and sign a case for the opinion of the Court of Session.

(2) This section applies to any decision of the Secretary of State—

- (a) on an application under section 51 of this Act which is referred to the Secretary of State under the provisions of section 32 of this Act as applied by that section ;
or
- (b) on an appeal from a decision of the local planning authority under section 51 of this Act, being an appeal brought under the provisions of section 33 of this Act as so applied.

(3) Where an application under section 51 of this Act is made as part of an application for planning permission, the preceding provisions of this section shall have effect in relation to that application in so far as it is an application under the said section 51, but not in so far as it is an application for planning permission.

(4) In relation to proceedings in the Court of Session brought by virtue of this section, the power to make rules of court shall include power to make rules prescribing the powers of the Court of Session with respect to—

- (a) the giving of any decision which might have been given by the Secretary of State ;
- (b) the remitting of the matter, with the opinion or direction of the court, for re-hearing and determination by the Secretary of State ;
- (c) the giving of directions to the Secretary of State.

(5) Without prejudice to the preceding provisions of this section, the power to make rules of court in relation to proceedings in the Court of Session brought by virtue of this section shall include power to make rules providing for the Secretary

of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.

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235. In relation to any action which—

Special provisions as to decisions relating to statutory undertakers.

(a) apart from the provisions of Part XI of this Act, would fall to be taken by the Secretary of State, and, if so taken, would be action falling within section 231(3) of this Act; but

(b) by virtue of Part XI of this Act, is required to be taken by the Secretary of State and the appropriate Minister.

the provisions of sections 231 and 233 of this Act shall have effect (subject to section 236 of this Act) as if any reference in those provisions to the Secretary of State were a reference to the Secretary of State and the appropriate Minister.

236.—(1) Where an order under section 198, 200, 201 or 224 of this Act is subject to special parliamentary procedure, then—

Special provisions as to orders subject to special parliamentary procedure. 1945 c. 18. (9 & 10 Geo. 6).

(a) if the order is confirmed by Act of Parliament under section 2(4), as read with section 10, of the Statutory Orders (Special Procedure) Act 1945, or under section 6 of that Act, the provisions of sections 231 and 232 of this Act shall not apply to the order;

(b) in any other case, section 232 of this Act shall have effect in relation to the order as if, in subsection (1) of that section, for the reference to the date therein mentioned there were substituted a reference to the date on which the order becomes operative under the said Act of 1945.

(2) Where by virtue of Part XI of this Act any such action as is mentioned in section 235 of this Act is required to be embodied in an order, and that order is subject to special parliamentary procedure, then—

(a) if the order in which the action is embodied is confirmed by Act of Parliament under the said Act of 1945, the provisions of sections 231 and 233 of this Act shall not apply;

(b) in any other case, the provisions of section 233 of this Act shall apply with the substitution, for any reference to the date on which the action is taken, of a reference to the date on which the order becomes operative under the said Act of 1945.

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FINANCIAL PROVISIONS

Grants for development, etc.

Grants for
development,
etc.

237.—(1) The Secretary of State may, with the consent of the Treasury and after consultation with such associations of local authorities as appear to the Secretary of State to be concerned, make regulations providing for the payment to local authorities for any year of grants of such amounts, and payable over such periods and subject to such conditions, as may be determined by or under the regulations in respect of expenditure incurred by those authorities (whether before or after the passing of this Act) in or in connection with the acquisition of land approved for the purposes of the regulations, being land required for or in connection with—

- (a) the development or redevelopment as a whole of any area (whether or not defined in a development plan as an area of comprehensive development); or
- (b) the relocation of population or industry, or the replacement of open space, in the course or in consequence of such development or redevelopment,

or in respect of expenditure so incurred in or in connection with the clearing or preliminary development of such land.

(2) For the purposes of regulations under this section land appropriated by a local authority (whether before or after the passing of this Act) for use for purposes described in subsection (1) of this section may be treated as acquired by that authority for those purposes at a cost of such amount, and defrayed in such manner, as may be determined by or under the regulations.

(3) Without prejudice to the generality of the preceding provisions of this section, any regulations under this section may provide—

- (a) for the inclusion, in the expenditure incurred by local authorities in the acquisition of land approved for the purposes of the regulations, of any sums or part of sums paid by those authorities in connection with any restriction imposed on the development or use of the land by or under any enactment (whether by way of compensation or by way of contribution towards damage or expense incurred in consequence of the restriction);
- (b) for the calculation of grants payable under the regulations by reference to the amount of the annual costs

incurred or treated as being incurred by local authorities in respect of the borrowing of money to defray the expenditure in respect of which the grants are made, or by reference to the excess of such annual costs over receipts of those authorities which are attributable to such expenditure, or over the annual value of such receipts, or by reference to such other considerations as may be prescribed by the regulations ;

- (c) for the payment of capital sums in substitution for any periodical grants payable under the regulations in respect of such annual costs ;

and for the purposes of this section “ clearing ” and “ preliminary development ” means the carrying out of such works as may be prescribed by or determined under the regulations.

(4) In this section “ year ” means a period of twelve months beginning on 16th May or, in relation to a local authority whose financial year begins on a day other than 16th May, a period of twelve months beginning on that other day.

238.—(1) Subject to the following provisions of this section, the amount of any grant paid to a local authority in accordance with regulations made under section 237 of this Act—

Maximum amount of grants under s. 237.

- (a) where that amount is calculated by reference to annual costs incurred or treated as incurred by the authority in respect of the borrowing of money to defray expenditure in respect of which the grant is made, or by reference to the excess of such annual costs over the receipts, or the annual value of receipts, mentioned in subsection (3)(b) of that section, shall not exceed an amount equal to fifty per cent. of those costs, or of that excess, as the case may be ;
- (b) in any other case, shall not exceed an amount equal to fifty per cent. of the amount of the expenditure in respect of which the grant is made.

(2) In respect of land of any of the following descriptions, that is to say—

- (a) land comprised in a compulsory purchase order made by a local planning authority under the Act of 1945 or the Act of 1947, and confirmed before 26th February 1954, being land acquired for war-damage redevelopment ;
- (b) land acquired by agreement for war-damage redevelopment with the consent of the Secretary of State given before that date ;
- (c) land appropriated by a local planning authority for war-damage redevelopment before that date ; and

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- (d) land acquired or appropriated for war-damage redevelopment (whether before or after that date), being land contiguous or adjacent to land falling within any of the preceding paragraphs,

subsection (1)(a) of this section shall apply (subject to subsection (3) of this section) as if for the words "fifty per cent." there were substituted the words "ninety per cent."

(3) Subsection (2) of this section shall not authorise the payment, in the case of any land, of a grant at a higher rate in respect of a year or part of a year which, together with the preceding years or parts of years in respect of which grants at a higher rate have been paid in the case of that land, would extend beyond a total period of eight years.

(4) In this section "war-damage redevelopment" means the redevelopment as a whole of an area of extensive war damage, and includes the relocation of population or industry, or the replacement of open space, in the course of such redevelopment.

(5) In this section references to a grant at a higher rate are references to a grant of an amount which—

- (a) was or would have been authorised by section 89 of the Act of 1947 as that section had effect or would have had effect apart from section 52 of the Act of 1954 and the Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 and this Act; but
- (b) otherwise than by virtue of the provisions of the Act of 1954 corresponding to subsections (2) and (3) of this section, was not or would not have been authorised by the provisions substituted by the Act of 1954 for the said section 89.

1958 c. 64.

Supplementary provisions as to grants under s. 237.

239.—(1) Any approval of the Secretary of State required for the purposes of the payment of grant under section 237 of this Act in connection with the acquisition of land may be given subject to compliance with requirements imposed by the Secretary of State for securing that any negotiations for the acquisition of the land by the local planning authority will be carried out by the Valuation Office, and that any valuation of the land for the purposes of the acquisition, or for any purposes of the regulations, will be made by that office.

(2) Subject to subsection (1) of this section, any regulations made for the purposes of section 237 of this Act may make provision whereby the payment of grants in pursuance of the regulations is dependent upon the fulfilment of such conditions as may be determined by or in accordance with the regulations.

and may also make provision for requiring local planning authorities to whom grants have been so paid to comply with such requirements as may be so determined. PART XIII

Grants for research and education

240. The Secretary of State may, with the consent of the Treasury, make grants for assisting establishments engaged in promoting or assisting research relating to, and education with respect to, the planning and design of the physical environment. Grants for research and education.

Contributions to certain expenditure

241. Where compensation is payable by a local authority under this Act in consequence of any decision or order given or made under— Contributions by Ministers towards compensation paid by local authorities.

- (a) Part III or Part IV of this Act ;
- (b) sections 84 to 96 of this Act ;
- (c) the provisions of Part IX of this Act relating to purchase notices ;
- (d) Schedule 7 to this Act,

then if that decision or order was given or made wholly or partly in the interest of a service which is provided by a government department and the cost of which is defrayed out of moneys provided by Parliament, the Minister responsible for the administration of that service may pay to that authority a contribution of such amount as he may with the consent of the Treasury determine.

242.—(1) Without prejudice to the provisions of section 6(8) of the Trunk Roads Act 1936 (contributions by certain local authorities towards expenses incurred in connection with highways), any local authority may contribute towards any expenses incurred by a local highway authority or the Secretary of State in the acquisition of land under Part VI of this Act, or in the construction or improvement of roads on land so acquired, or in connection with any development required in the interests of the proper planning of the district of the local authority. Contributions by local authorities and statutory undertakers. 1936 c. 5.

(2) Any local authority and any statutory undertakers may contribute towards—

- (a) any expenses incurred by a local planning authority in or in connection with the carrying out of a survey or the preparation of a structure plan or local plan under Part II of this Act ;
- (b) any expenses incurred by a local planning authority in or in connection with the performance of any of their

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functions under Part III (except section 25), Part IV, Part V (except sections 97 and 99) or Part VI (except section 116) of this Act, under the provisions of Part IX of this Act relating to purchase notices and listed building purchase notices or under Schedule 10 to this Act.

(3) For the purposes of this section, contributions made by a local planning authority towards the expenditure of a joint planning committee or joint advisory committee shall be deemed to be expenses incurred by that authority for the purposes for which that expenditure is incurred by the committee.

Assistance for acquisition of property where objection made to blight notice in certain cases.

243. A county council or a town council may, subject to such conditions as may be approved by the Secretary of State, advance money to any person for the purpose of enabling him to acquire a hereditament or agricultural unit in respect of which a counter-notice has been served under section 183 of this Act specifying the grounds mentioned in subsection (2)(d) of that section as, or as one of, the grounds of objection if, in the case of a hereditament, its annual value does not exceed such amount as may be prescribed for the purposes of section 181(4)(a) of this Act.

Recovery of compensation etc.

Recovery from acquiring authorities of sums paid by way of compensation.

244.—(1) Where an interest in land is compulsorily acquired, or is sold to an authority possessing compulsory purchase powers, and any of the land comprised in the acquisition or sale is land in respect of which a notice to which this section applies is recorded (whether before or after the completion of the acquisition or sale) in respect of a planning decision or order made before the service of the notice to treat, or the making of the contract, in pursuance of which the acquisition or sale is effected, the Secretary of State shall, subject to the following provisions of this section, be entitled to recover from the acquiring authority a sum equal to so much of the amount of the compensation specified in the notice as (in accordance with section 147(5) of this Act) is to be treated as attributable to that land.

(2) This section applies to notices recorded under subsection (4) of section 147 of this Act and to notices recorded under the provisions of that subsection as applied by section 155(5) of this Act.

(3) If, immediately after the completion of the acquisition or sale, there is outstanding some interest in the land comprised therein to which a person other than the acquiring authority is entitled, the sum referred to in subsection (1) of this section shall

not accrue due until that interest either ceases to exist or becomes vested in the acquiring authority.

(4) No sum shall be recoverable under this section in the case of a compulsory acquisition or sale where the Secretary of State is satisfied that the interest in question is being acquired for the purposes of the use of the land as a public open space.

(5) Where by virtue of the preceding provisions of this section the Secretary of State recovers a sum in respect of any land, by reason that it is land in respect of which a notice is recorded under the provisions of section 147(4) of this Act as applied by section 155 of this Act, section 157(2) and (3) of this Act shall have effect in relation to that sum as if it were a sum recovered as mentioned in section 157(2) of this Act.

245.—(1) Where an interest in land is compulsorily acquired by, or sold to, an authority possessing compulsory purchase powers, and a payment exceeding £20 has become or becomes payable under section 56 of the Act of 1947 in respect of that interest, the Secretary of State shall, subject to the following provisions of this section, be entitled to recover the amount of the payment from the acquiring authority.

Recovery from acquiring authorities of sums paid in respect of war-damaged land.

(2) If, before 18th November 1952, operations were begun in, on, over or under the land, or a use of the land was instituted, being operations or a use—

- (a) in respect of which a development charge has at any time been determined to be payable, or it has at any time been determined that no development charge was payable ; or
- (b) comprised in a scheme of development exempt from development charge,

subsection (1) of this section shall not apply to so much of any payment referred to in that subsection as was attributable to any land in relation to which the determination was made or, as the case may be, which is included in that scheme of development.

(3) No amount shall be recoverable under this section in respect of any land in relation to which an amount has become recoverable by the Secretary of State under the provisions of section 148 of this Act as applied by section 264 of this Act.

(4) If the acquisition or sale in question does not extend to the whole of the land to which the payment under the said section 56 related, the amount recoverable under this section shall be so much of that payment as, in accordance with subsection (5) of this section, is to be treated as apportioned to the land in which the interest acquired or sold subsists.

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(5) For the purposes of this section a payment under section 56 of the Act of 1947 shall be treated as apportioned, as between different parts of the land to which it related, in the way in which it might reasonably be expected to have been so apportioned if, under the scheme made under that section, the authority determining the amount of the payment had been required (in accordance with the same principles as applied to the determination of that amount) to apportion it between different parts of that land.

(6) In this section references to a scheme of development exempt from development charge are references to a scheme of development such that, if the operations and uses of land comprised in the scheme had all been begun or instituted before 18th November 1952, all those operations and uses would have been exempt from the provisions of Part VI of the Act of 1947 by virtue of regulations made thereunder; and references to the amount of a payment shall be construed as including any interest payable on the principal amount of the payment.

Sums recoverable from acquiring authorities reckonable for purposes of grant.

246. Where a sum is recoverable from an authority under section 244 or 245 of this Act by reference to an acquisition or purchase of an interest in land, and in respect thereof, or of a subsequent appropriation of the land, a grant became or becomes payable to that or some other authority under an enactment, the power conferred by that enactment to pay the grant shall include, and shall be deemed always to have included, power to pay a grant in respect of that sum as if it had been expenditure incurred by the acquiring authority in connection with the acquisition or purchase.

Expenses and receipts of Secretary of State

Expenses of government departments.

247.—(1) The following expenses of the Secretary of State shall be paid out of moneys provided by Parliament, that is to say—

- (a) any expenses incurred by the Secretary of State under subsection (2) of section 48 of this Act or under that subsection as applied by subsection (7) of section 61 of this Act, or in the payment of expenses of any committee established under the said section 61;
- (b) any sums necessary to enable the Secretary of State to make any payments becoming payable by him under Part VII or Part VIII of this Act;
- (c) any expenses incurred by the Secretary of State under Part X of this Act;
- (d) any expenses incurred by the Secretary of State in the making of grants in accordance with regulations made

under section 237 of this Act or grants under section 240 of this Act ; PART XIII

- (e) subject to the provisions of subsection (4) of section 248 of this Act, any instalment payable by the Secretary of State under subsections (2) and (3) of that section :
- (f) any administrative expenses incurred by the Secretary of State for the purposes of this Act.

(2) There shall be paid out of moneys provided by Parliament any expenses incurred by any government department (including the Secretary of State)—

- (a) in the acquisition of land under Part VI of this Act ;
- (b) in the payment of compensation under section 108(4), 226(2) or 266 of this Act ;
- (c) under section 118(2)(b) of this Act ; or
- (d) under section 241 of this Act.

248.—(1) The Secretary of State shall pay out of moneys provided by Parliament any payments falling to be made by him on or after 1st April 1968 under— Payments under s. 56 of Act of 1947 and Parts I and V of Act of 1954.

- (a) section 56 of the Act of 1947 (war-damaged land) ; or
- (b) any provision of Part I or Part V of the Act of 1954.

(2) The aggregate of the sums issued to the Secretary of State or the Central Land Board out of the Consolidated Fund in any financial year ending before the said 1st April under section 64(1) of the Act of 1954 (sums required for making payments under Part I or Part V of the Act of 1954) shall be repaid by the Secretary of State into the National Loans Fund, as mentioned in subsection (3) of this section, with interest thereon at such rate as the Treasury may determine, such interest accruing, in respect of the whole aggregate, from such date in the financial year in which the sums were issued as the Treasury may determine.

(3) The said aggregate shall be repaid by twenty equal annual instalments, of principal and interest combined, falling due on the anniversary of the date determined under subsection (2) of this section, the first such instalment falling due in the financial year next following the financial year in which the sums in question were issued.

(4) Any sums received by the Secretary of State by virtue of—

- (a) the provisions of section 148 of this Act, as applied by Schedule 22 to this Act to compensation paid under Part V of the Act of 1954 ; or

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(b) the provisions of section 244 of this Act as so applied, shall be paid into the Consolidated Fund.

General provision as to receipts of Secretary of State.

249. Without prejudice to section 248 of this Act, and subject to the provisions of section 157 of this Act, any sums received by the Secretary of State under any provision of this Act shall be paid into the Consolidated Fund.

Expenses of local authorities

Expenses of, and borrowing by, local authorities.

250.—(1) Any expenses incurred by a local highway authority under the provisions of this Act specified in Parts I and II of Schedule 19 to this Act shall be defrayed in like manner as expenses incurred by the authority on highways.

(2) Any expenses incurred by a local authority under the provisions of this Act specified in Parts I and II of Schedule 19 to this Act in pursuance of a purchase notice or in the acquisition of land under this Act for the purposes of any function of that authority, shall be defrayed in like manner as other expenses incurred by that authority for the purposes of that function.

1947 c. 43.

(3) A local authority may borrow for the purposes of this Act in accordance with the provisions of Part XII of the Local Government (Scotland) Act 1947.

1945 c. 18.

(4) Nothing in this section shall authorise the exercise of the power of borrowing money thereby conferred otherwise than in compliance with the provisions of the Local Authorities Loans Act 1945 and of any orders for the time being in force made by the Treasury under section 1 of the Borrowing (Control and Guarantees) Act 1946.

1946 c. 58.

PART XIV**APPLICATION OF ACT TO SPECIAL CASES***Minerals*

Power to modify Act in relation to minerals.

251.—(1) In relation to development consisting of the winning and working of minerals, the provisions of this Act specified in Parts I and II of Schedule 19 to this Act shall have effect subject to such adaptations and modifications as may be prescribed by regulations made under this Act with the consent of the Treasury.

(2) Regulations made for the purposes of this section shall be of no effect unless they are approved by resolution of each House of Parliament.

(3) Any regulations made by virtue of subsection (1) of this section shall not apply—

- (a) to 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 those purposes ; or
- (b) to development consisting of the winning and working of any minerals vested in the National Coal Board, being development to which any of the provisions of this Act relating to operational land of statutory undertakers apply by virtue of regulations made under section 259 of this Act ; or
- (c) to the winning and working of peat by any person for the domestic requirements of that person ;

and nothing in subsection (1) of this section or in this subsection shall be construed as affecting the prerogative right of Her Majesty to any gold or silver mine.

252.—(1) Where a development plan provides that any land is to be used for the purpose of securing the winning and working of any minerals comprised therein, the provisions of the Mines (Working Facilities and Support) Act 1966 shall have effect in relation to the land subject to such modifications as may be prescribed by regulations made under this Act by the Secretary of State and the Secretary of State for Trade and Industry.

Modification of Mines (Working Facilities and Support) Act 1966. 1966 c. 4.

(2) Regulations made for the purposes of this section may in particular provide for securing—

- (a) that a right to work any minerals in the land may be granted by the Court of Session under the said Act of 1966 to any person who is desirous of working them, either by himself or through his lessees, and who is unable to obtain the necessary rights by agreement on reasonable terms ;
- (b) that for the purposes of the determination by the court of an application for any such right, it shall be assumed that the winning and working of the minerals is expedient in the national interest ; and
- (c) that the compensation or consideration in respect of any such right which is granted by the court shall be assessed having regard to the amount of the compensation which would be payable in respect of a compulsory acquisition of the minerals under Part VI of this Act.

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(3) Subsections (2) and (3) of section 251 of this Act shall apply to the provisions of this section and to any regulations made thereunder as they apply to the provisions of subsection (1) of that section and to regulations made by virtue of that subsection.

Crown land

Exercise of powers in relation to Crown land.

253.—(1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—

(a) a plan approved, adopted or made under Part II of this Act may include proposals relating to the use of Crown land, and any power to acquire land compulsorily under Part VI of this Act may be exercised in relation to any interest therein which is for the time being held otherwise than by or on behalf of the Crown ;

(b) any restrictions or powers imposed or conferred by Part III, Part IV or Part V of this Act, by the provisions of Part IX of this Act relating to purchase notices and listed building purchase notices, or by any of the provisions of sections 214 to 217 of this Act, shall apply and be exercisable in relation to Crown land, to the extent of any interest therein for the time being held otherwise than by or on behalf of the Crown ;

(c) a building which for the time being is Crown land may be included in a list compiled or approved by the Secretary of State under section 52 of this Act.

(2) Except with the consent of the appropriate authority—

(a) no order or notice shall be made or served under any of the provisions of sections 49, 58, 63, 84 or 92 of this Act or under any of those provisions as applied by any order or regulations made under Part IV of this Act, in relation to land which for the time being is Crown land ;

(b) no interest in land which for the time being is Crown land shall be acquired compulsorily under Part VI of this Act.

(3) No enforcement notice shall be served under section 84 of this Act in respect of development carried out by or on behalf of the Crown after the appointed day on land which was Crown land at the time when the development was carried out.

(4) No listed building enforcement notice shall be served in respect of works executed by or on behalf of the Crown in respect of a building which was Crown land at the time when the works were executed.

(5) No purchase notice or listed building purchase notice shall be served in relation to any interest in Crown land unless an offer has been previously made by the owner of that interest to dispose of it to the appropriate authority on terms that the price payable for it shall be equal to (and shall, in default of agreement, be determined in like manner as) the compensation which would be payable in respect of that interest if it were acquired in pursuance of a purchase notice, and that offer has been refused by the appropriate authority.

(6) The rights conferred by the provisions of sections 181 to 196 of this Act shall be exercisable by a person who (within the meaning of those provisions) is an owner-occupier of a hereditament or agricultural unit which is Crown land, or is a resident owner-occupier of a hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and those provisions shall apply accordingly.

(7) In this Part of this Act "Crown land" means land in which there is a Crown interest; "Crown interest" means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department; and for the purposes of this section and section 254 of this Act "the appropriate authority", in relation to any land—

(a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;

(b) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department;

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

254.—(1) The appropriate authority and the local planning authority for the district in which any Crown land is situated may make agreements for securing the use of the land, so far as may be prescribed by any such agreement, in conformity with the provisions of the development plan applicable thereto; and any such agreement may contain such consequential provisions, including provisions of a financial character, as may appear to be necessary or expedient having regard to the purposes of the agreement.

Agreements
relating to
Crown land.

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(2) An agreement made under this section by a government department shall not have effect unless it is approved by the Treasury.

(3) In considering whether to make or approve an agreement under this section relating to land belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

Supplementary provisions as to Crown interest.

255.—(1) Subject to subsection (2) of this section where there is a Crown interest in any land, the provisions of Part VII of this Act and of sections 155 to 157 thereof, and the provisions of Schedules 13, 14 and 15 to this Act and the provisions of Schedule 22 to this Act in so far as they relate to Part VII or to sections 155 to 157 of this Act, shall have effect in relation to any private interest as if the Crown interest were a private interest.

(2) In this section “ private interest ” means an interest which is not a Crown interest.

Local planning authorities

Application to local planning authorities of provisions as to planning control and enforcement.

256.—(1) In relation to land of local planning authorities, and to the development by local authorities of land in respect of which they are the local planning authorities, the provisions of this Act specified in Part III of Schedule 19 to this Act shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

(2) Subject to the provisions of section 37 of this Act, any such regulations may in particular provide for securing—

(a) that any application by such an authority for planning permission to develop such land, or for any other consent required in relation to such land under the said provisions, shall be made to the Secretary of State and not to the local planning authority ;

(b) that any order or notice authorised to be made or served under those provisions in relation to such land shall be made or served by the Secretary of State and not by the local planning authority.

(3) Sections 23, 24 and 26(2) and (3) of this Act shall apply, with the necessary modifications, in relation to applications made to the Secretary of State in pursuance of regulations made for the purposes of subsection (1) of this section, as they apply in relation to applications for planning permission which fall to be determined by the local planning authority.

257.—(1) In relation to buildings of local planning authorities which are listed, and to the execution of works for their demolition, alteration or extension, the provisions of this Act specified in Part IV of Schedule 19 to this Act shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

PART XIV
Application to local planning authorities of provisions as to listed buildings

(2) Any such regulations may in particular provide for securing—

- (a) that any application by such an authority for listed building consent shall be made to the Secretary of State and not to the local planning authority ;
- (b) that any notice authorised to be served under the said provisions in relation to a listed building belonging to a local planning authority shall be served by the Secretary of State and not by that authority.

258. In relation to statutory undertakers who are local planning authorities, section 230 of this Act and the provisions specified in subsection (2) of that section shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

Special provisions as to statutory undertakers who are local planning authorities.

Special case

259.—(1) Regulations made under this Act by the Secretary of State and the Secretary of State for Trade and Industry with the consent of the Treasury may direct that any of the provisions of this Act specified in Part I of Schedule 19 to this Act or of section 212 of this Act being provisions relating to statutory undertakers and to land of such undertakers, shall apply, subject to such adaptations, modifications and exceptions as may be specified in the regulations, in relation to the National Coal Board, and in relation to land (including mines) of that Board of any such class as may be specified in the regulations, as if the Board were statutory undertakers and as if land of any class so specified were operational land.

National Coal Board.

(2) Without prejudice to the generality of subsection (1) of this section, any regulations made thereunder may in particular provide that any compensation payable to the National Coal Board by virtue of any of the provisions applied by the regulations, being compensation which, in the case of statutory undertakers, would be assessable in accordance with the provisions of section 227 of this Act, shall, instead of being assessed in accordance with that section, be assessed in accordance with the provisions of the regulations.

PART XV

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Default powers of Secretary of State.

260.—(1) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that any order to which this subsection applies should be made, he may give directions to the local planning authority requiring them to submit to him such an order for his confirmation, or may himself make such an order; and any order so made by the Secretary of State shall have the like effect as if it had been made by the local planning authority and confirmed by the Secretary of State under Part III or IV of this Act.

(2) Subsection (1) of this section applies to the following orders, that is to say—

- (a) orders under section 42 of this Act, or under the provisions of that section as applied by any order or regulations made under Part IV of this Act;
- (b) orders under section 49 of this Act;
- (c) tree preservation orders and orders amending or revoking them.

(3) The provisions of Part III or Part IV of this Act, and of any regulations made thereunder, with respect to the procedure to be followed in connection with the submission by the local planning authority of any order to which subsection (1) of this section applies, with respect to the confirmation of such an order by the Secretary of State, and with respect to the service of copies thereof as so confirmed, shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order by virtue of subsection (1) of this section, in relation to the making thereof by the Secretary of State, and in relation to the service of copies thereof as so made.

(4) Without prejudice to subsection (3) of this section, where the Secretary of State proposes under subsection (1) of this section to make any such order as is mentioned in subsection (2)(a) or (b) of this section he shall serve a notice of the proposal on the local planning authority; and if within such period as may be specified in the notice (not being less than twenty-eight days from the date of service) the authority so require, the Secretary of State before making the order shall afford to the authority an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.

(5) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that—

- (a) a completion notice under section 41 of this Act; or

- (b) a notice under section 63 of this Act ; or
- (c) an enforcement notice under section 84 of this Act, or under the provisions of that section as applied by regulations under section 61 of this Act ; or
- (d) a stop notice under section 87 of this Act ; or
- (e) a listed building enforcement notice,

should be served in respect of any land, he may give directions to the local planning authority requiring them to serve such a notice, or may himself serve such a notice ; and any notice so served by the Secretary of State shall have the like effect as a notice served by the local planning authority :

Provided that, in relation to an enforcement notice under section 84 of this Act or a listed building enforcement notice which is served by the Secretary of State, the provisions of sections 86, 88 and 89, or, as the case may be, of sections 94 and 95 of this Act shall apply as if for any reference therein to the local planning authority there were substituted a reference to the Secretary of State.

(6) If the Secretary of State is satisfied, after holding a local inquiry—

- (a) that the council of a county or a burgh have failed to take steps for the acquisition of any land which, in the opinion of the Secretary of State, ought to be acquired by that council under section 102 of this Act for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated ; or
- (b) that a local planning authority have failed to carry out, on land acquired by them under section 35 of the Act of 1947 or section 102 of this Act or appropriated by them under section 111 of this Act, any development which, in the opinion of the Secretary of State, ought to be carried out,

the Secretary of State may by order require the council or authority to take such steps as may be specified in the order for acquiring the land, or carrying out the development, as the case may be.

(7) Any order under subsection (6) of this section shall be enforceable, on the application of the Secretary of State, by proceedings under section 91 of the Court of Session Act 1868. 1868 c. 100.

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Power to transfer planning functions of town councils of small burghs to county councils.

261.—(1) If at any time the Secretary of State considers it expedient in the public interest that the functions under this Act of a local planning authority being the town council of a small burgh should be transferred to the county council of the county within which that burgh is situated, he may by order transfer those functions to the county council, and where any such functions are so transferred any reference in this Act to the local planning authority shall in relation to the district of the small burgh be construed as a reference to the county council.

(2) An order under the foregoing subsection may make provision for such incidental and consequential matters as the Secretary of State may think fit, including the transfer to the county council of officers, property, rights and liabilities of the town council and the compensation of officers.

Designation of conservation areas.

262.—(1) Every local planning authority shall from time to time determine which parts of their district are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and shall designate such areas as conservation areas.

(2) The Secretary of State may, after consultation with a local planning authority, give to that authority such directions as he thinks necessary with respect to the exercise of their functions under subsection (1) of this section ; and it shall be the duty of the authority to comply with any such directions.

(3) Before making a determination under this section, a local planning authority shall consult with the local planning authority of each district of which any part is included in the area to which the proposed determination relates.

(4) The local planning authority shall give notice to the Secretary of State of the designation of any conservation area, and of any variation or cancellation of any such designation, with sufficient particulars to identify the area affected, and shall cause the like notice to be published in the *Edinburgh Gazette* and in at least one newspaper circulating in the district of the local planning authority.

(5) Where any area is for the time being designated as a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance in the exercise, with respect to any buildings or other land in that area, of any powers under this Act, Part I of the *Historic Buildings and Ancient Monuments Act 1953* or the *Local Authorities (Historic Buildings) Act 1962*.

1953 c. 49.
1962 c. 36.

263.—(1) In any case where the value or depreciation in value of an interest in land falls to be determined on the assumption that planning permission would be granted for development of any class specified in Schedule 6 to this Act, it shall be further assumed, as regards development of any class specified in paragraph 1 or 3 of that Schedule, that such permission would be granted subject to the condition set out in Schedule 16 to this Act.

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Assumptions as to planning permission in determining value of interests in land.

(2) In the application of the said Schedule 6 for the purposes of any determination to which subsection (1) of this section applies—

- (a) paragraph 3 of that Schedule shall be construed as not extending to works involving any increase in the cubic content of a building erected after the appointed day (including any building resulting from the carrying out of such works as are described in paragraph 1 of that Schedule); and
- (b) paragraph 8 of that Schedule shall not apply to any such building.

(3) For the purposes of subsections (1) and (2) of this section, so far as applicable to any determination of existing use value as defined in section 176(5) of this Act, references to Schedule 6 to this Act, and to paragraphs 1, 3 and 8 of that Schedule, shall be construed as references to Schedule 3 to the Act of 1947 and to the corresponding paragraphs of that Schedule; and that Schedule shall have effect as if it contained a paragraph corresponding to paragraph 14 of Schedule 6 to this Act.

(4) Except as provided in section 157(4) of this Act, nothing in the preceding provisions of this section or in paragraph 14 of Schedule 6 affects the meaning of “new development” in this Act or any determination to be made for the purpose of Part VII of this Act.

(5) For the avoidance of doubt it is hereby declared that where, under any provision of this Act, the value of an interest in land is required to be assessed on the assumption that planning permission would be granted for development of any class specified in Schedule 6 to this Act, that assumption is to be made on the footing that any such development must comply with the provisions of any enactment, other than this Act, which would be applicable to it.

264.—(1) In relation to notices recorded under section 58 of the Act of 1954 (which provided for the recording of notices of payments made under section 56 of the Act of 1947) the provisions of sections 148 and 149 of this Act shall have effect (subject to the following provisions of this section) as they have effect in relation to notices recorded under section 147 of this Act.

Recovery, on subsequent development, of payments in respect of war-damaged land.

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(2) The said provisions shall have effect as mentioned in subsection (1) of this section, but as if—

- (a) any reference therein to the compensation specified in a notice were a reference to the payment so specified ; and
- (b) section 148 of this Act applied to every description of new development.

(3) No amount shall be recoverable by the Secretary of State by virtue of this section in respect of any land in relation to which an amount has become recoverable under section 245 of this Act.

(4) Subsection (5) of section 245 of this Act shall apply for the purposes of this section as it applies for the purposes of that section.

Rights of entry.

265.—(1) Any person duly authorised in writing by the Secretary of State or by a local planning authority may at any reasonable time enter upon any land for the purpose of surveying it in connection with—

- (a) the preparation, approval, adoption, making or amendment of a structure plan or local plan relating to the land under Part II of this Act, including the carrying out of any survey under that Part ;
- (b) any application under Part III or section 60 or 63 of this Act, or under any order or regulations made thereunder, for any permission, consent or determination to be given or made in connection with that land or any other land under Part III or either of those sections of this Act or under any such order or regulations ;
- (c) any proposal by the local planning authority or by the Secretary of State to make or serve any order or notice under Part III (other than section 44), Part IV or Part V of this Act, or under any order or regulations made thereunder or any notice under section 105 of this Act.

(2) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter upon any land for the purpose of surveying any building thereon in connection with a proposal to include the building in, or exclude it from, a list compiled or approved under section 52 of this Act.

(3) Any person duly authorised in writing by the Secretary of State or a local planning authority may at any reasonable time enter upon any land for the purpose of ascertaining whether, with respect to any building on the land, an offence has been, or is being, committed under section 53 or 94 of, or Schedule 10 to,

this Act, or whether the building is being maintained in a proper state of repair.

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(4) Any person duly authorised in writing by the Secretary of State, a local planning authority or a local authority may at any reasonable time enter upon any land for the purpose of ascertaining whether—

- (a) an offence appears to have been committed under section 55 of this Act; or
- (b) any of the functions conferred by section 97 or 99 of this Act should or may be exercised in connection with the land,

or for the purpose of exercising any of those functions in connection with the land.

(5) Any person, being an officer of the Valuation Office or a person duly authorised in writing by the Secretary of State, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation under Part VII of this Act in respect of that land or any other land.

(6) Any person, being an officer of the Valuation Office or a person duly authorised in writing by a local planning authority, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of that land or any other land, being compensation payable by the local planning authority under Part VIII of this Act (other than section 164), under section 201(5) of this Act or under Part XI of this Act (other than section 226(2) or 227(1)(c)).

(7) Any person, being an officer of the Valuation Office or a person duly authorised in writing by a local authority or Minister authorised to acquire land under section 102 or 103 of this Act, and any person duly authorised in writing by a local authority having power to acquire land under Part VI of this Act, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land, or in connection with any claim for compensation in respect of any such acquisition.

(8) Subject to the provisions of section 266 of this Act, any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein.

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Supplementary
provisions
as to rights
of entry.

266.—(1) A person authorised under section 265 of this Act to enter upon any land shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a person acting in the exercise of his powers under section 265 of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20.

(3) If any person who, in compliance with the provisions of section 265 of this Act, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or a fine, or both.

(4) Where any land is damaged in the exercise of a right of entry conferred under section 265 of this Act, or in the making of any survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from the Secretary of State or authority on whose behalf the entry was effected.

(5) The provisions of section 168 of this Act shall apply in relation to compensation under subsection (4) of this section as they apply in relation to compensation under Part VIII of this Act.

(6) Where under section 265 of this Act a person proposes to carry out any works authorised by virtue of subsection (8) of that section—

- (a) he shall not carry out those works unless notice of his intention to do so was included in the notice required by subsection (1) of this section ; and
- (b) if the land in question is held by statutory undertakers, and those undertakers object to the proposed works on the grounds that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the appropriate Minister.

267.—(1) Subject to the provisions of this section, the Minister may cause a local inquiry to be held for the purposes of the exercise of any of his functions under any of the provisions of this Act. PART XV
Local inquiries.

(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

PART XV 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.

Inquiries
under Private
Legislation
Procedure
(Scotland)
Act 1936.

268.—(1) Where the Ministers concerned so direct—

(a) any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure, and

(b) any hearing in connection with—

(i) an appeal against the refusal, or the grant, subject to conditions, of an application by statutory undertakers for planning permission to develop operational land, or

(ii) such an application made by statutory undertakers and referred to the Secretary of State, or

(iii) the revocation or modification of planning permission to develop operational land granted to statutory undertakers,

1936 c. 52. shall be held by Commissioners under the Private Legislation Procedure (Scotland) Act 1936.

9 & 10 Geo. 6
c. 18. (2) Any such direction shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945.

(3) Subsections (5) and (6) of section 225 of this Act shall not apply to an order such as is mentioned in subsection (1)(a) above.

(4) Nothing in subsections (2) to (9) of section 267 of this Act shall apply to any inquiry to which subsection (1)(a) above applies.

(5) The provisions of the said Act of 1945 in relation to the publication of notices in the Edinburgh Gazette and in a newspaper shall, notwithstanding anything contained in that Act, not apply to any order under this Act which is subject to special parliamentary procedure.

269.—(1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under this Act may be served or given either—

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Service of
notices.

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given ; or
- (b) by leaving it at the usual or last known place of abode of that person, or, in a case where an address for service has been given by that person, at that address ; or
- (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode, or, in a case where an address for service has been given by that person, at that address ; or
- (d) in the case of a person on whom the notice is required to be served as being a person appearing from the valuation roll to have an interest in land, by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his address as entered in the valuation roll ; or
- (e) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if—

- (a) being addressed to him either by name or by the description of “ the owner ”, “ the lessee ” or “ the occupier ”, as the case may be, of the premises (describing them) it is delivered or sent in the manner specified in subsection (1)(a), (b) or (c) of this section ; or
- (b) being so addressed, and marked in such manner as may be prescribed by regulations under this Act for securing that it shall be plainly identifiable as a communication of importance, it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.

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(3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears to the authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice or document shall be taken to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed to "the owners and any lessees and occupiers" of that part of the land (describing it) and is affixed conspicuously to some object on the land.

Power to require information as to interests in land.

270.—(1) For the purpose of enabling the Secretary of State or a local authority to make an order or serve any notice or other document which, by any of the provisions of this Act, he or they are authorised or required to make or serve, the Secretary of State or the local authority may require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to state in writing the nature of his interest therein, and the name and address of any other person known to him as having an interest therein, whether as superior, owner, heritable creditor, lessee or otherwise.

(2) Any person who, having been required in pursuance of this section to give any information, fails to give that information shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(3) Any person who, having been so required to give any information, knowingly makes any misstatement in respect thereof shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.

Offences by corporations.

271.—(1) Where an offence under this Act (other than section 55) which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.

(2) In subsection (1) of this section the expression "director", in relation to any body corporate established by or under an

enactment for the purpose of carrying on under national ownership an industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

PART XV

272.—(1) Regulations made under this Act may provide for the combination in a single document, made in such form and transmitted to such authority as may be prescribed by the regulations, of— Combined applications.

- (a) an application for planning permission in respect of any development ; and
- (b) an application required, under any enactment specified in the regulations, to be made to a local authority in respect of that development.

(2) Before making any regulations under this section, the Secretary of State shall consult with such local authorities or associations of local authorities as appear to him to be concerned.

(3) Different provision may be made by any such regulations in relation to areas in which different enactments are in force.

(4) An application required to be made to a local authority under an enactment specified in any such regulations shall, if made in accordance with the provisions of the regulations, be valid notwithstanding anything in that enactment prescribing, or enabling any authority to prescribe, the form in which, or the manner in which, such an application is to be made.

(5) Subsection (4) of this section shall have effect without prejudice to—

- (a) the validity of any application made in accordance with the enactment in question ; or
- (b) any provision of that enactment enabling a local authority to require further particulars of the matters to which the application relates.

(6) In this section “ application ” includes a submission.

273.—(1) The Secretary of State may make regulations under this Act— Regulations and orders.

- (a) for prescribing the form of any notice, order or other document authorised or required by any of the provisions of this Act to be served, made or issued by any local authority ;
- (b) for any purpose for which regulations are authorised or required to be made under this Act, not being a purpose for which regulations are authorised or required to be made by another Minister.

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(2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument; and any statutory instrument containing regulations made under this Act (except regulations which, by virtue of any provision of this Act, are of no effect unless approved by a resolution of each House of Parliament) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power conferred by any of the provisions of this Act to make an order shall include power to vary or revoke any such order by a subsequent order.

(4) The power to make orders under sections 1(3), 18, 19(2)(f), 21, 53(3), 67, 71(6), 72(4), 73(8), 181(4)(a), 261 and 279 of this Act shall be exercisable by statutory instrument.

(5) Any statutory instrument which contains a development order or an order under section 1(3), 67, 71(6), 73(8) or 18(4)(a) of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Without prejudice to subsection (5) of this section, where a development order makes provision for excluding or modifying any enactment contained in a public general Act (other than any of the enactments specified in Schedule 20 to this Act) the order shall not have effect until that provision is approved by a resolution of each House of Parliament.

(7) Any order under this Act which designates an area for the purposes of section 72(4) of this Act shall cease to have effect at the end of the period of twenty-eight days beginning with the day on which the order is made (but without prejudice to anything previously done under the order or to the making of a new order) unless before the end of that period the order is approved by a resolution of each House of Parliament.

(8) In reckoning any period for the purposes of subsection (7) of this section, 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.

(9) Any order under section 67, 71(6), 72(4) or 73(8) of this Act may contain such supplementary and incidental provisions as may appear to the Secretary of State to be appropriate.

(10) Any power (exercisable in accordance with section 280(2) of this Act) to make regulations or orders under this Act before the date of the commencement of this Act shall include power, by any regulations or order so made, to revoke any regulations or order made under any of the enactments which, as from that date, are repealed by this Act or having effect by virtue of any of those enactments as if made thereunder.

274. For the avoidance of doubt it is hereby declared that **PART XV** the provisions of this Act, and any restrictions or powers thereby **Act not** imposed or conferred in relation to land, apply and may be **excluded** exercised in relation to any land notwithstanding that provision **by special** is made by any enactment in force at the passing of the Act of **enactments.** 1947, or by any local Act passed at any time during the Session of Parliament held during the regnal years 10 & 11 Geo. 6, for authorising or regulating any development of the land.

275.—(1) In this Act, except in so far as the context other- **Interpretation.** wise requires and subject to the transitional provisions herein after contained, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“acquiring authority”, in relation to the acquisition of an interest in land (whether compulsorily or by agreement) or to a proposal so to acquire such an interest, means the government department, local authority or other body by whom the interest is, or is proposed to be, acquired;

“the Act of 1945” means the Town and Country Planning 1945 c. 33. (Scotland) Act 1945;

“the Act of 1947” means the Town and Country Planning 1947 c. 53. (Scotland) Act 1947;

“the Act of 1954” means the Town and Country Planning 1954 c. 73. (Scotland) Act 1954;

“the Act of 1959” means the Town and Country Planning 1959 c. 70. (Scotland) Act 1959;

“the Act of 1969” means the Town and Country Planning 1969 c. 30 (Scotland) Act 1969;

“advertisement” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the foregoing provisions of this definition), includes any hoarding or similar structure used, or adapted for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for wood-

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lands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

“the appointed day” means 1st July 1948;

“the appropriate Minister” has the meaning assigned to it by section 213 of this Act;

“area of extensive war damage” and “area of bad lay-out or obsolete development” mean respectively an area consisting of land shown to the satisfaction of the Secretary of State to have sustained war damage or, as the case may be, to be badly laid out or of obsolete development or consisting of such land together with other land contiguous or adjacent thereto, being in each case land comprised in an area which is defined by a development plan as an area of comprehensive development;

“authority possessing compulsory purchase powers”, in relation to the compulsory acquisition of an interest in land, means the person or body of persons effecting the acquisition, and, in relation to any other transaction relating to an interest in land, means any person or body of persons who could be or have been authorised to acquire that interest compulsorily for the purposes for which the transaction is or was effected:

1947 c. 27.

Provided that in relation to any such transaction to which an executive council or a joint committee constituted by virtue of section 32 of the National Health Service (Scotland) Act 1947 are a party in the exercise of their statutory functions, the said expression shall be construed as including that council or joint committee.

“authority to whom Part II of the Act of 1959 applies” means a body of any of the descriptions specified in Schedule 4 to the Act of 1959;

1967 c. 86.

“bridleway” has the same meaning as in section 47 of the Countryside (Scotland) Act 1967;

“building”, except in sections 71 to 83 of this Act, includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

“building or works” includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly;

“building operations” includes rebuilding operations, structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder;

- “caravan site” has the meaning assigned to it by section 1(4) of the Caravan Sites and Control of Development Act 1960; PART XV
1960 c. 62.
- “clearing”, in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of such other operations in relation thereto as may be prescribed;
- “common” includes any town or village green;
- “compulsory acquisition” does not include the vesting in a person by an Act of Parliament of property previously vested in some other person;
- “conservation area” means an area designated under section 262 of this Act;
- “development” has the meaning assigned to it by section 19 of this Act, and “develop” shall be construed accordingly;
- “development order” has the meaning assigned to it by section 21 of this Act;
- “development plan” (subject to section 18 of, and paragraph 7 of Schedule 4 to, this Act) shall be construed in accordance with section 17 of this Act;
- “disposal”, except in section 113(7) of this Act, means disposal by way of sale, excambion or lease, or by way of the creation of any servitude, right or privilege, or in any other manner, except by way of appropriation, gift or the creation of a heritable security, and “dispose of” shall be construed accordingly;
- “enactment” includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, by-law or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;
- “enforcement notice” means a notice under section 84 of this Act;
- “engineering operations” includes the formation or laying out of means of access to highways;
- “erection”, in relation to buildings as defined in this subsection, includes extension, alteration and re-erection;
- “established use certificate” has the meaning assigned to it by section 90 of this Act;
- “feu charter” includes a feu contract and any other instrument by which land is feued;
- “footpath” has the same meaning as in section 47 of the Countryside (Scotland) Act 1967; 1967 c. 86.
- “functions” includes powers and duties;

- PART XV** “government department” includes any Minister of the Crown ;
- “heritable security” means—
- 1924 c. 27. (a) a heritable security within the meaning of the Conveyancing (Scotland) Act 1924 exclusive of a security by way of ground annual and a real burden *ad factum praestandum* but inclusive of a security constituted by way of *ex facie* absolute disposition ; or
- 1857 c. 26. (b) an assignation in security of a lease recorded under the Registration of Leases (Scotland) Act 1857 ;
- and the expression “heritable creditor” shall be construed accordingly ;
- 1909 c. 47. “improvement”, in relation to a highway, has the same meaning as the expression “improvement of roads” has in Part II of the Development and Road Improvement Funds Act, 1909 ;
- “industrial development certificate” has the meaning assigned to it by section 65 of this Act ;
- “joint planning committee” has the meaning assigned to it by Schedule 1 to this Act ;
- “land” includes land covered with water and any building as defined by this section, and, in relation to the acquisition of land under Part VI of this Act, includes any interest in land and any servitude or right in or over land ;
- 1947 c. 43. “Lands Tribunal” means Lands Tribunal for Scotland ;
- “large burgh” has the meaning assigned to it in the Local Government (Scotland) Act 1947 ;
- “lease” includes a sub-lease, but does not include an option to take a lease ;
- “listed building” has the meaning assigned to it by section 52(7) of this Act ;
- “listed building consent” has the meaning assigned to it by section 53(2) of this Act ;
- “listed building enforcement notice” has the meaning assigned to it by section 92 of this Act ;
- “listed building purchase notice” has the meaning assigned to it by section 179 of this Act ;
- “local authority” (except in section 204 of this Act) means a county council, town council or district council, and includes any joint board or joint committee of which all the constituent authorities are such local authorities as aforesaid ;

- “local highway authority” means a highway authority other than the Secretary of State ;
- “local planning authority” has the meaning assigned to it by section 1 of this Act ;
- “means of access” includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street ;
- “minerals” includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working ;
- “Minister” means any Minister of the Crown or other government department ;
- “new development” has the meaning assigned to it by section 19(5) of this Act ;
- “open space” means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground ;
- “operational land” has the meaning assigned to it by section 211 of this Act ;
- “owner”, in relation to any land, includes (except in sections 24 and 26 of this Act) any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking, and includes also a lessee under a lease of agreement, the unexpired period of which exceeds three years ;
- “planning decision” means a decision made on an application under Part III of this Act ;
- “planning permission” means permission under Part III of this Act, and in construing references to planning permission to develop land or to carry out any development of land, or to applications for such permission, regard shall be had to section 29(2) of this Act ;
- “planning permission granted for a limited period” has the meaning assigned to it by section 27(2) of this Act ;
- “prescribed” (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act ;
- “previous apportionment”, in relation to an apportionment for any of the purposes of the relevant provisions, means an apportionment made before the apportionment in question, being—
- (a) an apportionment for any of the purposes of the relevant provisions as made, confirmed or varied

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by the Lands Tribunal on a reference to that Tribunal ; or

(b) an apportionment for any of those purposes which might have been referred to the Lands Tribunal by virtue of any of the relevant provisions, where the time for such a reference has expired without its being required to be so referred, or where, after it had been so referred, the reference was withdrawn before the Tribunal gave their decision thereon ; or

(c) an apportionment made by or with the approval of the Central Land Board in connection with the approval by the Board, under section 2(2) of the Town and Country Planning Act 1953 of an assignment of part of the benefit of an established claim (as defined by section 124(4) of this Act,

1953 c. 16.

and in this definition “ the relevant provisions ” means any of the provisions of Part VII of this Act, any of those provisions as applied by any other provision of this Act, and any of the provisions of the Act of 1954 ;

“ purchase notice ” has the meaning assigned to it by section 169 of this Act ;

“ relocation of population or industry ”, in relation to any area, means the rendering available elsewhere than in that area (whether in an existing community or a community to be newly established) of accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and other requirements, being accommodation to be rendered available for persons or undertakings who are living or carrying on business or other activities in that area or who were doing so but by reason of war circumstances are no longer for the time being doing so, and whose continued or resumed location in that area would be inconsistent with the proper planning thereof ;

“ replacement of open space ”, in relation to any area, means the rendering of land available for use as an open space, or otherwise in an undeveloped state, in substitution for land in that area which is so used ;

1947 c. 43.

“ small burgh ” has the meaning assigned to it in the Local Government (Scotland) Act 1947 ;

“ statutory undertakers ” means persons authorised by any enactment, to carry on any railway, light railway, tramway, road transport, water transport, canal, inland

navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and "statutory undertaking" shall be construed accordingly;

"stop notice" has the meaning assigned to it by section 87 of this Act;

"tree preservation order" has the meaning assigned to it by section 58 of this Act;

"use", in relation to land, does not include the use of land for the carrying out of any building or other operations thereon;

"Valuation Office" means the Valuation Office of the Inland Revenue Department;

"war damage" has the same meaning as in the War 1943 c. 21. Damage Act 1943.

(2) If, in relation to anything required or authorised to be done under this Act, any question arises as to which Minister is or was the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury; and if any question so arises whether land of statutory undertakers is operational land, that question shall be determined by the Minister who is the appropriate Minister in relation to those undertakers.

(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 any enactment, is to be deemed to be served.

(4) With respect to references in this Act to planning decisions—

(a) in relation to a decision altered on appeal by the reversal or variation of the whole or part thereof, such references shall be construed as references to the decision as so altered;

(b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the local planning authority and not to the decision of the Secretary of State on the appeal;

(c) in relation to a decision given on an appeal in the circumstances mentioned in section 34 of this Act, such references shall be construed as references to the decision so given;

(d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the local planning

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authority (whether or not that decision is or was altered on that appeal) or, in the case of a decision given on an appeal in the circumstances mentioned in section 34 of this Act, the time when in accordance with that section notification of a decision of the local planning authority is deemed to have been received.

(5) Subject to section 40(1) of this Act, for the purposes of this Act development of land shall be taken to be initiated—

- (a) if the development consists of the carrying out of operations, at the time when those operations are begun ;
- (b) if the development consists of a change in use, at the time when the new use is instituted ;
- (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.

(6) Any reference in this Act to an assignation in security shall be construed as including a reference to an *ex facie* absolute assignation qualified as a security by a collateral agreement.

(7) In this Act any reference to a sale or purchase includes a reference to a sale or purchase by way of feu, and any reference to the price in relation to a sale or purchase includes a reference to grassum, feu-duty and ground annual.

(8) Any reference in this Act to the *dominium utile* in relation to land which is not held on feudal tenure shall be construed as a reference to the interest in the land of the owner thereof.

(9) References in this Act to any of the provisions in Part III or IV of Schedule 19 to this Act include, except where the context otherwise requires, references to those provisions as modified under section 256 or 257 of this Act.

(10) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.

Consequential amendments.

276.—(1) Subject to section 18 of this Act, the enactments specified in Schedule 21 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.

(2) References in any Act to the acquisition of land under Part III of the Act of 1947 or to land acquired thereunder (including references which, by Schedule 12 to that Act, are to be

construed as such) shall be respectively construed as, or as including (according as the context requires) references to the acquisition of land under Part VI of this Act and to land acquired thereunder.

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277.—(1) The transitional provisions and savings contained in Schedule 22 to this Act shall have effect.

Transitional provisions, savings and repeals.

(2) Subject to the provisions of that Schedule, the enactments specified in Schedule 23 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The inclusion in this Act of any express savings, transitional provision or amendment shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

1889 c. 63.

278.—(1) Schedule 24 to this Act shall have effect for the purpose of enabling any authority to whom this section applies to vest in themselves by a declaration land which they are authorised by a compulsory purchase order to acquire and, with respect to the effect of such a declaration, the payment and recovery of sums in respect of compensation for the acquisition of land so vested and other matters connected therewith.

General vesting declarations.

(2) This section applies to any Minister or local or other public authority authorised to acquire land by means of a compulsory purchase order, and any such authority is in the said Schedule 24 referred to as an acquiring authority.

(3) This section shall not apply to the compulsory acquisition of land with respect to which a compulsory purchase order was in force before 8th December 1969.

279.—(1) The provisions of this Act referred to in subsection (2) of this section shall come into operation on a day appointed by an order made by the Secretary of State.

Commencement of certain provisions.

(2) The provisions of this Act referred to in this subsection are sections 58(5) and 59(1) to (3) of this Act and Schedule 7 to this Act.

(3) Different days may be appointed under this section for different purposes and, in particular, different days may be so appointed for the coming into operation or repeal of the same provisions in different areas.

(4) No order under this section relating to Schedule 7 to this Act shall be made unless a draft of the order has been approved by both Houses of Parliament.

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(5) Any reference in this Act to the commencement of any provision referred to in subsection (2) of this section shall be construed as a reference to the day appointed for the coming into operation of that provision or, in the case of a provision which comes into operation on different days in different areas, shall, in relation to any area be construed as a reference to the day appointed for the coming into operation of that provision in that area.

(6) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation or repealed, including such adaptation of those provisions or of any other provisions of this Act then in force as appears to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).

(7) The Secretary of State shall maintain and keep up to date a register showing the effect of orders made under this section in such a way as enables members of the public to inform themselves—

- (a) as to the provisions which have come, or are to be brought into operation or have been, or are to be, repealed, and on which date and in relation to which areas ; and
- (b) as to whether, in the case of a particular area, any transitional provision has been made by such an order.

(8) The register maintained under this section by the Secretary of State shall be kept at his principal offices in Edinburgh and shall be available for inspection by the public at reasonable hours.

Commence-
ment.

280.—(1) Except as provided in sections 18 and 279 of this Act and subject to the following provisions of this section, this Act shall come into operation on the expiry of the period of one month beginning with the date on which it is passed ; and the date of coming into operation of this Act as aforesaid is in this section referred to as “ the commencement date ”.

- (2) The following provisions of this Act, that is to say—
 - (a) sections 71 to 83 and 174, this section and paragraphs 24 and 25 of Schedule 22,
 - (b) sections 253(1)(b), 269, 271, 273 and 275 so far as they relate to any of the provisions of sections 71 to 83 and 174 or anything done or to be done under any such provision,

(c) Schedule 23 so far as it relates to the repeal of Part I PART XV of the Control of Office and Industrial Development 1965 c. 33. Act 1965,

(d) any provisions which confer any power to make regulations or orders, or which (whether expressly or as construed in accordance with section 32(3) of the Interpretation Act 1889) confer any power to revoke 1889 c. 63. or vary any regulations or orders, and

(e) any provisions relating to the exercise of any such power, shall come into operation on the passing of this Act; but no regulations or order shall be made under this Act so as to come into operation before the commencement date other than any regulations or order made under any of the provisions of sections 71 to 83 of this Act.

(3) In subsection (2) of this section the reference to provisions of this Act relating to the exercise of any such power as is therein mentioned includes a reference to any provisions of this Act whereby statutory instruments containing regulations or an order are subject to annulment in pursuance of a resolution of either House of Parliament, or whereby any regulations or order or any provisions thereof require the approval of each of those Houses.

(4) Any reference in this Act to the commencement of this Act is a reference to the coming into operation of so much of this Act as comes into operation on the commencement date, and any reference to the date of the commencement of this Act is a reference to that date; and if any Act passed after the passing of this Act refers to the commencement of this Act, subsections (2) and (3) of this section and section 18 of this Act shall be disregarded for the purpose of construing that reference in accordance with section 36 of the Interpretation Act 1889 (which relates to the meaning of "commencement" with reference to an Act).

(5) The preceding provisions of this section shall have effect without prejudice to the generality of section 37 of the Interpretation Act 1889 (which relates to the exercise of statutory powers between the passing and the commencement of an Act).

281.—(1) This Act may be cited as the Town and Country Planning (Scotland) Act 1972. Citations and extent

(2) The Town and Country Planning (Amendment) Act 1972 c. 42. 1972 and this Act may be cited together as the Town and Country Planning (Scotland) Acts 1972.

(3) This Act, except so far as it provides for Joint Planning Inquiry Commissions and relates to the House of Commons Disqualification Act 1957, extends to Scotland only. 1957 c. 20.

SCHEDULES

Section 1.

SCHEDULE 1

COMBINATION OF AUTHORITIES

PART I

Voluntary Combination

1. An agreement entered into under section 1(2) 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 section 1(2) 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 by Order

1. An order made under section 1(3) 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.

SCH. 1

2. An order made under the said section 1(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.

SCHEDULE 2

Section 2.

JOINT ADVISORY COMMITTEES AND SUB-COMMITTEES

PART I

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 structure plans and local 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 or any two or more local planning authorities

SCH. 2 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 II

Sub-Committees

1. Any committee established by a local planning authority for the discharge of their functions under this Act 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 (hereinafter referred to as “the planning 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 two-thirds of the members of any such committee 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 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 section 1 of this Act or a joint advisory committee as they apply in relation to a committee to which paragraph 1 of this Part of this Schedule relates.

SCHEDULE 3

Section 18.

DEVELOPMENT PLANS: PROVISIONS IN FORCE UNTIL SUPERSEDED
BY PART II OF THIS ACT*Surveys of planning districts and preparation of development plans*

1.—(1) Any local planning authority who have not submitted to the Secretary of State a development plan for their district shall carry out a survey of their district and shall, within such period as the Secretary of State may in any particular case allow, submit to the Secretary of State a report of the survey together with a development plan for their district.

(2) Subject to the following provisions of this Part of this Schedule in this Act “development plan” means a plan indicating the manner in which a local planning authority propose that land in their district should be used, whether by the carrying out thereon of development or otherwise, and the stages by which any such development should be carried out.

(3) Subject to the provisions of any regulations made under this Act for regulating the form and content of development plans, any such plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals in question with such degree of particularity as may be appropriate to different parts of the district; and any such plan may in particular define the sites of proposed roads, public and other buildings and works, airfields, parks, pleasure grounds, nature reserves and other open spaces, or allocate areas of land for use for agricultural, residential, industrial or other purposes of any class specified in the plan.

(4) For the purposes of this paragraph, a development plan may define as an area of comprehensive development any area which, in the opinion of the local planning authority, should be developed or redeveloped as a whole for any one or more of the following purposes, that is to say—

(a) for the purpose of dealing satisfactorily with extensive war damage or conditions of bad lay-out or obsolete development; or

(b) for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the development or redevelopment of any other area; or

(c) for any other purpose specified in the plan;

and land may be included in any area so defined whether or not provision is made by the plan for the development or redevelopment of that particular land.

(5) At any time before a development plan with respect to the whole of the district of a local planning authority has been approved

SCH. 3 by the Secretary of State, that authority may, with the consent of the Secretary of State, and shall, if so required by directions of the Secretary of State, prepare and submit to him a development plan relating to part of that district ; and the foregoing provisions of this paragraph shall apply in relation to any such plan as they apply in relation to a plan relating to the whole of the district of a local planning authority.

Approval of development plans

2. The Secretary of State may approve any development plan submitted to him under paragraph 1 of this Schedule, either without modification or subject to such modifications as he considers expedient.

Amendment of development plans

3.—(1) At least once in every five years after the date on which a development plan for any district was approved by the Secretary of State, the local planning authority shall carry out a fresh survey of that district, and (subject to paragraph 1 of Schedule 5 to this Act) submit to the Secretary of State a report of the survey, together with proposals for any alterations or additions to the plan which appear to them to be required having regard thereto.

(2) Without prejudice to the provisions of sub-paragraph (1) of this paragraph, any local planning authority may (subject to paragraph 1 of Schedule 5 to this Act) at any time, and shall if so required by directions of the Secretary of State, submit to the Secretary of State proposals for such alterations or additions to the development plan for their district or any part thereof as appear to them to be expedient, or as may be required by those directions, as the case may be.

(3) Where proposals for alterations or additions to a development plan are submitted to the Secretary of State under this paragraph, the Secretary of State may amend that plan to such extent as he considers expedient having regard to those proposals and to any other material considerations.

(4) Where in accordance with the provisions of paragraph 1(5) of this Schedule a development plan has been prepared for part of the district of a local planning authority, and has been approved by the Secretary of State, then (without prejudice to the provisions of sub-paragraph (2) of this paragraph) the periods of five years mentioned in sub-paragraph (1) of this paragraph shall run from the date on which development plans in respect of the whole of the district have been approved by the Secretary of State.

Additional powers of Secretary of State with respect to development plans

4.—(1) Where, by virtue of any of the foregoing provisions of this Schedule or of any directions of the Secretary of State thereunder,

any development plan, report or proposals for alterations or additions to a development plan are required to be submitted to the Secretary of State, then—

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

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

(2) Where, under sub-paragraph (1) of this paragraph, the Secretary of State has power to make or amend a development plan, he may if he thinks fit, authorise the local planning authority for any neighbouring district, or any other local planning authority which appears to the Secretary of State to have an interest in the proper planning of the district concerned, to submit such a plan to him for his approval, or, as the case may be, to submit to him proposals for the amendment of the plan, and to carry out any survey of the land which appears to him to be expedient for the purpose.

(3) The Secretary of State may approve any plan submitted to him under sub-paragraph (2) of this paragraph, either without modification or subject to such modifications as he considers expedient, or, as the case may be, may amend any development plan, with respect to which proposals for amendment have been submitted to him under that sub-paragraph to such extent as he considers expedient having regard to those proposals and to any other material considerations.

(4) The foregoing provisions of this Schedule shall, so far as applicable, apply to the making, approval or amendment of development plans under this paragraph, and to plans so made, approved or amended, as they apply to the approval or amendment of development plans under those provisions, and to plans approved or amended thereunder.

(5) Where the Secretary of State incurs expenses under this paragraph in connection with the making or amendment of a plan with respect to the district, or any part of the district, of a local planning authority, so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by that authority to the Secretary of State.

(6) Where, under this paragraph, a plan, or proposals for the amendment of a plan, are authorised to be submitted to the Secretary of State by the local planning authority for any district other than the district in which the land is situated, any expenses reasonably

SCH. 3 incurred in that behalf by that authority, as certified by the Secretary of State, shall be repaid to that authority by the local planning authority for the district in which the land is situated.

Incorporation in development plans of orders and schemes relating to roads and new towns

5.—(1) Where the Secretary of State—

1946 c. 30. (a) makes an order under Schedule 2 to the Trunk Roads Act 1946 directing that a road proposed to be constructed by him shall become a trunk road ; or

1949 c. 32. (b) makes or confirms an order or scheme under the Special Roads Act 1949,

any development plan approved or made under this Schedule which relates to land on which a road is to be constructed or altered in accordance with that order or scheme shall have effect as if the provisions of that order or scheme were included in the plan.

1968 c. 16. (2) Where an order is made by the Secretary of State under section 1 of the New Towns (Scotland) Act 1968 designating an area as the site of a new town under that Act, any development plan approved or made under this Schedule which relates to land in that area shall have effect as if the provisions of that order were included in the plan.

(3) Nothing in this paragraph shall be construed as prohibiting the inclusion in a development plan, as approved or made by the Secretary of State or as for the time being amended, of provisions—

(a) defining the line of a road proposed to be constructed or altered in accordance with any such order or scheme as is mentioned in sub-paragraph (1) of this paragraph ; or

(b) defining an area designated as the site of a new town by any such order as is mentioned in sub-paragraph (2) of this paragraph ; or

(c) defining land as likely to be made the subject of any such order or scheme as is mentioned in either of those sub-paragraphs.

(4) Provision may be made by regulations under this Act for enabling any proceedings preliminary to the making of any such order as is mentioned in sub-paragraph (1)(a) or (2) of this paragraph, to be taken concurrently with proceedings required under this Schedule to be taken in connection with the approval or making of a development plan relating to land to which any such order applies, or in connection with any amendment of a development plan rendered necessary or desirable in consequence of any such order.

Supplementary provisions as to development plans

6.—(1) A local planning authority, before preparing a development plan relating to any land comprised in a small burgh in their district, or proposals for alterations or additions to any such plan, shall consult with the town council of that burgh, and shall, before submitting any such plan or proposals to the Secretary of State, give to that council

an opportunity to make representations with respect thereto and shall consider any representations so made.

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(2) Provision may be made by regulations under this Act with respect to the form and content of development plans, and with respect to the procedure to be followed in connection with the preparation, submission, approval, making and amendment of such plans; and such regulations shall in particular make provision for securing—

- (a) that before preparing a development plan or proposals for alterations or additions to any such plan the local planning authority shall consult with such bodies or persons as may be prescribed by the regulations;
- (b) that notice shall be given by advertisement in at least one newspaper circulating in the area concerned, of the submission to the Secretary of State of any such plan, or of proposals for the amendment of any such plan, and of any proposal by the Secretary of State to make or amend such a plan, and of the place or places where copies of the plan or proposals as so submitted, or of any such proposal of the Secretary of State, may be inspected;
- (c) that objections and representations duly made in accordance with the regulations shall be considered, and that such local inquiries or other hearings as may be prescribed shall be held, before such a plan is approved, made or amended by the Secretary of State; and
- (d) that copies of any such plan as approved or made by the Secretary of State, including any amendments thereof, shall be available for inspection by the public, and that copies therefor (including reproductions, on such scale as may be appropriate, of any relevant maps) shall be available for sale to the public at a reasonable cost.

(3) If, as the result of any objections or representations considered, or local inquiry or other hearing held, in connection with a development plan or proposals for amendment of such a plan submitted to or prepared by the Secretary of State under this Schedule, the Secretary of State is of opinion that the local planning authority, or any other authority or person, ought to be consulted before he decides whether to approve or make the plan, either with or without modifications, or to amend the plan, as the case may be, he shall consult that authority or person but shall not be under any obligation to consult any other authority or person, or to afford any opportunity for further objections or representations, or to cause any further local inquiry or other hearing to be held.

(4) Subject to the foregoing provisions of this paragraph, the Secretary of State may give directions to any local planning authority, or to local planning authorities generally—

- (a) for formulating the procedure for the carrying out of their functions under the foregoing provisions of this Schedule;

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- (b) for requiring them to give him such information as he may require for the purpose of the exercise of any of his functions under those provisions.

Publication and date of operation of development plans

7.—(1) Immediately after a development plan has been approved or made or amended by the Secretary of State under this Schedule, the local planning authority shall publish, in such manner as may be prescribed, a notice stating that the plan has been approved, made or amended, as the case may be, and naming a place where a copy of the plan or of the plan as amended, may be seen at all reasonable hours, and shall serve a like notice—

- (a) on any person who duly made an objection to, or representation with respect to, the proposed plan or amendment, and has sent to the local planning authority a request in writing to serve him with the notice required by this sub-paragraph, specifying an address for service; and
- (b) on such other persons (if any) as may be required by general or special directions given by the Secretary of State.

(2) Subject to the provisions of Part XII of this Act as to the validity of development plans and of amendments of such plans, a development plan, or an amendment of a development plan, shall become operative on the date on which the notice required by sub-paragraph (1) of this paragraph is first published.

Section 18.

SCHEDULE 4

DEVELOPMENT PLANS: MODIFICATIONS OF THIS ACT
PENDING REPEAL OF SCHEDULE 3

1. In section 136(4) for the words “structure plan or local plan” (wherever those words occur) there shall be substituted the words “development plan”.

2. For section 231(1)(a) there shall be substituted:—

“(a) a development plan or an amendment of a development plan, whether before or after it has been approved or made; or”.

3. For subsections (1) and (2) of section 232 there shall be substituted:—

“(1) If any person aggrieved by a development plan, or by an amendment of a development plan, desires to question the validity thereof or of any provision contained therein on the grounds that it is not within the powers of this Act, or that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the approval or making of the plan, or, as the case may be, in relation to the making of the amendment, he may, within six weeks from the date on which the notice required by paragraph 7(1) of Schedule 3 to this Act is first published, make an application to the Court of Session under this section.

(2) On any application under this section the Court of Session—

(a) may by interim order suspend the operation of the plan or amendment, as the case may be, or of any provision

contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ;

- (b) if satisfied that the plan or amendment, or any provision contained therein, is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Act or of any regulation made thereunder, may quash the plan or amendment or any provision contained therein, either generally or in so far as it affects any property of the applicant."

and in subsections (3), (4) and (5) of the said section 232 for the words "structure plan" there shall be substituted the words "development plan".

4. In section 242(2)(a) for the words "a structure plan or local plan under Part II of this Act" there shall be substituted the words "a development plan under Schedule 3 to this Act".

5. For section 253(1)(a) there shall be substituted:—

"(a) a development plan approved or made under Schedule 3 to this Act may include proposals relating to the use of Crown land and any power to acquire land compulsorily under Part VI of this Act may be exercised in relation to any interest therein which is for the time being held otherwise than by or on behalf of the Crown ;"

6. After section 264 there shall be inserted the following section:—

"264A. Where, in accordance with the provisions of Part III, Part IV or Part V of this Act, a local planning authority are required to have regard to the provisions of the development plan in relation to the exercise of any of their functions, then, in relation to the exercise of those functions during any period before such a plan has become operative with respect to the district of that authority, the authority—

(a) shall have regard to any directions which may be or have been given to them by the Secretary of State as to the provisions to be included in such a plan ; and

(b) subject to any such directions, shall have regard to the provisions which in their opinion will be required to be so included for securing the proper planning of their district."

7. For section 265(1)(a) there shall be substituted:—

"(a) the preparation, approval, making or amendment of a development plan relating to the land under Schedule 3 to this Act, including the carrying out of any survey under that Schedule ;"

8. In section 275(1), for the definition of "development plan" there shall be substituted:—

"'development plan' has the meaning assigned to it by paragraph 1 of Schedule 3 to this Act, and includes a plan

SCH. 4 made in accordance with sub-paragraph (5) of the said paragraph 1 ;”

9. In Schedule 2, in paragraph 1 of Part I, for the words “structure plans and local plans” there shall be substituted the words “development plans”.

10. In Part I of Schedule 19 after the words “Schedules 1 and 2” there shall be inserted the words “Schedule 3”.

Section 18.

SCHEDULE 5

DEVELOPMENT PLANS: TRANSITION FROM SCHEDULE 3 TO PART II OF THIS ACT

1. Until the repeal of Schedule 3 to this Act as respects any area (whether the whole or part of the district of a local planning authority), proposals for any alterations or additions to a development plan in force in the area shall not without the approval of the Secretary of State be submitted to him under paragraph 3 of that Schedule.

1963 c. 51.

2. On the repeal of the said Schedule as respects any area, the development plan which was in force in the area immediately before the repeal takes effect (hereafter in this Schedule referred to as “the old development plan”) shall, subject to the following provisions of this Schedule, continue in force as respects that area and be treated for the purposes of this Act, any other enactment relating to town and country planning and the Land Compensation (Scotland) Act 1963 as being comprised in, or as being, the development plan therefor.

3. Subject to the following provisions of this Schedule, where by virtue of paragraph 2 of this Schedule the old development plan for any area is treated as being comprised in a development plan for that area and there is a conflict between any of its provisions and those of the structure plan for that area, the provisions of the structure plan shall be taken to prevail for the purposes of Parts III, IV, V, VI, VII and IX of this Act and Schedule 10 to this Act.

S.I. 1966/1385.

4. Where a structure plan is in force in any area, but no local plan is in force in that area, a street authorisation map prepared in pursuance of the Town and Country Planning (Development Plans) (Scotland) Regulations 1966 for that area shall—

- (a) if in force immediately before the structure plan comes into force be treated for the purposes of this Act as having been adopted as a local plan by the local planning authority ;
- (b) if immediately before the structure plan comes into force it was under consideration by the Secretary of State be treated for those purposes as having been so adopted on being approved by the Secretary of State.

5. Where a structure plan is in force in any area, but no local plan is in force in that area, then, for any of the purposes of the Land Compensation (Scotland) Act 1963—

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1963 c. 51.

- (a) the development plan or current development plan shall as respects that area be taken as being whichever of the following plans gives rise to those assumptions as to the grant of planning permission which are more favourable to the owner of the land acquired, for that purpose, that is to say, the structure plan, so far as applicable to the area, and any alterations thereto, together with the Secretary of State's notice of approval of the plan and alterations, or the old development plan ;
- (b) land situated in an area defined in the current development plan as an area of comprehensive development shall be taken to be situated in whichever of the following areas leads to such assumptions as aforesaid, that is to say, any area wholly or partly within the area first-mentioned in this paragraph selected by the structure plan as an action area or the area so defined in the old development plan.

6. Subject to paragraph 7 of this Schedule, the Secretary of State may by order wholly or partly revoke a development plan continued in force under this Schedule whether in its application to the whole of the district of a local planning authority or in its application to part of that district and make such consequential amendments to the plan as appear to him to be necessary or expedient.

7. Before making an order with respect to a development plan under paragraph 6 of this Schedule, the Secretary of State shall consult with the local planning authority for the district to which the plan relates.

8. Any reference in paragraphs 1 and 2 of this Schedule to the repeal of Schedule 3 to this Act shall, in a case where that repeal is brought into force by an order under section 18 of this Act on different days, be construed as a reference to a repeal of such of the provisions of the said Schedule as may be specified in the order.

9. In relation to any development plan continued in force by virtue of this Schedule, sections 231 and 232 of this Act shall have effect with the same substitutions as are specified in paragraphs 1 to 3 of Schedule 4 to this Act.

SCHEDULE 6

Sections 19, 153,
158, 169 and 263.

DEVELOPMENT NOT CONSTITUTING NEW DEVELOPMENT

PART I

DEVELOPMENT NOT RANKING FOR COMPENSATION UNDER S. 158

1. The carrying out of any of the following works, that is to say—
- (a) 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, or of any building which was in

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existence before that day but was destroyed or demolished after 7th January 1937, including the making good of war damage sustained by any such building ;

- (b) the rebuilding, as often as the person having the right to rebuild may desire, of any building erected after the appointed day which was in existence at a material date ;
- (c) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building, or which do not materially affect the external appearance of the building and (in either case) are works for making good war damage,

so long as (in the case of works falling within any of the preceding sub-paragraphs) the cubic content of the original building is not exceeded—

- (i) in the case of a dwellinghouse, by more than one-tenth or 1,750 cubic feet, whichever is the greater ; and
- (ii) in any other case, by more than one-tenth.

2. The use as two or more separate dwellinghouses of any building which at a material date was used as a single dwellinghouse.

PART II

DEVELOPMENT RANKING FOR COMPENSATION UNDER S. 158

3. 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(a) or (b) of this Schedule, or any building substituted for such a building 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—

- (a) in the case of a dwellinghouse, by more than one-tenth or 1,750 cubic feet, whichever is the greater ; and
- (b) in any other case, by more than one-tenth.

4. The carrying out, on land which was used for the purposes of agriculture or forestry at a material date, of any building or other operations required for the purposes of that use, other than operations for the erection, enlargement, improvement or alteration of dwellinghouses 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.

5. 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 those purposes.

6. The winning and working of peat by any person for the domestic requirements of that person.

7. In the case of a building or other land which, at a material date, 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 having been unoccupied on and at all times since the appointed day, was last used (otherwise than before 7th January 1937) for any such purpose, the use of that building or land for any other purpose falling within the same general class.

8. In the case of any building or other land which, at a material date, 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 on the day thereafter when the building began to be so used, or, as the case may be, one-tenth of the area of the land so used on that day.

9. The deposit of waste materials or refuse in connection with the working of minerals, on any land comprised in a site which at a material date was being used for that purpose, so far as may be reasonably required in connection with the working of those minerals.

PART III

SUPPLEMENTARY PROVISIONS

10. Any reference in this Schedule to the cubic content of a building shall be construed as a reference to that content as ascertained by external measurement.

11. Where, after the appointed day, any buildings or works have been erected or constructed, or any use of land has been instituted, and any condition imposed under Part III of this Act, limiting the period for which those buildings or works may be retained, or that use may be continued, has effect in relation thereto, this Schedule shall not operate except as respects the period specified in that condition.

12. For the purposes of paragraph 3 of this Schedule—

- (a) the erection, on land within the curtilage of any such building as is mentioned in that paragraph, of an additional building to be used in connection with the original building shall be treated as the enlargement of the original building ; and
- (b) where any two or more buildings comprised in the same curtilage are used as one unit for the purposes of any institution or undertaking, the reference in that paragraph to the cubic content of the original building shall be construed as a reference to the aggregate cubic content of those buildings.

13. In this Schedule “at a material date” means at either of the following dates, that is to say—

- (a) the appointed day ; and

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(b) the date by reference to which this Schedule falls to be applied in the particular case in question:

Provided that sub-paragraph (b) of this paragraph shall not apply in relation to any buildings, works or use of land in respect of which, whether before or after the date mentioned in that sub-paragraph, an enforcement notice served before that date has become or becomes effective.

14.—(1) In relation to a building erected after the appointed day, being a building resulting from the carrying out of any such works as are described in paragraph 1 of this Schedule, any reference in this Schedule to the original building is a reference to the building in relation to which those works were carried out and not to the building resulting from the carrying out of those works.

(2) This paragraph has effect subject to section 263(4) of this Act.

SCHEDULE 7

DETERMINATION OF CERTAIN APPEALS BY PERSON APPOINTED BY SECRETARY OF STATE

Determination of appeals by appointed person

Sections 33, 85, 91, 93, 99 and 279 and paragraph 7 of Schedule 10.

1.—(1) An appeal to which this Schedule applies, being an appeal of a prescribed class, shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.

(2) Regulations made for the purpose of this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.

(3) This paragraph shall not affect any provision contained in this Act or any instrument thereunder that an appeal shall lie to, or a notice of appeal shall be served on, the Secretary of State.

Powers and duties of person determining appeal

2.—(1) A person appointed under this Schedule to determine an appeal shall have the like powers and duties in relation to the appeal as the Secretary of State under whichever are relevant of the following provisions, that is to say—

- (a) in relation to appeals under section 33, subsections (3) and (5) of that section ;
- (b) in relation to appeals under section 85, subsections (4) to (6) of that section ;
- (c) in relation to appeals under section 91, subsection (2) and (3) of that section ;
- (d) in relation to appeals under section 93, subsections (4) and (5) of that section ;

(e) in relation to appeals under section 99, section 85(4) and (5) of this Act ;

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(f) in relation to appeals under paragraph 7 of Schedule 10 to this Act, sub-paragraph (3) of that paragraph.

(2) The provisions of section 33(4), 85(2), 91(4), 93(2) and paragraph 7(4) of Schedule 10 to this Act relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an appeal which falls to be determined by a person appointed under this Schedule but before the determination of any such appeal the Secretary of State shall, unless (in the case of an appeal under section 36) the appeal is referred to a Planning Inquiry Commission under section 45 of this Act, ask the applicant or appellant, as the case may require, and the local planning authority whether they wish to appear before and be heard by the person so appointed, and—

(a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard as aforesaid ; and

(b) the person so appointed shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.

(3) Subject to sub-paragraph (4) of this paragraph, the decision of a person appointed under this Schedule on any appeal to which this Schedule applies shall be final.

(4) An appeal determined by any such person by virtue of this Schedule shall be treated for the purposes of this Act as having been determined by the Secretary of State.

Determination of appeals by Secretary of State

3.—(1) The Secretary of State may, if he thinks fit, direct that an appeal, which by virtue of paragraph 1 of this Schedule and apart from this sub-paragraph, falls to be determined by a person appointed by the Secretary of State shall instead be determined by the Secretary of State.

(2) A direction under this paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the applicant or appellant, the local planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section 26(3)(a) of this Act.

(3) Where in consequence of a direction under this paragraph an appeal to which this Schedule applies falls to be determined by the Secretary of State, the provisions of this Act which are relevant to the appeal shall, subject to the following provisions of this paragraph, apply to the appeal as if this Schedule had never applied to it.

(4) Where in consequence of a direction under this paragraph the Secretary of State determines an appeal himself, he shall, unless (in the case of an appeal under section 33) the appeal is referred to a

SCH. 7 Planning Inquiry Commission under section 45 of this Act, afford to the applicant or appellant, the local planning authority and any person who has made any such representations as aforesaid an opportunity of appearing before and being heard by a person appointed by the Secretary of State for that purpose either—

- (a) if the reasons for the direction raise matters with respect to which either the applicant or appellant, or the local planning authority or any such person, have not made representations ; or
 - (b) if the applicant or appellant or the local planning authority had not been asked in pursuance of paragraph 2(2) of this Schedule whether they wished to appear before and be heard by a person appointed to hear the appeal, or had been asked that question and had expressed no wish in answer thereto, or had expressed a wish to appear and be heard as aforesaid, but had not been afforded an opportunity of doing so.
- (5) Except as provided by sub-paragraph (4) of this paragraph, where the Secretary of State determines an appeal in consequence of a direction under this paragraph he shall not be obliged to afford any person an opportunity of appearing before and being heard by a person appointed for the purpose, or of making fresh representations or making or withdrawing any representations already made ; and in determining the appeal the Secretary of State may take into account any report made to him by any person previously appointed to determine it.

Appointment of another person to determine appeal

4.—(1) Where the Secretary of State has appointed a person to determine an appeal under this Schedule the Secretary of State may, at any time before the determination of the appeal, appoint another person to determine it instead of the first-mentioned person.

(2) Paragraph 2 of this Schedule shall, subject to sub-paragraph (3) of this paragraph, apply in relation to an appeal which falls to be determined by a person appointed under this paragraph as they apply in relation to an appeal which falls to be determined by a person appointed under that paragraph.

(3) If before the appointment of a person under this paragraph to determine an appeal, the Secretary of State had with reference to the person previously appointed, asked the question referred to in paragraph 2(2) of this Schedule, the question need not be asked again with reference to the person appointed under this paragraph and any answers to the question shall be treated as given with reference to him, but—

- (a) the consideration of the appeal or any inquiry or other hearing in connection therewith, if already begun, shall be begun afresh ; and
- (b) it shall not be necessary to afford any person an opportunity of making fresh representations or modifying or withdrawing any representations already made.

Local inquiries and hearings

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5.—(1) A person appointed under this Schedule to determine an appeal may (whether or not the parties have asked for an opportunity to appear and be heard) hold a local inquiry in connection with the appeal and shall hold such an inquiry if the Secretary of State directs him to do so.

(2) Subject to sub-paragraph (3) of this paragraph, the expenses—

(a) of any hearing held by virtue of paragraph 2(2)(b) of this Schedule ; and

(b) of any inquiry held by virtue of this paragraph,

shall be defrayed by the Secretary of State.

(3) Subsections (4) to (9) of section 267 of this Act shall apply to an inquiry held under this paragraph as they apply to an inquiry held under that section.

Stopping of appeals

6. If before or during the determination of an appeal under section 33 of this Act which is to be or is being determined in accordance with paragraph 1 of this Schedule, the Secretary of State forms the opinion mentioned in subsection (7) of that section, he may direct that the determination shall not be begun or proceeded with.

Supplementary provisions

7.—(1) The Tribunals and Inquiries Act 1971 shall apply to a local inquiry or other hearing held in pursuance of this Schedule as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a person appointed to determine the relevant appeal under this Schedule.

(2) The functions of determining an appeal and doing anything in connection therewith conferred by this Schedule on a person appointed to determine an appeal thereunder who is an officer of the Scottish Office shall be treated for the purposes of the Parliamentary Commissioner Act 1967 as functions of that office.

(3) In section 33(7) of this Act, for the words “and 65” there shall be substituted the words “65 and 72”; but the provisions of this sub-paragraph shall cease to have effect at the same time as the provisions referred to in section 83(1) of this Act whether or not the provisions of this sub-paragraph have by that time been brought into operation.

Section 45.

SCHEDULE 8

**CONSTRUCTION OF REFERENCES IN SECTIONS 45 AND 46 TO
"THE RESPONSIBLE MINISTER OR MINISTERS"**

1. In relation to matters specified in the first column of the Table below (being matters mentioned in section 45(1) of this Act which may be referred to a Planning Inquiry Commission under that section) "the responsible Minister or Ministers" for the purposes of sections 45 and 46 of this Act are those specified opposite in the second column of the Table.

2. Where an entry in the second column of the Table specifies two or more Ministers, that entry shall be construed as referring to those Ministers acting jointly.

TABLE

Referred Matter	Responsible Minister or Ministers
<p>1. Application for planning permission or appeal under section 33 of this Act—</p> <p style="padding-left: 2em;">(a) relating to land to which section 214(1) of this Act applies;</p> <p style="padding-left: 2em;">(b) relating to other land.</p>	<p>The Secretary of State and the appropriate Minister (if different).</p> <p>The Secretary of State.</p>
<p>2. Proposal that a government department should give a direction under section 37 of this Act or that development should be carried out by or on behalf of a government department.</p>	<p>The Secretary of State and the Minister (if different) in charge of the government department concerned.</p>

SCHEDULE 9

Section 47.

JOINT PLANNING INQUIRY COMMISSIONS

Interpretation

1. In relation to matters specified in the first column of the Table below (being matters which under section 47 of this Act may be referred to a Joint Planning Inquiry Commission), "the responsible Ministers" for the purposes of this Schedule are those specified opposite in the second column of the Table, acting jointly.

TABLE

Referred Matter	Responsible Ministers
<p>1. Application for planning permission or appeal under section 33 of this Act—</p> <p>(a) relating to land to which section 214(1) of this Act or section 225(1) of the Act of 1971 applies;</p> <p>(b) relating to other land.</p>	<p>The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England and the appropriate Minister (if different).</p> <p>The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England.</p>
<p>2. Proposal that a government department should give a direction under section 37 of this Act or section 40 of the Act of 1971, or that development should be carried out by or on behalf of a government department.</p>	<p>The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England and the Minister (if different) in charge of the government department concerned.</p>

2. In this Schedule—

- (a) "Act of 1971" means the Town and Country Planning Act 1971 c. 78, 1971;
- (b) "commission" means a Joint Planning Inquiry Commission constituted under section 47 of this Act; and
- (c) "referred matter" means a matter referred to a commission under that section.

The reference

3. Two or more of the matters mentioned in subsection (1) of section 47 of this Act may be referred to the same commission if it appears to the responsible Ministers that they relate to proposals to carry out development for similar purposes on different sites.

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4. Where a referred matter relates to a proposal to carry out development for any purpose at a particular site, the responsible Ministers may also refer to the commission the question whether development for that purpose should be instead carried out at an alternative site, whether in Scotland or in England, or partly in one and partly in the other.

5. The responsible Ministers shall, on referring a matter to a commission, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to them to be relevant to their inquiry.

6.—(1) A reference to a commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time.

(2) A reference of any other matter mentioned in subsection (1) of section 47 of this Act may be made at any time before, but not after, the determination of the relevant referred application or the relevant appeal or, as the case may be, the giving of the relevant direction, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.

Notice of reference to persons and authorities concerned

7.—(1) Notice of the making of a reference to a commission shall be published in the prescribed manner, and a copy of the notice shall be served on the local planning authority for the area in which it is proposed that the relevant development shall be carried out.

(2) In the case of an application for planning permission referred under section 32 of this Act or section 35 of the Act of 1971 or an appeal under section 33 of this Act or section 36 of the Act of 1971, notice shall also be served—

(a) on the applicant or appellant ; and

(b) on any person who has made representations, relating to the subject matter of the application or appeal, which the local planning authority are required to take into account under section 26(2) or (3) of this Act or, as the case may be, section 29(2) or (3) of the Act of 1971.

(3) In the case of a proposal that a direction should be given by a government department under section 37 of this Act or section 40 of the Act of 1971 with respect to any development, notice shall also be served on the local authority or statutory undertakers applying for authorisation to carry out that development.

(4) In this paragraph, “prescribed” means prescribed by regulations made by the Secretary of State and the Secretary of State for the Environment jointly in the exercise of their respective powers under this Act and the Act of 1971.

Proceedings of commission on reference

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8. A commission inquiring into a referred matter shall—

- (a) identify and investigate the considerations relevant to, or the technical or scientific respects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out, and assess the importance to be attached to those considerations or aspects ;
- (b) thereafter, comply with paragraph 9 below in respect of affording to persons an opportunity of appearing before, and being heard by, one or more members of the commission ;
- (c) report to the responsible Ministers on the said matter.

9. A commission shall afford the following persons an opportunity of appearing and being heard as aforesaid:—

- (a) in any case, the local planning authority, if the authority so desire ;
- (b) in the case of a matter mentioned in section 45(1)(a), (b) or (c) of this Act or section 48(1)(a), (b) or (c) of the Act of 1971, the applicant, if he so desires ; and
- (c) in the case of an application or appeal mentioned in the said section 45(1)(a) or (b) or the said section 48(1)(a) or (b), any person who has made representations relating to the subject matter of the application or appeal which the local planning authority are required to take into account under section 26(2) or (3) of this Act or section 29(2) or (3) of the Act of 1971.

10. The provisions of sections 32(5) and 33(4) of this Act and sections 35(5) and 36(4) of the Act of 1971 and the provisions of Schedule 7 to this Act and Schedule 9 to the Act of 1971, relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an application for planning permission, or an appeal, referred to a commission.

Local inquiries

11. A commission shall, for the purpose of complying with paragraph 9 above, hold a local inquiry ; and they may hold such an inquiry if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the local planning authority desire the opportunity of appearing and being heard.

12. Where a commission are to hold a local inquiry in connection with a referred matter and it appears to the responsible Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this Schedule to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, the responsible Minister may direct that the two inquiries be held concurrently or combined as one inquiry.

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1971 c. 62

13. For the purposes of the Tribunals and Inquiries Act 1971 a local inquiry held by a commission—

- (a) if held in Scotland, shall be treated as one held by the Secretary of State in pursuance of a duty imposed by a statutory provision ; and
- (b) if held in England, shall be treated as one held by the Secretary of State for the Environment in pursuance of a duty so imposed.

14.—(1) Subsections (4) to (9) of section 267 of this Act shall apply to a local inquiry held by a commission in Scotland as they apply to an inquiry held under that section.

1933 c. 51.

(2) Subsections (2) to (5) of section 290 of the Local Government Act 1933 (evidence and costs at local inquiries) shall apply in relation to a local inquiry held by a commission in England as they apply in relation to an inquiry caused to be held by a department under subsection (1) of that section, with the substitution for references to a department (other than the first reference in subsection (4)) of references to the Secretary of State for the Environment.

Supplementary

15.—(1) A commission may, with the approval of the Ministers and at their expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to the commission to be relevant to a referred matter.

(2) In this paragraph “the Ministers” means the Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England, acting jointly ; but their functions under this paragraph may, by arrangements made between them, be exercised by either acting on behalf of both.

16. Subject to the provisions of this Schedule, and to any directions given to them by the responsible Ministers, a commission shall have power to regulate their own procedure.

SCHEDULE 10

Sections 54
and 56.CONTROL OF WORKS FOR DEMOLITION, ALTERATION OR
EXTENSION OF LISTED BUILDINGS

PART I

APPLICATIONS FOR LISTED BUILDING CONSENT

Form of application and effect of consent

1.—(1) Provision may be made by regulations under this Act with respect to the form and manner in which applications for listed building consent are to be made, the manner in which such applications are to be advertised and the time within which they are to be dealt with by local planning authorities or, as the case may be, by the Secretary of State.

(2) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested therein.

2.—(1) Regulations under this Act may provide that an application for listed building consent, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one or other of those described in section 24(1)(a) to (d) of this Act and any such regulations may—

(a) include requirements corresponding to sections 24(2) to (4) and 26(3) of this Act ; and

(b) make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision of the regulations made by virtue of this subparagraph.

(2) If any person issues a certificate which purports to comply with the requirements of regulations made by virtue of this paragraph and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

Directions as to manner of dealing with applications

3. The provisions of section 28(2) and (3) of this Act shall apply to an application for listed building consent for any works for the demolition, alteration or extension of a building in a conservation area as they apply to an application of the kind therein mentioned.

Reference of applications to Secretary of State

4.—(1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the local planning authority.

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(2) A direction under this paragraph may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.

(3) An application in respect of which a direction under this paragraph has effect shall be referred to the Secretary of State accordingly.

(4) Before determining an application referred to him under this paragraph, the Secretary of State shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.

(5) The decision of the Secretary of State on any application referred to him under this paragraph shall be final.

5.—(1) Subject to the following provision of this paragraph, a local planning authority to whom application is made for listed building consent shall not grant such consent, unless they have notified the Secretary of State of the application (giving particulars of the works for which the consent is required) and either—

- (a) a period of twenty-eight days has expired, beginning with the date of the notification, without the Secretary of State having directed the reference of the application to him ; or
- (b) the Secretary of State has notified the authority that he does not intend to require the reference of the application.

(2) The Secretary of State may at any time before the said period expires give notice to the authority that he requires further time in which to consider whether to require the reference of the application to him and sub-paragraph (1) of this paragraph shall then have effect with the substitution for a period of twenty-eight days or such longer period as may be specified in the Secretary of State's notice.

6.—(1) The Secretary of State may give directions that, in the case of such descriptions of applications for listed building consent as he may specify, other than such consent for the demolition of a building, paragraph 5 of this Schedule shall not apply ; and accordingly, so long as the directions are in force local planning authorities may determine applications of such descriptions in any manner they think fit, without notifying the Secretary of State.

(2) Without prejudice to the foregoing provisions of this Schedule, the Secretary of State may give directions to local planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify to him and to such other persons as may be so specified any applications made to them for listed building consent, and the decisions taken by the authorities thereon.

Appeal against decision

7.—(1) Where an application is made to the local planning authority for listed building consent and the consent is refused by the authority or is granted by them subject to conditions, the applicant, if he is aggrieved by the decision, may by notice served in the prescribed manner within such period as may be prescribed, not being

less than twenty-eight days from the receipt by him of notification of the decision, appeal to the Secretary of State.

(2) A person appealing under this paragraph may include in his notice thereunder, as the ground or one of the grounds of his appeal, a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 52 of this Act, or—

(a) in the case of a building to which subsection (8) of that section applies, that the Secretary of State should give a direction under that subsection with respect to the building ;
or

(b) in the case of a building subject to a building preservation notice under section 56 of this Act, that the building should not be included in a list compiled or approved under the said section 52.

(3) Subject to the following provisions of this paragraph, the Secretary of State may allow or dismiss an appeal thereunder, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, and—

(a) may deal with the application as if it had been made to him in the first instance ; and

(b) may, if he thinks fit, exercise his power under section 52 of this Act to amend any list compiled or approved thereunder by removing from it the building to which the appeal relates or his power under subsection (8) of that section to direct that that subsection shall no longer apply to the building.

(4) Before determining an appeal under this paragraph, the Secretary of State shall, if either the applicant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) The decision of the Secretary of State on any appeal under this paragraph shall be final.

(6) Schedule 7 to this Act applies to appeals under this paragraph.

Appeal in default of decision

8. Where an application is made to the local planning authority for listed building consent, then unless within the prescribed period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either—

(a) give notice to the applicant of their decision on the application ; or

(b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under paragraph 4 of this Schedule,

the provisions of paragraph 7 of this Schedule shall apply in relation to the application as if listed building consent had been refused by

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PART II

REVOCATION OF LISTED BUILDING CONSENT

9.—(1) If it appears to the local planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify listed building consent in respect of any works to a building, being consent granted on an application made under Part I of this Schedule, the authority, subject to the following provisions of this paragraph, may by order revoke or modify the consent to such extent as (having regard to those matters), they consider expedient.

(2) Except as provided in paragraph 11 of this Schedule, an order under this paragraph shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where a local planning authority submit an order to the Secretary of State for confirmation under this paragraph, the authority shall serve notice on the owner, on the lessee and on the occupier of the building affected and on any other person who in their opinion will be affected by the order; and if within such period as may be specified in that notice (not being less than twenty-eight days after the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the local planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) The power conferred by this paragraph to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

10.—(1) If it appears to the Secretary of State, after consultation with the local planning authority, to be expedient that an order under paragraph 9 of this Schedule should be made, he may give directions to the authority requiring them to submit to him such an order for his confirmation, or may himself make such an order; and any order so made by the Secretary of State shall have the like effect as if it had been made by the authority and confirmed by the Secretary of State under that paragraph.

(2) The provisions of paragraph 9 of this Schedule shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order by virtue

of this paragraph, in relation to the making thereof by the Secretary of State and in relation to the service of copies thereof as so made.

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11.—(1) The following provisions shall have effect where the local planning authority have made an order under paragraph 9 of this Schedule but have not submitted the order to the Secretary of State for confirmation by him, and—

- (a) the owner, lessee and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order ; and
- (b) it appears to the authority that no claim for compensation is likely to arise under section 161 of this Act on account of the order.

(2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—

- (a) the period (not being less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose ; and
- (b) the period (not being less than fourteen days from the expiration of the period referred to in paragraph (a) of this sub-paragraph) at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this paragraph and without being confirmed by the Secretary of State.

(3) The authority shall also serve notice to the same effect on the persons mentioned in sub-paragraph (1)(a) of this paragraph, and the notice shall include a statement to the effect that no compensation is payable under section 161 of this Act in respect of an order under paragraph 9 of this Schedule which takes effect by virtue of this paragraph and without being confirmed by the Secretary of State.

(4) The authority shall send a copy of any advertisement published under sub-paragraph (2) of this paragraph to the Secretary of State, not more than three days after the publication.

(5) If within the period referred to in sub-paragraph (2)(a) of this paragraph no person claiming to be affected by the order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in sub-paragraph (2)(b) of this paragraph, take effect by virtue of this paragraph and without being confirmed by the Secretary of State as required by paragraph 9(2) of this Schedule.

(6) This paragraph does not apply to an order revoking or modifying a listed building consent granted by the Secretary of State.

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PART III

PROVISIONS APPLICABLE ON LAPSE OF BUILDING PRESERVATION NOTICE

12. The provisions of this Part of this Schedule apply where a building preservation notice ceases to be in force by virtue of section 56(3) of this Act, otherwise than by reason of the building to which it relates being included in a list compiled or approved under section 52 of this Act.

13. The fact that the building preservation notice has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 53 or 94 of this Act committed by him with respect to the said building while the notice was in force.

14. Any proceedings on or arising out of an application for listed building consent made while the building preservation notice was in force shall lapse and any listed building consent granted with respect to the building, while the notice was in force, shall also lapse.

15. Any listed building enforcement notice served by the local planning authority while the building preservation notice was in force shall cease to have effect and any proceedings thereon under sections 92 and 93 of this Act shall lapse, but section 95(1) and (2) of this Act shall continue to have effect as respects any expenses incurred by the local authority, owner, lessee or occupier as therein mentioned and with respect to any sums paid on account of such expenses.

Sections 58(11),
59(4).

SCHEDULE 11

TREE PRESERVATION ORDERS: MODIFICATIONS OF THIS ACT PENDING COMING INTO OPERATION OF SECTIONS 58(5) AND 59(1) TO (3)

1. In section 58(4), the words "under subsection (5)(c) of this section and" shall be omitted.

2. For section 58(5) there shall be substituted:—

"(5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders and the procedure to be followed in connection with the submission and confirmation of such orders, and such regulations shall, in particular, make provision for securing—

- (a) that notice shall be given to the owners, lessees and occupiers of land affected by any such order of the submission to the Secretary of State of the order;
- (b) that objections and representations with respect to the proposed order duly made in accordance with the regulations shall be considered before the order is confirmed by the Secretary of State; and
- (c) that copies of the order when confirmed by the Secretary of State shall be served on the owners, lessees and occupiers of the land to which it relates."

3. For section 59(1) to (3) there shall be substituted:—

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“ 59.—(1) If it appears to a local planning authority that a tree preservation order proposed to be made by that authority should take effect immediately without previous confirmation by the Secretary of State, they may include in the order as made by them a direction that this section shall apply to the order.

(2) Notwithstanding section 58(4) of this Act, an order which contains such a direction shall take effect provisionally on such date as may be specified therein, and shall continue in force by virtue of this section until the expiration of the period of six months beginning with the date on which the order was made, or until the date on which the Secretary of State confirms the order or notifies the local planning authority that he does not propose to confirm it, whichever first occurs.

(3) Provision shall be made by regulations under this Act for securing—

- (a) that the notices to be given of the submission to the Secretary of State of a tree preservation order containing a direction under this section shall include a statement of the effect of the direction; and
- (b) that where the Secretary of State, within the said period of six months, notifies the local planning authority that he does not propose to confirm such an order, copies of that notice shall be served on the owners, lessees and occupiers of the land to which the order related.”

SCHEDULE 12

Section 90.

PROVISIONS AS TO ESTABLISHED USE CERTIFICATES

Application for certificate and appeal against refusal thereof

1. An application for an established use certificate shall be made in such manner as may be prescribed by a development order, and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any directions given thereunder, or by the local planning authority or, in the case of an application referred to the Secretary of State, by him.

2. Provision may be made by a development order for regulating the manner in which applications for established use certificates are to be dealt with by local planning authorities, and, in particular—

- (a) for requiring the authority to give any applicant for such a certificate, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;
- (b) for requiring the authority to give to the Secretary of State and to such other persons as may be prescribed by or under

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the order, such information as may be so prescribed with respect to applications for such certificates made to the authority, including information as to the manner in which any such application has been dealt with.

3.—(1) A development order may provide that an application for an established use certificate, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in such form as may be prescribed by the order and corresponding to one or other of those described in section 24(1)(a) to (d) of this Act; and any such order may—

- (a) include requirements corresponding to section 24(2), (3) and (4), and section 26(3) of this Act; and
- (b) make provision as to who, in the case of any land, is to be treated as the owner for the purposes of any provision of the order made by virtue of this sub-paragraph.

(2) If any person issues a certificate which purports to comply with any provision of a development order made by virtue of sub-paragraph (1) above and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

Provisions with respect to grant of certificate

4. An established use certificate shall be in such form as may be prescribed by a development order and shall specify—

- (a) the land to which the certificate relates and any use thereof which is certified by the certificate as established;
- (b) by reference to the paragraphs of section 90(1) of this Act, the grounds on which that use is so certified; and
- (c) the date on which the application for the certificate was made, which shall be the date at which the use is certified as established.

5. Where the Secretary of State or a person appointed by him under Schedule 7 to this Act to determine an appeal grants an established use certificate, the Secretary of State or that person shall give notice to the local planning authority of that fact.

6. In section 31 of this Act references to applications for planning permission shall include references to applications for established use certificates; and the information which may be prescribed as being required to be contained in a register kept under that section shall include information with respect to established use certificates granted by the Secretary of State or by a person appointed by him under Schedule 7 to this Act to determine an appeal.

SCHEDULE 13

Section 127.

ADJUSTMENT OF CLAIM HOLDINGS

PART I

ADJUSTMENT OF CLAIM HOLDINGS ASSIGNED TO CENTRAL LAND BOARD AS SECURITY FOR DEVELOPMENT CHARGES

1.—(1) In this Part of this Schedule references to the assignation of a claim holding to the Central Land Board are references to any transaction whereby—

- (a) the holder of the claim holding assigned it to the Central Land Board as security, or part of the security, for one or more development charges determined, or thereafter to be determined, by the Board ; or
- (b) the holder and the Central Land Board agreed that a development charge determined by the Board should be set off against any payment which might thereafter become payable to the holder by reference to that holding ; or
- (c) the Central Land Board refrained from determining a development charge, which would otherwise have fallen to be determined by them, in consideration of an assignation of the holding, with or without other claim holdings.

(2) All assignations of claim holdings to the Central Land Board made by the same person, whether or not made at the same time, other than any assignation to which paragraph 2(1) of this Schedule applies, shall for the purposes of this Part of this Schedule be treated collectively as a single assignation made at the time when the last of those assignations was made.

(3) Where a development charge covered by an assignation to the Central Land Board was determined in respect of land consisting of, or forming part of, the area of a claim holding—

- (a) which was not comprised in the assignation ; but
- (b) whose holder immediately before the time of completion was the person who would, apart from the assignation, have been liable to pay the unpaid balance of the development charge,

then, for the purposes of this Part of this Schedule, that claim holding shall be deemed to have been comprised in the assignation.

(4) In this Part of this Schedule references to the determination of a development charge in respect of any land are references to a determination of the Central Land Board that the charge was payable in respect of the carrying out of operations in, on, over or under that land, or in respect of the use of that land.

(5) For the purposes of this Part of this Schedule the amount of a development charge—

- (a) in a case where the Central Land Board determined that amount as a single capital payment, shall be taken to have been the amount of that payment ; and

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- (b) in a case where the Board determined that amount otherwise than as a single capital payment, shall be taken to have been the amount of the single capital payment which would have been payable if the Board had determined the amount as such a payment ;

and references in this Part of this Schedule to the unpaid balance of a development charge are references to the amount of the charge, if no sum was actually paid to the Board on account of the charge, or if any sum was so paid, are references to the amount of the charge reduced by the amount or aggregate amount of the sum or sums so paid, other than any sum paid by way of interest.

(6) In relation to the assignation of a claim holding to the Central Land Board, references in this Part of this Schedule to a development charge covered by the assignation are references to a development charge the payment of which was secured, or partly secured by, the assignation, or, as the case may be, which was agreed to be set off against any payment which might become payable by reference to that claim holding.

2.—(1) Where a claim holding was assigned to the Central Land Board in accordance with the special arrangements relating to owners of single house plots, that claim holding shall, subject to sub-paragraph (2) of this paragraph, be deemed to have been extinguished as from the time when it was assigned to the Board.

(2) Where a claim holding (in this sub-paragraph referred to as "the original holding") was assigned as mentioned in sub-paragraph (1) of this paragraph but was so assigned by reference to a plot of land which did not extend to the whole of the area of the original holding, that sub-paragraph shall not apply, but there shall be deemed to have been substituted for the original holding, as from the time of the assignation, a claim holding with an area consisting of so much of the area of the original holding as was not comprised in that plot of land, and with a value equal to that fraction of the value of the original holding which then attached to so much of the area of the original holding as was not comprised in that plot.

3. Without prejudice to paragraph 2 of this Schedule, where an assignation to the Central Land Board comprised one or more claim holdings, and the unpaid balance of the development charge covered by the assignation, or (if more than one) the aggregate of the unpaid balances of the development charges so covered, was equal to or greater than the value of the claim holding, or the aggregate value of the claim holdings, as the case may be, the holding or holdings shall be deemed to have been extinguished as from the time of the assignation.

4. Where an assignation to the Central Land Board comprised only a single claim holding with an area of which every part either consisted of, or formed part of, the land in respect of which some development charge covered by the assignation was determined, and paragraph 3 of this Schedule does not apply, the value of that claim

holding shall be deemed to have been reduced, as from the time of the assignation, by the unpaid balance of the development charge covered by the assignation, or (if more than one) by the aggregate of the unpaid balances of all the development charges covered by the assignation.

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5.—(1) The provisions of this paragraph shall have effect in the case of an assignation of one or more claim holdings to the Central Land Board to which neither paragraph 3 nor paragraph 4 of this Schedule applies.

(2) Any claim holding comprised in the assignation with an area of which every part either consisted of, or formed part of, the land in respect of which some development charge covered by the assignation was determined shall be allocated to the development charge in question, or (if more than one) to those development charges collectively.

(3) Any claim holding comprised in the assignation with an area part of which did, and part of which did not, consist of, or form part of, such land as is mentioned in sub-paragraph (2) of this paragraph shall be treated as if, at the time of the assignation, the claim holding (in this sub-paragraph referred to as “the parent holding”) had been divided into two separate claim holdings, that is to say—

(a) a claim holding with an area consisting of so much of the area of the parent holding as consisted of, or formed part of, such land as is mentioned in sub-paragraph (2) of this paragraph, and with a value equal to that fraction of the value of the parent holding which then attached to that part of the area of the parent holding ; and

(b) a claim holding with an area consisting of the residue of the area of the parent holding, and with a value equal to that fraction of the value of the parent holding which then attached to the residue of the area of the parent holding.

and the claim holding referred to in head (a) of this sub-paragraph shall be allocated to the development charge in question, or (if more than one) to those development charges collectively.

(4) Paragraph 3 or paragraph 4 of this Schedule shall then apply in relation to each claim holding (if any) allocated in accordance with sub-paragraph (2) or sub-paragraph (3) of this paragraph to any development charge, or to any development charges collectively, as if the assignation had comprised only that claim holding and had covered only that development charge or those development charges.

(5) If, after the application of the foregoing provisions of this paragraph, there remains outstanding any claim holding not allocated in accordance with those provisions, or any claim holding which (having been so allocated) is deemed to have been reduced in value but not extinguished, an amount equal to the aggregate of—

(a) the unpaid balance of any development charge covered by the assignation to which no claim holding was so allocated ;
and

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- (b) the amount (if any) by which the value of any claim holding so allocated which is deemed to have been extinguished falls short of the unpaid balance of the development charge, or the aggregate of the unpaid balances of the development charges, to which it was so allocated.

shall be treated as having been deducted from the value of the claim holding so remaining outstanding, or (if more than one) as having been deducted rateably from the respective values of those claim holdings, and the value of any such holding shall be deemed to have been reduced accordingly as from the time of the assignment.

PART II

ADJUSTMENT BY REFERENCE TO PAYMENTS IN RESPECT OF WAR-DAMAGED LAND

6.—(1) The provisions of this Part of this Schedule shall have effect where a payment under the scheme has become, or becomes payable in respect of an interest in land, and a claim holding related (or would, apart from this Part of this Schedule, have related) to the like interest in the whole or part of that land, with or without any other land.

(2) In this Part of this Schedule “the scheme” means the scheme made under section 56 of the Act of 1947, “the date of the scheme” means 23rd December 1949, and “payment under the scheme” means a payment which has become, or becomes, payable by virtue of the scheme.

(3) In relation to any payment under the scheme “the payment area”, in this Part of this Schedule, means the land in respect of which the payment became or becomes payable, and references to the amount of the payment shall be construed as references to the principal amount thereof, excluding any interest payable thereon in accordance with section 62(3) of the Act of 1947.

7. If the payment area is identical with the area of the claim holding, then—

- (a) in the case of a payment of an amount equal to the value of the claim holding, the claim holding shall be deemed to have been extinguished as from the date of the scheme ;
- (b) in the case of a payment of an amount less than the value of the claim holding, the value of the claim holding shall be deemed to have been reduced, as from the date of the scheme, by the amount of the payment.

8.—(1) If the payment area forms part of the area of the claim holding, the holding (in this paragraph referred to as “the parent holding”) shall be treated, as from the date of the scheme, as having been divided into two claim holdings, that is to say—

- (a) a claim holding with an area consisting of that part of the area of the parent holding which constituted the payment area, and with a value equal to that fraction of the value

of the parent holding which attached to that part of the area of the parent holding ; and

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- (b) a claim holding with an area consisting of the residue of the area of the parent holding, and with a value equal to that fraction of the value of the parent holding which attached to the residue of the area of the parent holding.

(2) Where sub-paragraph (1) of this paragraph applies, paragraph 7 of this Schedule shall have effect in relation to the claim holding referred to in sub-paragraph (1)(a) of this paragraph as if it were the parent holding.

9. If the payment area includes the area of the claim holding together with other land, paragraph 7 of this Schedule shall apply as if—

- (a) the payment area had been identical with the area of the claim holding ; but
- (b) the amount of the payment had been so much of the actual amount thereof, as might reasonably be expected to have been attributed to the area of the claim holding if, under the scheme, the authority determining the amount of the payment had been required (in accordance with the same principles as applied to the determination of that amount) to apportion it between the area of the claim holding and the rest of the payment area.

10. If the payment area includes part of the area of the claim holding together with other land not comprised in the area of the claim holding—

- (a) paragraph 8 of this Schedule shall apply as if the part of the payment area comprised in the area of the claim holding had been the whole of the payment area ; and
- (b) paragraph 9 of this Schedule shall apply as if the part of the area of the claim holding comprised in the payment area had been the whole of the area of the claim holding.

PART III

ADJUSTMENT IN CASES OF PARTIAL TRANSMISSION OF CLAIM HOLDINGS

11. The provisions of this Part of this Schedule shall have effect where, by virtue of a transmission of part of the benefit of an established claim (in this Part of this Schedule referred to as “the relevant transmission”), different persons became entitled to different parts of the benefit of that established claim.

12. As from the date of the relevant transmission, each of those different parts shall be treated as having constituted a separate claim holding.

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13. The area and value of any such separate claim holding at any time after the relevant transmission shall be taken to have been such as may, in the requisite manner, be or have been determined to be just and appropriate in all the circumstances.

14. In paragraph 13 of this Schedule the reference to determination in the requisite manner of the area and value of a claim holding is a reference to the determination thereof on the occasion of an apportionment affecting that holding which fell or falls to be made for any of the purposes of the Act of 1954, of Part VII of this Act or of this Schedule, being a determination made—

- (a) by the authority making that apportionment ; or
- (b) where, under the Act of 1954 or Part VII of this Act, that authority's findings were or are referred to the Lands Tribunal, by that Tribunal,

having regard in particular to the principles mentioned in paragraph 15 of this Schedule.

15.—(1) The said principles are those set out in the following provisions of this paragraph.

(2) The aggregate of the values of all claim holdings representing parts of the benefit of the same established claim must not exceed the amount of the established claim.

(3) Subject to sub-paragraph (2) of this paragraph, where a claim holding representing part only of the benefit of an established claim was assigned to the Central Land Board, otherwise than as mentioned in paragraph 2 of this Schedule, and by virtue of Part I of this Schedule the value of that claim holding is deemed to have been reduced by reference to an amount due by way of development charge, the value of that holding at the time of the assignation is not to be taken to have been less than the amount secured by the assignation.

(4) In the case of the claim holding representing the part of the benefit of an established claim which was the subject of the relevant transmission, if it was not a claim holding to which sub-paragraph (5) of this paragraph applies—

- (a) the area of that claim holding is to be taken to be the claim area of that established claim, less the area of any claim holding to which the said sub-paragraph (5) applies which represents part of the benefit of the same established claim ; and
- (b) the value of the claim holding immediately after the relevant transmission is, subject to sub-paragraphs (2) and (3) of this paragraph, to be taken to have been that part of the amount of the established claim to which the holder purported to become entitled under the terms of the relevant transmission.

(5) Where any person who was entitled to a claim holding representing part only of the benefit of an established claim—

- (a) at any time while so entitled was also entitled to the interest in land to which the established claim related in so far as that interest subsisted in part only of the claim area ; and

- (b) became entitled to both that holding and that interest in such circumstances that the authority making the apportionment in question or the Lands Tribunal, as the case may be, were or are satisfied that the holding and the interest were intended to relate to one another,

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the area of that claim holding is to be taken to be that part of the claim area, and the value of the holding immediately after the relevant transmission (however that or any other transmission affecting the holding was expressed, but subject to sub-paragraphs (2) to (4) of this paragraph) is to be taken to have been an amount equal to so much of the amount of the established claim as might reasonably be expected to have been attributed to that part of the claim area if the authority determining the amount of that established claim had been required to apportion it, in accordance with the same principles as applied to its determination, between that part and the residue of the claim area.

16. Paragraph 1 of this Schedule shall apply for the purposes of this Part of this Schedule as it applies for the purposes of Part I thereof.

PART IV

ADJUSTMENT IN RESPECT OF PAYMENTS UNDER PART I OF ACT OF 1954

17. The provisions of this Part of this Schedule shall have effect where, by virtue of Part I of the Act of 1954, a payment became or becomes payable in respect of a claim holding.

18. Subject to the following provisions of this Part of this Schedule, if either—

- (a) the principal amount of the payment was or is not less than the value of the claim holding ; or
- (b) the payment (whatever its amount) became or becomes payable under Case D (that is to say, by virtue of section 8 of the Act of 1954, which related to cases where a claim holding had been assigned for valuable consideration),

the claim holding shall be deemed to have been extinguished ; and if the principal amount of the payment (not being a payment under Case D) was or is less than the value of the claim holding, the value of that holding shall be deemed to have been reduced by the principal amount of the payment.

19. Paragraph 18 of this Schedule shall apply where two or more payments under Part I of the Act of 1954 were or are payable in respect of the same claim holding, with the substitution, for references to the principal amount of the payment, of references to the aggregate of the principal amounts of the payments.

20.—(1) Where one or more relevant acts or events have occurred in relation to a claim holding (in this paragraph referred to as “the parent holding”) and any such act or event did not extend to the whole of the area of the parent holding, then, for the purposes of the

Sch. 13 preceding provisions of this Part of this Schedule, and for the purposes of Part V of this Schedule and of Part VII of this Act—

- (a) the parent holding shall be treated as having been divided immediately before the time of completion, into as many separate claim holdings, with such areas, as may be necessary to ensure that, in the case of each holding, either any relevant act or event extending to the area of that holding extended to the whole thereof or no relevant act or event extended to the area of that holding ;
- (b) the value of each of the separate holdings respectively shall be taken to have been that fraction of the value of the parent holding which then attached to the part of the area of the parent holding constituting the area of the separate holding ; and
- (c) the portion of the amount of any payment under Part I of the Act of 1954 which, by the authority determining that amount, was or is apportioned to the area of any of the separate claim holdings shall be taken to have been a payment payable under the said Part I in respect of that claim holding.

(2) In this paragraph “relevant act or event”, in relation to a claim holding, means an act or event whereby, in accordance with the provisions of Part I of the Act of 1954, one or more payments became or become payable in respect of that claim holding.

21. For the purposes of this Part of this Schedule—

- (a) a payment shall be treated as having become payable notwithstanding that the right to receive the payment was extinguished by section 14(2) of the Act of 1954 (which enabled the Central Land Board to set off payments against liabilities in respect of development charges) ;
- (b) any reduction of the principal amount of a payment by virtue of that subsection shall be disregarded ; and
- (c) where in accordance with subsection (3) of section 14 of the Act of 1954 (which provided for cases of failure to apply for a payment within the appropriate period) an amount was determined as being the principal amount of a payment to which a person would have been entitled as mentioned in that subsection, that payment shall be treated as if it had become due and as if the principal amount thereof had been the amount so determined.

22.—(1) Where in accordance with the preceding provisions of this Part of this Schedule a claim holding is deemed to have been extinguished or the value of a claim holding is deemed to have been reduced, the extinguishment or reduction, as the case may be, shall be deemed to have had effect immediately before the time of completion.

(2) References in this Part of this Schedule to the value of a claim holding are references to the value thereof immediately before the time of completion.

PART V

SCH. 13

ADJUSTMENT IN RESPECT OF COMPENSATION UNDER PART V OF ACT OF 1954

23. Where compensation under Part V of the Act of 1954 became or becomes payable by reference to a claim holding, then (subject to the following provisions of this Part of this Schedule) for the purposes of Part VII of this Act—

- (a) if the principal amount of the compensation was or is equal to the value of the claim holding at the time of completion (ascertained apart from this Part of this Schedule) the claim holding shall be deemed to have been extinguished immediately before that time ;
- (b) if the principal amount of the compensation was or is less than the value of the claim holding at that time (ascertained apart from this Part of this Schedule) the value of the claim holding shall be deemed to have been reduced immediately before that time by the principal amount of the compensation.

24. Where compensation became or becomes payable as mentioned in paragraph 23 of this Schedule, and at any time an amount became or becomes recoverable in respect thereof under section 30 of the Act of 1954, as applied by section 48 of that Act, or under section 148 of this Act as applied by Schedule 22 to this Act to compensation under Part V of the Act of 1954, then, for the purposes of Part VII of this Act, paragraph 23 of this Schedule shall have effect as from that time as if the principal amount of that compensation had been reduced by a sum equal to seven-eighths of the amount which so became or becomes recoverable.

25. Where, in the case of a claim holding (in this paragraph referred to as “the parent holding”), compensation under Part V of the Act of 1954 became or becomes payable in respect of depreciation of the value of an interest in land by one or more planning decisions or orders, and any such decision or order did not extend to the whole of the area of the parent holding, then, both for the purposes of the foregoing provisions of this Part of this Schedule and for the purposes of Part VII of this Act—

- (a) the parent holding shall be treated as having been divided immediately before the time of completion into as many separate claim holdings, with such areas, as may be necessary to ensure that, in the case of each holding, either any such decision or order extending to the area of that holding extended to the whole thereof or no such decision or order extended to the area of that holding ;
- (b) the value of each of the separate holdings respectively shall be taken to have been that fraction of the value of the parent holding which then attached to the part of the area of the parent holding constituting the area of the separate holding ; and

SCH. 13

- (c) the portion of the amount of any such compensation which, by the authority determining that amount, was or is apportioned to the area of any of the separate claim holdings shall be taken to have been compensation payable under Part V of the Act of 1954 in respect of that claim holding.

PART VI

SUPPLEMENTARY PROVISIONS

26. Where in accordance with any of the provisions of this Schedule a part of the benefit of an established claim constitutes a separate claim holding, the interest in land to which that claim holding relates shall be taken to be an interest of the like character as the interest to which the established claim related.

27. Where in accordance with any of the provisions of this Schedule a claim holding (in this paragraph referred to as "the parent holding") is to be treated as divided into two or more claim holdings, a person who was the holder of one of those holdings shall be treated as having been the holder thereof at any time when he was the holder of the parent holding.

28. Expressions used in this Schedule and in Part VII of this Act have the same meanings in this Schedule as in that Part of this Act.

29. In this Schedule "the holder", in relation to a claim holding, means the person for the time being entitled to the holding, and "the time of completion" means the time when, in accordance with section 127 of this Act, the adjustment of claim holdings is deemed to have been completed.

Section 130.

SCHEDULE 14

CALCULATION OF VALUE OF PREVIOUS DEVELOPMENT OF LAND

1. Where for the purposes of section 130 of this Act the value of any development initiated before a time referred to in that section has to be ascertained with reference to that time, the value of the development shall be calculated in accordance with the provisions of this Schedule.

2. Subject to the following provisions of this Schedule, the value shall be calculated by reference to prices current at the time in question—

- (a) as if the development had not been initiated, but the land had remained in the state in which it was immediately before the development was initiated; and
- (b) on the assumption that (apart from the provisions of Part III of this Act or the provisions of the Act of 1947, as the case may be) the development could at that time lawfully be carried out,

and shall be taken to be the difference between the value which in those circumstances the land would have had at that time if

planning permission for that development had been granted unconditionally immediately before that time and the value which in those circumstances the land would have had at that time if planning permission for that development had been applied for and refused immediately before that time, and it could be assumed that planning permission for that development, and any other new development of that land, would be refused on any subsequent application.

3. If the development involved the clearing of any land, the reference in paragraph (2)(a) of this Schedule to the state of the land immediately before the development shall be construed as a reference to the state of the land immediately after the clearing thereof but before the carrying out of any other operations.

4.—(1) If the development was initiated in pursuance of planning permission granted subject to conditions, paragraph 2 of this Schedule shall apply as if the reference to the granting of permission unconditionally were a reference to the granting of permission subject to the like conditions.

(2) If the permission referred to in sub-paragraph (1) of this paragraph was granted subject to conditions which consisted of, or included, a requirement expressed by reference to a specified period, the reference in that sub-paragraph to the like conditions shall be construed, in relation to the condition imposing that requirement, as a reference to a condition imposing the like requirement in respect of a period of like duration beginning at the time in question.

5. In the application of the foregoing provisions of this Schedule to development initiated, but not completed, before the time in question, references to permission for that development shall be construed as references to permission for so much of that development as had been carried out before that time.

SCHEDULE 15

Section 131.

APPORTIONMENT OF UNEXPENDED BALANCE OF ESTABLISHED
DEVELOPMENT VALUE

Determination of relevant area

1.—(1) Where, in the case of a compulsory acquisition to which section 131 of this Act applies, any area of the relevant land which, immediately before the relevant date, has an unexpended balance of established development value does not satisfy the condition set out in sub-paragraph (2) of this paragraph, that area shall be treated as divided into as many separate areas as may be requisite to ensure that each of those separate areas satisfies that condition.

(2) The condition referred to in sub-paragraph (1) of this paragraph is that all the interests (other than excepted interests) subsisting in the area in question subsist in the whole of that area.

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(3) Any area of the relevant land which has an unexpended balance of established development value and which complies with the condition set out in sub-paragraph (2) of this paragraph is in this Schedule referred to, in relation to the interests subsisting therein, as "the relevant area", and the subsequent provisions of this Schedule shall have effect separately in relation to each relevant area.

Preliminary calculations

2. In the case of the interest of the lessor under any lease, there shall be calculated the capital value, as at the time immediately before the relevant date, of the right to receive a sum equal to the unexpended balance of established development value of the relevant area at that time, but payable at the expiration of the lease; and the amount so calculated in the case of any such interest is in this Schedule referred to as "the reversionary development value" of that interest.

Apportionment of unexpended balance between interests

3. Where two or more interests (other than excepted interests) subsist in the relevant area, the portion of the unexpended balance of established development value of the relevant area attributable to each of those interests respectively shall be taken to be the following, that is to say—

- (a) in the case of the interest of the lessor under any lease, so much, if any, of the reversionary development value of that interest, as remains after the deduction therefrom of the aggregate of—
 - (i) the reversionary development value of the interest of the person, if any, to whom that lessor stands in the relationship of lessee; and
 - (ii) in a case where the restricted value of the first-mentioned interest is a minus quantity, an amount equal to that minus quantity;
- (b) in the case of the interest of the lessee under any lease which is not subject to a sub-lease, so much, if any, of the said balance as remains after the deduction therefrom of the aggregate of—
 - (i) the reversionary development value of the interest of the lessor under the lease, and
 - (ii) in a case where the restricted value of the first-mentioned interest is a minus quantity, an amount equal to that minus quantity.

Application of Schedule to past acquisitions

4. In relation to any compulsory acquisition to which section 131 of this Act applies, where the relevant date was a date before the commencement of this Act, the foregoing provisions of this Schedule shall have effect with the necessary modifications.

Interpretation

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5. In this Schedule—

- (a) “the relevant land”, in relation to a compulsory acquisition to which section 131 of this Act applies, means the land in which the interest acquired subsisted or subsists ;
- (b) “lease” does not include any lease in the case of which the interest of the lessee is an excepted interest ;
- (c) “the relevant date” and “excepted interest” have the same meanings as in section 131 of this Act ; and
- (d) other expressions have the same meanings as in Part VII of this Act.

SCHEDULE 16

Sections 157,
158, 169 and 263.

CONDITION TREATED AS APPLICABLE TO REBUILDING AND ALTERATIONS

1. Where the building to be rebuilt or altered is the original building, the amount of gross floor space in the building as rebuilt or altered which may be used for any purpose shall not exceed by more than ten per cent. the amount of gross floor space which was last used for that purpose in the original building.

2. Where the building to be rebuilt or altered is not the original building, the amount of gross floor space in the building as rebuilt or altered which may be used for any purpose shall not exceed the amount of gross floor space which was last used for that purpose in the building before the rebuilding or alteration.

3. In determining under this Schedule the purpose for which floor space was last used in any building, no account shall be taken of any use in respect of which an effective enforcement notice has been or could be served or, in the case of a use which has been discontinued, could have been served immediately before the discontinuance.

4. For the purposes of this Schedule gross floor space shall be ascertained by external measurement ; and where different parts of a building are used for different purposes, floor space common to those purposes shall be apportioned rateably.

5. In relation to a building erected after the appointed day, being a building resulting from the carrying out of any such works as are described in paragraph 1 of Schedule 6 to this Act, any reference in this Schedule to the original building is a reference to the building in relation to which those works were carried out and not to the building resulting from the carrying out of those works.

Section 179.

SCHEDULE 17

PROCEEDINGS ON LISTED BUILDING PURCHASE NOTICE

Action by local planning authority on whom listed building purchase notice is served

1.—(1) The local planning authority on whom a listed building purchase notice is served, shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner or lessee by whom the purchase notice was served a notice stating either—

- (a) that the authority are willing to comply with the purchase notice ; or
- (b) that another local planning authority or statutory undertakers specified in the notice under this sub-paragraph have agreed to comply with it in their place ; or
- (c) that for reasons specified in the notice under this sub-paragraph, the authority are not willing to comply with the purchase notice and have not found any other local planning authority or statutory undertakers who will agree to comply with it in their place and that they have transmitted a copy of the purchase notice to the Secretary of State, on a date specified in the notice under this sub-paragraph, together with a statement of the reasons so specified.

(2) Where the local planning authority on whom a listed building purchase notice is served by an owner or lessee have served on him a notice in accordance with sub-paragraph (1)(a) or (b) of this paragraph the authority, or the other local planning authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the provisions of section 104 of this Act, and to have served a notice to treat in respect thereof on the date of service of the notice under sub-paragraph (1) of this paragraph.

(3) Where the authority on whom a listed building purchase notice is served by an owner or lessee propose to serve on him a notice in accordance with sub-paragraph (1)(c) of this paragraph they shall transmit a copy of the purchase notice to the Secretary of State together with a statement of their reasons ; and section 171 of this Act shall then apply in relation to the purchase notice as it applies in relation to a purchase notice under section 169 of this Act with the substitution for references therein to the Secretary of State taking action under section 172 of this Act of references to his taking action under paragraph 2 of this Schedule.

Action by Secretary of State in relation to listed building purchase notice

2.—(1) Subject to the following provisions of this paragraph, if the Secretary of State is satisfied that the conditions specified in

section 179(1)(a) to (c) of this Act are fulfilled in relation to a listed building purchase notice, he shall confirm the notice:

Provided that, if he is satisfied that the said conditions are fulfilled only in respect of part of the land, he shall confirm the notice only in respect of that part and the notice shall have effect accordingly.

(2) The Secretary of State shall not confirm the purchase notice unless he is satisfied that the land comprises such land contiguous or adjacent to the building as is in his opinion required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

(3) If it appears to the Secretary of State to be expedient to do so in the case of a listed building purchase notice served on account of listed building consent being refused or granted subject to conditions, he may, in lieu of confirming the purchase notice, grant listed building consent for the works in respect of which the application was made or, where such consent for those works was granted subject to conditions, revoke or amend those conditions so far as it appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of those works.

(4) If it appears to the Secretary of State to be expedient to do so, in the case of a listed building purchase notice served on account of listed building consent being revoked or modified by an order under Part II of Schedule 10 to this Act, he may, in lieu of confirming the notice, cancel the order revoking the consent or, where the order modified the consent by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the works in respect of which the consent was granted.

(5) If it appears to the Secretary of State that the land, or any part of it, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other works for which listed building consent ought to be granted, he may in lieu of confirming the listed building purchase notice or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that listed building consent for those works shall be granted in the event of an application being made in that behalf.

(6) If it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any development for which planning permission ought to be granted, he may, in lieu of confirming the listed building purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that planning permission for that development shall be granted in the event of an application being made in that behalf.

(7) If it appears to the Secretary of State, having regard to the probable ultimate use of the building or the site thereof, that it is expedient to do so, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land, by substituting another local planning authority or statutory undertakers for the authority on whom the notice was served.

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(8) In section 171 of this Act as applied by paragraph 1(3) of this Schedule, any reference to the taking of action by the Secretary of State under this paragraph is a reference to the taking by him of any such action as is mentioned in sub-paragraphs (1) or (3) to (7) of this paragraph, or to the taking by him of a decision not to confirm the purchase notice on the grounds that any of the conditions referred to in sub-paragraph (1) of this paragraph are not fulfilled.

Effect of Secretary of State's action in relation to listed building purchase notice

3.—(1) Where the Secretary of State confirms a listed building purchase notice, the authority on whom the notice was served (or, if under paragraph 2(7) of this Schedule the Secretary of State modified the notice by substituting another authority or statutory undertakers for that authority, that other authority or those statutory undertakers) shall be deemed to be authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 104 of this Act and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct.

(2) If, before the end of the relevant period, the Secretary of State has neither confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in sub-paragraphs (3) to (6) of paragraph 2 of this Schedule, and has not notified the owner or lessee by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the end of that period and the authority on whom the notice was served shall be deemed to have been authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 104 of this Act and to have served a notice to treat in respect thereof at the end of that period.

(3) In this paragraph—

- (a) "the relevant interest" means the owner's or lessee's interest in the land or, if the purchase notice is confirmed by the Secretary of State in respect of only part of the land, the owner's or lessee's interest in that part;
- (b) "the relevant period" is whichever of the following periods first expires, that is to say—
 - (i) the period of nine months beginning with the date of the service of the purchase notice; and
 - (ii) the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Secretary of State.

(4) Where the Secretary of State has notified the owner or lessee by whom a listed building purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice (including any decision to confirm the notice only in respect of part of the land, or to give any direction as to the granting of listed building consent) and that decision of the Secretary of State is quashed under the provisions of Part XII of this Act, the purchase notice shall be treated as cancelled, but the owner or lessee may serve a further listed building purchase notice in its place.

(5) For the purposes of any regulations made under this Act as to the time within which a listed building purchase notice may be served, the service of a listed building purchase notice under sub-paragraph (4) of this paragraph shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with those regulations if the decision to refuse listed building consent or to grant it subject to conditions (being the decision in consequence of which the notice is served) had been made on the date on which the decision of the Secretary of State was quashed as mentioned in sub-paragraph (4) of this paragraph.

Special provision as to compensation where listed building purchase notice served

4. Where in consequence of listed building consent being revoked or modified by an order under Part II of Schedule 10 to this Act, compensation is payable by virtue of section 161 of this Act in respect of expenditure incurred in carrying out any works to the building in respect of which the consent was granted, then if a listed building purchase notice is served in respect of an interest in the land, any compensation payable in respect of the acquisition of that interest in pursuance of the notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable by virtue of that section.

SCHEDULE 18

Section 206.

PROCEDURE IN CONNECTION WITH ORDERS RELATING TO FOOTPATHS AND BRIDLEWAYS

PART I

CONFIRMATION OF ORDERS

1.—(1) Before an order under section 199 or 203(1)(b) of this Act is submitted to the Secretary of State for confirmation or confirmed as an unopposed order, the authority by whom the order was made shall give notice in the prescribed form—

- (a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order ;
- (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours ; and
- (c) specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.

(2) Subject to sub-paragraph (3) of this paragraph, the notice to be given under sub-paragraph (1) of this paragraph shall be given—

- (a) by publication in the Edinburgh Gazette and in at least one local newspaper circulating in the area in which the land to which the order relates is situated ; and

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(b) by serving a like notice on—

(i) every owner, occupier and lessee (except tenants for a month or a period less than a month and statutory tenants within the meaning of the Rent (Scotland) Act 1971) of any of that land ;

(ii) every county or town council whose area includes any of that land ;

(iii) any statutory undertakers to whom there belongs, or by whom there is used, for the purposes of their undertaking, any apparatus under, in, on, over, along or across that land ; and

(iv) any person named in the order by virtue of section 199(2)(d) of this Act ; and

(c) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any footpath or bridleway as is to be stopped up, diverted or extinguished by virtue of the order.

(3) Except in the case of an owner, occupier or lessee being a local authority or statutory undertakers, the Secretary of State may in any particular case direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i) of this paragraph ; but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to “the owners and any occupiers” of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.

2. If no representations or objections are duly made, or if any so made are withdrawn, the authority by whom the order was made may, instead of submitting the order to the Secretary of State, themselves confirm the order (but without any modification).

3.—(1) If any representation or objection duly made is not withdrawn, the Secretary of State shall, before confirming the order, if the objection is made by a local authority, cause a local inquiry to be held, and in any other case either—

(a) cause a local inquiry to be held ; or

(b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose.

and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm the order, with or without modifications :

Provided that in the case of an order under section 199 of this Act, if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purpose of their undertaking, or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(2) Notwithstanding anything in the foregoing provisions of this paragraph, the Secretary of State shall not confirm an order so as to affect land not affected by the order as submitted to him, except after—

- (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made ;**
- (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose ; and**
- (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections as the case may be ;**

and, in the case of an order under section 199 of this Act, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking, or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

4.—(1) The Secretary of State shall not confirm an order under section 199 of this Act which extinguishes a right of way over land under, in, on, over, along or across which there is any apparatus belonging to or used by statutory undertakers for the purposes of their undertaking, unless the undertakers have consented to the confirmation of the order ; and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

(2) The consent of statutory undertakers to any such order shall not be unreasonably withheld ; and any question arising under this paragraph whether the withholding of consent is unreasonable, or whether any requirement is reasonable, shall be determined by whichever Minister is the appropriate Minister in relation to the statutory undertakers concerned.

5. Regulations under this Act may, subject to this Part of this Schedule, make such provision as the Secretary of State thinks expedient as to the procedure on the making, submission and confirmation of orders under sections 199 and 203(1)(b) of this Act.

PART II

PUBLICITY FOR ORDERS AFTER CONFIRMATION

6. As soon as may be after an order under section 199 or 203(1)(b) of this Act has been confirmed by the Secretary of State or confirmed as an unopposed order, the authority by whom the order was made shall publish, in the manner required by paragraph 1(2) of this Schedule, a notice in the prescribed form, describing the general

SCH. 18 effect of the order, stating that it has been confirmed, and naming a place where a copy thereof as confirmed may be inspected free of charge at all reasonable hours, and shall—

- (a) serve a like notice and a copy of the order as confirmed on any persons on whom notices were required to be served under the said paragraph 1(2); and
- (b) cause a like notice to be displayed in the like manner as the notice required to be displayed under the said paragraph 1(2):

Provided that no such notice or copy need be served on a person unless he has sent to the authority a request in that behalf, specifying an address for service.

Sections 250,
251, 256, 257
and 259 and
paragraphs
70 and 71 of
Schedule 22.

SCHEDULE 19

PROVISIONS OF THIS ACT REFERRED TO IN SECTIONS 250, 251, 256,
257 AND 259 AND PARAGRAPHS 70 AND 71 OF SCHEDULE 22

PART I

Sections 1 and 2.

Section 19.

Section 20 except subsection (7).

Section 21 except subsection (6).

Section 22.

Section 26(1).

Section 27.

Section 28(1).

Sections 29 and 30.

Section 31(2) and (4).

Section 32 with the omission in subsection (4) of the reference to sections 23 and 24.

Section 33(1) to (6) with the omission in subsection (5) of the reference to section 24.

Section 34.

Section 37.

Section 42.

Sections 48 to 51.

Section 52 except subsections (6), (8) and (9).

Section 58.

Sections 61 to 66.

Section 86.

Sections 88 and 89.

Section 98.

Sections 100 and 101.

Sections 108 to 115.

Sections 117 to 122.

Section 153.

Section 154 with the omission in subsection (2) of the references to sections 155 to 157.

Section 158 except subsection (5).

Section 159.

Section 163.

Section 165.

Sections 167 and 168.

Section 169(1) to (4).

Sections 170 to 172.

Sections 175 to 178.

Section 180(1).

Section 198.

Section 203 except subsection (1)(b).

Section 204.

Sections 207 and 208.

Section 209.

Section 211.

Sections 213 to 220.

Sections 222 to 225.

Section 226 except subsection (3).

Section 227 except subsections (4) and (6)(b).

Sections 228 to 230.

Section 231(1) except paragraphs (d) and (e).

Section 232.

Section 236 with the omission in subsection (2) of the references to section 233.

Section 237.

Section 238(1).

Section 239.

Sections 241 and 242.

Section 250.

Sections 251 and 252.

Section 253(1) (the reference, in paragraph (b), to Part III being construed as not referring to sections 23 and 24 and the reference, in that paragraph, to Part IV being construed as not referring to sections 71 to 83) and section 253(2) to (5) and (7).

Section 254.

Section 256.

Section 258.

Section 260.

SCH. 19 Section 265 except subsections (4) and (5).

Section 266.

Section 270.

Schedules 1 and 2.

Schedule 6.

Schedule 20.

Schedule 22, paragraphs 27 to 32, 38, 40 and 74 to 79.

Any other provisions of this Act in so far as they apply, or have effect for the purposes of, any of the provisions specified above.

PART II

Section 3.

Sections 4 to 18.

Sections 23(2) to (6) except subsection (2)(a) and the reference to it in subsection (6), and subsection (8).

Section 25(2)(b) and (3).

Section 26(4).

Section 28(2) and (3).

Section 31(3).

Section 33(7) and (8).

Sections 38 to 41.

Sections 43 to 47.

Section 52(8) and (9).

Sections 53 and 54.

Section 56.

Sections 77 to 79.

Sections 83 and 85.

Section 87.

Sections 90 to 96.

Section 99(4).

Sections 102 to 107.

Sections 160 to 162.

Section 166.

Section 169(5) and (6).

Section 173.

Section 179.

Section 186.

Sections 190 and 191.

Sections 199 to 202.

Section 203(1)(b).

Sections 205 and 206.

Section 210.

Section 212.

Section 221.

Section 226(3).

Section 227(4) and (6)(b).

Section 240.

Section 243.

Section 257.

Section 271.

Schedules 5, 7, 8, 9, 10, 12, 17 and 18 and paragraphs 14 to 17, 20, 26, 33, 34, 36, 48, 49 and 65 of Schedule 22.

Any other provisions of this Act in so far as they apply, or have effect for the purposes of, any of the provisions specified above.

PART III

Sections 19 to 22.

Section 26(1), (5) and (6).

Section 27.

Section 28(1).

Sections 29 and 30.

Section 31 except subsection (3).

Sections 32 to 34.

Section 37.

Section 42.

Sections 48 to 51.

Section 52 except subsections (2) and (7) to (9).

Section 58.

Sections 61 to 66.

Section 70.

Sections 84 to 91.

Section 98.

Sections 100 and 101.

Section 166.

PART IV

Section 25(2)(b) and (3).

Section 26(4).

Section 28(2) and (3).

Section 52(2) and (7) to (9).

Section 53.

Section 54.

Section 56.

Section 92 to 96.

- SCH. 19 Sections 104 to 107.
 Sections 160 to 162.
 Section 169(5) and (6).
 Section 179.
 Schedules 10 and 17.

Section 273(6).

SCHEDULE 20

ENACTMENTS EXEMPTED FROM SECTION 273(6) OF THIS ACT

- 1897 c. 38. 1. Section 32(1) of the Public Health (Scotland) Act 1897.
- 1892 c. 55.
1903 c. 33. 2. Section 158 of the Burgh Police (Scotland) Act 1892, as extended by section 104(2)(h) of the Burgh Police (Scotland) Act 1903.
- 1925 c. 68. 3. Section 5 of the Roads Improvement Act 1925, as applied to Scotland by section 12 of that Act.
4. 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 byelaw, order or regulation not requiring confirmation by Parliament.
5. Any enactment which has been previously excluded or modified by a development order, and any enactment having substantially the same effect as any such enactment.

Sections
18 and 276.

SCHEDULE 21

CONSEQUENTIAL AMENDMENTS

PART I

The Land Compensation (Scotland) Act 1963 (c. 51)

In the Land Compensation (Scotland) Act 1963 any reference to an area defined in the current development plan as an area of comprehensive development shall be construed as a reference to an action area for which a local plan is in force.

PART II

The Finance Act 1931 (c. 28)

In section 28(6) (inserted by the Land Commission Act 1967), for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words "the Town and Country Planning (Scotland) Act 1972".

In Schedule 2, in paragraph (viii) (inserted by the Land Commission Act 1967), for the words "section 12(5) of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words "section 31(2) of the Town and Country Planning (Scotland) Act 1972".

The Building Restrictions (War-Time Contraventions) Act
1946 (c. 35)

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In section 8(5), in paragraph (c), after the word “1947” there shall be inserted the words “or of paragraph 28 of Schedule 22 to the Town and Country Planning (Scotland) Act 1972”, and the words “under Part II of that Act” shall be omitted; and at the end of paragraph (d) there shall be added the words “or by paragraph 28 of Schedule 22 to the Town and Country Planning (Scotland) Act 1972”.

The Town and Country Planning (Scotland) Act 1947 (c. 53)

In section 44(1), for the words “this Part of this Act” there shall be substituted the words “Part VI of the Town and Country Planning (Scotland) Act 1972”.

The Civil Aviation Act 1949 (c. 67)

In section 30—

(a) in subsection (1), for the words from “arbitration” to “1944” and the words “paragraph 2 of that Schedule” there shall be substituted respectively the words “Lands Tribunal” and “section 227(2), (3), (5) and (6) of the Town and Country Planning (Scotland) Act 1972”;

(b) in subsection (2), from the beginning to the words “in respect of” there shall be substituted the words—

“(2) Subsections (2), (3), (5) and (6) of the said section 227 shall have effect for the purposes of this section as if, in paragraph (c) of subsection (2) of that section, the words ‘is under section 226(2) of this Act, and’ were omitted, and as if, at the end of that paragraph, there were inserted the following paragraph:—

‘(d) in respect of’”

and for the words “sub-paragraph (4) thereof” there shall be substituted the words “subsection (6) of that section”.

In section 64(6)(b), for the words “section fifty” and “1945” there shall be substituted respectively the words “section 267” and “1972”.

In Schedule 4—

(a) in paragraph 4, for the words from “the First Schedule” to “this Part” there shall be substituted the words “section 225 of the Town and Country Planning (Scotland) Act 1972 shall have effect as if any reference in that section to section 222 of that Act, or to the section under which the order is proposed to be made, included a reference to this Part”;

(b) in paragraph 8, for the words from “the First Schedule” to “this Part” there shall be substituted the words “section 225 of the Town and Country Planning (Scotland) Act 1972 shall have effect as if any reference in that section to section 224 of that Act, or to the section under which the order is proposed to be made, included a reference to this Part”.

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The Building (Scotland) Act 1959 (c. 24)

Section 17(2) shall be amended as follows:—

(a) for paragraph (b) there shall be substituted the following paragraph—

“(b) subject to a building preservation notice under section 56 of the Town and Country Planning (Scotland) Act 1972”;

(b) in paragraph (c), for the words “section 28 of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “section 52 of the said Act of 1972”;

(c) after the words “Act of 1931” there shall be inserted the words “the said Act of 1972”.

The Town and Country Planning (Scotland) Act 1959 (c. 70)

For section 27(5)(b) there shall be substituted the following paragraph:—

“(b) to section 113 of the Town and Country Planning (Scotland) Act 1972”.

In Schedule 4, in paragraph 2, for the words “the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “the Town and Country Planning (Scotland) Act 1972”.

The Airports Authority Act 1965 (c. 16)

In section 17(6), for the words “Section 128 of the Town and Country Planning Act 1971” there shall be substituted the words “Section 118 of the Town and Country Planning (Scotland) Act 1972”.

1971 c. 75.

In section 18 of the said Act of 1965 (as amended by the Civil Aviation Act 1971) for the words set out in the first column below there shall be substituted the words set out opposite to them in the second column below:—

“section 20 of the Act of 1947”	“sections 153 and 154 of the Act of 1972”
“section 18(1) of the Act of 1947”	“section 158 of the Act of 1972”
“Schedule 5, paragraph 1, of the Act of 1947”	“section 226(1) of the Act of 1972”
“section 18(3) of the Act of 1947”	“section 176(2) of the Act of 1972”
“section 17 of the Act of 1947”	“section 169 of the Act of 1972”
“the said section 20”	“the said section 153”
“section 19 of the Act of 1947 (in both places)”	“section 42 of the Act of 1972”
“section 17(1B) or (2) of the Act of 1947”	“section 170(2) or 175(1) of the Act of 1972”
“section 43 of the Town and Country Planning (Scotland) Act 1954”	“section 157 of the Act of 1972”
“Part II of the Act of 1947”	“Part III of the Act of 1972”

and in section 18(5), for the words “‘the Act of 1947’ means the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “‘the Act of 1972’ means the Town and Country Planning (Scotland) Act 1972”.

In section 19(1), for the words “section 113(1) of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “section 275(1) of the Town and Country Planning (Scotland) Act 1972”.

The Gas Act 1965 (c. 36)

In section 4(7), for the words “the Town and Country Planning (Scotland) Acts 1947 to 1963” and “section 32 of the Town and Country Planning (Scotland) Act 1947” there shall be substituted respectively the words “the Town and Country Planning (Scotland) Act 1972” and “section 37 of that Act”.

In section 28(1)—

- (a) in the definition of “local planning authority”, for the words “section 2 of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “section 1 of the Town and Country Planning (Scotland) Act 1972”;
- (b) in the definition of “planning permission”, for the words “Part III of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “Part III of the Town and Country Planning (Scotland) Act 1972”.

In Schedule 3—

- (a) in paragraph 7(2), for the word “1947” there shall be substituted the word “1972”;
- (b) in paragraph 9(a), for the words “section 19 of the Town and Country Planning (Scotland) Act 1954”, “Part II of the said Act of 1954” and “sections 23 and 24 of the said Act of 1954” there shall be substituted respectively the words “section 135 of the Town and Country Planning (Scotland) Act 1972”, “Part VII of the said Act of 1972” and “sections 35 and 36 of the said Act of 1972”.

The Building Control Act 1966 (c. 27)

In section 6(1)(a), after the words “Part I of the Control of Office and Industrial Development Act 1965” there shall be inserted the words “or section 72 of the Town and Country Planning (Scotland) Act 1972”.

The Housing (Scotland) Act 1966 (c. 49)

In section 18, in subsection (1), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

- “(a) in relation to which a building preservation notice served under section 56 of the Town and Country Planning (Scotland) Act 1972 is in force, or

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(b) which is a listed building within the meaning of section 52(7) of that Act ”,

and, in subsection (2), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

“ (a) subject to a building preservation notice served under the said section 56, or

(b) a listed building within the meaning of the said section 52(7) ”.

The Local Government (Scotland) Act 1966 (c. 51)

In section 9(5), for the words “ the Town and Country Planning (Scotland) Act 1947 ” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ”.

In section 10(4), for the words “ the Town and Country Planning (Scotland) Act 1947 ” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ”.

In section 25(3)(c), for the words from “ of a building ” to “ notified ” there shall be substituted the words “ of a building preservation notice as defined by section 56 of the Town and Country Planning (Scotland) Act 1972 or are included in a list compiled or approved under section 52 of that Act or are notified ”.

In section 41, for the words “ the Town and Country Planning (Scotland) Act 1947 ” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ”.

The Land Commission Act 1967 (c. 1)

In section 15, for the words set out in the first column below (in each place where they occur in that section) there shall be substituted the words set out opposite to them in the second column below —:

“ the Scottish Act of 1945 ”	“ the Act of 1972 ”
“ section 21 ”	“ section 117 ”
“ section 24 ”	“ sections 219 and 220 ”
“ Schedule 4 ”	“ sections 226(2) and 227 ”
“ section 35 of the Scottish Act of 1947 ”	“ section 102 ”
“ subsection (1) of the said section 24 ”	“ section 219(1) ”
“ section 86 of the Scottish Act of 1947 ”	“ section 259 ”

In section 58(3), for the words “ section 113(1) of the Scottish Act of 1947 ” there shall be substituted the words “ section 275(1) of the Act of 1972 ”.

In section 89(6)(b), for the words “ section 113(1) of the Scottish Act of 1947 ” there shall be substituted the words “ section 275(1) of the Act of 1972 ”.

In section 99—

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- (a) in subsection (1), after the words “ ‘ the Act of 1971 ’ means the Town and Country Planning Act 1971 ” there shall be inserted the words “ ‘ the Act of 1972 ’ means the Town and Country Planning (Scotland) Act 1972 ” ;
- (b) in subsection (2)(b), for the words from “ Part I ” to the end of the paragraph there shall be substituted the words “ any of paragraphs 1, 2, 3 and 5 to 9 of Schedule 6 to the Act of 1972, as read with Part III of that Schedule ” ; and
- (c) in subsection (8), for the words from “ section 113(1) ” to “ 1959 (interpretation) ” there shall be substituted the words “ and section 275(1) (interpretation) of the Act of 1972 ” .

In Schedule 15, in paragraph (viii), for the words “ section 12(5) of the Town and Country Planning (Scotland) Act 1947 ” there shall be substituted the words “ section 31 of the Town and Country Planning (Scotland) Act 1972 ” .

In Schedule 16, in Part II, for the words “ section 27 of the Scottish Act of 1945 ” there shall be substituted the words “ section 118 of the Act of 1972 ” and for the words “ said section 27 ” there shall be substituted the words “ said section 118 ” .

The Forestry Act 1967 (c. 10)

In section 9(4)(d), for the words “ the Town and Country Planning (Scotland) Act 1947 ” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ” .

In section 35, for the words “ section 26 of the Town and Country Planning (Scotland) Act 1947 ” there shall be substituted the words “ section 58 of the Town and Country Planning (Scotland) Act 1972 ” .

In Schedule 3, in paragraph 2, for the words “ section 13 of the Town and Country Planning (Scotland) Act 1947 ” and “ the said section 13 ” there shall be substituted respectively the words “ section 32 of the Town and Country Planning (Scotland) Act 1972 ” and “ the said section 32 ” ; and in paragraph 3, for the words “ the Town and Country Planning (Scotland) Act 1947 ” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ” .

The Agriculture Act 1967 (c. 22)

In section 50(3)(b), for the words “ section 113(1) of the Town and Country Planning (Scotland) Act 1947 ” there shall be substituted the words “ section 275(1) of the Town and Country Planning (Scotland) Act 1972 ” .

In section 52(2)(g), for the words “ the Town and Country Planning (Scotland) Act 1947 ” there shall be substituted the words “ the Town and Country Planning (Scotland) Act 1972 ” .

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The Civic Amenities Act 1967 (c. 69)

In section 28(4)—

- (a) in subsection (2) (as substituted for Scotland), for the words from “Subsections (4)” to “entry” there shall be substituted the words “Subsections (1) to (5) of section 266 of the Scottish Planning Act”, and for the words “subsection (7) of the said section 99” there shall be substituted the words “subsections (4) and (5) of the said section 266”;
- (b) in subsection (3) (as substituted for Scotland), for the words “100 to 102” there shall be substituted the words “267 to 270”, and the words from “other than” to “section 100” shall be omitted.

In section 30(1), for the words “‘the Scottish Planning Act’ means the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “‘the Scottish Planning Act’ means the Town and Country Planning (Scotland) Act 1972”.

The Public Expenditure and Receipts Act 1968 (c. 14)

In Schedule 3, for paragraph 7(a) there shall be substituted:—

- “(a) The Town and Country Planning (Scotland) Act 1972 section 134(9)”.

The Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)

In section 14(2), for the words “section 34, 35 or 39(3) of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “section 102 or 110 of the Town and Country Planning (Scotland) Act 1972”.

The Town and Country Planning (Scotland) Act 1969 (c. 30)

In section 59, after the words “listed building” there shall be inserted the words “(as defined by section 52 of the Town and Country Planning (Scotland) Act 1972)”.

The Transport Act 1968 (c. 73)

In section 108—

- (a) in subsection (2), for the words “section 31 of the Town and Country Planning (Scotland) Act 1947”, “the said Act of 1947” and “the said section 31” there shall be substituted respectively the words “section 63 of the Town and Country Planning (Scotland) Act 1972”, “the said Act of 1972” and “the said section 63”;
- (b) in subsection (3), for the words “the said Act of 1947” there shall be substituted the words “the Town and Country Planning (Scotland) Act 1947”.

In section 112(3)(d), for the words “section 31 of the Town and Country Planning (Scotland) Act 1947” there shall be substituted the words “section 63 of the Town and Country Planning (Scotland) Act 1972”.

In section 139(1)(b) and (c), for the words "section 17 of the Town and Country Planning (Scotland) Act 1947", "section 38 of the Town and Country Planning (Scotland) Act 1959" and "section 41 of the said Act of 1959" there shall be substituted respectively the words "section 169, 177 or 178 of the Town and Country Planning (Scotland) Act 1972", "section 182 of the said Act of 1972" and "section 185 of the said Act of 1972".

In section 141(2), for the words "section 113(1) of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words "section 275(1) of the Town and Country Planning (Scotland) Act 1972".

The Post Office Act 1969 (c. 48)

In section 58, for the words set out in the first column below there shall be substituted the words set out opposite to them in the second column below:—

<p>"Subsections (4) to (6) and subsection (9) of section 99 of the Town and Country Planning (Scotland) Act 1947"</p> <p>"the said section 99"</p> <p>"section 99(4)"</p> <p>"section 99(9)"</p>	<p>"Sections 265(8) and 266(1) (3) and (6) of the Town and Country Planning (Scotland) Act 1972"</p> <p>"the said section 265"</p> <p>"section 266(1)"</p> <p>"section 265(8)"</p>
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In Schedule 4—

(a) in paragraph 92(1), for the words from "section 70(1)" to "undertakers" and for the words "section 113(1) of the Act of 1947" there shall be substituted respectively the words "section 212(1) of the Town and Country Planning (Scotland) Act 1972" and "section 211 of that Act"; and in paragraph 92(2), for the words "The said section 70" there shall be substituted the words "The said section 212".

(b) in paragraph 93(1), sub-paragraphs (iii), (vi), (xvi) and (xxxii) shall be omitted and after sub-paragraph (xxxiii) there shall be inserted—

"(xxxiv) sections 19, 37, 45, 46, 108(2), 117, 118, 119, 138, 154(3), 170, 171, 172, 175, 181, 195(6), 199(2), 202(3), 205, 212, 214 to 230, 233(7), 242 and 266(6)(b) of, and Schedules 8 and 9, paragraphs 1 to 3 of Schedule 17, and Schedule 18 to, the Town and Country Planning (Scotland) Act 1972".

(c) in paragraph 93(2), sub-paragraphs (a), (d), (h) and (r) shall be omitted and after sub-paragraph (s) there shall be inserted—

"(t) sections 195(6), 214 to 230 and 266(6)(b) of, and Schedule 8 and paragraph 4 of Schedule 18 to, the Town and Country Planning (Scotland) Act 1972".

SCH. 21 (d) in paragraph 93(4), sub-paragraphs (a), (b) and (f) shall be omitted and after sub-paragraph (j) there shall be inserted—

“ (k) sections 138(3), 154(3) and 214 to 230 of, and Schedule 8 to, the Town and Country Planning (Scotland) Act 1972 ”.

In Schedule 9—

(a) in paragraph 27, for the words set out in the first column below (in each place where they occur in that paragraph) there shall be substituted the words set out opposite to them in the second column below:—

“ Parts VII and XII of the Town and Country Planning Act 1971 ”	“ Parts VII and XII of the Town and Country Planning (Scotland) Act 1972 ”
“ Section 78 of the Town and Country Planning Act 1971 ”	“ Section 76 of the Town and Country Planning (Scotland) Act 1972 ”
“ Section 34 of the Town and Country Planning Act 1971 ”	“ Section 31 of the Town and Country Planning (Scotland) Act 1972 ”
“ Minister of Housing and Local Government ”	“ Secretary of State ”
“ section 70 of the Town and Country Planning (Scotland) Act 1969 ”	“ section 212 of the Town and Country Planning (Scotland) Act 1972 ”
“ the Town and Country Planning (Scotland) Act 1947 ”	“ the Town and Country Planning (Scotland) Act 1972 ”
“ sections 66 and 67 of the Town and Country Planning (Scotland) Act 1969 ”	“ sections 38 and 39 of the Town and Country Planning (Scotland) Act 1972 ”
“ Subsections (5) and (7) of section 43 of the Town and Country Planning Act 1971 ”	“ Subsections (5) and (7) of section 40 of the Town and Country Planning (Scotland) Act 1972 ”
“ sections 41 and 42 of that Act ”	“ sections 38 and 39 of that Act ”

(b) in paragraph 28, for the words set out in the first column below there shall be substituted the words set out opposite to them in the second column below:—

“ section 83 of the Town and Country Planning (Scotland) Act 1947 ”	“ section 253 of the Town and Country Planning (Scotland) Act 1972 ”
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“section 36 of the Town and Country Planning (Scotland) Act 1959”

“section 24 of the said Act of 1972”

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“the said Act of 1947” (in paragraph 28(2))

“the said Act of 1972”

- (c) in paragraph 29, for the words “section 72(1) of the Town and Country Planning (Scotland) Act 1947” and “section 15 of the Town and Country Planning (Scotland) Act 1969” there shall be substituted respectively the words “paragraph 28 of Schedule 22 to the Town and Country Planning (Scotland) Act 1972” and “section 84 of the said Act of 1972”.

The Civil Aviation Act 1971 (c.75)

In section 14—

- (a) in subsection (6), for the words “section 220”, “Act 1971” and “section 209” there shall be substituted respectively the words “section 209”, “(Scotland) Act 1972” and “section 198”;
- (b) in subsection 7, for the words “Section 128” and “Act 1971” there shall be substituted respectively the words “Section 118” and “(Scotland) Act 1972”.

In section 17, for the words set out in the first column below there shall be substituted the words set out opposite to them in the second column below:—

“section 18 or 20 of or paragraph 1 of Schedule 5 to the Town and Country Planning (Scotland) Act 1947”	“section 153, 154, 158, 176(2) or 226(1) of the Town and Country Planning (Scotland) Act 1972”
“the said section 20”	“the said section 153”
“section 19 of the said Act of 1947”	“section 42 of the said Act of 1972”
“section 43 of the Town and Country Planning (Scotland) Act 1954”	“section 157 of the said Act of 1972”
“section 17 of the said Act of 1947”	“section 169 of the said Act of 1972”
“subsection (1B) or (2) of the said section 17”	“section 170(2) or 175(1) of the said Act of 1972”
“the said section 19”	“the said section 42”
“Part II of the said Act of 1947”	“Part III of the said Act of 1972”.

In Schedule 5—

- (a) in paragraph 5, sub-paragraphs (a), (d), (j), (n) and (cc) shall be omitted and after paragraph (ff) there shall be inserted—

“(gg) sections 19, 37, 45, 46, 108(2), 117, 118, 119, 138, 154(3), 170, 171, 172, 175, 181, 195(6), 198(3)(b), 199(2), 202(3), 205, 212, 214 to 230, 233(7), 242, 266(6)(b)

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- of, and Schedules 8 and 9, paragraphs 1 to 3 of Schedule 17, and Schedule 18 to, the Town and Country Planning (Scotland) Act 1972” ;
- (b) in paragraph 6, sub-paragraphs (a), (c), (e) and (m) shall be omitted and after paragraph (n) there shall be inserted—
 “(o) section 195(6), 214 to 230 and 266(6)(b) of, and Schedule 8 and paragraph 4 of Schedule 18 to, the Town and Country Planning (Scotland) Act 1972” ;
- (c) in paragraph 7, sub-paragraphs (a), (b) and (h) shall be omitted and after paragraph (i) there shall be inserted—
 “(j) sections 138(3), 154(3) and 214 to 230 of, and Schedule 8 to, the Town and Country Planning (Scotland) Act 1972” ;
- (d) in paragraph 9, for the words “section 70 of the Town and Country Planning (Scotland) Act 1969”, “the Town and Country Planning (Scotland) Act 1947” and “Section 71(2) of the said Act of 1969” there shall be substituted respectively the words “section 212 of the Town and Country Planning (Scotland) Act 1972”, “that Act” and “Section 214(2)(b) of the said Act of 1972”.

The Local Employment Act 1972 (c.5)

In section 16(3), for paragraph (b) there shall be substituted—

“(b) subsection (8) of section 265 and subsections (1) to (4) and (6) of section 266 of the Town and Country Planning (Scotland) Act 1972,”

and for the words “99 respectively” there shall be substituted the words “265 respectively”.

In section 17(3), for the words “12(4)” and “1947” there shall be substituted respectively the words “65(1)” and “1972”.

In section 21(1), in the definition of “industrial building”, for the words from “section 21” to the end of the definition there shall be substituted the words “section 64 of the Town and Country Planning (Scotland) Act 1972”.

The Town and Country Planning (Amendment) Act 1972 (c. 42)

For section 9 there shall be substituted the following section :—

“9.—(1) This section applies to all buildings other than—

(a) listed buildings, and

(b) excepted buildings within the meaning of section 56(2) of the Town and Country Planning (Scotland) Act 1972 (hereinafter in this Act referred to as “the Act of 1972”) (buildings, that is to say, excepted from the power of local planning authorities to serve building preservation notices in respect of non-listed buildings).

(2) If it appears to a local planning authority that, in the interests of preserving the character or appearance of any part of their district which is for the time being a conservation area, there should be power to control the demolition of the buildings therein to which this section applies, or any one or more of those buildings, they may direct that the buildings or building

in question be subject to control under this section ; and while such a direction is in force as respects any building, the provisions of the Act of 1972 specified in Part I of Schedule 3 to this Act shall have effect in relation to the building subject to and in accordance with the provisions of that Part.

(3) A local planning authority making a direction under subsection (2) above shall forthwith submit it to the Secretary of State for confirmation, and the Secretary of State may confirm the direction in the form in which it is submitted to him, confirm it subject to the exclusion of any building or buildings specified in the confirmation, or refuse to confirm it.

(4) A direction under subsection (2) above shall come into force on the day on which it is confirmed by the Secretary of State or, if it contains a declaration by the local planning authority that it is expedient that it should have immediate effect, on the day on which it is made.

(5) A local planning authority may by a direction made under this subsection, which shall not require confirmation by the Secretary of State but shall take effect on the day on which it is made, revoke any direction under subsection (2) above, or vary any such direction so as to exclude any building or buildings therefrom.

(6) Where a building to which a direction under subsection (2) above relates becomes a listed building or ceases to be in a conservation area, the direction shall cease to be in force as respects that building ; and, in the case of a direction containing such a declaration as is mentioned in subsection (4) above—

- (a) if during the period of six months beginning with the date on which the direction is made the Secretary of State notifies the local planning authority that he does not propose to confirm it, the direction shall cease to be in force as from the day on which the notification is received by them,
- (b) if during that period the Secretary of State confirms the direction subject to the exclusion of a specified building or buildings, the direction shall thereupon cease to be in force as respects that building or those buildings,
- (c) if neither of the above paragraphs applies, the direction shall cease to be in force at the end of that period unless the Secretary of State has by then confirmed it in the form in which it was submitted to him.

(7) The provisions of Part II of Schedule 3 to this Act shall have effect for the purpose of supplementing the preceding provisions of this section.

(8) The preceding provisions of this section and the said Schedule 3 shall be construed as one with the Act of 1972."

In section 10(1), for the words " or, in Scotland, section 1 of the Civic Amenities Act 1967 " there shall be substituted the words " or section 262 of the Act of 1972 ".

SCH. 21 For Schedule 3 there shall be substituted the following Schedule :—

“ SCHEDULE 3

PROVISIONS AS TO CONTROL OF DEMOLITION IN CONSERVATION AREAS

PART I

APPLICATION OF CERTAIN PROVISIONS OF THE TOWN AND COUNTRY
PLANNING (SCOTLAND) ACT 1972

1. Section 53 of the Town and Country Planning (Scotland) Act 1972 (hereinafter referred to as “ the Act of 1972 ”) (requirement of consent of local planning authority or Secretary of State to works affecting listed buildings) shall apply in relation to any works for the demolition of the building as if it were a listed building, but with the omission of subsections (2)(b) and (3); and subsections (3), (5) and (6) of section 54 of that Act and Parts I and II of Schedule 10 thereto (supplementary) shall apply accordingly in relation to listed building consent for any such works, but—

- (a) with the said subsection (3) modified by the substitution, for the reference to the desirability of preserving the building or any features of special architectural or historic interest which it possesses, of a reference to the desirability of preserving the character or appearance of the conservation area, and
- (b) with the omission from the said Parts I and II of paragraph 5, paragraph 6, sub-paragraphs (2) and (3)(b) of paragraph 7 and paragraph 10.

2. Sections 92 to 95 of the Act of 1972 (listed building enforcement notices) shall apply in relation to the building as if it were a listed building, but—

- (a) with section 92(1) modified by the substitution, for the words “ the character of the building as one of special architectural or historic interest ”, of the words “ the character or appearance of the conservation area in which the building is situated ”,
- (b) with section 93(1) modified by the substitution of the following for paragraph (a)—

“ (a) that power to control the demolition of the building is not necessary in the interests of preserving the character or appearance of the conservation area in which it is situated ”,

and

- (c) with the omission from section 93(5) of paragraphs (b) and (c).

3. Section 161 of the Act of 1972 (compensation) shall have effect on the revocation or modification as mentioned in subsection (1) of that section of any listed building consent granted

in respect of the building ; and section 179 of that Act and Schedule 17 thereto (listed building purchase notices) shall have effect where listed building consent in respect of the building is refused, granted subject to conditions, revoked or modified as mentioned in subsection (1) of the said section 179.

4. If the building is Crown land, section 253(1)(b) of the Act of 1972 shall have effect with respect to the application of any provision thereto by virtue of this Part of this Schedule.

PART II

SUPPLEMENTARY

5. On the confirmation by the Secretary of State of any direction made under subsection (2) of section 9 of this Act by a local planning authority, or the making by any local planning authority of a direction under subsection (5) of that section, a copy of the direction and confirmation or of the direction, as the case may be, certified by the clerk of the authority to be a true copy, shall be deposited by that authority with the clerk of any local authority in whose district any building to which the direction relates is situated.

In this paragraph "local authority" means a county council or the town council of a burgh.

6. Every local authority with whom a copy of any direction is deposited under paragraph 5 above shall compile and keep available for public inspection free of charge at reasonable hours and at a convenient place a list containing particulars of any building in their district to which the direction relates.

7. A local planning authority making a direction under subsection (2) of the said section 9 containing such a declaration as is mentioned in subsection (4) of that section shall forthwith serve on every person who is an owner, lessee or occupier of any building to which the direction relates a notice stating that the direction has been made and explaining its effect, and, on being notified by the Secretary of State of his decision with respect to confirmation of the direction, shall forthwith notify every such person of the decision ; and where any direction under the said subsection (2) not containing such a declaration is confirmed by the Secretary of State, or a direction is made under subsection (5) of the said section 9, the local planning authority making the direction shall forthwith serve on every person who is an owner, lessee or occupier of any building affected by the direction a notice stating that the direction has been made and confirmed or, as the case may be, made, and (unless it is a direction under the said subsection (5)) explaining its effect.

8.—(1) If a direction under subsection (2) of the said section 9 containing such a declaration as is mentioned in subsection (4) of that section ceases to be in force as respects any building

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by virtue of paragraph (a), (b) or (c) of subsection (6) of that section, then, subject to a claim in that behalf being made to the local planning authority within the prescribed time and in the prescribed manner, any person who at the time when the direction was made had an interest in the building shall be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the direction.

(2) The loss or damage in respect of which compensation is payable under sub-paragraph (1) above shall include a sum payable in respect of a breach of contract caused by the necessity of countermanding any works to the building on account of the direction being in force with respect thereto.

9.—(1) The following provisions of this paragraph shall have effect where any direction under sub-paragraph (2) of the said section 9 ceases to be in force as respects any building, but, in the case of sub-paragraph (4), not where the direction ceases to be in force by reason of the building becoming a listed building.

(2) The fact that the direction has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 53 or 94 of the Act of 1972 committed by him with respect to the building while the direction was in force.

(3) Any proceedings on or arising out of an application for listed building consent made while the direction was in force shall lapse, and any listed building consent granted with respect to the building while the notice was in force shall also lapse.

(4) Any listed building enforcement notice served by the local planning authority while the direction was in force shall cease to have effect, and any proceedings thereon under sections 92 and 93 of the Act of 1972 shall lapse, but section 95(1) and (2) of that Act shall continue to have effect as respects any expenses incurred by the local authority, owner, lessee or occupier as therein mentioned and with respect to any sums paid on account of such expenses."

Section 277.**SCHEDULE 22****TRANSITIONAL PROVISIONS AND SAVINGS****PART I****GENERAL PROVISIONS**

1.—(1) In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision in this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.

(2) Sub-paragraph (1) of this paragraph applies, in particular, to any order, regulation, rule, development plan or amendment or

alteration of a development plan, application, objection, representation, determination, decision, reference, appeal, declaration, agreement, arrangement, claim or apportionment made, payment made or recovered, report or proposal submitted, list or amendment of a list compiled or made, permission granted, consent, approval or authorisation given, certificate, permit, information or direction issued or given, enforcement or other notice or copy served, published or registered, inquiry held, delegation effected, register kept and requirement imposed.

(3) In relation to any permission which (whether by virtue of an enactment repealed by this Act or otherwise) was deemed to be granted under an enactment repealed by this Act, sub-paragraph (1) of this paragraph shall apply as it applies to permission granted under such an enactment.

(4) Sub-paragraph (1) of this paragraph shall not apply to any regulations or order revoked as from the commencement of this Act in the exercise of the powers conferred by section 280 of this Act.

2. Without prejudice to section 276 of, and Schedule 21 to, this Act, where any Act (whether passed before, or in the same Session as this Act) or any document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

3. Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

4. Without prejudice to paragraph 1 of this Schedule, any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to an event which has occurred, under or for the purposes of or by reference to or in contravention of any provisions of this Act shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes of or by reference to or in contravention of the corresponding provisions of the enactments repealed by this Act.

5.—(1) Nothing in this Act shall affect the enactments repealed thereby in their operation in relation to offences committed before the commencement of this Act.

(2) Where an offence, for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence has been committed under the corresponding provision of this Act.

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6.—(1) Any reference in this Act to an order or scheme made or confirmed under an enactment which is not repealed by, and re-enacted (with or without modifications) in, this Act, shall be construed as a reference to any order or scheme so made or confirmed whether before or after the commencement of this Act.

1968 c. 16.

(2) Without prejudice to sub-paragraph (1) of this paragraph, any reference in this Act to an order or scheme made or confirmed under an enactment contained in the New Towns (Scotland) Act 1968, or under any other such enactment as is mentioned in that sub-paragraph, shall be construed as including a reference to any order or scheme made or confirmed under any corresponding provisions of an enactment repealed by the said Act of 1968, or repealed by the enactment in question, as the case may be.

PART II

CENTRAL AND LOCAL ADMINISTRATION

Transfer of property and officers to local planning authorities

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

PART III

DEVELOPMENT PLANS

Effect of existing commencement orders

8.—(1) In relation to so much of any order made under section 104 of the Act of 1969 (commencement) as brings into operation any of the provisions of that Act specified in the Table below, paragraphs 1 and 2 of this Schedule shall have effect subject to this paragraph.

(2) So far as the order brings any of the said provisions into operation it shall have effect as if it were an order made under section 18(2) of this Act repealing the provisions of this Act set out opposite to the first-mentioned provisions in the said Table.

(3) Any transitional provision made by the order in connection with any of the said provisions of the Act of 1969 which it brings into operation shall be construed so as to produce a corresponding effect in connection with the provisions of this Act which by virtue of this paragraph it is treated as repealing.

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

PART IV

GENERAL PLANNING CONTROL

Planning permission : general

9. Subsection (1) of section 20 of this Act applies (subject to the provisions of that section) to the carrying out of development whether before or after the commencement of this Act, except that it does not apply to development carried out on or before the appointed day.

10. In sections 23 and 24 of this Act references to an application for planning permission do not include references to any application made before 16th August 1959.

11. Subsection (2)(b) of section 23, and the other provisions of that section relating to subsection (2)(b), do not apply to any application made before 18th May 1970.

12. Where by virtue of the proviso to subsection (3) of section 3 of the Town and Country Planning (Amendment) Act 1951 (works for making good war damage which were begun between the appointed day and 13th December 1950) any works were, immediately before the commencement of this Act, treated for the purposes of that Act as if planning permission had been granted unconditionally in respect thereof, those works shall be so treated for the purposes of this Act also.

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

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

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Duration of planning permission

14. Sections 38 and 39 of this Act do not apply to planning permissions granted or deemed to have been granted before 8th December 1969.

15.—(1) Subject to sub-paragraph (2) of this paragraph, every planning permission granted or deemed to have been granted before 8th December 1969 shall, if the development to which it relates had not been begun before the beginning of 1969, be deemed to have been granted subject to a condition that the development must be begun not later than the expiration of five years beginning with 8th December 1969.

(2) Sub-paragraph (1) of this paragraph does not apply—

- (a) to any planning permission which was granted or deemed to be granted before 8th December 1969 subject to an express condition that the development to which it relates should be begun, or be completed, not later than a specified date or within a specified period; or
- (b) to any such planning permission as is mentioned in section 38(3) of this Act.

16.—(1) Subject to sub-paragraph (2) of this paragraph, where before 8th December 1969 outline planning permission (as defined by section 39 of this Act) has been granted for development consisting in or including the carrying out of building or other operations, and the development has not been begun before the beginning of 1969, that planning permission shall be deemed to have been granted subject to conditions to the following effect—

- (a) that, in the case of any reserved matter (as defined in that section), application for approval must be made not later than the expiration of three years beginning with 8th December 1969; and
- (b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates—
 - (i) the expiration of five years from 8th December 1969; or
 - (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

(2) Sub-paragraph (1) of this paragraph does not apply to any planning permission granted before 8th December 1969 subject to an express condition that the development to which it relates should be begun, or be completed, or that application for approval of any reserved matter should be made, not later than a specified date or within a specified period.

17.—(1) In sections 27(3), 40(1), (5), (6) and (7), 41 and 43(6) of this Act references to sections 38 and 39 of this Act shall respectively include references to paragraphs 15 and 16 of this Schedule.

(2) In sections 136(3), 158(7), 169(4) and 226(5) of this Act references to the conditions referred to in sections 38 and 39 of this Act shall include references to the conditions referred to in paragraphs 15 and 16 of this Schedule. SCH. 22

18. Until the coming into operation of the first regulations to be made for the purposes of paragraph (c) of section 40(3) of this Act (or the corresponding enactment previously in force), regulations made for the purposes of section 99(2) of the Land Commission Act 1967 shall have effect as if made also for the purposes of that paragraph. 1967 c. 1.

PART V

ADDITIONAL CONTROL IN SPECIAL CIRCUMSTANCES

Buildings of architectural or historic interest

19. Section 53(1) of this Act does not apply to any works executed or caused to be executed before 3rd August 1970.

20.—(1) Where, before 3rd August 1970, consent under a building preservation order was given, either by the local planning authority or by the Secretary of State on appeal, for the execution of any works, the consent shall operate in respect of those works as listed building consent, subject to the same conditions (if any) as were attached to the consent under the building preservation order.

(2) In the case of demolition works for which consent was given under a building preservation order compliance with section 53(2)(b) of this Act shall not be required.

Replacement of trees

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

Industrial development

22.—(1) So much of sections 64 to 70 of this Act as corresponds to provisions of the Industrial Development Act 1966 does not apply in relation to any application for planning permission made, or any industrial development certificate issued, before 19th August 1966; and so much of those sections as corresponds to provisions of the Local Employment Act 1960 does not apply in relation to any application for planning permission made before 1st April 1960. 1966 c. 34.
1960 c. 18.

(2) Section 68(3)(b) of this Act does not apply to any industrial development certificate issued before 1st April 1969.

(3) In relation to an application for planning permission made before 1st April 1960, "industrial building" has the meaning assigned to it in section 15 of the Distribution of Industry Act 1945. 1945 c. 36.

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1965 c. 33.

(4) In relation to a relevant application (as defined in subsection (4) of section 66 of this Act) on which a planning decision was made before 5th August 1965, that section shall have effect as if it contained provisions corresponding to those of section 19 of the Local Employment Act 1960 without the amendments made by section 21 of the Control of Office and Industrial Development Act 1965.

23. Without prejudice to Part I of this Schedule, any order in force at the commencement of this Act under section 19 of the Control of Office and Industrial Development Act 1965 shall have effect as an order under section 67 of this Act, and section 66 of this Act shall accordingly have effect subject to the provisions of that order.

Office development

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

(2) Section 76 of this Act does not apply to any planning permission granted before 5th August 1965 and, in relation to any planning permission granted on or after 5th August 1965 and before 8th December 1969, shall have effect as if it contained provisions corresponding to section 7 of the Control of Office and Industrial Development Act 1965 (so far as applicable to such a permission) without the amendments made by section 85 of the Act of 1969.

(3) Section 74(2) of this Act does not apply to any application for planning permission made before 8th December 1969 and sections 77 and 78 of this Act do not apply to any planning permission granted before 8th December 1969.

25. Without prejudice to Part I of this Schedule, any order in force at the passing of this Act under section 2(7) of the Control of Office and Industrial Development Act 1965 shall have effect as an order under subsection (8) of section 73 of this Act, and subsection (7) of that section shall accordingly have effect subject to the provisions of that order.

PART VI

ENFORCEMENT OF CONTROL

Enforcement notices under enactments in force before 8th December 1969

26.—(1) This paragraph applies to any enforcement notice which was served before 8th December 1969 on the owner, lessee and occupier of the land to which it related under section 21 of the Act of 1947 or to which paragraph 27 or 28 of this Schedule applies.

(2) In relation to any such notice—

(a) the provisions of this Act (other than this Schedule) shall not apply ;

(b) notwithstanding their repeal or amendment by the Act of 1969, the provisions of the Act of 1947 and of any other Act passed before the Act of 1969 shall, subject to the

subsequent provisions of this Schedule, have effect as they would have had effect in relation to the notice if the Act of 1969 and this Act had not been passed.

(3) Nothing in this paragraph shall prevent the withdrawal, on or after 8th December 1969, of an enforcement notice so served or the service thereafter of an enforcement notice under Part V of this Act.

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

27.—(1) This paragraph applies to any enforcement notice served before the commencement of this Act by virtue of section 72 of the Act of 1947 (which related to development contravening planning control under the enactments repealed by that Act), being a notice which had not ceased for all purposes to have effect before the commencement of this Act.

(2) The repeal by this Act of the said section 72 shall not invalidate any enforcement notice to which this paragraph applies.

28. In so far as an enforcement notice could, if this Act had not been passed, have been served by virtue of section 72 of the Act of 1947 at a time on or after the date of the commencement of this Act, in respect of any works or use of land of a description to which that section applied, there shall subsist by virtue of this paragraph a corresponding power in the like circumstances to serve an enforcement notice (to the like effect as that which could have been so served) in respect of those works or that use of land.

29.—(1) Where an enforcement notice served by virtue of paragraph 28 of this Schedule, was or is served in respect of any works being government war works within the meaning of the Requisitioned Land and War Works Act 1945, then, subject to the following provisions of this paragraph—

(a) if the steps required by the notice have been taken by the owner, lessee or occupier of the land, any expenses reasonably incurred in that behalf shall be recoverable from the authority by whom the notice was served ;

(b) where the steps required by the notice have been taken by that authority, the authority shall not be entitled, under section 22 of the Act of 1947, to recover the expenses incurred by them in that behalf.

(2) Where under section 2(1)(b) of the Compensation (Defence) Act 1939 compensation has been paid equal to the full cost (as estimated for the purposes of that compensation) of taking the steps required by the enforcement notice, sub-paragraph (1) of this paragraph shall not apply.

(3) Where compensation has been paid in respect of the land, being either compensation under the said section 2(1)(b) but not equal to the full cost (as so estimated) of taking those steps, or being compensation under section 3(4) of that Act, the amount which by virtue of sub-paragraph (1) of this paragraph is recoverable from the authority by whom the enforcement notice was served, or, as the case may be, is not recoverable by that authority, shall be reduced so far as may be just having regard to the compensation so paid.

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30.—(1) The power of a local planning authority under Part III of this Act to grant planning permission for the retention on land of buildings or works constructed or carried out before the date of application, or for the continuance of a use of land instituted before that date, shall include power to grant such permission in respect of any buildings or other works, or use of land, in respect of which that authority are empowered to serve an enforcement notice by virtue of paragraph 28 of this Schedule.

(2) Where permission is so granted, paragraphs 27 to 29 of this Schedule shall cease to apply to the works or use to which the permission relates, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

31. Where in pursuance of paragraph 76(3) of this Schedule permission is granted for the retention on land of works, or the continuance of a use, authorised as mentioned in the said paragraph 76(3), such of the provisions of paragraphs 27 to 30 of this Schedule as (apart from this paragraph) would be applicable thereto shall cease to apply to those works or that use, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

32. The repeal by this Act of section 72 of the Act of 1947 shall not affect the operation of any regulations made under subsection (8) of that section (which enabled provision to be made by regulations for applying the provisions of that section to contraventions, committed before the appointed day, of restrictions under enactments other than those relating to town and country planning) or of the provisions of that section as applied by any such regulations.

Enforcement of building preservation orders

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

Enforcement of duties as to trees

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

1967 c. 69.

PART VII

SCH. 22

ACQUISITION OF LAND ETC.

Consent of Minister to acquisition, appropriation or disposal of land

35. Nothing in Part I of this Schedule shall be construed as validating any transaction whereby a local authority purported, in the exercise of a power conferred by an enactment repealed by this Act, but without the consent of the Minister then required by that enactment—

- (a) to acquire land by agreement in pursuance of a contract made before 16th August 1959 ; or
- (b) to appropriate or dispose of land before that date,

notwithstanding that the transaction could have been validly effected without that consent under the corresponding provisions of Part VI of this Act.

Existing compulsory purchase orders

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

1947 c. 42.

(2) The validity of a compulsory purchase order made under section 34, 35 or 38 of the Act of 1947 shall not be affected by the repeal by the Act of 1969 of the section under which the order was made ; and a compulsory purchase order made (but not confirmed), or made in draft, before the repeal of that section took effect may be confirmed or made thereunder as if the Act of 1969 had not been passed.

37. The repeals effected by this Act shall not affect the validity of any order authorising the compulsory acquisition of any land—

- (a) under section 34(2) of the Act of 1947 (which enabled the Minister of Works or the Postmaster-General, during the period before a development plan had become operative with respect to any area, to be authorised in certain circumstances to acquire land compulsorily) ;
- (b) under section 35(2) of that Act (which enabled certain local authorities, during any such period, to be authorised in certain circumstances to acquire land compulsorily) ; or
- (c) under subsection (3) of section 35 of that Act in a case where the power conferred by that subsection was exercisable in

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lieu of the exercise of the power conferred by subsection (2) thereof,
or of any notice served or other thing done in pursuance of any such order.

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

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

39. The provisions of Part VI of this Act shall have effect in relation to land acquired, or authorised to be acquired, in pursuance of any such order as is mentioned in paragraph 37 of this Schedule as if—

- (a) in the case of land acquired, or authorised to be acquired, by a local authority, the land had been acquired, or authorised to be acquired, by that local authority under section 102 of this Act ;
- (b) in the case of land acquired, or authorised to be acquired, by a Minister, the land had been acquired, or authorised to be acquired, by that Minister under section 103 of this Act.

40. For the purposes of Part VI of this Act—

- (a) any land acquired by a local authority in pursuance of a compulsory purchase order under Part I of the Act of 1945 shall be deemed to have been acquired under section 102 of this Act ;
- (b) any land acquired by a Minister in pursuance of any such order shall be deemed to have been acquired by him under section 103 of this Act ;
- (c) any land acquired by a local authority by agreement under the Act of 1945 shall be deemed to have been acquired under section 109 of this Act.

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

Provisions as to Central Land Board

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

PART VIII

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COMPENSATION UNDER PART VII OF THIS ACT

Compensation under Part V of Act of 1954

43.—(1) Subject to the following provisions of this paragraph, for the purposes of the construction of sections 147 to 150 of this Act in accordance with Part I of this Schedule, any compensation (whether by way of principal or interest) under Part V of the Act of 1954, and any claim for, or notice registered in respect of, any such compensation, as well as any compensation under Part II of that Act, or any claim for, or notice registered in respect of, compensation under the said Part II, shall be treated as compensation or, as the case may be, a claim for, or a notice registered in respect of compensation, under provisions of that Act corresponding to those of Part VII of this Act.

(2) For the purposes of the construction of section 147 of this Act in accordance with sub-paragraph (1) of this paragraph in relation to Part V of the Act of 1954, any reference to a planning decision shall be construed as including a reference to an order under section 19 of the Act of 1947.

(3) Where compensation under Part V of the Act of 1954 became or becomes payable in respect of an order modifying planning permission, then (notwithstanding anything in the preceding provisions of this paragraph) the provisions of sections 148 and 150 of this Act shall not apply to development in accordance with that permission as modified by the order.

Provision excluding recovery of compensation

44. For the purposes of the construction, in accordance with Part I of this Schedule, of section 149(4) of this Act—

- (a) the provisions of section 54(6) of the Act of 1954 as originally enacted ; and
- (b) those provisions as applied by any regulations made under section 54(8) of that Act,

as well as the provisions of the said section 54(6) as amended by section 49 of the Act of 1959, shall be treated as provisions corresponding to those of section 244 of this Act.

PART IX

COMPENSATION UNDER PART VIII OF THIS ACT

Compensation to statutory undertakers

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

Contribution by Secretary of State towards compensation

46. For the purposes of the construction of section 156(1) of this Act in accordance with Part I of this Schedule, any compensation which could have been claimed and would have been payable under

- SCH. 22** Part V of the Act of 1954, as well as any compensation which could have been claimed and would have been payable under Part II of that Act, shall be treated as compensation which could have been claimed and would have been payable under provisions of that Act corresponding to the provisions of Part VII of this Act.

Recovery of compensation

47. For the purposes of the construction of section 157(3) of this Act in accordance with Part I of this Schedule, any grant paid—

- (a) under the provisions of the section substituted by section 52 of the Act of 1954 for section 89 of the Act of 1947, but without the amendments made by the Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 or the Local Government (Scotland) Act 1966; or
- (b) under the provisions of Part IX of the Act of 1947 as originally enacted,

1958 c. 64.

1966 c. 51.

as well as any grant paid under the provisions of the said section 89 shall be treated as a grant paid under provisions corresponding to those of Part XIII of this Act.

PART X

BLIGHT NOTICES

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

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

Temporary inclusion of additional description of blighted land

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

- (a) the description of land contained in section 38(1)(b) of the Act of 1959 shall be included among the specified descriptions as defined in section 181(6) of this Act; and
- (b) in sections 182(3) and 195(2) of this Act references to paragraph (b) of section 181(1) of this Act shall include references to the said section 38(1)(b).

(2) This paragraph applies to any area for which no local plan is in force under Part II of this Act—

- (a) allocating any land in the area for the purposes of such functions as are mentioned in section 181(1)(a) of this Act; or
- (b) defining any land in the area as the site of proposed development for the purposes of any such functions.

PART XI

SCH. 22

HIGHWAYS

Provisions as to telegraphic lines

50.—(1) In relation to an order made under section 46 of the Act of 1947 before 1st October 1969 or, as the case may be, an order under section 22 of the Act of 1945 in respect of which the notice required by Schedule 6 to the Act of 1947 was published before that date, section 209(1), (2) and (3) of this Act shall have effect as if references to a telegraphic line belonging to or used by the Post Office were references to a telegraphic line belonging to or used by the Postmaster-General.

(2) Where the period referred to in paragraph (a) of subsection (3) of section 209 of this Act began to run before, and was current on, the said date, that paragraph shall have effect as if the reference to notice having been given by the Post Office before the end of that period included a reference to notice having been so given by the Postmaster-General, and paragraph (c) of that subsection shall have effect as if the reference to the Post Office included a reference to the Postmaster-General.

PART XII

STATUTORY UNDERTAKERS

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

51.—(1) This paragraph shall have effect as respects the application, by virtue of Part I of this Schedule, of the provisions of this Act hereinafter specified in relation to matters arising before 8th December 1969 (in this paragraph referred to as "the relevant date").

(2) In relation to any application for planning permission made before the relevant date or any appeal from the decision on an application so made, section 214 of this Act shall have effect as if it contained provisions corresponding to paragraph 1(1) of Schedule 5 to the Act of 1947 and as if subsection (2)(b) were omitted.

(3) In relation to any decision made before the relevant date, section 215 of this Act shall have effect as if it contained provisions corresponding to paragraph 2(1)(a) of the said Schedule 5.

(4) In relation to any order of which notice has been given under paragraph 3(2) of the said Schedule 5 before the relevant date, section 216 of this Act shall have effect as if it contained provisions corresponding to the said paragraph 3(2).

(5) In relation to any order of which notice has been given under paragraph 4(2) of the said Schedule 5 before the relevant date, section 217 of this Act shall have effect as if it contained provisions corresponding to the said paragraph 4(2).

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(6) In relation to a compulsory purchase order made or confirmed before the relevant date, section 218 of this Act shall have effect as if it contained provisions corresponding to section 42(4)(b) of the Act of 1947.

(7) In relation to any order made before the relevant date under section 24 of the Act of 1945, section 220 of this Act shall have effect as if it contained provisions corresponding to section 24(7) of the Act of 1945.

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

52. In relation to a notice served before 8th December 1969, section 219(1) of this Act shall have effect with the omission—

- (a) of the words from “ if satisfied ” to “ appropriated ” ; and
- (b) of the words from “ of twenty-eight days ” to “ as may be ” .

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

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

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

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

Enactments applying section 24 of Act of 1945

55.—(1) This paragraph shall have effect for the purposes of any enactment which applies the provisions of section 24 of the Act of 1945 with adaptations consisting of or including adaptations of the references in that section to a purchasing authority or to the purchasing or appropriating authority.

1889 c. 63.

(2) Any such enactment shall be construed (in accordance with Part I of this Schedule or section 38 of the Interpretation Act 1889) as applying the provisions of section 219 and section 226(2) of this Act with corresponding adaptations of the references in those provisions to a Minister, a local planning authority or statutory undertakers, or to the acquiring or appropriating authority, as the case may require.

PART XIII

SCH. 22

VALIDITY OF PLANNING DECISIONS ETC.

Orders made and action taken before 16th August 1959

56.—(1) Notwithstanding anything in Part I of this Schedule, the provisions of section 231 of this Act shall not have effect in relation to—

- (a) any order made before 16th August 1959 under any of the provisions of the Act of 1947 corresponding to the provisions of this Act under which the orders mentioned in subsection (2) of that section can be made ; or
- (b) any action on the part of the Secretary of State taken before the said 16th August under any of the provisions of that Act or of the Act of 1954 corresponding to the provisions of this Act under which action of the descriptions mentioned in subsection (3) of that section can be taken,

and section 233 does not apply to any such order or action as is mentioned in this sub-paragraph.

(2) In relation to any action which, in accordance with any provisions of the Act of 1947 corresponding to provisions of Part XI of this Act, was required to be taken by the Secretary of State and the appropriate Minister, the reference in sub-paragraph (1) of this paragraph to the Secretary of State shall be construed as a reference to the Secretary of State and the appropriate Minister.

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

Directions under Part V of Act of 1954

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

PART XIV

FINANCIAL PROVISIONS

Grants

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

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

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Recovery of sums from acquiring authorities

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

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

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

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

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

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

PART XV

SPECIAL CASES

Minerals

1966 c. 4.

1923 c. 20.

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

National Coal Board

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

PART XVI

MISCELLANEOUS AND SUPPLEMENTARY

Rights and liabilities in respect of certain payments

66.—(1) The repeals effected by this Act shall not affect any right to, or claim for, or any liability in respect of, any payment under an enactment to which this paragraph applies; and any such right, claim or liability shall have effect and may be enforced, and moneys in respect of any such payment shall be applicable or may be raised, in accordance with the provisions of the enactment in question (including the provisions of any other enactment which, immediately before the commencement of this Act, had effect for the purposes of that enactment) as if this Act had not been passed, and any direction or proceedings relating thereto may be given, brought or continued accordingly.

(2) This paragraph applies to the following enactments, that is to say—

- (a) Parts I and V of the Act of 1954;
- (b) section 54(1) to (5) of that Act;
- (c) the scheme made under section 56 of the Act of 1947;
- (d) any other enactment which (if contained in an Act) was not repealed by, and re-enacted (with or without modifications) in this Act or (if not contained in an Act) has effect otherwise than by virtue of an enactment so repealed and re-enacted.

(3) Without prejudice to the preceding provisions of this paragraph, any proceedings relating to any such claim as is mentioned in section 124(1) of this Act may be brought or continued, and shall be determined in accordance with the relevant provisions (that is to say, the provisions of the Act of 1947 and of Schedule 1 to the Act of 1954 and any other enactment having effect for the purposes thereof) as if this Act had not been passed.

(4) Sub-paragraph (1) of this paragraph shall have effect in relation to any such right, claim or liability as is therein mentioned notwithstanding that, immediately before the commencement of this Act, the right, claim or liability had not yet accrued or been made or become enforceable, as the case may be.

Provided that, in relation to any such claim which had not been made before the commencement of this Act, so much of that sub-paragraph as provides that the claim shall have effect in accordance

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Registration of payments under s. 58 of Act of 1954

67.—(1) The repeals effected by this Act shall not affect the operation of subsection (1) of section 58 of the Act of 1954, in so far as that subsection would have continued to have effect if this Act had not been passed.

(2) In subsection (1) of the said section 58, the references to subsection (7) of section 54 of that Act and to paragraph (a) of the proviso to that subsection shall be construed as including references respectively to subsection (1) and to subsection (2) of section 245 of this Act.

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

68. Notwithstanding Part I of this Schedule, the following provisions of this Act, that is to say, sections 157(4), 158(3)(c) and (6), in section 169(2) the words “or which would contravene the condition set out in Schedule 16 to this Act”, section 169(3), section 263(1) to (4), paragraph 14 of Schedule 6 and Schedule 16 do not affect—

- (a) any determination arising out of a notice to treat served before 25th February 1963, or served at any time in respect of a purchase notice or notice under section 38(2) of the Act of 1959 (or any corresponding enactment previously in force) which was served before that date ;
- (b) any other determination under the Act of 1947 in respect of or arising out of a purchase notice served before that date ;
- (c) any claim for compensation under section 18(1) or 20 of the Act of 1947 (or any corresponding enactment previously in force) which arose before that date.

Definition of “local authority”

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

Saving for powers of Post Office

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

Saving in respect of works below high-water mark

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71. Nothing in the provisions of this Act specified in Part I of Schedule 19 to this Act shall authorise the execution of any works (whether of construction, demolition or alteration) on, over or under tidal lands below high-water of ordinary spring tides, except—

- (a) with the consent of any persons whose consent would have been required if this Act had not been passed; and
- (b) in accordance with such plans and sections, and subject to such restrictions and conditions as may be approved by the Board of Trade or the Secretary of State before the works are begun.

Land Compensation (Scotland) Act 1963 s. 39

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

References to Ministers: previous Transfer of Functions Orders

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

(2) In this paragraph “Minister” includes the Board of Trade and the Treasury.

Schemes and agreements under enactments repealed by Act of 1947

74.—(1) The repeal effected by this Act shall not affect the operation of—

- (a) any such scheme as was mentioned in paragraph 6 of Schedule 10 to the Act of 1947 (which related to certain schemes made under the Town and Country Planning (Scotland) Act 1932 and the Town Planning (Scotland) Act 1925) in so far as, by virtue of that paragraph, the scheme continued to have effect immediately before the commencement of this Act; or
- (b) any order made under that paragraph (which empowered the Minister to make provision by order for winding up any such scheme) in so far as the order continued to have effect immediately before the commencement of this Act.

(2) Any power to make orders under paragraph 6 of that Schedule shall continue to be exercisable notwithstanding the said repeal.

75.—(1) The repeal effected by this Act shall not affect the operation of any such agreement as was mentioned in paragraph 10 of Schedule 10 to the Act of 1947 (which related to certain

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agreements made before the appointed day for restricting the planning, development or use of land), or of any order discharging or modifying a restriction imposed by such an agreement, in so far as any such agreement or order was in force immediately before the commencement of this Act; and any such agreement may be enforced as if this Act had not been passed.

(2) Nothing in any such agreement shall be construed as restricting the exercise, in relation to land to which the agreement applies, of any powers exercisable by any Minister or authority under this Act, so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Secretary of State by virtue of paragraph 5 of Schedule 4 to this Act, or as requiring the exercise of any such powers otherwise than in accordance with such provisions or directions.

(3) If the Secretary of State is satisfied, on application made to him by any person being a party to any such agreement, or a person entitled to land affected thereby, that any restriction on the development or use of the land imposed by the agreement is inconsistent with the proper planning or development of the area comprising the land, he may by order discharge or modify that restriction so far as appears to him to be expedient.

(4) Without prejudice to sub-paragraph (3) of this paragraph, if any person being a party to any such agreement (whether as originally made or as modified under that sub-paragraph), or a person entitled to land affected thereby, claims that the agreement ought to be modified or rescinded, having regard to the provisions of this Act or to anything done under this Act or under the Act of 1947, he may refer to arbitration the question whether the agreement should be so modified or rescinded, and the arbiter may make such award as appears to him to be just having regard to all the circumstances.

Development authorised under enactments repealed by Act of 1947

1932 c. 49.

76.—(1) Where any works on land existing at the appointed day, or any use to which land was put on that day, had been authorised by a permission granted subject to conditions under a scheme under the Town and Country Planning (Scotland) Act 1932 (or under an enactment repealed by that Act) or under an order made under section 10(1) of that Act (in the subsequent provisions of this Schedule referred to as “a planning scheme” and “an interim development order”) the provisions of Parts III and V of this Act, the provisions of Part IX of this Act relating to purchase notices, and the provisions of sections 214 to 217 of this Act, shall apply in relation to those works or that use as if the conditions had been imposed on the grant of planning permission.

(2) Without prejudice to the generality of sub-paragraph (1) of this paragraph, where any such permission was granted subject to conditions (in whatever form) restricting the period for which the works or use might be continued on the land, then, if that period had not expired at the appointed day and the works were or are not removed, or the use discontinued, at the end of that

period, the provisions of Part V of this Act relating to enforcement notices shall apply in relation thereto as if the works had been carried out, or the use begun, as the case may be, at the end of that period and without the grant of planning permission in that behalf.

(3) The power of a local planning authority under Part III of this Act to grant permission for the retention on land of buildings or works constructed or carried out before the date of the application, or the continuance of any use of land instituted before that date, shall include power to grant such permission in respect of any works or use authorised by a permission granted subject to any such conditions as are mentioned in sub-paragraph (2) of this paragraph.

(4) Where at any time before the appointed day it was determined under the Building Restrictions (War-Time Contraventions) Act 1946 that any works on land or any use of land should be deemed to comply with planning control (within the meaning of that Act) subject to any conditions specified in the determination, the provisions of this paragraph shall apply in relation to those works or that use as if those conditions had been imposed on the grant of permission under a planning scheme or an interim development order. 1946 c. 35.

(5) Provision may be made by regulations under this Act for applying the preceding provisions of this paragraph, subject to such adaptations and modifications as may be specified in the regulations, to works on land carried out, or uses of land begun, at any time before the appointed day, in accordance with permission granted subject to conditions under any enactment repealed by the Act of 1947, other than the enactments relating to town and country planning; and for the purposes of this provision any works or use in respect of which a notice was served under subsection (1) of section 1 of the Restriction of Ribbon Development (Temporary Development) Act 1943 or was deemed by virtue of subsection (4) of that section to have been so served, shall be treated as carried out or begun in accordance with permission granted subject to a condition restricting the period for which the works or use might be continued on the land. 1943 c. 34.

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

Provided that this sub-paragraph shall not apply in relation to any development for which permission was required before the appointed day under the Restriction of Ribbon Development Act 1935 unless that permission was also granted. 1935 c. 47.

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(2) The provisions of section 42 of this Act shall apply in relation to planning permission which is deemed to have been granted by virtue of this paragraph as if it had been granted on an application under Part III of this Act ; and, in relation to any order made under that section for the revocation or modification of any such permission, any reference in section 153(3) of this Act to the grant of permission shall be construed as a reference to the grant of the permission under the interim development order.

1935 c. 47.

(3) Where permission for any development of land was granted as mentioned in sub-paragraph (1) of this paragraph, and permission for that development was also granted under the Restriction of Ribbon Development Act 1935 then, if the permission so granted under the said Act of 1935 was granted subject to conditions, those conditions shall be treated for the purposes of this paragraph as conditions imposed by the permission granted under the interim development order.

78.—(1) Where any works for the erection or alteration of a building had been begun but not completed before the appointed day, then if—

(a) immediately before that day those works could have been completed in conformity with the provisions of a planning scheme or of permission granted thereunder, or in accordance with permission granted by or under an interim development order ; and

(b) where any permission was required under the Restriction of Ribbon Development Act 1935 for the carrying out of those works, that permission was granted,

planning permission shall be deemed to have been granted in respect of the completion of those works.

(2) The planning permission deemed to have been granted by virtue of this paragraph shall be deemed to have been so granted subject to any conditions applicable thereto under the scheme or the permission granted by or under the interim development order, as the case may be, and to any conditions imposed by the permission (if any) granted under the Restriction of Ribbon Development Act 1935 and shall include permission to use the building, when erected or altered—

(a) where the purpose for which it could be so used was prescribed by or under the planning scheme, or by the permission granted by or under the interim development order, as the case may be, for that purpose ;

(b) in any other case, for the purpose for which the building, or the building as altered, was designed.

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

79.—(1) Any reference in Part VII of this Act, or in Schedule 13 thereto, to a planning decision shall, where the context so admits, include a reference to any decision deemed to have been made by virtue of the provisions of paragraph 77 or paragraph 78 of this Schedule.

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(2) Sub-paragraph (1) of this paragraph shall have effect without prejudice to the provisions of Part I of this Schedule.

Supplementary

80.—(1) Where in this Act (including this Schedule except Part I thereof) express provision is made in respect of any matter, the provisions of Part I of this Schedule, in so far as they are applicable to that matter, shall have effect subject to that express provision.

(2) Except as provided by sub-paragraph (1) of this paragraph, the mention in any provisions of this Act (including this Schedule except Part I thereof) of any matter to which Part I of this Schedule is applicable shall not be construed as affecting the generality of the provisions of Part I of this Schedule.

Section 277.

SCHEDULE 23

REPEALS

Chapter	Short Title	Extent of Repeal
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act 1945.	The whole Act.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act 1947.	Sections 1 to 43. Section 44(2). Section 46 except subsection (8). Sections 47 to 108. Section 109(2) to (6). Sections 110 to 112. Section 113(2) to (4). Schedules 1 to 7. In Schedule 8, the entry relating to the Town and Country Planning (Scotland) Act 1945. Schedules 9 to 11. Section 9(2) and (4).
12 & 13 Geo. 6. c. 32.	The Special Roads Act 1949.	Section 30(5).
12 & 13 Geo. 6. c. 67.	The Civil Aviation Act 1949.	In Schedule 4, paragraph 10(a).
14 Geo. 6. c. 39.	The Public Utilities Street Works Act 1950.	In Schedule 5, the entry relating to the Town and Country Planning (Scotland) Act 1947.
14 & 15 Geo. 6. c. 19.	The Town and Country Planning (Amendment) Act 1951.	The whole Act.
14 & 15 Geo. 6. c. 60.	The Mineral Workings Act 1951.	Section 31. Section 43(3).
1 & 2 Eliz. 2. c. 16.	The Town and Country Planning Act 1953.	The whole Act.
2 & 3 Eliz. 2. c. 73.	The Town and Country Planning (Scotland) Act 1954.	Sections 1 to 54. Sections 56 to 68. Section 70. Schedules 1 to 9.
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	In Schedule 1, in Part II, the words "A Planning Inquiry Commission constituted under Part VI of the Town and Country Planning (Scotland) Act 1969" and the words "A Joint Planning Inquiry Commission constituted under Part VI of the Town and Country Planning (Scotland) Act 1969".
7 & 8 Eliz. 2. c. 70.	The Town and Country Planning (Scotland) Act 1959.	Sections 1 to 13. Sections 17 to 22. Sections 31 to 43. Section 49. Section 50 except subsection (4). Sections 51 to 53.

Chapter	Short Title	Extent of Repeal
7 & 8 Eliz. 2. c. 70— <i>cont.</i>	The Town and Country Planning (Scotland) Act 1959— <i>cont.</i>	Section 55, except subsections (1)(a) and (3). Schedules 1 to 3. Schedules 5 and 6. Schedule 7, except the entry relating to section 55 of the Town and Country Planning (Scotland) Act 1954. Schedules 8 and 9.
8 & 9 Eliz. 2. c. 18.	The Local Employment Act 1960.	Sections 16 to 22.
8 & 9 Eliz. 2. c. 62.	The Caravan Sites and Control of Development Act 1960.	Section 26(1) and (3). Sections 21 and 22.
1963 c. 17.	The Town and Country Planning Act 1963.	The whole Act.
1965 c. 16.	The Airports Authority Act 1965.	Section 17(7)(d).
1965 c. 33.	The Control of Office and Industrial Development Act 1965.	The whole Act.
1966 c. 4.	The Mines (Working Facilities and Support) Act 1966.	In Schedule 2, paragraph 3.
1966 c. 34.	The Industrial Development Act 1966.	Part III. Section 31(3). In Schedule 3, in Part II, the entry relating to section 17 of the Local Employment Act 1960, and Part III.
1966 c. 51.	The Local Government (Scotland) Act 1966.	Section 8.
1967 c. 69.	The Civic Amenities Act 1967.	Section 1. Section 3. Section 6. Section 8. Section 11. Part II except section 15(2). In section 28(1), paragraph (a) and, in paragraph (c), the words "section 6, section 14". In section 30(1), the definition of "the Scottish Planning Act of 1969".
1968 c. 13.	The National Loans Act 1968.	Section 11.
1968 c. 41.	The Countryside Act 1968.	Sections 25 and 26.
1969 c. 30.	The Town and Country Planning (Scotland) Act 1969.	Sections 1 to 27. Section 28 except paragraph (b). Sections 29 to 31. Sections 33 to 38. Sections 40 to 57. Sections 60 to 97. Sections 99 to 101.

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Chapter	Short Title	Extent of Repeal
1969 c. 30— <i>cont.</i>	The Town and Country Planning (Scotland) Act 1969— <i>cont.</i>	Section 102(a). Section 105. Section 107. Section 108(2). Schedules 1 to 9. Schedule 10 except paragraph 11. Schedule 11.
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraphs 37, 42 and 92(3). In Schedule 9, in paragraph 27, in each of sub-paragraphs (7), (9) and (15), the words from “In the application” to the end of the sub-paragraph.
1970 c. 43.	The Trees Act 1970.	Section 1.
1971 c. 18.	The Land Commission (Dissolution) Act 1971.	In Schedule 2, paragraphs 3 and 4 and Appendix B.
1971 c. 62.	The Tribunals and Inquiries Act 1971.	In Schedule 3, the entries relating to the Town and Country Planning (Scotland) Act 1959 and the Town and Country Planning (Scotland) Act 1969.
1971 c. 75.	The Civil Aviation Act 1971.	In section 14(9), in paragraph (c), the words from “and for” to the end of the paragraph, and paragraph (d). In Schedule 5, paragraph 9(3).
1972 c. 5.	The Local Employment Act 1972.	In Schedule 3, the entry relating to the Local Employment Act 1960.
1972 c. 42.	The Town and Country Planning (Amendment) Act 1972.	Sections 7(2) and 12(1)(b).

SCHEDULE 24

Section 278.

GENERAL VESTING DECLARATIONS

PART I

GENERAL PROVISIONS

Execution of general vesting declarations

1.—(1) Where a compulsory purchase order authorising an acquiring authority to acquire any land has come into operation, the authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form (in this Schedule referred to as “a general vesting declaration”) vesting the land in themselves as from the end of such period as may be specified in the declaration (not being less than twenty-eight days) from the date on which the service of notices required by paragraph 4 below is completed.

(2) A general vesting declaration shall contain a particular description of the lands affected or a description by reference of those lands in the manner provided by section 61 of the Conveyancing (Scotland) Act 1874 c. 94. Act 1874.

2.—(1) Before making a general vesting declaration with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include in the notice of the making or confirmation of the order which is required to be published or served by paragraph 6 of Schedule 1 to the Acquisition Act 1947 or any other provision of the relevant enactments corresponding to that paragraph, or in a notice given subsequently and before the service of the notice to treat in respect of that land—

- (a) such a statement of the effect of paragraphs 1 to 8 of this Schedule as may be prescribed; and
- (b) a notification to the effect that every person who, if a general vesting declaration were made in respect of all the land comprised in the order in respect of which notice to treat has not been given, would be entitled to claim compensation in respect of any such land is invited to give information to the authority making the declaration in the prescribed form with respect to his name and address and the land in question.

(2) The requirements of the relevant enactments with respect to the publication and service of a notice of the making or confirmation of a compulsory purchase order shall apply to a notice under this paragraph given subsequently to the first-mentioned notice.

3. A general vesting declaration shall not be executed before the end of the period of two months beginning with the date of the first publication of the notice complying with paragraph 2(1) above, or such longer period, if any, as may be specified in the notice:

Provided that, with the consent in writing of every occupier of any of the land specified in the declaration, the acquiring authority may execute a general vesting declaration before the end of that

SCH. 24 period of two months, or of the longer period so specified, as the case may be.

4. As soon as may be after executing a general vesting declaration, the acquiring authority shall serve—

- (a) on every occupier of any of the land specified in the declaration (other than land in which there subsists a short tenancy or a long tenancy which is about to expire); and
- (b) on every other person who has given information to the authority with respect to any of that land in pursuance of the invitation published and served under paragraph 2(1) above,

a notice in the prescribed form specifying the land and stating the effect of the declaration.

5. For the purposes of this Schedule, a certificate by the acquiring authority that the service of notices required by paragraph 4 above was completed on a date specified in the certificate shall be conclusive evidence of the fact so stated.

Effect of general vesting declaration

1845 c. 33.

1963 c. 51.

1845 c. 19.

6. At the end of the period specified in a general vesting declaration, the provisions of the Lands Clauses Acts and of section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (both as incorporated by Schedule 2 to the Acquisition Act 1947) and of the Land Compensation (Scotland) Act 1963 shall apply as if, on the date on which the declaration was made, a notice to treat had been served on every person on whom, under section 17 of the Lands Clauses Consolidation (Scotland) Act 1845 (on the assumption that they required to take the whole of the land specified in the declaration and had knowledge of all the parties referred to in that section) the acquiring authority could have served such a notice, other than—

- (a) any person entitled to an interest in the land in respect of which such a notice had actually been served before the end of that period; and
- (b) any person entitled to a short tenancy or a long tenancy which is about to expire.

7. At the end of the period specified in a general vesting declaration, the land specified in the declaration, together with the right to enter upon and take possession of it, shall vest in the acquiring authority as if the circumstances in which under the said Act of 1845 an authority authorised to purchase land compulsorily have any power to expedite a notarial instrument (whether for vesting land or any interest in land in themselves or for extinguishing the whole or part of any feu-duty, ground annual or rent, or other payment or incumbrance) had arisen in respect of all the land and all interests therein, and the acquiring authority had duly exercised that power accordingly at the end of that period.

8. Where any land specified in a general vesting declaration is land in which there subsists a short tenancy or a long tenancy which is about to expire—

- (a) the right of entry conferred by paragraph 7 above shall not be exercisable in respect of that land unless, after serving a notice to treat in respect of that tenancy, the acquiring authority have served upon every occupier of any of the land in which the tenancy subsists a notice stating that, at the end of such period as is specified in the notice (not being less than fourteen days) from the date on which the notice is served, they intend to enter upon and take possession of such land as is specified in the notice, and that period has expired; and
- (b) the vesting of the land in the acquiring authority shall be subject to the tenancy until that period expires, or the tenancy comes to an end, whichever first occurs.

Recovery of compensation overpaid

9. The provisions of paragraphs 10 to 14 below shall have effect where, after the acquiring authority have made a general vesting declaration in respect of any land, a person claims compensation in respect of the acquisition by the authority of an interest in any land by virtue of the declaration, and the authority pay compensation in respect of that interest.

10. If, in a case falling within paragraph 9 above, it is subsequently shown—

- (a) that the land, or the claimant's interest in it, was subject to an incumbrance which was not disclosed in the particulars of his claim; and
- (b) that by reason of that incumbrance the compensation paid exceeded the compensation to which the claimant was entitled in respect of that interest,

the acquiring authority may recover the amount of the excess from the claimant.

11. If in a case falling within paragraph 9 above, it is subsequently shown that the claimant was not entitled to the interest in question, either in the whole or in part of the land to which the claim related, the acquiring authority may recover from him an amount equal to the compensation paid, or to so much of that compensation as, on a proper apportionment thereof, is attributable to that part of the land, as the case may be.

12. Any question arising under paragraph 10 or 11 above—

- (a) as to the amount of the compensation to which the claimant was entitled in respect of an interest in land; or
- (b) as to the apportionment of any compensation paid,

shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such question, the provisions of section 9 of the Land Compensation (Scotland) Act 1963 shall 1963 c. 51. apply, subject to any necessary modifications.

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13. Subject to paragraph 12 above, any amount recoverable by the acquiring authority under paragraph 10 or 11 above shall be recoverable in any court of competent jurisdiction.

14. Any sum recovered under paragraph 10 or 11 above in respect of land by an acquiring authority who are a local authority shall be applied towards the repayment of any debt incurred in acquiring or redeveloping that land or if no debt was so incurred shall be paid into the account out of which the compensation in respect of the acquisition of that land was paid.

Penalty for false information in claiming compensation

15.—(1) If any person, for the purpose of obtaining for himself or for any other person any compensation in respect of the acquisition by the acquiring authority of an interest in land by virtue of a general vesting declaration—

- (a) knowingly or recklessly makes a statement which is false in a material particular; or
- (b) with intent to deceive produces, furnishes, sends or otherwise makes use of any book, account, or other document which is false in a material particular; or
- (c) with intent to deceive withholds any material information, he shall be guilty of an offence.

(2) Any person guilty of an offence under this paragraph shall (without prejudice to the recovery of any sum under paragraph 10 or 11 above) be liable—

- (a) on summary conviction, to a fine not exceeding £400;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

PART II

SUPPLEMENTARY PROVISIONS

16. The provisions contained in this Part of this Schedule shall have effect for the purposes of paragraphs 6 to 8 above.

Exclusion of power of entry under the Acquisition Act 1947

17. Paragraph 3 of Schedule 2 to the Acquisition Act 1947 (power to enter upon land after service of notice to treat) shall not apply to land specified in a general vesting declaration under this Act.

Restriction on withdrawal of constructive notice to treat

1963 c. 51.

18. The power conferred by section 39 of the Land Compensation (Scotland) Act 1963 to withdraw notice to treat shall not be exercisable, in respect of a notice to treat which is deemed to be served under paragraphs 6 to 8 above, at any time after the interest in respect of which the notice is deemed to be served has vested in an acquiring authority by virtue of paragraph 7 above.

Objection to severance

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19. Paragraph 4 of Schedule 2 to the Acquisition Act 1947 shall not apply to land in respect of which a general vesting declaration is made under this Act.

20.—(1) If a general vesting declaration under this Act comprises part only of a house, building or factory, or of a park or garden belonging to a house, any person who is able to sell the whole of the house, building, factory, park or garden may by notice served on the acquiring authority (in this Part of this Schedule referred to as a “notice of objection to severance”) require them to purchase his interest in the whole.

(2) Except as provided by paragraph 29 below, a notice of objection to severance served by any person shall not have effect if it is served more than twenty-eight days after the date on which the notice required by paragraph 4 above is served on him.

21. Where a notice of objection to severance is served in respect of a person’s interest in any land (in this Part of this Schedule referred to as “the land proposed to be severed”), and is so served within the time allowed in accordance with paragraph 20(2) above, then, notwithstanding anything in paragraph 7 above,—

- (a) that interest shall not vest in the acquiring authority, and
- (b) if he is entitled to possession of that land, the acquiring authority shall not be entitled to enter upon or take possession of it,

until the notice has been disposed of in accordance with the following provisions of this Schedule.

22. Within three months after a person has served on an acquiring authority a notice of objection to severance, the acquiring authority shall either—

- (a) serve notice on him withdrawing the notice to treat deemed to have been served on him in respect of his interest in the land proposed to be severed, or
- (b) serve notice on him that the general vesting declaration shall have effect, in relation to his interest in the land proposed to be severed, as if the whole of that land had been comprised in the declaration (and in the compulsory purchase order, if part only of that land was comprised in that order), or
- (c) refer the notice of objection to severance to the Lands Tribunal and notify him that it has been so referred.

23. If the acquiring authority do not take action in accordance with the last preceding paragraph within the period allowed by that paragraph, then at the end of that period they shall be deemed to have acted in accordance with sub-paragraph (a) of that paragraph.

24. Where in accordance with paragraph 22 or 23 above the notice to treat deemed to have been served in respect of a person’s interest

SCH. 24 in the land proposed to be severed is withdrawn, or is deemed to have been withdrawn,—

- (a) that interest shall not vest in the acquiring authority by virtue of the general vesting declaration, and
- (b) if he is entitled to possession of that land, the acquiring authority shall not be entitled by virtue of that declaration to enter upon or take possession of it.

25. Where an acquiring authority take action in accordance with sub-paragraph (b) of paragraph 22 above, the general vesting declaration (and, where applicable, the compulsory purchase order) shall have effect as mentioned in that sub-paragraph, whether apart from this Schedule the acquiring authority could have been authorised to acquire the interest in question in the whole of the land proposed to be severed or not.

26. Where in accordance with paragraph 22(c) above an acquiring authority refer a notice of objection to severance to the Lands Tribunal, and on that reference the Tribunal determines that the part of the land proposed to be severed which is comprised in the general vesting declaration can be taken—

- (a) in the case of a house, building or factory, without material detriment, or
- (b) in the case of a park or garden, without seriously affecting the amenity or convenience of the house,

paragraph 21 above shall thereupon cease to have effect in relation to that notice.

27.—(1) If on such a reference the Lands Tribunal does not make a determination in accordance with the last preceding paragraph, the Tribunal shall determine the area of that land (being the whole of it or a part of it which includes the part comprised in the general vesting declaration) which the acquiring authority ought to be required to take; and the general vesting declaration shall have effect, in relation to the interest in that area of the person who served the notice of objection to severance, as if the whole of that area had been comprised in the general vesting declaration, whether apart from this Schedule the acquiring authority could have been authorised to acquire that interest in the whole of that area or not.

(2) Where the preceding sub-paragraph applies, and part of the area determined by the Lands Tribunal was not comprised in the compulsory purchase order, the general vesting declaration shall have effect as mentioned in the preceding sub-paragraph as if the whole of that area had been comprised in the compulsory purchase order as well as in the declaration.

28. Where by virtue of paragraph 22(a), 23, 25 or 27 above a general vesting declaration is to have effect in relation to a different area of land from that originally comprised in the declaration, the acquiring authority shall alter accordingly the description of the land affected by the declaration.

29.—(1) Where in accordance with paragraph 20(1) above a person is entitled to serve a notice of objection to severance, and it is proved—

- (a) that he never received the notice required by paragraph 4 above to be served on him, or received that notice less than twenty-eight days before, or on or after, the date on which the period specified in the general vesting declaration expired, and
- (b) that a notice of objection to severance served by him was served not more than twenty-eight days after the date on which he first had knowledge of the execution of the general vesting declaration,

that notice shall have effect notwithstanding that it is served after the time allowed in accordance with paragraph 20(2) above has expired.

(2) Where, in the circumstances specified in the preceding sub-paragraph, a person serves a notice of objection to severance after the end of the period specified in the general vesting declaration,—

- (a) paragraphs 21 and 24 above shall not have effect in relation to that notice;
- (b) paragraph 22 above shall have effect in relation to that notice as if sub-paragraph (a) of that paragraph were omitted;
- (c) paragraph 23 above shall have effect in relation to that notice with the substitution, for the words “ sub-paragraph (a) ”, of the words “ sub-paragraph (b) ”; and
- (d) paragraph 26 above shall not have effect in relation to that notice, but without prejudice to the making by the Tribunal of any such determination as is mentioned in that paragraph.

Compensation

30. Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority by virtue of paragraphs 6 to 8 above, the acquiring authority shall be liable to pay the like compensation, and the like interest on the compensation agreed or awarded, as they would have been required to pay if they had taken possession of the land under paragraph 3 of Schedule 2 to the Acquisition Act 1947.

31. Sections 56 to 60 and sections 63 to 66 of the Lands Clauses Consolidation (Scotland) Act 1845 (absent and untraced owners) and sections 117 to 119 of the said Act (interests omitted from purchase) shall not apply to the compensation to be paid for any interest in land in respect of which a notice to treat is deemed to have been served by virtue of paragraphs 6 to 8 above.

Charges and tenancies

32.—(1) Where land specified in a general vesting declaration under this Act is, together with other land not so specified, charged with a charge, such proportion of the charge as may be apportioned under section 109 of the Lands Clauses Consolidation (Scotland)

SCH. 24 Act 1845, to the first mentioned land shall, subject to sub-paragraph (3) of this paragraph, be treated as having been extinguished by virtue of paragraphs 6 to 8 above on the vesting of that land in the acquiring authority under those paragraphs.

(2) Where by virtue of the preceding sub-paragraph a portion of a charge is treated as having been extinguished, the provisions of sections 108 to 111 of the said Act of 1845 shall have effect as if the extinguishment had taken place under section 110 of that Act.

(3) If, in the circumstances described in sub-paragraph (1) of this paragraph, the person entitled to the charge and the owner of the land subject thereto enter into an agreement to that effect, the said sections 108 to 111, shall have effect as if, at the time of the vesting of the land in the acquiring authority under paragraphs 6 to 8 above, the person entitled to the charge had released that land from the charge on the condition mentioned in section 109 of the said Act of 1845; and in that case no part of the charge shall be treated as having been extinguished as regards the remaining part of the land charged therewith.

(4) In this paragraph "charge" means any such feu-duty, ground annual or rent or other payment or incumbrance as is mentioned in the words introductory to sections 107 to 111 of the said Act of 1845.

1845 c. 19. 33. Where land specified in a general vesting declaration under this Act is, together with other land not so specified, comprised in a tenancy for a term of years unexpired, section 112 of the Lands Clauses Consolidation (Scotland) Act 1845, shall have effect in relation thereto as if for references to the time of the apportionment of rent therein mentioned there were substituted references to the time of the vesting of the tenancy in the acquiring authority.

34. Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority under paragraphs 6 to 8 above, any person who, in consequence thereof, is relieved from any liability (whether in respect of a feu-duty, ground annual, rent, interest on a heritable security or any other payment) and 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 constituted the cause of his being so relieved, or of one or more of those facts, be entitled to recover the sum paid from the person to whom it was paid.

Miscellaneous

35. Where, after land has become vested in an acquiring authority under paragraphs 6 to 8 above, a person retains possession of any document relating to the title to the land, he shall be deemed to have given to the acquiring authority an acknowledgment in writing of the right of the acquiring authority to production of that document and to delivery of copies thereof and (except where he retains possession of the document as heritable creditor or as trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof.

36.—(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 paragraphs 6 to 8 above, may be referred to the Lands Tribunal shall be 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 by virtue of those paragraphs.

(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.

37. At the end of the period specified in a general vesting declaration or, if a notice of objection to severance is served under this Schedule, when that notice has been disposed of in accordance with the provisions of this Schedule, that declaration, if still being proceeded with or, as the case may be, that declaration as altered under paragraph 28 above, shall be recorded in the General Register of Sasines, and on being so recorded shall have the same effect as a conveyance registered in accordance with section 80 of the Lands Clauses Consolidation 1845 c. 19. (Scotland) Act 1845.

PART III

INTERPRETATION

38.—(1) In this Schedule “short tenancy” means a tenancy for a year or from year to year or any lesser interest, and “long tenancy which is about to expire”, in relation to a general vesting declaration, means a tenancy granted for an interest greater than a short tenancy, but having at the date of the declaration a period still to run which is not more than the specified period (that is to say, such period, longer than one year, as may for the purposes of this paragraph be specified in the declaration in relation to the land in which the tenancy subsists).

(2) In determining for the purposes of this paragraph what period a tenancy still has to run at the date of a general vesting declaration it shall be assumed—

- (a) that the tenant will exercise any option to renew the tenancy, and will not exercise any option to terminate the tenancy, then or thereafter available to him, and
- (b) that the landlord will exercise any option to terminate the tenancy then or thereafter available to him.

39. In this Schedule—

“Acquisition Act 1947” means the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; 1947 c. 42.

“relevant enactments”, in relation to an acquiring authority, means the enactments under which that authority may acquire or be authorised to acquire land compulsorily and which prescribe a procedure for effecting the compulsory acquisition of land by them by means of a compulsory purchase order;

“land”, in relation to compulsory acquisition by an acquiring authority, has the same meaning as in the relevant enactments.



Contracts of Employment Act 1972

1972 CHAPTER 53

An Act to consolidate certain enactments relating to contracts of employment. [27th July 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Minimum period of notice

1.—(1) The notice required to be given by an employer to terminate the contract of employment of a person who has been continuously employed for thirteen weeks or more—

- The rights of employer and employee to a minimum period of notice.
- (a) shall be not less than one week's notice if his period of continuous employment is less than two years,
 - (b) shall be not less than two weeks' notice if his period of continuous employment is two years or more but less than five years,
 - (c) shall be not less than four weeks' notice if his period of continuous employment is five years or more but less than ten years,
 - (d) shall be not less than six weeks' notice if his period of continuous employment is ten years or more but less than fifteen years, and
 - (e) shall be not less than eight weeks' notice if his period of continuous employment is fifteen years or more.

(2) The notice required to be given by an employee who has been continuously employed for thirteen weeks or more to terminate his contract of employment shall be not less than one week.

(3) Any provision for shorter notice in any contract of employment with a person who has been continuously employed for

thirteen weeks or more shall have effect subject to the foregoing subsections, but this section shall not be taken to prevent either party from waiving his right to notice on any occasion, or from accepting a payment in lieu of notice.

(4) Any contract of employment of a person who has been continuously employed for thirteen weeks or more which is a contract for a term certain of four weeks or less shall have effect as if it were for an indefinite period and, accordingly, subsections (1) and (2) of this section shall apply to the contract.

(5) Schedule 1 to this Act shall apply for the purposes of this and the next following section for ascertaining the length of an employee's period of employment and whether that period of employment has been continuous.

(6) It is hereby declared that this section does not affect any right of either party to treat the contract as terminable without notice by reason of such conduct by the other party as would have enabled him so to treat it before the passing of this Act.

The rights of employee in period of notice.

2.—(1) If an employer gives notice to terminate the contract of employment of a person who has been continuously employed for thirteen weeks or more, the provisions of Schedule 2 to this Act shall have effect as respects the liability of the employer for the period of notice required by section 1(1) of this Act.

(2) If an employee who has been continuously employed for thirteen weeks or more gives notice to terminate his contract of employment, the provisions of Schedule 2 to this Act shall have effect as respects the liability of the employer for the period of notice required by section 1(2) of this Act.

(3) This section shall not apply in relation to a notice given by the employer or the employee if the notice to be given by the employer to terminate the contract must be at least one week more than the notice required by section 1(1) of this Act.

(4) So far as a contract purports to exclude or limit the obligations imposed on an employer by this section it shall be void.

Measure of damages in proceedings against employers.

3. If an employer fails to give the notice required by section 1 of this Act, the rights conferred by section 2 of this Act (with Schedule 2 to this Act) shall be taken into account in assessing his liability for breach of the contract.

Written particulars of terms of employment

Written particulars of terms of employment.

4.—(1) Not later than thirteen weeks after the beginning of an employee's period of employment with an employer, the employer shall give to the employee a written statement identifying the parties, specifying the date when the employment

began, and giving the following particulars of the terms of employment as at a specified date not more than one week before the statement is given, that is—

- (a) the scale or rate of remuneration, or the method of calculating remuneration,
- (b) the intervals at which remuneration is paid (that is, whether weekly or monthly or by some other period),
- (c) any terms and conditions relating to hours of work (including any terms and conditions relating to normal working hours),
- (d) any terms and conditions relating to—
 - (i) entitlement to holidays, including public holidays, and holiday pay (the particulars given being sufficient to enable the employee's entitlement, including any entitlement to accrued holiday pay on the termination of employment, to be precisely calculated),
 - (ii) incapacity for work due to sickness or injury, including any provisions for sick pay,
 - (iii) pensions and pension schemes, and
- (e) the length of notice which the employee is obliged to give and entitled to receive to determine his contract of employment:

Provided that paragraph (d)(iii) of this subsection shall not apply to the employees of any body or authority if the employees' pension rights depend on the terms of a pension scheme established under any provision contained in or having effect under an Act of Parliament and the body or authority are required by any such provision to give to new employees information concerning their pension rights, or concerning the determination of questions affecting their pension rights.

(2) Every statement given to an employee under subsection (1) of this section shall include a note—

- (a) indicating the nature of the employee's rights under section 5 of the Industrial Relations Act 1971 (which relates to the rights of workers in respect of trade union membership and activities) including, where an agency shop agreement or an approved closed shop agreement is in force which applies to him, the effect of that agreement on those rights, and
- (b) specifying by description or otherwise a person to whom the employee can apply for the purpose of seeking redress of any grievance relating to his employment, and the manner in which any such application should be made, and

- (c) either explaining the steps consequent upon any such application or referring to a document which is reasonably accessible to the employee and which explains those steps,

and any reference in subsection (5) of this section, in subsections (1) or (3) of section 5 of this Act or in subsections (1) to (6) of section 8 of this Act to that which is, or is to be, included, given or referred to in a statement under subsection (1) of this section shall be construed as including a reference to a note under this subsection, and any reference to that which is, or is to be, included, given or referred to in a statement under section 5(1) of this Act shall be construed accordingly.

(3) If there are no particulars to be entered under any of the heads of paragraph (d) or under any of the other provisions of subsection (1) of this section, that fact shall be stated.

(4) If the contract is for a fixed term, the statement given under subsection (1) of this section shall state the date when the contract expires.

(5) A statement given under subsection (1) of this section may, for all or any of the particulars to be given by the statement, refer the employee to some document which the employee has reasonable opportunities of reading in the course of his employment or which is made reasonably accessible to him in some other way.

(6) If not more than six months after the termination of an employee's period of employment, a further period of employment is begun with the same employer, and the terms of employment are the same, no statement need be given under subsection (1) of this section in respect of the second period of employment, but without prejudice to the operation of subsection (1) of the next following section if there is a change in the terms of employment.

(7) No account shall be taken under this section of employment during any period when the hours of employment are normally less than twenty-one hours weekly, and this section shall apply to an employee who at any time comes or ceases to come within the exception in this subsection as if a period of employment terminated or began at that time.

Changes
in terms of
employment.

5.—(1) If after the date to which a statement given under section 4(1) of this Act relates there is a change in the terms of employment to be included, or referred to, in that statement, the employer shall, not more than one month after the change, inform the employee of the nature of the change by a written

statement and, if he does not leave a copy of the statement with the employee, shall preserve the statement and ensure that the employee has reasonable opportunities of reading it in the course of his employment, or that it is made reasonably accessible to him in some other way.

(2) A statement given under subsection (1) of this section may, for all or any of the particulars to be given by the statement, refer the employee to some document which the employee has reasonable opportunities of reading in the course of his employment, or which is made reasonably accessible to him in some other way.

(3) If the employer in referring in the statement given under section 4(1) of this Act, or under subsection (1) of this section, to any such document indicates to the employee that future changes in the terms the particulars of which are given in the document will be entered up in the document (or recorded by some other means for the information of persons referring to the document), the employer need not under subsection (1) of this section inform the employee of any such change which is duly entered up or recorded not more than one month after the change is made.

(4) Where, after an employer has given to an employee a written statement in accordance with section 4(1) of this Act—

- (a) the name of the employer (whether an individual or a body corporate or partnership) is changed, without any change in the identity of the employer, or
- (b) the identity of the employer is changed, in such circumstances that, in accordance with paragraph 9 or paragraph 10 of Schedule 1 to this Act, the continuity of the employee's period of employment is not broken,

and (in either case) the change does not involve any change in the terms (other than the names of the parties) included or referred to in the statement, then, the person who, immediately after the change, is the employer shall not be required to give to the employee a statement in accordance with section 4(1) of this Act, but the change shall be treated as a change falling within subsection (1) of this section.

6. Sections 4 and 5 of this Act shall not apply to an employee if and so long as the following conditions are fulfilled in relation to him, that is to say—

- (a) the employee's contract of employment is a contract which has been reduced to writing in one or more documents and which contains express terms affording

Exclusion of certain contracts in writing.

- the particulars to be given under each of the paragraphs in subsection (1) of section 4 of this Act, and under each head of paragraph (d) of that subsection ;
- (b) there has been given to the employee a copy of the contract (with any variations made from time to time), or he has reasonable opportunities of reading such a copy in the course of his employment, or such a copy is made reasonably accessible to him in some other way ; and
 - (c) such a note as is mentioned in section 4(2) of this Act has been given to the employee or he has reasonable opportunities of reading such a note in the course of his employment or such a note is made reasonably accessible to him in some other way :

Provided that if at any time after the beginning of an employee's period of employment these conditions cease to be fulfilled in relation to him, the employer shall give the employee a written statement under section 4(1) of this Act not more than one month after that time.

Power of Secretary of State to require further particulars.

7.—(1) The Secretary of State shall have power by order to provide that section 4 of this Act shall have effect as if such further particulars as may be specified in the order were included in the particulars to be included in a statement under that section.

(2) An order under subsection (1) of this section may contain such transitional and other supplemental and incidental provisions, including provisions amending subsection (1) of the said section 4, as appear to the Secretary of State to be expedient, and may be varied or revoked by a further order so made.

(3) Any such order shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

References to tribunal as to particulars of terms of employment.

8.—(1) Where an employer is required by section 4(1) or section 5(1) of this Act to give an employee a written statement, and the employer does not give such a statement to the employee within the time limited by those sections, the employee may require a reference to be made to an industrial tribunal to determine what particulars ought to have been included or referred to in a statement given so as to comply with the requirements of the said section 4 or the said section 5, as the case may be.

(2) Where a statement purporting to be a statement under section 4(1) or section 5(1) of this Act is given by an employer to an employee, and a question arises as to the particulars

which ought to have been included or referred to in the statement so as to comply with the requirements of the said section 4 or the said section 5, as the case may be, either the employer or the employee may require that question to be referred to an industrial tribunal.

(3) Where a statement under section 4(1) or section 5(1) of this Act given by an employer to an employee contains such an indication as is mentioned in section 5(3) of this Act, and

(a) any particulars purporting to be particulars of a change to which that indication relates are entered up or recorded in accordance with that indication, and

(b) a question arises as to the particulars which ought to have been so entered up or recorded,

either the employer or the employee may require that question to be referred to an industrial tribunal.

(4) Where, on a reference under subsection (1) of this section a tribunal determines particulars as being those which ought to have been included or referred to in a statement, the employer shall be deemed to have given to the employee a statement in which those particulars were included, or referred to, as specified in the decision of the tribunal.

(5) On determining a reference under subsection (2) of this section, a tribunal may either confirm the particulars as included or referred to in the statement given by the employer, or may amend those particulars, or may substitute other particulars for them, as the tribunal may determine to be appropriate; and the statement shall be deemed to have been given by the employer to the employee in accordance with the decision of the tribunal.

(6) On determining a reference under subsection (3) of this section, a tribunal may either confirm the particulars to which the reference relates, or may amend those particulars or may substitute other particulars for them, as the tribunal may determine to be appropriate; and particulars of the change to which the reference relates shall be deemed to have been entered up or recorded in accordance with the decision of the tribunal.

(7) Any matter required to be referred to an industrial tribunal in pursuance of this section shall be referred to, and determined by, an industrial tribunal in accordance with regulations made under Schedule 6 to the Industrial Relations Act 1971.

(8) An industrial tribunal shall not entertain a reference under this section in a case where the employment to which the reference relates has ceased unless an application requiring the reference to be made was, in accordance with the regulations referred to in subsection (7) of this section, made before the

end of the period of three months beginning with the date on which the employment ceased.

1964 c. 16. (9) In this section "industrial tribunal" means a tribunal established under section 12 of the Industrial Training Act 1964.

Excluded categories of employees

Excluded categories of employees.

1946 c. 22.

9.—(1) The foregoing sections of this Act shall not apply to any registered dock worker as defined by any scheme in force under the Dock Workers (Regulation of Employment) Act 1946 except when engaged in work which is not dock work as defined by the scheme.

(2) The foregoing sections of this Act shall not apply to—

(a) a person employed as master of or a seaman on a seagoing British ship having a gross registered tonnage of 80 tons or more, including a person ordinarily employed as a seaman who is employed in or about such a ship in port by the owner or charterer of the ship to do work of a kind ordinarily done by a seaman on such a ship while it is in port, or

(b) a person working under an indenture of apprenticeship recorded in accordance with the requirements of section 108 of the Merchant Shipping Act 1894 (apprenticeship to the sea service), or

(c) a person employed as a skipper of or a seaman on a fishing boat for the time being required to be registered under section 373 of the said Act.

1894 c. 60.

(3) Sections 4 and 5 of this Act shall not apply where the employee is the father, mother, husband, wife, son or daughter of the employer.

(4) Sections 4 and 5 of this Act shall apply to an employee who at any time comes or ceases to come within the exceptions provided for by or under this section as if a period of employment terminated or began at that time.

(5) The Secretary of State shall have power by order—

(a) to provide that all or any of the foregoing sections of this Act shall not apply to persons or to employment of such classes or descriptions as may be prescribed by the order, and

(b) to vary or revoke any of the provisions of subsections (1), (2) and (3) of this section.

(6) An order under the subsection (5) of this section may contain such transitional and other supplemental and incidental provisions as appear to the Secretary of State to be expedient, and may be varied or revoked by a further order so made.

(7) Any order under this section shall be made by statutory instrument, but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Supplemental

10.—(1) The Secretary of State shall have power by order to provide that this Act shall have effect—

- (a) as if for the reference to twenty-one hours in section 4(7), or
- (b) as if for each of the references to twenty-one hours in paragraphs 3 and 4 of Schedule 1 and paragraph 3(3) of Schedule 2,

Power to vary number of weekly hours of employment necessary to qualify for rights.

there were substituted a reference to such other number of hours less than twenty-one as may be specified in the order.

(2) Orders under the foregoing subsection may specify different numbers of hours for the purposes of paragraphs (a) and (b), and an order under paragraph (b) shall affect the operation of Schedule 1 to this Act as respects periods before the order takes effect for the purposes of sections 1 and 2 of this Act, as well as respects later periods.

(3) An order under this section may contain such transitional and other supplemental and incidental provisions as appear to the Secretary of State to be expedient, and may be varied or revoked by a further order so made.

(4) An order under this section shall be made by statutory instrument, but no such order shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

11.—(1) In this Act—

Interpretation.

- “agency shop agreement” has the meaning assigned to it by section 11(1) of the Industrial Relations Act 1971;
- “approved closed shop agreement” has the meaning assigned to it by section 17(1) of that Act;
- “employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract with an employer, whether the contract be for manual labour, clerical work or otherwise, be expressed or implied, oral or in writing, and whether it be a contract of service or of apprenticeship; and cognate expressions shall be construed accordingly.

(2) Sections 1 and 2 of this Act shall apply in relation to a contract all or any of the terms of which are terms which take effect by virtue of any provision contained in or having effect under an Act of Parliament, whether public or local, as they apply in relation to any other contract; and the reference in this subsection to an Act of Parliament includes, subject to any express provision to the contrary, an Act passed after this Act.

Work outside
Great Britain.

12.—(1) Sections 1 to 5 of this Act shall not apply in relation to employment during any period when the employee is engaged in work wholly or mainly outside Great Britain unless the employee ordinarily works in Great Britain and the work outside Great Britain is for the same employer.

(2) Subject to the foregoing subsection, this Act shall apply whatever the law governing the contract between the employer and the employee.

Repeals and
transitional
provisions.

13.—(1) The enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(2) Sections 1 and 2 of this Act shall apply in relation to any contract made before the commencement of this Act.

(3) Any notice, statement, particulars, information, copy or note given, date specified, order, application, determination, reference, indication, record or entry made or other thing done under any enactment repealed by this Act shall, if in force at the commencement of this Act, continue in force, and have effect as if given, specified, made or done under the corresponding provision of this Act.

(4) Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

1963 c. 49.

(5) Notwithstanding anything in Schedule 1 to this Act, any week which counted as a period of employment for the purposes of the Contracts of Employment Act 1963 shall count as a period of employment for the purposes of this Act, and any week which did not break the continuity of a period of employment for the purposes of the Contracts of Employment Act 1963 shall not break the continuity of a period of employment for the purposes of this Act.

(6) Any enactment or other document referring to an enactment repealed by this Act shall be construed as referring to the corresponding provision of this Act.

(7) Nothing in the foregoing provisions of this section shall be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals). 1889 c. 63.

14.—(1) This Act may be cited as the Contracts of Employment Act 1972. Short title and application to Northern Ireland.

(2) This Act shall not form part of the law of Northern Ireland.

Section 1.

SCHEDULES

SCHEDULE 1

COMPUTATION OF PERIOD OF EMPLOYMENT

Preliminary

1.—(1) The employee's period of employment shall be computed in weeks in accordance with this Schedule, and the periods of two, five, ten and fifteen years mentioned in section 1 of this Act shall be taken as 104, 260, 520 and 780 weeks respectively.

(2) For the purpose of computing an employee's period of employment (but not for any other purpose), the provisions of this Schedule apply to periods during which the employee is engaged in work wholly or mainly outside Great Britain, and periods during which the employee is excluded by or under section 9 of this Act, as they apply to other periods.

General provisions as to continuity of period of employment

2. Except so far as otherwise provided by the following provisions of this Schedule, any week which does not count under paragraphs 3 to 6 of this Schedule breaks the continuity of the period of employment.

Normal working weeks

3. Any week in which the employee is employed for twenty-one hours or more shall count in computing a period of employment.

Employment governed by contract

4. Any week during the whole or part of which the employee's relations with the employer are governed by a contract of employment which normally involves employment for twenty-one hours or more weekly shall count in computing a period of employment.

Periods in which there is no contract of employment

5.—(1) If in any week the employee is, for the whole or part of the week—

- (a) incapable of work in consequence of sickness or injury, or
- (b) absent from work on account of a temporary cessation of work, or
- (c) absent from work in circumstances such that, by arrangement or custom, he is regarded as continuing in the employment of his employer for all or any purposes,

that week shall, notwithstanding that it does not fall under paragraph 3 or paragraph 4 of this Schedule, count as a period of employment.

(2) Not more than twenty-six weeks shall count under paragraph (a) of the foregoing sub-paragraph between any two periods falling under paragraphs 3 and 4 of this Schedule.

(3) Paragraph (b) of sub-paragraph (1) of this paragraph shall not apply to a temporary cessation of work on account of a strike in which the employee takes part.

Industrial disputes

SCH. 1

6.—(1) A week shall not count under paragraph 3, paragraph 4 or paragraph 5 of this Schedule if in that week, or any part of that week, the employee takes part in a strike.

(2) The continuity of an employee's period of employment is not broken by a week which does not count under this Schedule, and which begins after this Act comes into force, if in that week, or any part of that week, the employee takes part in a strike.

(3) Sub-paragraph (2) applies whether or not the week would, apart from sub-paragraph (1), have counted under this Schedule.

7. The continuity of the period of employment is not broken by a week which begins after this Act comes into force and which does not count under this Schedule, if in that week, or any part of that week, the employee is absent from work because of a lock-out by the employer.

Re-instatement after service with the armed forces, etc.

8.—(1) If a person who is entitled to apply to his former employer under Part II of the National Service Act 1948 (re- 1948 c. 64. instatement in civil employment) enters the employment of that employer not later than the end of the six months period mentioned in section 35(2)(b) of that Act, his previous period of employment with that employer (or if there was more than one such period, the last of those periods) and the period of employment beginning in the said period of six months shall be treated as continuous.

(2) The reference in this paragraph to Part II of the National Service Act 1948 includes a reference to that Part of that Act as amended, applied or extended by any other Act passed before or after this Act.

Change of employer

9.—(1) Subject to this paragraph and paragraph 10 of this Schedule, the foregoing provisions of this Schedule relate only to employment by the one employer.

(2) If a trade or business or an undertaking (whether or not it be an undertaking established by or under an Act of Parliament) is transferred from one person to another, the period of employment of an employee in the trade or business or undertaking at the time of the transfer shall count as a period of employment with the transferee, and the transfer shall not break the continuity of the period of employment.

(3) If by or under an Act of Parliament, whether public or local and whether passed before or after this Act, a contract of employment between any body corporate and an employee is modified and some other body corporate is substituted as the employer, the employee's period of employment at the time when the modification takes effect shall count as a period of employment with the second mentioned body corporate, and the change of employer shall not break the continuity of the period of employment.

SCH. 1

(4) If on the death of an employer the employee is taken into the employment of the personal representatives or trustees of the deceased, the employee's period of employment at the time of the death shall count as a period of employment with the employer's personal representatives or trustees, and the death shall not break the continuity of the period of employment.

(5) If there is a change in the partners, personal representatives or trustees who employ any person, the employee's period of employment at the time of the change shall count as a period of employment with the partners, personal representatives or trustees after the change, and the change shall not break the continuity of the period of employment.

10.—(1) If an employee of a company is taken into the employment of another company which, at the time when he is taken into its employment is an associated company of the first-mentioned company, his period of employment at that time shall count as a period of employment with the associated company and the change of employer shall not break the continuity of the period of employment.

1965 c. 62.

(2) In this paragraph company and associated company have the meanings assigned to them by section 48 of the Redundancy Payments Act, 1965.

Interpretation

11.—(1) In this Schedule, unless the context otherwise requires,—

“lock-out” means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment ;

“strike” means the cessation of work by a body of persons employed acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any person or body of persons employed, or to aid other employees in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment ;

“week” means a week ending with Saturday.

(2) For the purposes of this Schedule the hours of employment of an employee who is required by the terms of his employment to live on the premises where he works shall be the hours during which he is on duty or during which his services may be required.

SCHEDULE 2

Section 2.

RIGHTS OF EMPLOYEE IN PERIOD OF NOTICE

Preliminary

1.—(1) For the purposes of this Schedule the cases where there are normal working hours include cases where the employee is entitled to overtime pay when employed for more than a fixed number of hours in a week or other period, and, subject to the following subparagraph, in those cases that fixed number of hours (in this paragraph referred to as “the number of hours without overtime”) shall be the normal working hours.

(2) If in such a case—

- (a) the contract of employment fixes the number, or the minimum number, of hours of employment in the said week or other period (whether or not it also provides for the reduction of that number or minimum number of hours in certain circumstances), and
- (b) that number or minimum number of hours exceeds the number of hours without overtime,

that number or minimum number of hours (and not the number of hours without overtime) shall be the normal working hours.

(3) In this Schedule the “period of notice” means the period of notice required by section 1(1) or, as the case may be, section 1(2) of this Act.

Employments for which there are normal working hours

2.—(1) This paragraph shall apply if there are normal working hours for the employee when employed under the contract of employment in force in the period of notice, and if during any part of those normal working hours—

- (a) the employee is ready and willing to work but no work is provided for him by his employer, or
- (b) the employee is incapable of work because of sickness or injury, or
- (c) the employee is absent from work in accordance with the terms of his employment relating to holidays.

(2) If the employee’s remuneration for employment in normal working hours, whether by the hour or week or other period, does not vary with the amount of work done in the period, the employer shall be liable to pay the employee for the normal working hours as much as the amount which would have been payable if the employee had been employed throughout the part of the normal working hours covered by paragraphs (a), (b) and (c) of subparagraph (1) of this paragraph.

(3) If subparagraph (2) does not apply, the employer shall be liable for the part of the normal working hours covered by paragraphs (a), (b) and (c) of subparagraph (1) of this paragraph to pay to the employee a sum not less than remuneration for that part of

SCH. 2 the normal working hours calculated at the average hourly rate of remuneration payable to him by the employer in respect of the period of four weeks ending with the last complete week before the notice was given.

(4) In arriving at the said average hourly rate of remuneration only the hours when the employee was working, and only the remuneration payable for, or apportionable to, those hours of work, shall be brought in; and if for any of the said four weeks no such remuneration was payable by the employer to the employee, account shall be taken of remuneration in earlier weeks so as to bring the number of weeks of which account is taken up to four.

(5) Where, in arriving at the said average hourly rate of remuneration, account has to be taken of remuneration payable for, or apportionable to, work done in hours other than normal working hours, and the amount of that remuneration was greater than it would have been if the work had been done in normal working hours, account shall be taken of that remuneration as if—

(a) the work had been done in normal working hours, and

(b) the amount of that remuneration had been reduced accordingly.

(6) For the purposes of the application of sub-paragraph (5) of this paragraph to a case falling within paragraph 1(2) of this Schedule, sub-paragraph (5) shall be construed as if, for the words “had been done in normal working hours”, in each place where those words occur, there were substituted the words “had been done in normal working hours falling within the number of hours without overtime (as defined by paragraph 1 of this Schedule)”.

(7) Any payments made to the employee by his employer in respect of the relevant part of the period of notice, whether by way of sick pay, holiday pay or otherwise, shall go towards meeting the employer's liability under this paragraph.

(8) Where the notice was given by the employee, the employer's liability under this paragraph shall not arise unless and until the employee leaves the service of the employer in pursuance of the notice.

(9) References in this paragraph to remuneration varying with the amount of work done include references to remuneration which may include any commission or similar payment which varies in amount.

Employments for which there are no normal working hours

3.—(1) This paragraph shall apply if there are no normal working hours for the employee when employed under the contract of employment in force in the period of notice.

(2) For each week of the period of notice the employer shall be liable to pay the employee a sum not less than his average weekly rate of remuneration in the period of twelve weeks ending with the last complete week before the notice was given.

(3) In arriving at the said average weekly rate of remuneration no account shall be taken of a week in which the employee worked

for the employer for less than twenty-one hours; and where, as a result, the period for which the average is to be taken would be less than eight weeks, account shall be taken of remuneration in earlier weeks so as to bring the number of weeks averaged up to eight.

(4) Subject to the next following sub-paragraph, the employer's obligation under this paragraph shall be conditional on the employee being ready and willing to do work of a reasonable nature and amount to earn remuneration at the rate mentioned in sub-paragraph (2).

(5) Sub-paragraph (4) shall not affect the liability of the employer—

- (a) in respect of any period during which the employee is incapable of work because of sickness or injury, or
- (b) in respect of any period during which the employee is absent from work in accordance with the terms of his employment relating to holidays,

and any payment made to an employee by his employer in respect of such a period, whether by way of sick pay, holiday pay or otherwise, shall be taken into account for the purposes of this paragraph as if it were remuneration paid by the employer in respect of that period.

(6) Where the notice was given by the employee, the employer's liability under this paragraph shall not arise unless and until the employee leaves the service of the employer in pursuance of the notice.

Sickness or industrial injury benefit

4.—(1) The following provisions of this paragraph shall have effect where the arrangements in force relating to the employment are such that—

- (a) payments by way of sick pay are made by the employer to employees to whom the arrangements apply, in cases where any such employees are incapable of work because of sickness or injury, and
- (b) in calculating any payment so made to any such employee an amount representing, or treated as representing, sickness benefit or industrial injury benefit is taken into account, whether by way of deduction or by way of calculating the payment as a supplement to that amount.

(2) If during any part of the period of notice the employee is incapable of work because of sickness or injury, and—

- (a) one or more payments, either by way of sick pay or as amounts required to be paid by virtue of this Schedule, are made to him by the employer in respect of that part of the period of notice, and
- (b) in calculating any such payment such an amount as is referred to in sub-paragraph (1)(b) of this paragraph is taken into account as therein mentioned,

then for the purposes of this Schedule the amount so taken into account shall be treated as having been paid by the employer to the employee by way of sick pay in respect of that part of that period, and shall go towards meeting the liability of the employer under paragraph 2 or paragraph 3 of this Schedule accordingly.

SCH. 2*Absence on leave granted at request of employee*

5. The employer shall not be liable under the foregoing provisions of this Schedule to make any payment in respect of a period during which the employee is absent from work with the leave of the employer granted at the request of the employee.

Notice given before a strike

6. No payment shall be due under this Schedule in consequence of a notice to terminate a contract given by an employee if, after the notice is given and on or before the termination of the contract, the employee takes part in a strike of employees of the employer.

In this paragraph "strike" has the same meaning as in Schedule 1 to this Act.

Termination of employment during period of notice

7.—(1) If, during the period of notice, the employer breaks the contract of employment, payments received under this Schedule in respect of the part of the period after the breach shall go towards mitigating the damages recoverable by the employee for loss of earnings in that part of the period of notice.

(2) If, during the period of notice, the employee breaks the contract and the employer rightfully treats the breach as terminating the contract, no payment shall be due to the employee under this Schedule in respect of the part of the period of notice falling after the termination of the contract.

Supplemental

8. In arriving at an average hourly rate or average weekly rate of remuneration under this Schedule—

(a) account shall be taken of work for a former employer within the period for which the average is to be taken if by virtue of paragraph 9 of Schedule 1 to this Act a period of employment with the former employer counted as part of the employee's continuous period of employment with the later employer, and

(b) "week" means, for an employee whose remuneration is calculated weekly by a week ending with a day other than Saturday, a week ending with that other day, and, for other employees, means a week ending with Saturday.

9. Where under this Schedule account is to be taken of remuneration or other payments for a period which does not coincide with the periods for which the remuneration or other payments are calculated, the remuneration or other payments shall be apportioned in such manner as may be just.

SCHEDULE 3

Section 13.

REPEALS

Chapter	Short Title	Extent of Repeal
1963 c. 49.	The Contracts of Employment Act 1963.	The whole Act.
1965 c. 62.	The Redundancy Payments Act 1965.	Sections 37 to 39. Section 48(7). In section 59(2), paragraphs (a) and (b) of the proviso.
1971 c. 72.	The Industrial Relations Act 1971.	Sections 19 to 21. Schedule 2.



British Library Act 1972

1972 CHAPTER 54

An Act to establish a national library for the United Kingdom under the control and management of a new Board and incorporating the Library of the British Museum; and for connected purposes. [27th July 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

The British Library.

1.—(1) This Act shall have effect with a view to the establishment for the United Kingdom of a national library, to be known as “the British Library”, consisting of a comprehensive collection of books, manuscripts, periodicals, films and other recorded matter, whether printed or otherwise.

(2) The British Library shall be under the control and management of a public authority, to be known as “the British Library Board”, whose duty it shall be to manage the Library as a national centre for reference, study and bibliographical and other information services, in relation both to scientific and technological matters and to the humanities.

(3) The Board shall make the services of the British Library available in particular to institutions of education and learning, other libraries and industry; and

(a) it shall be within the functions of the Board, so far as they think it expedient for achieving the objects of this Act and generally for contributing to the efficient management of other libraries and information services, to carry out and sponsor research; and

- (b) the Board may contribute to the expenses of library authorities within the meaning of the Public Libraries and Museums Act 1964, or of any other person providing library facilities, whether for members of the public or otherwise. 1964 c. 75.

(4) The Board may, subject to such restrictions and conditions as they think necessary to safeguard their collections, lend any item, and make any part of their collections, or of their premises, available in connection with events of an educational, literary or cultural nature :

Provided that in deciding whether or not to lend any such item and in determining the time for which and the conditions subject to which any such item is to be lent, the Board shall have regard to the interests of students and other persons visiting the national library, to the physical condition and degree of rarity of the item in question and to any risks to which it is likely to be exposed.

2.—(1) The British Library Board shall consist of a chairman appointed by the Secretary of State and not less than eight, nor more than thirteen, other members of whom one shall be appointed by Her Majesty and the remainder by the Secretary of State ; and— The Board

- (a) at least one of the members (who may be the chairman) shall be appointed as a whole-time member ;
- (b) subject to paragraph (a) above, any member (including the chairman and the member appointed by Her Majesty) may be appointed as a part-time member ; and
- (c) one part-time member shall be a person nominated by the trustees of the British Museum.

(2) In selecting persons for appointment to be members of the Board, the Secretary of State shall give preference to those who appear to him to have knowledge and experience of library or university affairs, finance, industry or administration.

(3) The Board shall, in accordance with directions of the Secretary of State given after consultation with them, constitute Advisory Councils with responsibility for providing advice to the Board, or to any department of the British Library, on such matters as the Secretary of State or the Board may determine from time to time.

(4) The provisions of the Schedule to this Act shall have effect with respect to the Board and its members, to the Board's proceedings and incidental powers, to the employment of staff and the terms and conditions of their employment, and to the Advisory Councils constituted under this section.

Transfer of
British
Museum
Library.

3.—(1) Subject to this section, all articles which immediately before the appointed day were the property of the trustees of the British Museum and—

- (a) formed part of the collections in the Museum's Department of Printed Books, Department of Manuscripts and Department of Oriental Printed Books and Manuscripts, or
- (b) were in normal use in those Departments for the purposes of the collections, or of their storage or management, or for the purposes of the administration of the Departments,

shall on that day cease to be property of the trustees and become property of the British Library Board.

(2) In this Act "the appointed day" means a day appointed by the Secretary of State by order made by statutory instrument.

(3) Subsection (1) above shall not apply to any article in the case of which it has been agreed in writing between the trustees and the Board that it shall not become the property of the Board under this section.

(4) Without prejudice to subsection (1) above, the trustees may transfer to the Board any article from their collections in the case of which the Board have indicated to the trustees that the article is required for the British Library; and the power of the trustees under this section to transfer any article shall be exercisable notwithstanding any trust or condition (whether express or implied) prohibiting or restricting the disposal of the article, and also notwithstanding anything in the British Museum Act 1963.

1963 c. 24.

(5) Any property transferred to the Board under this section shall, if it was previously vested in the trustees subject to any trust or condition, be subject to the same trust or condition in the hands of the Board.

(6) The trustees may make any part of their premises available for the use of the Board, and may arrange for services to be rendered to the Board by British Museum staff, on such terms (including terms as to payment) as may be agreed with the Board.

Further
provisions as
to the Board.
1911 c. 46.

4.—(1) As from the appointed day, section 15 of the Copyright Act 1911 (which requires the publisher of every book published in the United Kingdom to deliver a copy to the British Museum) shall have effect as if references in subsections (1), (3)

and (6) to the trustees of the British Museum were references to the British Library Board ; and—

- (a) corresponding amendment shall be made of all references to the trustees in section 1(1) of the British Museum Act 1932 (which excepts certain categories of publications from the requirements of section 15 of the Act of 1911, subject to written demand by the trustees) ;
- (b) the power under section 1(2) of that Act to make regulations shall, instead of being exercisable by the trustees, be exercisable by the Board ; and
- (c) any regulations of the trustees under that section which were in force immediately before the appointed day shall continue in force as if made by the Board thereunder, with the substitution for references in the regulations to the trustees of references to the Board.

(2) The Board shall be an exempt charity for the purposes of the Charities Act 1960, and accordingly at the end of Schedule 2 to that Act (which lists the institutions exempt from provisions of the Act relating to registration and other provisions) there shall be added—

“ (i) the British Library Board ”.

(3) The Board shall, not later than such date in each year as the Secretary of State may determine, send to him a report of the proceedings and activities of the Board during the previous twelve months, and the Secretary of State shall lay copies of the report before each House of Parliament.

5.—(1) The Secretary of State shall, out of moneys provided by Parliament, make to the British Library Board such payments as the Treasury may approve towards expenditure incurred by the Board, whether in respect of their management of the British Library (including the acquisition of new items for the Board's collections), or of general administration, or otherwise ; and so far as relates to the use and expenditure of sums so paid to the Board, the Board shall act in accordance with such directions as may from time to time be given to them by the Secretary of State. Finance and accounts.

(2) Moneys received by the Board in any financial year, whether in respect of property disposed of, or services provided, or otherwise, shall be applied by the Board in such manner as the Secretary of State may, with the approval of the Treasury, direct ; and any such direction may require the whole or any part of those moneys to be paid into the Consolidated Fund.

(3) The Board shall keep proper accounts and other records and shall prepare in respect of each financial year statements of account in such form as the Secretary of State may, with

the approval of the Treasury, direct ; and those statements shall, on or before 30th November next following the expiration of the financial year in question, be submitted to the Secretary of State and shall be transferred by him to the Comptroller and Auditor General, who shall examine and certify the statements and lay copies thereof, together with his report thereon, before each House of Parliament.

Consultation on terms and conditions of employment of staff.

6.—(1) It shall be the duty of the British Library Board to seek consultation with any organisation appearing to them to be appropriate with a view to the conclusion between the Board and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for the settlement by negotiation of terms and conditions of employment of persons employed by the Board with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements ; and

(2) It shall be the duty of the Board to seek consultation with any organisation appearing to them to be appropriate with a view to the conclusion between the Board and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for the promotion and encouragement of measures affecting the safety, health and welfare of persons employed by the Board and the discussion of other matters of mutual interest to the Board and such persons including efficiency in the operation of the services of the Board.

Citation.

7. This Act may be cited as the British Library Act 1972.

SCHEDULE

Section 2.

THE BRITISH LIBRARY BOARD AND ITS ADVISORY COUNCILS

Constitution and membership of the Board

1. The Board shall be a body corporate, with perpetual succession and a common seal.

2. Subject to the following provisions of this Schedule, a member of the Board shall hold and vacate office in accordance with the terms of his appointment; but no member of the Board shall be appointed for a period of less than three years or more than seven years.

3. A member of the Board may, by notice in writing addressed to the Secretary of State (or, in the case of the member appointed by Her Majesty, by notice in writing to Her) resign his membership, and the chairman may by such a notice resign his office as such without resigning his membership.

4. A member of the Board who ceases to be a member, or ceases to be chairman, shall be eligible for re-appointment.

Remuneration, allowances and pensions

5.—(1) The Board—

- (a) shall pay to the members thereof such remuneration and allowances as the Secretary of State may determine; and
- (b) as regards any member in whose case the Secretary of State may determine, shall pay such pension, allowance or gratuity to or in respect of him, or make such payments towards the provision of such pension, allowance or gratuity, as may be so determined;

and, if a person ceases to be a member of the Board and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, the Secretary of State may require the Board to pay to that person a sum of such amount as the Secretary of State may determine.

(2) The Secretary of State shall, as soon as possible after the first appointment of a person as a member of the Board, lay before each House of Parliament a statement of the salary and allowances that are or will be payable to that person under this paragraph; and if a subsequent determination by him under this paragraph involves a departure from the terms of that statement, or if a determination under this paragraph relates to the payment of, or the payment towards the provision of, a pension, allowance or gratuity to, or in respect of, a member of the Board, the Secretary of State shall, as soon as possible after the determination, lay a statement thereof before each House of Parliament.

(3) Any determination by the Secretary of State under this paragraph, and the imposition by him of any requirement thereunder, shall require the approval of the Minister for the Civil Service.

Disqualification of paid members of Board from membership of House of Commons

6. In Part III of Schedule 1 to the House of Commons Disqualification Act 1957 (which specifies offices the holders of which are disqualified under that Act) as it applies to the House of Commons of the Parliament of the United Kingdom, there shall be inserted at the appropriate point in alphabetical order the entry "Any member of the British Library Board in receipt of remuneration".

Proceedings

7.—(1) The quorum of the Board shall be five ; and the arrangements relating to meetings of the Board shall be such as the Board may determine.

(2) The Board shall have power to regulate their own procedure.

8. The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of any member.

9. The application of the seal of the Board shall be authenticated by the signature of the secretary or of some other person authorised by the Board, either generally or specially, to act for that purpose.

10. Any document purporting to be a document duly executed under the seal of the Board, or to be signed on behalf of the Board, shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed or, as the case may be, signed.

Incidental powers

11.—(1) It shall be within the capacity of the Board as a statutory corporation to do all such things, and enter into all such transactions, as are incidental or conducive to the discharge of its functions ; but the Board shall not have power to borrow money.

(2) The Board may frame, and vary and revoke from time to time, rules relating to the exercise by them of any power or the manner of entering into any transaction ; and the rules may, with the approval of the Secretary of State, provide for the imposition of charges for any services provided by the Board or for the loan or use of any item from their collections.

(3) Without prejudice to the foregoing, the powers of the Board shall include power to acquire or dispose of any property, whether or not for the purposes of their collections, but subject to the following sub-paragraphs.

(4) The power of the Board to dispose of an article transferred to them by section 3(1)(a) of this Act shall be exercisable only if—

(a) it is a duplicate of another article in the Board's collections (whether or not so transferred), or

(b) it appears to the Board to have been printed not earlier than the year 1850, and a copy of that article made by

photography or a process akin to photography is held by the Board, or

- (c) in the opinion of the Board it is unfit to be retained in their collections and can be disposed of without detriment to the interests of students ;

but the Board may transfer such an article to the trustees of the British Museum (Natural History) where they are satisfied that it would be more appropriately held with the collections of that Museum.

(5) Where any property in the hands of the Board (whether or not transferred to them under section 3(1)(a) of this Act) is subject to any trust or condition—

- (a) they shall not dispose of or deal with it in any manner inconsistent with the trust or condition ; and
 (b) it shall be subject to the same trust or condition in the hands of any person acquiring it from the Board.

(6) Any movable property vested in the trustees of the British Museum (Natural History) may under section 9 of the British Museum Act 1963 be transferred by them to the Board, where the trustees and the Board are satisfied that it would be more appropriately held in the British Library. 1963 c. 24.

Staff

12.—(1) The Board shall appoint a secretary, and may appoint such other officers as they may determine, and may pay to their officers and other persons employed by them such remuneration and allowances as the Secretary of State may determine with the approval of the Minister for the Civil Service.

(2) The Board shall, in the case of such officers or other persons employed by them as may be determined by the Board with the approval of the Minister for the Civil Service (not being members of the Board), pay such pensions, allowances or gratuities to or in respect of them as may be so determined, make such payments towards the provision of such pensions, allowances or gratuities as may be so determined or provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities as may be so determined.

(3) Where a participant in such a scheme as is referred to above becomes a member of the Board, he may be treated for the purposes of the scheme as if his service as a member of the Board were service as a person employed by the Board otherwise than as such a member, and his rights under the scheme shall not be affected by paragraph 5(1)(b) of this Schedule.

13.—(1) In the case of persons to be employed by them on and after the appointed day who immediately before that day are employed either in the civil service of the State or by the trustees of the British Museum, the Board shall, in negotiating their terms of employment, ensure that the terms, taken as a whole, are not less favourable in the case of each such person than those on which he is

employed at the time when an offer is made to him of employment with the Board.

1963 c. 49.
1965 c. 62.
1965 c. 74.
1972 c. 11.

(2) In the following provisions of this paragraph, "the Act of 1963" means the Contracts of Employment Act 1963, "the Act of 1965" means the Redundancy Payments Act 1965 and "the Superannuation Acts" means the Superannuation Acts 1965 and 1972.

(3) Where a person enters the employment of the Board on the appointed day having been, immediately before that day, employed as mentioned in sub-paragraph (1) above, then—

(a) for the purposes of the Acts of 1963 and 1965 any period during which he was so employed before that day (other than a period excepted by sub-paragraph (4) below) shall count as a period of employment with the Board, and the change of employer shall not break the continuity of the period of employment; and

(b) if he was employed by the trustees of the British Museum and his contract of employment was terminated with a view to his being re-employed by the Board as from that day, he is not to be treated for the purposes of the Act of 1965 as having been dismissed by reason of redundancy.

(4) A period of employment excepted by this sub-paragraph is one which ended before the appointed day in consequence of termination of the employment, where there was made to the person in respect of that termination a payment in accordance with Part I of the Act of 1965, or under the Superannuation Acts or any enactment replaced by either of those Acts, or under any such arrangements as are mentioned in section 41(3) of the Act of 1965.

Advisory Councils

14.—(1) An Advisory Council constituted by the Board in accordance with section 2(3) of this Act shall consist of a chairman and such number of other members as the Secretary of State may specify in directions given under that subsection.

(2) The Board shall pay to the chairman and other members of an Advisory Council such remuneration by way of fees, and such allowances, as may be determined by the Secretary of State with the approval of the Minister for the Civil Service.



Sri Lanka Republic Act 1972

1972 CHAPTER 55

An Act to make provision in connection with Ceylon becoming a republic within the Commonwealth under the name of Sri Lanka. [27th July 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Subject to subsection (3) of this section, all law to which this subsection applies, whether being a rule of law or a provision of an Act of Parliament or of any other enactment or instrument whatsoever, which was in force on 22nd May 1972 or, having been passed or made before that date, comes or has come into force thereafter, shall, unless and until provision to the contrary is made by Parliament or some other authority having power in that behalf, have the same operation in relation to Sri Lanka, and persons and things belonging to or connected with Sri Lanka, as it would have apart from this subsection if on that date Ceylon had been renamed Sri Lanka but there had been no change in its status. Operation of existing law.

(2) Subsection (1) of this section applies to law of, or of any part of, the United Kingdom, the Channel Islands and the Isle of Man, and in relation only to any enactment of the Parliament of the United Kingdom or any Order in Council made by virtue of any such enactment whereby any such enactment applies in relation to Ceylon, to law of any other country or territory to which that enactment or Order extends.

(3) Notwithstanding anything in subsections (1) and (2) of this section, the provisions set out in Appendix C to Schedule 1

1971 c. 77. to the Immigration Act 1971 (whereby a person becoming a citizen of the United Kingdom and Colonies by registration may in certain circumstances be required to take an oath of allegiance) shall, when those provisions are brought into operation under section 35(1) of that Act, have effect in relation to citizens of Sri Lanka as if subsection (1) of this section had not been enacted.

(4) Where in any enactment of the Parliament of the United Kingdom passed before this Act, or in any Order in Council or other instrument made by virtue of any such enactment before the passing of this Act, reference is made to Ceylon by that name, the name "Sri Lanka" shall be substituted for that name for the purposes of the operation of that enactment, Order in Council or instrument in relation to any time on or after 22nd May 1972.

1967 c. 4. (5) In accordance with section 3(3) of the West Indies Act 1967, it is hereby declared that this section, in so far as it amends the law relating to nationality or citizenship, extends to all associated states.

(6) This section shall be deemed to have had effect from 22nd May 1972.

Short title.

2. This Act may be cited as the Sri Lanka Republic Act 1972.



Appropriation Act 1972

1972 CHAPTER 56

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on 31st March 1973, and to appropriate the supplies granted in this Session of Parliament. [9th August 1972]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects the Commons of the United Kingdom in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this Session of Parliament, have resolved to grant unto Your Majesty the sum hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

GRANT OUT OF CONSOLIDATED FUND

1. The Treasury may issue out of the Consolidated Fund of the United Kingdom and apply towards making good the supply granted to Her Majesty for the service of the year ending on 31st March 1973 the sum of £9,669,643,700. Issue out of the Consolidated Fund for the year ending 31st March 1973.

APPROPRIATION OF GRANTS

2. All sums granted by this Act and the other Acts mentioned in Schedule (A) annexed to this Act out of the said Consolidated Fund towards making good the supply granted to Her Majesty amounting, as appears by the said schedule, in the aggregate, to the sum of £16,934,161,787·89 are appropriated, and shall be deemed to have been appropriated as from the date of the passing of the Acts mentioned in the said Schedule (A), for the services and purposes expressed in Schedule (B) annexed hereto. Appropriation of sums voted for supply services.

The abstract of schedules and schedules annexed hereto, with the notes (if any) to such schedules, shall be deemed to be part of this Act in the same manner as if they had been contained in the body thereof.

1891 c. 24. In addition to the said sums granted out of the Consolidated Fund, there may be applied out of any money directed, under section 2 of the Public Accounts and Charges Act 1891, to be applied as appropriations in aid of the grants for the services and purposes specified in Schedule (B) annexed hereto the sums respectively set forth in the last column of the said schedule.

Short title. 3. This Act may be cited as the Appropriation Act 1972.

ABSTRACT
OF
SCHEDULES (A) and (B) to which this Act refers

SCHEDULE (A)

Section 2.

Grants out of the Consolidated Fund ... £16,934,161,787·89

SCHEDULE (B)—APPROPRIATION OF GRANTS

Section 2.

	Supply Grants	Appropriations in Aid
	£	£
1970-71 and 1971-72		
Part 1. Civil (Excesses), 1970-71	406,238·37	405,511·44
Part 2. Defence (Excesses), 1970-71	8,879,549·52	*—467,799·31
Part 3. Civil Departments (Supplementary), 1971-72 -	893,033,000	92,266,410
Part 4. Defence (Supple- mentary), 1971-72 - -	222,800,000	8,385,000
	1,125,118,787·89	100,589,122·13

* Deficit

SCHEDULE (B).—APPROPRIATION OF GRANTS—*continued*

	Supply Grants	Appropriations in Aid
	£	£
1972-73		
Part 5. Civil, Class I - -	284,374,000	19,115,000
Part 6. Civil, Class II - -	374,354,000	13,145,000
Part 7. Civil, Class III - -	411,881,000	34,552,010
Part 8. Civil, Class IV - -	2,310,987,000	166,476,000
Part 9. Civil, Class V - -	496,046,000	8,975,000
Part 10. Civil, Class VI - -	4,401,305,000	80,444,140
Part 11. Civil, Class VII - -	3,924,857,000	451,246,000
Part 12. Civil, Class VIII - -	638,923,000	124,554,000
Part 13. Civil, Class IX - -	27,842,000	1,488,200
Part 14. Civil, Class X - -	264,587,000	89,126,810
Part 15. Civil, Class XI - -	47,349,000	2,422,900
Part 16. Defence, Class XII - -	2,626,538,000	433,938,000
TOTAL, CIVIL AND DEFENCE - - -£	15,809,043,000	1,425,483,060
GRAND TOTAL - - -£	16,934,161,787·89	1,526,072,182·13

SCHEDULE (A)

GRANTS OUT OF THE CONSOLIDATED FUND

£

For the service of the year ended 31st
March 1971—

Under Act 1972 c. 13 9,285,787·89

For the service of the year ended 31st
March 1972—

Under Act 1971 c. 79 545,288,000

Under Act 1972 c. 13 570,545,000

For the service of the year ending on 31st
March 1973—

Under Act 1971 c. 79 4,795,591,300

Under Act 1972 c. 13 1,048,030,000

Under Act 1972 c. 23 295,778,000

Under this Act 9,669,643,700

TOTAL 16,934,161,787·89

Civil
(Excesses),
1970-71.

SCHEDULE (B).—PART 1

CIVIL (EXCESSES), 1970-71

SUMS granted, and sums which may be applied as appropriations in aid in addition thereto, to make good excesses on certain grants for Civil Services for the year ended 31st March 1971, viz.:—

Vote	Supply Grants	Appropriations in Aid
	£	£
CLASS IV		
6. DEPARTMENT OF EMPLOYMENT - -	10·00	298·91
23. ATOMIC ENERGY - - - -	10·00	352,854·87
CLASS V		
4. DEPARTMENT OF AGRICULTURE AND FISHERIES FOR SCOTLAND (AGRI- CULTURAL GRANTS AND SUBSIDIES)	289,375·82	—
CLASS VIII		
12. NATIONAL GALLERIES OF SCOTLAND -	102,208·27	2,791·73
CLASS IX		
3. CIVIL ACCOMMODATION SERVICES, &C., OVERSEAS - - - -	12,497·09	5,824·06
CLASS X		
1. CHARITY COMMISSION - - -	2,127·19	65·37
CLASS XI		
1. CARLISLE STATE MANAGEMENT DIS- TRICT - - - - -	10·00	43,676·50
TOTAL, CIVIL (EXCESSES), 1970-71 £	406,238·37	405,511·44

SCHEDULE (B).—PART 2

Defence
(Excesses),
1970-71.

DEFENCE (EXCESSES), 1970-71

SUMS granted, and sums which may be applied as appropriations in aid in addition thereto, to make good excesses on certain grants for Defence Services for the year ended 31st March 1971, viz. :—

Vote	Supply Grants	Appropriations in Aid
	£	£
CLASS XII		
5. DEFENCE ADMINISTRATIVE SERVICES, STORES AND SUPPLIES - - -	908,421·00	*—230,030·91
6. MINISTRY OF DEFENCE, PAY, &C., OF CIVILIANS - - - - -	3,471,437·86	*—325,620·90
7. DEFENCE EQUIPMENT AND RELATED STORES - - - - -	4,216,914·10	—
8. ROYAL ORDNANCE FACTORIES - -	282,776·56	87,852·50
TOTAL, DEFENCE (EXCESSES), 1970-71 £	8,879,549·52	*—467,799·31

* Deficit.

Civil
Departments
(Supple-
mentary),
1971-72.

SCHEDULE (B).—PART 3

CIVIL DEPARTMENTS (SUPPLEMENTARY), 1971-72

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges for the Civil Services herein particularly mentioned for the year ended 31st March 1972, viz.:—

	Supply Grants	Appropriations in Aid
	£	£
CLASS I		
Vote		
1. For the salaries and expenses of the House of Lords - - - - -	140,000	3,000
2. For the salaries and expenses of the House of Commons, including certain grants in aid - - - - -	648,000	2,000
3. For the salaries and expenses of the Department of Her Majesty's Treasury and subordinate departments and the National Economic Development Council - - - - -	148,000	13,000
4. For the salaries and expenses of the Civil Service Department, of the Civil Service College, of the Office of the Parliamentary Counsel, and sundry other services including a subscription to an international organisation and grants in aid	80,000	32,000
5. For the salaries and expenses of the Cabinet Office and the Chancellor of the Duchy of Lancaster; and a subscription to an international organisation - -	247,000	—
6. For the salaries and expenses of the Department of Her Majesty's Most Honourable Privy Council - - -	4,000	500
7. For the salaries and expenses of the Customs and Excise Department, including a subscription to an international organisation - - - - -	5,307,000	995,000
8. For the salaries and expenses of the Inland Revenue Department - - - - -	19,787,000	622,000
9. For transitional relief under the Finance Act 1965 for companies with an overseas source of trading income - - - - -	9,000,000	—

SCHEDULE (B).—PART 3—continued

Civil
Departments
(Supple-
mentary),
1971-72.

	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS I—continued</i>		
Vote		
10. For the salaries and expenses of the Department of the Comptroller and Auditor General - - - -	183,000	32,000
11. For the salaries and expenses of Royal Commissions, committees, special enquiries, &c., and for a grant in aid -	49,000	—
12. For the salaries and expenses of the Office of the Parliamentary Commissioner for Administration - - - -	11,000	—
<i>CLASS II</i>		
1. For the salaries and expenses of the Office of Her Majesty's Secretary of State for Foreign and Commonwealth Affairs; the Chancellor of the Duchy of Lancaster; Her Majesty's Diplomatic Service; and sundry other services connected therewith - - - -	6,500,000	*—1,371,000
2. For expenditure by the Foreign and Commonwealth Office on sundry grants and services, including subscriptions, &c., to certain international organisations and certain grants in aid - -	4,325,000	160,000
3. For a grant in aid of the British Council	436,000	--
4. For the salaries and expenses of the Foreign and Commonwealth Office (Overseas Development Administration), including refund of selective employment tax to the Commonwealth Development Corporation - - -	390,000	6,000
5. For expenditure by the Foreign and Commonwealth Office (Overseas Development Administration) on loans and grants and services connected with overseas aid, including loans made to the Commonwealth Development Corporation under the Overseas Resources Development Acts 1959 to 1969; for subscriptions to certain international organisations and for certain grants in aid - - - -	31,939,000	*—28,000

* Deficit.

Civil
Departments
(Supple-
mentary),
1971-72.

SCHEDULE (B).—PART 3—*continued*

	Supply Grants	Appropriations in Aid
	£	£
CLASS II—<i>continued</i>		
Vote		
6. For expenditure by the Foreign and Commonwealth Office (Overseas Development Administration) on sundry services connected with overseas aid, including certain grants in aid - - -	2,003,000	14,000
CLASS III		
1. For the salaries and expenses of the office of Her Majesty's Secretary of State for the Home Department; expenses and grants in connection with certain law, fire, community and sundry other services; and certain grants in aid -	4,401,000	865,000
2. For the salaries and expenses of the Scottish Home and Health Department; for a grant to the Legal Aid (Scotland) Fund; for expenses in connection with fire and sundry other services; and for a grant in aid - - - - -	801,000	16,000
3. For grants and expenses in connection with civil defence and certain remanet expenditure - - - - -	1,000	313,000
4. For grants and expenses in connection with civil defence in Scotland and certain remanet expenditure- - -	115,000	70,000
5. For grants in respect of expenditure incurred by police authorities in England and Wales, expenses in connection with the police services and a subscription to an international organisation - -	9,338,000	87,000
6. For grants in respect of expenditure by police authorities in Scotland, and expenses in connection with the police services - - - - -	1,856,000	41,000
7. For the salaries and expenses of prison service establishments in England and Wales - - - - -	6,588,000	602,000

SCHEDULE (B).—PART 3—continued

Civil
Departments
(Supple-
mentary),
1971-72.

	Supply Grants	Appropriations in Aid
	£	£
CLASS III—continued		
Vote		
9. For such of the salaries and expenses of the Supreme Court of Judicature, County Courts, Law Commission and Courts-Martial Appeal Court as are not charged on the Consolidated Fund; the salaries and expenses of the Lord Chancellor's Office, the Judge Advocate General and Judge Advocate of the Fleet, Pensions Appeal Tribunals, the Lands Tribunal, Council on Tribunals, the Restrictive Practices Court and National Industrial Relations Court, a contribution to the International Association of Youth Magistrates, and certain other expenses	1,785,000	300,000
12. For the salaries and expenses of the Law Officers' Department, the Department of Her Majesty's Procurator-General and Solicitor for the Affairs of Her Majesty's Treasury and the Department of the Director of Public Prosecutions; for the costs of prosecutions and other legal proceedings and of Parliamentary Agency - - - - -	421,000	*—106,000
13. For the salaries and expenses of the Lord Advocate's Department, of the Courts of Law and Justice, of the Scottish Law Commission, and of the Courts, Tribunals, &c.; and for sundry services, and a grant in aid - - - - -	257,000	75,000
14. For such of the salaries and expenses of the Supreme Court of Judicature and Court of Criminal Appeal of Northern Ireland as are not charged on the Consolidated Fund; the salaries and expenses of Pensions Appeals in Northern Ireland and certain other expenses - - - - -	15,000	4,000
CLASS IV		
2. For the construction, maintenance and operation of civil aerodromes, for civil air navigational services, for loans and services connected with shipping, for contributions, &c., to certain international organisations, grants in aid, certain repayments, &c., of selective employment tax, and for sundry other services - - - - -	2,850,000	*—367,000

* Deficit.

Civil
Departments
(Supple-
mentary),
1971-72.

SCHEDULE (B).—PART 3—*continued*

	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS IV—continued</i>		
<i>Vote</i>		
3. For the expenditure of the Department of Trade and Industry on export promotion, including loans, subscriptions to certain international organisations and grants in aid - - - - -	1,000	—
4. For the expenditure of the Department of Trade and Industry on the development of tourism and certain other services, including loans and grants in aid - -	1,000	—
5. For the expenditure of the Department of Trade and Industry on technological, industrial, trading and other services; including certain repayments, &c., of selective employment tax, loans, grants and guarantees, subscriptions to international organisations and grants in aid	108,740,000	269,000
5A. For the expenditure of the Department of Trade and Industry on research and development; on development and production (otherwise than by way of supply) of civil aircraft and associated equipment; on contributions to international organisations, loans, acquisition of shares, the purchase of certain assets and part of the undertaking of a company, and sundry other items - -	49,200,000	*—1,700,000
8. For payments towards meeting the expenses of the United Kingdom Atomic Energy Authority, for subscriptions, &c., to international projects and organisations, for the administration of a national stockpile of uranium ore, for grants in aid, for guarantees, and for expenses arising from industrial reorganisation including the purchase of shares, and for loans to the Atomic Energy Authority Trading Fund - - - -	3,399,000	1,687,000

* Deficit.

SCHEDULE (B).—PART 3—*continued*

Civil
Departments
(Supple-
mentary),
1971-72.

Vote	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS IV—continued</i>		
9. For the salaries and expenses of the Department of Her Majesty's Secretary of State for Employment, grants and loans for employment, training and rehabilitation services and for the promotion of industrial safety and efficiency; salaries and expenses of the National Board for Prices and Incomes, the Commission on Industrial Relations, the Office of Manpower Economics and certain other Tribunals and Committees; a subscription to the International Labour Organisation; sundry other services and grants in aid - - -	7,396,000	4,667,000
10. For payments by the Department of Employment to certain employers who have paid selective employment tax -	50,000,000	—
11. For the salaries and expenses of the Export Credits Guarantee Department, including a subscription to an international organisation, and for payments under guarantees given after consultation with the Export Guarantees Advisory Council	2,000	20,792,000
13. For the salaries and expenses of the Ministry of Posts and Telecommunications; for grants to, and grants in aid of, the British Broadcasting Corporation; for certain payments to the Post Office; for subscriptions to international organisations; and for sundry other services	1,569,000	175,010
14. For the salaries and expenses of the Ministry of Defence (Aviation Supply), the Ministry of Aviation Supply and certain staff and expenses of the Ministry of Defence, for the administration and provision of supply services (including research, development and quality assurance); in connection with the development and production (otherwise than by way of supply) of aircraft and associated equipment; and on a contribution to an international organisation, grants in aid, and sundry other items - - -	23,500,000	48,935,000
18. For expenditure by Her Majesty's Treasury on taking up shares in the British Petroleum Company Ltd. - - -	29,892,000	—

Civil
Departments
(Supple-
mentary),
1971-72.

SCHEDULE (B).—PART 3—*continued*

	Supply Grants	Appropriations in Aid
	£	£
CLASS V		
Vote		
1. For the salaries and expenses of the Ministry of Agriculture, Fisheries and Food; of the Royal Botanic Gardens, Kew; of the White Fish Authority and Scottish Committee; of the Plant Variety Rights Office; and of the Meat and Livestock Commission - - -	2,717,000	*—441,000
2. For the salaries and expenses of the Department of Agriculture and Fisheries for Scotland; for expenditure in connection with sundry agricultural, horticultural and food services including grants, loans and grants in aid; and for refunds of selective employment tax to agricultural, horticultural and forestry employers - - -	1,315,000	347,000
3. For expenditure by the Ministry of Agriculture, Fisheries and Food on grants and subsidies for the encouragement of food production and the improvement of agriculture and for sundry other services - - -	17,394,000	—
4. For expenditure by the Department of Agriculture and Fisheries for Scotland on grants and subsidies for the encouragement of food production and the improvement of agriculture and for sundry other services - - -	3,645,000	—
5. For expenditure by the Ministry of Agriculture, Fisheries and Food in implementation of agricultural price guarantees and for sundry other services	22,000,000	—
6. For expenditure by the Department of Agriculture and Fisheries for Scotland in implementation of agricultural price guarantees - - -	2,900,000	—

* Deficit.

SCHEDULE (B).—PART 3—continued

Civil
Departments
(Supple-
mentary),
1971-72.

	Supply Grants	Appropriations in Aid
	£	£
CLASS V—continued		
Vote		
7. For expenditure by the Ministry of Agriculture, Fisheries and Food in connection with land drainage and flood protection, rural development and sundry agricultural and food services including grants, loans, grants in aid, certain subscriptions to international organisations and for refunds of Selective Employment Tax to agricultural, horticultural and forestry employers -	50,000	791,000
9. For grants, loans and expenses in connection with assistance to fishermen; grants and loans to the White Fish Authority; expenditure on research and development relating to fisheries and fish marketing and on the construction, improvement and maintenance of harbours and fishing facilities; subscriptions to certain international organisations and a grant in aid of the White Fish Marketing Fund - -	1,000	—
11. For grants in aid of the Forestry Fund -	100,000	—
CLASS VI		
1. For the salaries and expenses of the Department of the Environment, and certain Tribunals, Commissions, Committees, &c., and for expenditure on the collection of motor vehicle duties, &c., and the registration of motor vehicles in Great Britain - - - -	10,700,000	465,000
2. For the salaries and expenses of the office of the Secretary of State for Scotland; and information services - - -	248,000	—
3. For the salaries and expenses of the Scottish Development Department and certain tribunals, &c.; for grants and payments, including loans, in connection with environmental services, selective employment refunds and rate rebates, assistance to the hotel industry, storm damage relief and sundry other services, including a grant in aid to the Highlands and Islands Development Board and other grants in aid - - - -	2,879,000	*—10,500

* Deficit.

Civil
Departments
(Supple-
mentary),
1971-72.

SCHEDULE (B).—PART 3—*continued*

	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS VI—continued</i>		
Vote		
4. For the salaries and expenses of the office of the Secretary of State for Wales and certain tribunals, commissions, &c.; grants and expenses in connection with health services, environmental services and civil defence; grants and loans in connection with primary and secondary education; tax and rating payments including selective employment refunds; assistance to the hotel industry, and sundry other services including loans and grants in aid - - - - -	529,000	—
5. For expenditure on public building and accommodation services, &c., for civil purposes in the United Kingdom and sundry other services; on ancient monuments; on extra mural research and development; certain grants in aid; and on assistance to the Zoological Society of London - - - - -	4,501,000	1,049,000
6. For expenditure on public building and accommodation services, &c., for civil purposes overseas - - - - -	400,000	—
10. For grants and other payments relating to the provision, improvement, repair and purchase of housing accommodation, the improvement of the environment of residential areas and the Rent Officer Service in Wales - - - - -	1,129,000	*—42,000
11. For services connected with transport industries, including grants and a grant in aid to nationalised industries; other transport services connected with ports and a Channel Tunnel, including grants, loans and subscriptions to certain international organisations; repayments, &c., of Selective Employment Tax to nationalised industries and sundry other services - - - - -	6,146,000	—
12. For services connected with inland transport, including grants for the assistance of public transport; subscriptions to certain international organisations; and sundry other services - - - - -	1,200,000	—

* Deficit.

SCHEDULE (B).—PART 3—continued

Civil
Departments
(Supple-
mentary),
1971-72.

	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS VI—continued</i>		
<i>Vote</i>		
13. For expenditure, including grants and loans to highway, &c., authorities on the construction, improvement and maintenance of roads, &c., in England and sundry services connected therewith; for expenditure on the purchase of land for lorry areas; and for sundry other services - - - - -	9,685,000	9,000
14. For expenditure, including grants to highway, &c., authorities, on the construction, improvement and maintenance of roads, &c., in Scotland and sundry services connected therewith; for expenditure on grants for the assistance of public passenger transport; and on other transport services connected with inland waterways, the Highlands and Islands and harbours, including grants and loans - - - - -	1,000	—
15. For expenditure, including grants to highway, &c., authorities on the construction, improvement and maintenance of roads, &c., in Wales and sundry services connected therewith; for expenditure on grants for the assistance of public passenger transport; and for sundry other transport services - - - - -	5,605,000	5,000
16. For grants and payments in connection with environmental services, civil defence and research; tax, rating, compensation, &c., payments including refunds of Selective Employment Tax; sundry other services including loans; a subscription to an international organisation and grants in aid - - - - -	3,658,000	—
17. For rate support grants and rate deficiency grants to local authorities in England and Wales - - - - -	140,330,000	—
18. For rate support grants and equalisation grants to local authorities in Scotland -	12,384,000	—
19. For expenditure by the Department of the Environment on research - - - - -	385,000	*—215,000

* Deficit.

Civil
Departments
(Supple-
mentary),
1971-72.

SCHEDULE (B).—PART 3—*continued*

	Supply Grants	Appropriations in Aid
	£	£
CLASS VII		
Vote		
1. For the salaries and expenses of Her Majesty's Secretary of State for Social Services and the Department of Health and Social Security, including appellate, advisory and sundry other services, for certain selective employment refunds and a subscription to an international organisation - - - - -	13,282,000	6,008,000
2. For the provision of hospital services, &c., under the National Health Service, &c., in England; and other services - -	52,234,000	*—1,304,000
3. For the provision of Executive Councils' services, &c., under the National Health Service in England - - - - -	36,001,000	*—258,000
4. For the provision in England of certain miscellaneous services under the National Health Service, &c.; for certain welfare and child care services including some child care services in Wales; for a subscription to the World Health Organisation and for certain grants in aid; and for sundry services -	5,251,000	134,000
5. For the provision of services under the National Health Service in Scotland and other health and welfare services including a grant in aid - - - - -	14,029,000	*—90,000
6. For the provision of services under the National Health Service in Wales, other health and welfare services and certain grants for child care - - - - -	7,913,000	36,000
7. For expenditure by the Department of Health and Social Security on pensions, allowances, gratuities, &c., payable under section 6(6) of the National Health Service Act 1946, or under Regulations made under section 67 of that Act; and certain payments to the National Insurance Fund - - - - -	1,000	3,387,000

* Deficit.

SCHEDULE (B).—PART 3—continued

Civil
Departments
(Supple-
mentary),
1971-72.

Vote	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS VII—continued</i>		
8. For expenditure by the Scottish Home and Health Department on pensions, allowances and gratuities, &c., payable under section 6(8) of the National Health Service (Scotland) Act 1947 or under Regulations made under section 66 of that Act; and certain payments to the National Insurance Fund - - -	1,000	319,000
11. For supplementary pensions and allowances, &c., old persons' retirement pensions, &c., family income supplements and attendance allowance - - -	41,000,000	3,000,000
12. For payments in respect of pensions, gratuities and allowances for disablement or death arising out of war, or service in the Armed Forces after 2 September 1939, and for sundry other services - - - - -	500,000	—
13. For grants and expenses in Scotland in connection with social work services, for certain expenditure on the probation service, and for grants in aid - - -	1,000	—
<i>CLASS VIII</i>		
1. For the salaries and expenses of the Department of Her Majesty's Secretary of State for Education and Science; for grants and loans in connection with education, &c.; for sundry services, certain grants in aid and a subscription to an international organisation - - -	7,611,000	11,000
2. For the salaries and expenses of the Scottish Education Department; for grants in connection with education, &c.; for sundry services and for grants in aid - - - - -	2,941,000	7,000
3. For expenditure by the Department of Her Majesty's Secretary of State for Education and Science on superannuation allowances and gratuities, &c., in respect of teachers - - - - -	1,000	10,710,000

X 3

Civil
Departments
(Supple-
mentary),
1971-72.

SCHEDULE (B).—PART 3—*continued*

	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS VIII—continued</i>		
Vote		
4. For expenditure by the Scottish Education Department on superannuation allowances and gratuities, &c., in respect of teachers - - - - -	1,000	884,000
5. For the salaries and expenses of the University Grants Committee, for grants in aid and grants towards the expenses of, and for loans to, universities, colleges, the British Academy, &c., and for other services - - - - -	10,699,000	15,000
6. For a grant in aid of the Social Science Research Council - - - - -	101,000	—
7. For grants in aid of the Science Research Council including subscriptions to certain international organisations -	3,387,000	—
8. For grants in aid of the Natural Environment Research Council including a subscription to an international organisation - - - - -	511,000	—
9. For grants in aid of the Medical Research Council including a subscription to an international organisation - - -	454,000	—
10. For a grant in aid of the Agricultural Research Council - - - - -	1,260,000	—
11. For the salaries and expenses of the British Museum (Natural History), including a purchase grant in aid - - - - -	145,000	3,000
12. For grants in aid of certain institutions and bodies; for other grants and services and subscriptions to international organisations - - - - -	1,000	—
<i>CLASS IX</i>		
1. For the salaries and expenses of the British Museum, including a purchase grant in aid - - - - -	291,000	—
2. For the salaries and expenses of the Science Museum, including a purchase grant in aid - - - - -	76,000	—

SCHEDULE (B).—PART 3—*continued*

Civil
Departments
(Supple-
mentary),
1971-72.

	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS IX—continued</i>		
Vote		
3. For the salaries and expenses of the Victoria and Albert Museum, including purchase grants in aid - - -	138,000	—
4. For the salaries and expenses of the Imperial War Museum, including a purchase grant in aid - - -	32,000	—
5. For the salaries and expenses of the London Museum, including a purchase grant in aid - - - - -	14,000	600
6. For the salaries and expenses of the National Gallery, including a purchase grant in aid - - - - -	38,000	1,000
7. For the salaries and expenses of the National Maritime Museum, including a purchase grant in aid - - -	32,000	1,000
8. For the salaries and expenses of the National Portrait Gallery, including purchase grants in aid - - -	51,000	16,000
9. For the salaries and expenses of the Tate Gallery, including a grant in aid - -	67,000	*—1,000
10. For the salaries and expenses of the Wallace Collection - - - - -	16,000	—
11. For the salaries and expenses of the Royal Scottish Museum, including purchase grants in aid, a grant to the Scottish Council for Museums and Galleries and a grant in aid of the Royal Scottish Geographical Society - - - -	33,000	—
12. For the salaries and expenses of the National Gallery of Scotland, the Scottish National Gallery of Modern Art and the Scottish National Portrait Gallery, including purchase grants in aid - - - - -	38,000	1,100
13. For the salaries and expenses of the National Library of Scotland, including a purchase grant in aid - - -	25,000	—

* Deficit

X 4

SCHEDULE (B).—PART 3—*continued*

Civil
Departments
(Supple-
mentary),
1971-72.

	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS IX—continued</i>		
Vote		
14. For the salaries and expenses of the National Museum of Antiquities of Scotland, including a purchase grant in aid - - - - -	6,000	*—300
15. For grants in aid of the National Library of Wales and the National Museum of Wales and a grant to the Council of Museums in Wales - - - - -	130,000	—
16. For grants to, and grants in aid of, certain institutions and bodies connected with the arts and with crafts; and for expenditure on research projects and surveys - - - - -	1,000	—
<i>CLASS X</i>		
1. For the salaries and expenses of the Charity Commission for England and Wales - - - - -	82,000	—
2. For the salaries and expenses of the Crown Estate Office - - - - -	30,000	—
3. For the salaries and expenses of the Registry of Friendly Societies - - -	1,000	13,000
4. For salaries and expenses of the Royal Mint in the production of coins, medals, badges, seals, &c.; for the withdrawal of coin and in connection with the introduction of a decimal coinage - - -	31,107,000	*—18,083,000
5. For the salaries and expenses of the National Debt Office and Pensions Commutation Board - - - - -	1,000	10,000
6. For the salaries and expenses of the establishment under the Public Works Loan Commission and the expenses of the Commission - - - - -	1,000	8,000
7. For the expenses of the Office of the Public Trustee - - - - -	1,000	54,000
8. For the salaries and expenses of the Land Registry - - - - -	1,000	984,000

* Deficit.

SCHEDULE (B).—PART 3—*continued*

Civil
Departments
(Supple-
mentary),
1971-72.

	Supply Grants	Appropriations in Aid
	£	£
<i>CLASS X—continued</i>		
Vote		
9. For the salaries and expenses of the Office of the Registrar of Restrictive Trading Agreements - - - - -	13,000	—
10. For the survey of Great Britain and other mapping services- - - - -	471,000	67,000
11. For the salaries and expenses of the Public Record Office - - - - -	52,000	*—5,000
12. For the salaries and expenses of the Scottish Record Office; and a grant in aid - - - - -	13,000	6,000
13. For the salaries and expenses of the Office of Population Censuses and Surveys, including a grant in aid - - - - -	74,000	133,000
15. For the salaries and general administrative expenses of the Department of the Registers of Scotland - - - - -	70,000	47,000
17. For the salaries and expenses of the Department for National Savings - - - - -	1,792,000	3,994,000
19. For the salaries and expenses of the Stationery Office; for stationery, printing, books, computers, office equipment, &c.; for official publications, and for sundry services - - - - -	5,977,000	1,367,000
21. For the salaries and expenses of the Department of the Government Actuary	22,000	5,000
23. For civil superannuation and other pensions and non-recurrent payments; and for certain other expenditure in connection therewith - - - - -	10,440,000	1,250,000

* Deficit.

SCHEDULE (B).—PART 3—continued

Civil
Departments
(Supple-
mentary),
1971-72.

	Supply Grants	Appropriations in Aid
	£	£
CLASS XI		
Vote		
1. For the salaries and expenses of the Carlisle State Management District -	1,000	373,000
4. For pensions, &c., and compensation allowances awarded to retired and disbanded members of the Royal Irish Constabulary, and to their widows, including annuities to the National Debt Commissioners in respect of commutation of compensation allowances - -	87,000	—
7. For Her Majesty's foreign and other secret services - - - -	1,000,000	—
8. For certain miscellaneous expenses, and grants in aid - - - -	36,000	—
8A. For additional payments to certain Votes arising out of a decision to authorise an increase in pay to certain non-industrial civil servants - - - -	10,221,000	—
TOTAL, CIVIL DEPARTMENTS (SUPPLEMENTARY), 1971-72 - - - -£	893,033,000	92,266,410

SCHEDULE (B).—PART 4

DEFENCE (SUPPLEMENTARY), 1971-72

Defence
(Supple-
mentary),
1971-72.

SCHEDULE OF SUPPLEMENTARY SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges for the Defence Services herein particularly mentioned for the year ended 31st March 1972, viz.:—

	Supply Grants	Appropriations in Aid
	£	£
CLASS XII		
Vote		
1. For the pay, allowances, &c., of the Royal Navy, the Royal Marines, the Royal Naval Reserve, the Royal Fleet Reserve and Cadet Forces, &c. - - -	8,400,000	*—240,000
2. For the pay, allowances, &c., of the Army, the Regular Reserve, the Territorial and Army Volunteer Reserve, the Ulster Defence Regiment and Cadet Forces -	23,500,000	9,950,000
3. For the pay, allowances, &c., of the Royal Air Force, Royal Air Force Reserves, Royal Auxiliary Air Force and Cadet Forces - - - - -	18,200,000	500,000
4. For retired pay, pensions, &c., and related non-recurrent payments made by the Ministry of Defence and for the Royal Hospital, Chelsea - - - -	8,800,000	—
5. For movements; certain stores; supplies and services; lands and buildings; sundry grants; payments abroad including contributions and subscriptions to international organisations and certain grants in aid - - - -	29,500,000	4,575,000
6. For the pay, &c., of Defence Ministers and of civilian staff employed by the Ministry of Defence - - - -	45,600,000	600,000
7. For ships; aircraft; vehicles; weapons; ammunition, missiles, &c.; electrical and electronic equipment; other equipment, materials and stores; plant, machinery; research and development; purchases of defence equipment for sale abroad and associated expenses including loans and a grant - - - - -	83,300,000	*—5,000,000
8. For operating the Royal Ordnance Factories - - - - -	5,500,000	*—2,000,000
TOTAL, DEFENCE (SUPPLEMENTARY), 1971-72 - - - - -£	222,800,000	8,385,000

* Deficit

Civil,
Class I,
1972-73.

SCHEDULE (B).—PART 5

CIVIL.—CLASS I

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz.:—

Vote	Supply Grants	Appropriations in Aid
	£	£
1. For the salaries and expenses of the House of Lords - - - - -	829,000	11,000
2. For the salaries and expenses of the House of Commons, including certain grants in aid - - - - -	6,542,000	14,000
3. For the salaries and expenses of the Department of Her Majesty's Treasury and subordinate departments and the National Economic Development Council - - - - -	9,012,000	299,000
4. For the salaries and expenses of the Civil Service Department, of the Civil Service College, of the Office of the Parliamentary Counsel, and sundry other services including a subscription to an international organisation and grants in aid (Revised sum) - - - - -	9,820,000	432,000
5. For the salaries and expenses of the Cabinet Office, and the Chancellor of the Duchy of Lancaster; and a subscription to an international organisation - - - - -	2,005,000	21,000
6. For the salaries and expenses of the Department of Her Majesty's Most Honourable Privy Council - - - - -	105,000	3,000
7. For the salaries and expenses of the Customs and Excise Department; expenses of Value Added Tax Tribunals; and a subscription to an international organisation (including a supplementary sum of £195,000) - - - - -	53,285,000	2,775,000
8. For the salaries and expenses of the Inland Revenue Department - - - - -	148,387,000	5,334,000

SCHEDULE (B).—PART 5—*continued*

Civil,
Class I,
1972-73.

	Supply Grants	Appropriations in Aid
Vote	£	£
9. For transitional relief under the Finance Act 1965 for companies with an overseas source of trading income (including a supplementary sum of £12,000,000)	27,000,000	—
10. For the salaries and expenses of the Department of the Comptroller and Auditor General - - - -	1,536,000	290,000
11. For the salaries and expenses of Royal Commissions, committees, special enquiries, &c., and for a grant in aid -	759,000	—
12. For the salaries and expenses of the Office of the Parliamentary Commissioner for Administration - - - -	167,000	—
13. For the salaries and expenses of the Central Computer Agency; for computers, associated equipment and software; research and development; and for sundry other services - - - -	24,927,000	9,936,000
TOTAL, CIVIL, CLASS I - - - - -£	284,374,000	19,115,000

Civil,
Class II,
1972-73.

SCHEDULE (B).—PART 6

CIVIL.—CLASS II

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz.:—

Vote	Supply Grants	Appropriations in Aid
	£	£
1. For the salaries and expenses of the office of Her Majesty's Secretary of State for Foreign and Commonwealth Affairs; Her Majesty's Diplomatic Service; and sundry other services connected therewith - - - - -	56,361,000	11,623,000
2. For expenditure by the Foreign and Commonwealth Office on sundry grants and services, including subscriptions, &c., to certain international organisations and certain grants in aid (including a supplementary sum of £358,000) - -	23,282,000	467,000
3. For a grant in aid of the British Council (including a supplementary sum of £1,090,000) - - - - -	10,358,000	—
4. For the salaries and expenses of the Foreign and Commonwealth Office (Overseas Development Administration), including refund of selective employment tax to the Commonwealth Development Corporation - - -	4,556,000	411,000
5. For expenditure by the Foreign and Commonwealth Office (Overseas Development Administration) on loans and grants and services connected with overseas aid, including loans made to the Commonwealth Development Corporation under the Overseas Resources Development Acts 1959 to 1969; for subscriptions to certain international organisations and for certain grants in aid (including a supplementary sum of £27,059,000) - - - - -	238,780,000	

SCHEDULE (B).—PART 6—*continued*

Civil,
Class II,
1972-73.

Vote	Supply Grants	Appropriations in Aid
	£	£
6. For expenditure by the Foreign and Commonwealth Office (Overseas Development Administration) on sundry services connected with overseas aid including certain grants in aid - - - -	38,962,000	302,000
7. For a grant in aid of the Commonwealth War Graves Commission and certain other expenses - - - -	2,055,000	—
TOTAL, CIVIL, CLASS II - - - -£	374,354,000	13,145,000

Civil,
Class III,
1972-73.

SCHEDULE (B).—PART 7

CIVIL.—CLASS III

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz.:—

Vote	Supply Grants	Appropriations in Aid
	£	£
1. For the salaries and expenses of the office of Her Majesty's Secretary of State for the Home Department; expenses and grants in connection with certain law, fire, community and sundry other services; and certain grants in aid (Revised sum) - - - - -	64,752,000	8,141,000
2. For the expenses of the Scottish Home and Health Department; for a grant to the Legal Aid (Scotland) Fund; for expenses in connection with fire and sundry other services; and for a grant in aid - - - - -	3,420,000	82,000
3. For grants and expenses in connection with civil defence and certain remanet expenditure - - - - -	4,664,000	593,000
4. For grants and expenses in connection with civil defence in Scotland and certain remanet expenditure - - - - -	637,000	51,010
5. For grants in respect of expenditure incurred by police authorities in England and Wales, expenses in connection with the police services and a subscription to an international organisation - - -	204,602,000	3,954,000
6. For grants in respect of expenditure incurred by police authorities in Scotland, and expenses in connection with the police services - - - - -	19,410,000	61,000
7. For the salaries and expenses of prison service establishments in England and Wales - - - - -	71,054,000	5,885,000
8. For the salaries and expenses of prison service establishments in Scotland -	8,361,000	628,000

SCHEDULE (B).—PART 7—continued

Civil,
Class III,
1972-73.

Vote	Supply Grants	Appropriations in Aid
	£	£
9. For such of the salaries and expenses of the Supreme Court of Judicature, County Courts, Law Commission, and Courts-Martial Appeal Court as are not charged on the Consolidated Fund; the salaries and expenses of the Lord Chancellor's Office, the Judge Advocate General and Judge Advocate of the Fleet, Pensions Appeal Tribunals, the Lands Tribunal, Council on Tribunals, the Restrictive Practices Court and National Industrial Relations Court, a contribution to the International Association of Youth Magistrates, and certain other expenses (including a supplementary sum of £2,175,000) -	10,913,000	13,747,000
10. For a grant to the Legal Aid Fund -	19,147,000	—
11. For the salaries and expenses of the Law Officers' Department, the Department of Her Majesty's Procurator-General and Solicitor for the Affairs of Her Majesty's Treasury and the Department of the Director of Public Prosecutions; for the costs of prosecutions and other legal proceedings and of Parliamentary Agency - - - - -	2,578,000	132,000
12. For the salaries and expenses of the Lord Advocate's Department, of the Courts of Law and Justice, of the Scottish Law Commission, and of the Courts, Tribunals, &c.; and for sundry services, and a grant in aid - - - - -	1,472,000	1,200,000
13. For such of the salaries and expenses of the Supreme Court of Judicature and Court of Criminal Appeal of Northern Ireland as are not charged on the Consolidated Fund; the salaries and expenses of Pensions Appeals in Northern Ireland and certain other expenses -	168,000	78,000
14. For the salaries and expenses of the office of Her Majesty's Secretary of State for the Northern Ireland Department and of the Northern Ireland Commission; for a grant in aid, and sundry other services - - - - -	703,000	—
TOTAL, CIVIL, CLASS III - - - - -	411,881,000	34,552,010

Civil,
Class IV,
1972-73.

SCHEDULE (B).—PART 8

CIVIL.—CLASS IV

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz.:—

	Supply Grants	Appropriations in Aid
	£	£
Vote		
1. For the salaries and expenses of the office of the Committee of Privy Council for Trade, the Headquarters of the Department of Trade and Industry, the Patent Office, the Monopolies Commission and for other services including subscriptions to international organisations, grants in aid and payments to the Foreign Compensation Commission (Revised sum) -	26,767,000	10,943,000
2. For the construction, maintenance and operation of civil aerodromes, for civil air navigational services, for public investment, for contributions, &c., to certain international organisations, grants in aid, certain repayments, &c., of selective employment tax, and for sundry other services (Revised sum) -	56,298,000	19,599,000
2A. For services connected with shipping, for a contribution to an international organisation, and for sundry other services (Revised sum) - - - -	2,741,000	2,641,000
3. For the expenditure of the Department of Trade and Industry on export promotion, including subscriptions to certain international organisations and grants in aid (including a supplementary sum of £22,000) - - - - -	8,890,000	408,000
4. For the expenditure of the Department of Trade and Industry on the development of industrial and technological services and on other services; including investments, loans, grants and guarantees, subscriptions to international organisations and grants in aid (Revised sum)	289,450,000	2,000,000

SCHEDULE (B).—PART 8—continued

Civil,
Class IV,
1972-73.

Vote	Supply Grants	Appropriations in Aid
	£	£
5. For the expenditure of the Department of Trade and Industry on research and development and the determination of standards, including salaries and expenses of the Industrial Research Establishments, contracts with industry, &c.; sundry other services; subscriptions to international organisations and grants in aid (Revised sum) - - - -	20,950,000	2,100,000
6. For the expenditure of the Department of Trade and Industry on research and development; on development and production (otherwise than by way of supply) of civil aircraft and associated equipment; on contributions to international organisations, loans, the purchase of certain assets and part of the undertaking of a company, and sundry other items (including a supplementary sum of £1,000) - - - -	152,101,000	6,490,000
7. For the expenditure of the Department of Trade and Industry in connection with the nationalised fuel and steel industries, including certain repayments, &c., of selective employment tax; expenditure on the operation and maintenance of Government-owned oil installations, certain revenue payments and a grant in aid (Revised sum) - - - -	73,560,000	2,900,000
8. For the expenditure of the Department of Trade and Industry on grants for assisting investment in new business assets -	390,000,000	—
9. For payments towards meeting the expenses of the United Kingdom Atomic Energy Authority, for subscriptions, &c., to international projects and organisations, for the administration of a national stockpile of uranium ore, for grants in aid, for guarantees, and for expenses arising from industrial re-organisation, including the purchase of shares - - - -	47,661,000	42,957,000
10. For the salaries and expenses of the Department of Her Majesty's Secretary of State for Employment, including an employment medical advisory service; salaries and expenses of the Office of Manpower Economics, the Commission		

Civil,
Class IV,
1972-73.

SCHEDULE (B).—PART 8—*continued*

Vote	Supply Grants	Appropriations in Aid
	£	£
on Industrial Relations and certain other Tribunals and Committees; grants and loans for employment, training, rehabilitation, the seriously disabled, and for the promotion of industrial efficiency; a subscription to the International Labour Organisation; sundry other services and grants in aid (including a supplementary sum of £14,000,000)	120,815,000	24,153,000
11. For payments by the Department of Employment to certain employers who have paid selective employment tax -	575,000,000	20,000
12. For the salaries and expenses of the Export Credits Guarantee Department, including a subscription to an international organisation, and for payments under guarantees given after consultation with the Export Guarantees Advisory Council (including a supplementary sum of £4,768,000) - - - -	4,769,000	35,185,000
13. For payments under Special Guarantees given or arising from other arrangements made by the Secretary of State for Trade and Industry in the national interest; for refinancing arrangements made for facilitating trade with other countries; for the purchase of securities and for grants (Revised sum) - -	295,778,000	15,266,000
14. For salaries and expenses of and payments made by the Export Credits Guarantee Department in connection with the insurance of overseas investment - -	1,000	102,000
15. For the salaries and expenses of the Ministry of Posts and Telecommunications; for grants to, and grants in aid of, the British Broadcasting Corporation; for certain payments to the Post Office; for subscriptions to international organisations; and for sundry other services - - - - -	216,314,000	1,712,000
16. For expenditure by Her Majesty's Treasury on taking up shares in the British Petroleum Company Limited - -	29,892,000	—
TOTAL, CIVIL, CLASS IV -	£2,310,987,000	166,476,000

SCHEDULE (B).—PART 9

Civil,
Class V,
1972-73.

CIVIL.—CLASS V

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz.:—

Vote	Supply Grants	Appropriations in Aid
	£	£
1. For the salaries and expenses of the Ministry of Agriculture, Fisheries and Food; of the Royal Botanic Gardens, Kew; of the White Fish Authority and Scottish Committee; of the Plant Variety Rights Office; and of the Meat and Livestock Commission - - -	44,692,000	680,000
2. For expenditure by the Department of Agriculture and Fisheries for Scotland on the salaries and expenses of the Crofters Commission, the Red Deer Commission and the Royal Botanic Garden, Edinburgh; and sundry other agricultural, horticultural, food and harbour services including grants, loans and grants in aid; and for refunds of selective employment tax to agricultural, horticultural and forestry employers (including a supplementary sum of £40,000) - - - - -	14,359,000	1,518,000
3. For expenditure by the Ministry of Agriculture, Fisheries and Food on grants and subsidies for the encouragement of food production and the improvement of agriculture and for sundry other services -	144,531,000	—
4. For expenditure by the Department of Agriculture and Fisheries for Scotland on grants and subsidies for the encouragement of food production and the improvement of agriculture and for sundry other services - - - -	41,707,000	—
5. For expenditure by the Ministry of Agriculture, Fisheries and Food in implementation of agricultural price guarantees and for sundry other services	124,500,000	1,000
6. For expenditure by the Department of Agriculture and Fisheries for Scotland in implementation of agricultural price guarantees - - - - -	14,171,000	—

Civil,
Class V,
1972-73.

SCHEDULE (B).—PART 9—*continued*

Vote	Supply Grants	Appropriations in Aid
	£	£
7. For expenditure by the Ministry of Agriculture, Fisheries and Food in connection with land drainage and flood protection and sundry agricultural and food services including grants, loans, grants in aid, certain subscriptions to international organisations and for refunds of selective employment tax to agricultural, horticultural and forestry employers (including a supplementary sum of £25,456,000) - - - -	81,476,000	6,109,000
8. For expenditure by the Ministry of Agriculture, Fisheries and Food in connection with the procurement and maintenance of strategic reserves - -	1,970,000	620,000
9. For grants, loans and expenses in connection with assistance to fishermen; grants and loans to the White Fish Authority; expenditure on research and development relating to fisheries and fish marketing and on the construction, improvement and maintenance of harbours and fishing facilities; subscriptions to certain international organisations and a grant in aid of the White Fish Marketing Fund - -	9,212,000	27,000
10. In connection with Scottish fisheries and the United Kingdom herring industry for grants, loans and expenses in connection with assistance to fishermen, fishery protection, research and development relating to fisheries and fish marketing and the construction, improvement and maintenance of harbours and fishing facilities; and a grant in aid of the Herring Marketing Fund - - - -	3,828,000	20,000
11. For a grant in aid of the Forestry Fund -	15,600,000	—
TOTAL, CIVIL, CLASS V - - - -	£ 496,046,000	8,975,000

SCHEDULE (B).—PART 10

CIVIL.—CLASS VI

Civil,
Class VI,
1972-73.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz.:—

	Supply Grants	Appropriations in Aid
Vote	£	£
1. For the salaries and expenses of the Department of the Environment, and certain Tribunals, Commissions, Committees, &c., and for expenditure on the collection of motor vehicle duties, &c., and the registration of motor vehicles in Great Britain (Revised sum) - -	59,155,000	24,925,000
2. For the salaries and expenses of the office of the Secretary of State for Scotland; and other services, including a grant in aid - - - - -	15,573,000	330,000
3. For the expenses of the Scottish Development Department and the salaries and expenses of certain tribunals, &c.; for grants and payments, including loans, in connection with environmental services, selective employment refunds and rate rebates, assistance to the hotel industry, storm damage relief and sundry other services, including a grant in aid to the Highlands and Islands Development Board and other grants in aid -	28,808,000	39,620
4. For the salaries and expenses of the office of the Secretary of State for Wales and certain tribunals, commissions, &c.; grants and expenses in connection with health services, environmental services and civil defence; grants and loans in connection with primary and secondary education; tax and rating payments including selective employment refunds; assistance to the hotel industry, and sundry other services including loans and grants in aid - - - - -	16,994,000	411,000
5. For expenditure on public building and accommodation services, &c., for civil purposes in the United Kingdom and sundry other services; on ancient monuments; on extra-mural research and development; certain grants in aid; and on assistance to the Zoological Society of London (Revised sum) -	144,400,000	20,350,520

Civil,
Class VI,
1972-73.

SCHEDULE (B).—PART 10—*continued*

Vote	Supply Grants	Appropriations in Aid
	£	£
6. For expenditure on public building and accommodation services, &c., for civil purposes overseas - - - -	12,170,000	900,000
7. For expenditure, including loans, on public building and certain accommodation services, &c., for defence purposes	198,500,000	14,610,000
8. For grants and other payments in connection with the provision, improvement, repair, purchase and renting of housing accommodation, slum clearance, the improvement of the environment of residential areas, and the Rent Officer Service - - - -	338,682,000	40,000
9. For grants and other payments relating to the provision, improvement, repair, purchase and renting of housing accommodation, slum clearance and the improvement of the environment of residential areas in Scotland - -	61,379,000	77,000
10. For grants and other payments in connection with the provision, improvement, repair, purchase and renting of housing accommodation, slum clearance, the improvement of the environment of residential areas and the Rent Officer Service - - - -	16,464,000	40,000
11. For services connected with transport industries, including grants and a grant in aid to nationalised industries; other transport services connected with ports and a Channel Tunnel, including grants, loans and subscriptions to certain international organisations; repayments, &c., of selective employment tax to nationalised industries, and sundry other services - - - -	142,765,000	89,000
12. For services connected with inland transport, including grants for the assistance of public transport; subscriptions to certain international organisations; and sundry other services - - - -	58,887,000	10,000

SCHEDULE (B).—PART 10—*continued*

Civil,
Class VI,
1972-73.

Vote	Supply Grants	Appropriations in Aid
	£	£
13. For expenditure, including grants and loans to highway, &c., authorities on the construction, improvement and maintenance of roads, &c., in England and sundry services connected therewith; for expenditure on the purchase of land for lorry areas; and for sundry other services - - - - -	393,330,000	2,500,000
14. For expenditure, including grants to highway, &c., authorities, on the construction, improvement and maintenance of roads, &c., in Scotland and sundry services connected therewith; for expenditure on grants for the assistance of public passenger transport; and on other transport services connected with inland waterways, the Highlands and Islands and harbours, including grants and loans - - - - -	59,665,000	145,500
15. For expenditure, including grants to highway, &c., authorities, on the construction, improvement and maintenance of roads, &c., in Wales and sundry services connected therewith; for expenditure on grants for the assistance of public passenger transport; and for sundry other transport services - - -	35,442,000	40,000
16. For grants and payments in connection with environmental services, civil defence and surveys; tax, rating, compensation, &c., payments including refunds of selective employment tax; sundry other services including loans; a subscription to an international organisation and grants in aid (including a supplementary sum of £134,000) -	144,705,000	33,000
17. For expenditure by the Department of the Environment on research, a grant and for certain grants in aid (including a supplementary sum of £52,000) - -	10,401,000	1,200,000
18. For rate support grants to local authorities in England and Wales - - - -	2,335,367,000	—
19. For rate support grants and equalisation grants to local authorities in Scotland	283,718,000	—

Civil,
Class VI,
1972-73.

SCHEDULE (B).—PART 10—*continued*

	Supply Grants	Appropriations in Aid
	£	£
Vote		
20. For the salaries and expenses of the Property Services Agency - - -	33,635,000	13,225,000
21. For expenditure on public building and accommodation services, &c., in respect of Royal Palaces, Royal Parks and museums, &c., and sundry other services, on historic buildings and ancient monuments; certain grants in aid; and on assistance to the Zoological Society of London - - - -	11,265,000	1,478,500
TOTAL, CIVIL, CLASS VI - -	£4,401,305,000	80,444,140

SCHEDULE (B).—PART 11

Civil,
Class VII,
1972-73.

CIVIL.—CLASS VII

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz.:—

Vote	Supply Grants	Appropriations in Aid
	£	£
1. For the salaries and expenses of Her Majesty's Secretary of State for Social Services and the Department of Health and Social Security including appellate, advisory and sundry other services, for certain selective employment refunds and a subscription to an international organisation - - - - -	85,677,000	92,613,000
2. For the provision of hospital services, &c., under the National Health Service, &c., in England; and other services (including a supplementary sum of £35,000,000)	1,279,878,000	164,366,000
3. For the provision of Executive Councils' services, &c., under the National Health Service in England - - - - -	412,145,000	50,055,000
4. For the provision in England of certain miscellaneous services under the National Health Service, &c., for certain welfare and child care services including some child care services in Wales; for a subscription to the World Health Organisation and for certain grants in aid; and for sundry services - -	51,375,000	1,769,000
5. For the provision of services under the National Health Service in Scotland and other health and welfare services including a grant in aid - - - - -	240,849,000	21,613,000
6. For the provision of services under the National Health Service in Wales, other health and welfare services and certain grants for child care - - -	106,615,000	10,933,000
7. For expenditure by the Department of Health and Social Security on pensions, allowances, gratuities, &c., payable under section 6(6) of the National Health Service Act 1946, or under Regulations made under section 67 of that Act; and certain payments to the National Insurance Fund - - - - -	1,000	57,179,000

Civil,
Class VII,
1972-73.

SCHEDULE (B).—PART 11—*continued*

	Supply Grants	Appropriations in Aid
	£	£
Vote		
8. For expenditure by the Scottish Home and Health Department on pensions, allowances and gratuities, &c., payable under section 6(8) of the National Health Service (Scotland) Act 1947, or under Regulations made under section 66 of that Act; and certain payments to the National Insurance Fund - - -	1,000	6,633,000
9. For sums payable out of the Consolidated Fund to the National Insurance Fund and the Industrial Injuries Fund (including a supplementary sum of £67,600,000)	578,200,000	—
10. For payments in respect of family allowances - - - - -	343,950,000	50,000
11. For supplementary pensions and allowances, &c., old persons' retirement pensions, &c., family income supplements and attendance allowance (including a supplementary sum of £32,000,000)	673,000,000	46,000,000
12. For payments in respect of pensions, gratuities and allowances for disablement or death arising out of war, or service in the Armed Forces after 2 September 1939, and for sundry other services (including a supplementary sum of £7,500,000) - - - - -	150,243,000	20,000
13. For grants and expenses in Scotland in connection with social work services, and for grants in aid - - - - -	2,923,000	15,000
TOTAL, CIVIL, CLASS VII - - -	-£ 3,924,857,000	451,246,000

SCHEDULE (B).—PART 12

Civil,
Class VIII,
1972-73.

CIVIL.—CLASS VIII

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz.:—

Vote	Supply Grants	Appropriations in Aid
	£	£
1. For the salaries and expenses of the Department of Her Majesty's Secretary of State for Education and Science; for grants and loans in connection with education, &c.; for sundry services, certain grants in aid and a subscription to an international organisation - -	87,211,000	1,209,000
2. For expenses of the Scottish Education Department; for grants in connection with education, &c.; for sundry services and for grants in aid - - - -	48,924,000	31,000
3. For expenditure by the Department of Her Majesty's Secretary of State for Education and Science on superannuation allowances and gratuities, &c., in respect of teachers - - - -	1,000	107,918,000
4. For expenditure by the Scottish Home and Health Department on superannuation allowances and gratuities, &c., in respect of teachers - - - - -	2,417,000	15,033,000
5. For the salaries and expenses of the University Grants Committee, for grants in aid and grants towards the expenses of, and for loans to, universities, colleges, the British Academy, &c., and for other services - - - -	365,308,000	199,000
6. For a grant in aid of the Social Science Research Council including a subscription to an international organisation -	4,968,000	—
7. For grants in aid of the Science Research Council including subscriptions to certain international organisations -	62,351,000	—

Civil,
Class VIII,
1972-73.

SCHEDULE (B).—PART 12—*continued*

	Supply Grants	Appropriations in Aid
	£	£
Vote		
8. For grants in aid of the Natural Environment Research Council including a subscription to an international organisation - - - - -	18,092,000	—
9. For grants in aid of the Medical Research Council including subscriptions to certain international organisations -	25,100,000	—
10. For a grant in aid of the Agricultural Research Council - - - - -	21,104,000	—
11. For the salaries and expenses of the British Museum (Natural History), including a purchase grant in aid - - - -	1,483,000	144,000
12. For grants in aid of certain institutions and bodies, for other grants and services - - - - -	1,964,000	20,000
TOTAL, CIVIL, CLASS VIII -	£ 638,923,000	124,554,000

SCHEDULE (B).—PART 13

Civil,
Class IX,
1972-73.

CIVIL.—CLASS IX

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz.:—

Vote	Supply Grants	Appropriations in Aid
	£	£
1. For the salaries and expenses of the British Museum, including a purchase grant in aid - - - - -	4,043,000	449,000
2. For the salaries and expenses of the Science Museum, including a purchase grant in aid - - - - -	863,000	129,000
3. For the salaries and expenses of the Victoria and Albert Museum, including purchase grants in aid - - - - -	1,558,000	211,000
4. For the salaries and expenses of the Imperial War Museum, including a purchase grant in aid - - - - -	365,000	69,000
5. For the salaries and expenses of the London Museum, including a purchase grant in aid - - - - -	168,000	35,200
6. For the salaries and expenses of the National Gallery, including a purchase grant in aid - - - - -	724,000	179,000
7. For the salaries and expenses of the National Maritime Museum, including a purchase grant in aid - - - - -	405,000	90,000
8. For the salaries and expenses of the National Portrait Gallery, including purchase grants in aid - - - - -	179,000	87,000
9. For the salaries and expenses of the Tate Gallery, including a purchase grant in aid - - - - -	607,000	129,000
10. For the salaries and expenses of the Wallace Collection - - - - -	113,000	26,000

Civil,
Class IX,
1972-73.

SCHEDULE (B).—PART 13—*continued*

Vote	Supply Grants	Appropriations in Aid
	£	£
11. For the salaries and expenses of the Royal Scottish Museum, including purchase grants in aid, a grant to the Scottish Council for Museums and Galleries and a grant in aid of the Royal Scottish Geographical Society - - - -	399,000	30,000
12. For the salaries and expenses of the National Gallery of Scotland, the Scottish National Gallery of Modern Art and the Scottish National Portrait Gallery, including purchase grants in aid - - - - -	314,000	44,000
13. For the salaries and expenses of the National Library of Scotland, including a purchase grant in aid - - - -	348,000	5,500
14. For the salaries and expenses of the National Museum of Antiquities of Scotland, including a purchase grant in aid - - - - -	120,000	4,500
15. For grants in aid of the National Library of Wales and the National Museum of Wales and a grant to the Council of Museums in Wales - - - -	1,257,000	—
16. For grants to, and grants in aid of, certain institutions and bodies connected with the arts and with crafts: and for expenditure on research projects and surveys - - - - -	16,379,000	—
TOTAL, CIVIL, CLASS IX - - -	£ 27,842,000	1,488,200

SCHEDULE (B).—PART 14

CIVIL.—CLASS X

Civil,
Class X,
1972-73.

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz. :—

	Supply Grants	Appropriations in Aid
	£	£
Vote		
1. For the salaries and expenses of the Charity Commission for England and Wales - - - - -	708,000	200
2. For the salaries and expenses of the Crown Estate Office - - - - -	333,000	—
3. For the salaries and expenses of the Registry of Friendly Societies - -	221,000	28,000
4. For the salaries and expenses of the Royal Mint in the production of coins, medals, badges, dies, seals, &c.; for the withdrawal of coin; and in connection with the introduction of a decimal coinage	1,000	15,715,000
5. For the salaries and expenses of the National Debt Office and Pensions Commutation Board - - - - -	1,000	133,000
6. For the salaries and expenses of the establishment under the Public Works Loan Commission and the expenses of the Commission - - - - -	1,000	93,000
7. For the salaries and expenses of the office of the Public Trustee - - - - -	1,000	1,163,000
8. For the salaries and expenses of the Land Registry - - - - -	1,000	7,890,000
9. For the salaries and expenses of the Office of the Registrar of Restrictive Trading Agreements - - - - -	193,000	100
10. For the survey of Great Britain and other mapping services - - - - -	6,301,000	3,476,000
11. For the salaries and expenses of the Public Record Office - - - - -	460,000	130,000
12. For the salaries and expenses of the Scottish Record Office; and a grant in aid - - - - -	200,000	39,000
Part II		Y

Civil,
Class X,
1972-73.

SCHEDULE (B).—PART 14—continued

Vote	Supply Grants	Appropriations in Aid
	£	£
13. For the salaries and expenses of the Office of Population Censuses and Surveys, including a grant in aid - - -	4,515,000	1,251,500
14. For the salaries and expenses of the Department of the Registrar General of Births, Deaths and Marriages in Scotland - - - - -	896,000	124,000
15. For the salaries and expenses of the Department of the Registers of Scotland	30,000	573,000
16. For the salaries and expenses, including publicity, of the Department for National Savings - - - - -	19,808,000	26,905,000
17. For the salaries and expenses of the Rating of Government Property Department, and for rates and contributions in lieu of rates for property occupied by the Crown and premises occupied by representatives of Commonwealth and foreign countries and international organisations	57,250,000	3,300,000
18. For the salaries and expenses of the Stationery Office; for stationery, printing, books, office equipment, &c.; for official publications; and for sundry services (Revised sum) - - - -	47,058,000	21,113,010
19. For the salaries and expenses of the Central Office of Information - -	16,116,000	2,047,000
20. For the salaries and expenses of the Department of the Government Actuary	108,000	93,000
21. For a grant in aid of the Government Hospitality Fund - - - - -	230,000	—
22. For civil superannuation and other pensions and non-recurrent payments; and for certain other expenditure in connection therewith - - - -	109,970,000	5,045,000
23. For the salaries and expenses of the Registry of Trade Unions and Employers' Associations - - - - -	185,000	8,000
TOTAL, CIVIL, CLASS X - - - -£	264,587,000	89,126,810

SCHEDULE (B).—PART 15

Civil,
Class XI,
1972-73.

CIVIL.—CLASS XI

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Civil Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, viz. :—

Vote	Supply Grants	Appropriations in Aid
	£	£
1. For the salaries and expenses of the Carlisle State Management District -	1,000	1,937,000
2. For the salaries and expenses of the State Management Districts in Scotland -	1,000	260,000
3. For pensions, &c., in respect of service for or on behalf of overseas governments and in respect of certain other service overseas; for supplements to certain colonial and other overseas pensions; for certain payments to the Governments of India and Pakistan in connection with pensions; and for sundry services and expenses - -	32,542,000	220,000
4. For pensions, &c., and compensation allowances awarded to retired and disbanded members of the Royal Irish Constabulary, and to their widows, including annuities to the National Debt Commissioners in respect of commutation of compensation allowances - -	868,000	—
5. For charges in connection with land purchase in Northern Ireland, and the expenses of management of guaranteed stocks and bonds issued for the purpose of Irish land purchase - - - -	443,000	100
6. For Her Majesty's foreign and other secret services - - - - -	13,000,000	—
7. For certain miscellaneous expenses, and grants in aid - - - - -	494,000	5,800
TOTAL, CIVIL, CLASS XI - - - £	47,349,000	2,422,900

Defence,
Class XII,
1972-73.

SCHEDULE (B).—PART 16

DEFENCE.—CLASS XII

SCHEDULE OF SUMS granted, and of the sums which may be applied as appropriations in aid in addition thereto, to defray the charges of the several Defence Services herein particularly mentioned, which will come in course of payment during the year ending on 31st March 1973, including provision for numbers of personnel as set out hereunder, viz.:—

Vote	Supply Grants	Appropriations in Aid
	£	£
1. For the pay, allowances, &c., of the Royal Navy, the Royal Marines (including provision for Naval Service to a number not exceeding 85,000), the Royal Naval Reserve, the Royal Fleet Reserve and Cadet Forces, &c. - - - -	168,280,000	2,180,000
2. For the pay, allowances, &c., of the Army (including provision for Army Service to a number not exceeding 198,000), the Regular Reserve (to a number not exceeding 65,000), the Territorial and Army Volunteer Reserve (to a number not exceeding 90,500), the Ulster Defence Regiment (to a number not exceeding 10,000), and Cadet Forces -	342,330,000	19,170,000
3. For the pay, allowances, &c., of the Royal Air Force (including provision for Air Force Service to a number not exceeding 113,500), Royal Air Force Reserves (to a number not exceeding 13,590), Royal Auxiliary Air Force (to a number not exceeding 400), and Cadet Forces- -	237,774,000	2,785,000
4. For retired pay, pensions, &c., and related non-recurrent payments made by the Ministry of Defence and for the Royal Hospital, Chelsea - - - -	147,420,000	450,000
5. For movements; certain stores; plant and machinery; charter and contract repair of ships; supplies and services; certain research; lands and buildings; sundry grants; payments abroad including contributions and subscriptions to international organisations; and grants in aid - - - - -	275,190,000	111,220,000
6. For the pay, &c., of Defence Ministers and of certain civilian staff employed by the Ministry of Defence (Revised sum)	392,500,000	7,540,000

SCHEDULE (B).—PART 16—continued

Defence,
Class XII,
1972-73.

Vote	Supply Grants	Appropriations in Aid
	£	£
7. For operating the Headquarters and Establishments of the Procurement Executive, its other common services, and sundry other Procurement Executive services - - - - -	176,500,000	28,829,000
8 For operating the Royal Ordnance Factories - - - - -	8,000,000	68,000,000
9. For the design and development by contract, production, repair, &c. and purchases for sale abroad of ships, weapons systems, other equipment, stores, &c.; and for a loan and a grant	229,504,000	19,779,000
10. For the design and development by contract, production, repair, &c. and purchases for sale abroad of guns, ammunition, vehicles, engineering equipment, instruments, machinery and other stores - - - - -	133,000,000	62,800,000
11. For the design and development by contract, production, repair, &c. and purchases for sale abroad of aircraft, aero engines and aircraft equipment, &c.	330,540,000	96,919,000
12. For the design and development by contract, production, repair, &c. and purchases for sale abroad of guided weapons and of electronic and other equipment, &c. - - - - -	185,500,000	14,266,000
TOTAL, DEFENCE, CLASS XII -	£2,626,538,000	433,938,000



National Insurance Act 1972

1972 CHAPTER 57

An Act to amend the provisions of the National Insurance Act 1965, the National Insurance (Industrial Injuries) Act 1965 and the Industrial Injuries and Diseases (Old Cases) Act 1967 as to the rate or amount of benefit and contributions; to alter the conditions for payment of attendance allowance and unemployment supplement; to modify certain provisions as to the determination of claims and questions under those Acts, and to make other administrative and financial adjustments; to make parallel provision for Northern Ireland; and for purposes connected with those matters.

[9th August 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) In the National Insurance Act 1965, in Schedule 3, Weekly rates there shall be substituted the provisions set out in Schedule 1 to of benefits under National Insurance Act 1971.

(2) Unemployment or sickness benefit under section 19(2) of the National Insurance Act 1965 shall be payable—

(a) at the higher rate specified in Part I of Schedule 3 to that Act (as from time to time amended)—

(i) in the case of any person over the age of 18, other than a married woman; and

(ii) in the case of a person under the age of 18, other than a married woman, during any period during which that person is entitled to an increase

of benefit in respect of a child or adult dependant ;
and

(iii) in the case of a married woman during any period falling within subsection (3) below ;

(b) at the middle rate so specified—

(i) in the case of a married woman over the age of 18 during any period not falling within subsection (3) below ; and

(ii) in the case of a married woman under the age of 18 during any period not falling within that subsection during which she is entitled to an increase of benefit in respect of a child or adult dependant ;

(c) at the lower rate so specified in the case of any person under the age of 18 during any period during which the benefit is not payable at the higher rate or at the middle rate by virtue of paragraph (a)(ii) or (iii) or (b)(ii) above.

1965 c. 51. (3) The periods during which unemployment or sickness benefit under section 19(2) of the National Insurance Act 1965 is payable to a married woman at the higher rate are—

(a) any period during which she is entitled to an increase of benefit in respect of her husband ; and

(b) any period during which she is residing with her husband and he is entitled to an invalidity pension, to a retirement pension or to any unemployability supplement or allowance ; and

(c) any period during which she is not residing with her husband, nor is he contributing to her maintenance at a weekly rate not less than the difference between the higher rate and the middle rate of the benefit, and during which, if she is under the age of 18, she is entitled to an increase of benefit in respect of a child or adult dependant.

1965 c. 52. In this subsection “unemployability supplement or allowance” means an unemployability supplement payable under section 13 of the National Insurance (Industrial Injuries) Act 1965 and any corresponding allowance payable by virtue of section 7(3)(a) of the Industrial Injuries and Diseases (Old Cases) Act 1967, or payable by way of increase of any retired pay or pension exempt from income tax under section 365(1) of the Income and Corporation Taxes Act 1970, or payable under the Personal Injuries (Emergency Provisions) Act 1939.

1967 c. 34. (4) An invalidity allowance under section 3(5) of the National Insurance Act 1971 shall be payable—

1970 c. 10.
1939 c. 82.
1971 c. 50. (a) at the higher rate specified in Part I of Schedule 3 to the National Insurance Act 1965 (as from time to time amended) if on the qualifying date the beneficiary

was under the age of thirty-five, or if that date fell before 5th July 1948 ;

(b) at the middle rate so specified if paragraph (a) above does not apply and on the qualifying date the beneficiary was under the age of forty-five ;

(c) at the lower rate so specified if paragraphs (a) and (b) above do not apply, and on the qualifying date the beneficiary was a man under the age of sixty or a woman under the age of fifty-five ;

and in section 3(6) of the National Insurance Act 1971 (increase, 1971 c. 50. in certain cases, of retirement pension by reference to pensioner's previous entitlement to invalidity allowance) the reference to the weekly rate of the invalidity allowance to which the pensioner was entitled on the day there mentioned shall be taken, whether that day was or was not before the day this subsection comes into force, as a reference to the rate which is from time to time the higher, middle or lower rate of invalidity allowance according to the one then applicable in his case in accordance with the terms of paragraphs (a) to (c) above.

(5) In section 2(4) and in section 4(1) of the National Insurance Act 1966, in the words inserted by the amendments made by section 6 of the National Insurance Act 1971 (under which certain earnings-related benefits may include an amount equal to 15 per cent. of the amount, up to £12, by which the relevant earnings exceeded £30) for the words "£12" there shall be substituted, for cases where the tax year there referred to is later than the year 1972-73, the words "£18". 1966 c. 6.

2.—(1) Subject to the provisions of the National Insurance Act 1965, of the National Insurance Act 1970 and of this section, a person shall be entitled to an attendance allowance if he satisfies prescribed conditions as to residence or presence in Great Britain and either— 1965 c. 51. 1970 c. 51.

(a) he is so severely disabled physically or mentally that, by day, he requires from another person either—

(i) frequent attention throughout the day in connection with his bodily functions ; or

(ii) continual supervision throughout the day in order to avoid substantial danger to himself or others ; or

(b) he is so severely disabled physically or mentally that, at night, he requires from another person either—

(i) prolonged or repeated attention during the night in connection with his bodily functions ; or

(ii) continual supervision throughout the night in order to avoid substantial danger to himself or others.

(2) Subject to the following provisions of this section, the period for which attendance allowance is payable to any person shall be that specified in a certificate issued in respect of him by the Attendance Allowance Board as being—

- (a) a period throughout which he has satisfied or is likely to satisfy the condition mentioned in subsection (1)(a) above or that mentioned in subsection (1)(b), or both ; and
- (b) one immediately preceded by a period of not less than six months throughout which he satisfied or is likely to satisfy one or both of those conditions ;

1965 c. 51.

and the weekly rate of the attendance allowance payable to a person for any period shall be the higher rate specified in Part I of Schedule 3 to the National Insurance Act 1965 (as from time to time amended) if the certificate states both as regards that period and as regards the preceding six months that he has satisfied or is likely to satisfy both those conditions, and shall be the lower rate so specified if the certificate does not so state.

(3) An attendance allowance shall not be payable to a person for any period preceding the date on which he makes a claim for it ; but, except in so far as regulations otherwise provide,—

- (a) a claim for an attendance allowance may be made during the period of six months mentioned in subsection (2b) above, and an award may be made in pursuance of the claim subject to the condition that throughout that period the person to whom the claim relates satisfies the conditions there mentioned or, if the award is at the lower rate, one of those conditions ; and
- (b) an award so made may be reviewed if at any time it is found that during the period of the award or the interval between the making of the award and the beginning of that period the conditions so mentioned were at some time not both satisfied or, in the case of an award at the lower rate, were at some time not either of them satisfied.

1970 c. 51.

(4) Regulations may provide that subsections (1) to (3) of this section, and any provision of the National Insurance Act 1970 (as amended by this section) so far as the provision relates to any of those subsections, shall have effect in relation to any severely disabled person who is under the age of sixteen subject to such modifications as may be prescribed ; but nothing in this subsection authorises any increase in the rate of an attendance allowance.

(5) Regulations may provide that an attendance allowance shall not be payable in respect of a person for any period when he is a person for whom accommodation is provided in pursuance of Part III of the National Assistance Act 1948, section 12 of the Health Services and Public Health Act 1968 or Part IV of the Social Work (Scotland) Act 1968 or, in circumstances in which the cost is or may be borne wholly or partly out of public or local funds, in pursuance of any other enactment relating to persons under disability or young persons or to education or training.

1948 c. 29.
1968 c. 46.
1968 c. 49.

(6) In the National Insurance Act 1970, the references in section 5(1)(a) and (b) to that Act shall include this Act and any other enactment relating to national insurance, the reference in section 6(2) to paragraph (a) or paragraph (b) of section 4(2) of that Act shall have effect as a reference to paragraph (a) or paragraph (b) of subsection (1) of this section and the reference in section 6(3)(c) to section 4(3) of that Act shall have effect as a reference to subsection (2) of this section.

3.—(1) In the National Insurance Act 1965, in Schedule 1, there shall be substituted the provisions set out in Schedule 2 to this Act for those set out in Schedule 1 to the National Insurance Act 1971; and there shall be paid out of moneys provided by Parliament any increase resulting from this subsection in the sums so payable by way of Exchequer supplement under section 7 of the National Insurance Act 1965.

Contributions
under
National
Insurance
Act 1965.
1965 c. 51.
1971 c. 50.

(2) In section 4(1) of the National Insurance Act 1965, in the paragraph (c) inserted by the amendment made by section 1(2) of the National Insurance Act 1969 (whereby, as it was originally enacted, the amount of any graduated contribution included $3\frac{1}{4}$ per cent. of any amount, up to £12, by which the relevant payment of remuneration exceeded £18), for the words " $3\frac{1}{4}$ per cent." and "£12" there shall be substituted the words "4.75 per cent." and "£30", instead of the 4.35 per cent. and £24 substituted by section 1(3) of the National Insurance Act 1971.

1969 c. 44.

(3) The contributions to be paid under the National Insurance Act 1965 out of moneys provided by Parliament shall include, in addition to the Exchequer supplements, in respect of each financial year after the year 1971-72 the sum of £190 million, instead of the amounts required by section 1(5) of the National Insurance Act 1971; and the contributions under this subsection shall be paid in such manner and at such times as the Treasury may determine.

Industrial
injuries and
diseases
(benefits and
contributions).

1965 c. 52.

4.—(1) In the National Insurance (Industrial Injuries) Act 1965, in Schedule 3, there shall be substituted the provisions set out in Schedule 3 to this Act for those set out in Schedule 4 to the National Insurance Act 1971.

(2) A widow's pension under section 19 of the National Insurance (Industrial Injuries) Act 1965 shall be payable—

(a) at the initial rate specified in Schedule 3 to that Act (as from time to time amended) for the period of twenty-six weeks next following the deceased's death; and

(b) after the end of that period, at the higher permanent rate so specified in cases to which section 19(3)(a) to (e) of that Act apply and at the lower permanent rate so specified in any other case;

but, if the deceased and his widow were not residing together at his death, the weekly rate of such a pension shall not exceed the aggregate weekly rate of the periodical payments for her maintenance referred to in section 19(1).

Accordingly in that section for the words of subsection (3) preceding paragraph (a) there shall be substituted the words "The higher permanent rate of pension under this section shall be applicable", and there shall be omitted in subsection (3) the words following paragraph (e) and subsection (4).

(3) In section 13(2) of the National Insurance (Industrial Injuries) Act 1965 (earnings level that does not disqualify for unemployability supplement) for the words "if it is likely to prevent his earnings in a year exceeding £104" there shall be substituted the words "if it is likely to prevent his earnings in a year exceeding a prescribed amount not less than £104".

1967 c. 34.

(4) In the Industrial Injuries and Diseases (Old Cases) Act 1967 the words "£4.10" (instead of the words "£3.65" substituted by section 11(1) of the National Insurance Act 1971) shall be substituted—

1971 c. 50.

(a) for the rate specified in section 2(6)(c) (maximum weekly rate of a lesser incapacity allowance supplementing workmen's compensation); and

(b) for the rate specified in section 7(2)(b) (industrial diseases benefit schemes: weekly rate of an allowance payable where disablement is not total).

(5) In Part I of Schedule 2 to the National Insurance (Industrial Injuries) Act 1965, as amended by the National Insurance Act 1971, in column 3 (which sets out the weekly rates of employers' contributions under the Act), the rate of 6p. applicable where the insured person is a man over the age of 18 shall be amended to 7p.; and there shall be paid out

of moneys provided by Parliament any increase resulting from this amendment in the contributions so payable under section 2(1)(b) of the National Insurance (Industrial Injuries) Act 1965. 1965 c. 52.

5.—(1) The provision contained in section 75(1) of the National Insurance Act 1965, and the corresponding provision in section 50(1) of the National Insurance (Industrial Injuries) Act 1965, that the decision of a claim or question as there mentioned is to be final shall not make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision. Finality of decisions.
1965 c. 51.

(2) A decision (given under section 48(2) of the National Insurance (Industrial Injuries) Act 1965 or otherwise) that an accident was an industrial accident is to be taken as determining only that paragraphs (a), (b) and (c) of section 48(5) are satisfied in relation to the accident, and neither any such decision nor the reference to a medical board or medical appeal tribunal under section 37 of that Act of the disablement questions in connection with any claim to or award of disablement benefit is to be taken as importing a decision as to the origin of any injury or disability suffered by the claimant, whether or not there is an event identifiable as an accident apart from any injury that may have been received; but—

- (a) a decision that on a particular occasion when there was no such event a person had an industrial accident by reason of an injury shall be treated as a decision that if the injury was suffered by accident on that occasion, the accident was an industrial accident; and
- (b) a decision that an accident was an industrial accident may be given, and a declaration to that effect be made and recorded in accordance with section 48, without its having been found that personal injury resulted from the accident (saving always the discretion under section 48(3) to refuse to determine the question if it is unlikely to be necessary for the purposes of a claim for benefit).

(3) Notwithstanding anything in subsection (1) or (2) above (but subject to the provisions of Part III of the National Insurance (Industrial Injuries) Act 1965 as to appeal and review), where for purposes of disablement benefit in respect of an accident it has been found by a medical board or medical appeal tribunal, on the determination or last determination of the disablement questions, that an injury resulted in whole or in part from the accident, then for purposes of death benefit in respect of that accident (including benefit on a death occurring before the passing of this Act) the finding shall be conclusive that the injury did so result.

1965 c. 52. The reference in this subsection to a medical board includes a medical practitioner determining disablement questions on a reference under section 41 of the National Insurance (Industrial Injuries) Act 1965.

(4) In section 57(2) of the National Insurance (Industrial Injuries) Act 1965 (which relates to claims to and awards of benefit for industrial diseases and for industrial injuries not caused by accident) the reference to Part III of that Act shall include a reference to this section.

(5) This section shall apply as regards the effect to be given in any proceedings to any decision, or to a reference under section 37 of the National Insurance (Industrial Injuries) Act 1965, whether the decision was given or reference made or the proceedings were commenced before or after the passing of this Act, except that it shall not affect the determination of any appeal under section 42 of that Act from a decision of a medical appeal tribunal given before the passing of this Act, nor affect any proceedings consequent on such an appeal from a decision so given; and accordingly—

- 1965 c. 51.
- (a) any decision given before the passing of this Act that a claimant was not entitled to industrial death benefit may be reviewed in accordance with Part IV of the National Insurance Act 1965 to give effect to subsection (3) above; and
 - (b) the references in subsections (1) and (2) above to provisions of the National Insurance Act 1965 or the National Insurance (Industrial Injuries) Act 1965 shall, so far as necessary, include the corresponding provisions of previous Acts.

Minor amendments, financial provisions and commencement.

6.—(1) Section 11(1)(a) to (d) of the National Insurance Act 1966 (which, among other things, enable regulations to provide for claims and decisions about sickness benefit to be made or operate prospectively) shall apply in relation to invalidity benefit as they apply in relation to sickness benefit.

1966 c. 6. (2) The power under section 12(3) of the National Insurance Act 1966 (adjustments in respect of expenses falling on the National Insurance Fund, or Industrial Injuries Fund, and on moneys provided by Parliament respectively) to make orders specifying the cases or classes of case in which the powers of the subsection may be used shall include power to vary or revoke previous orders under the subsection.

1971 c. 50. (3) For section 13(2)(d) of the National Insurance Act 1971 (which includes among benefits payable out of moneys provided by Parliament instead of the National Insurance Fund age

addition where the right to it depends solely on entitlement to a retirement pension so payable) there shall be substituted—

“ (d) age addition where there would be no right to the benefit without section 1 of the Act of 1970 or section 5(1) of this Act ; ”

and in section 13(3) of that Act (which excepts from reimbursement out of the National Insurance Fund administrative expenses incurred in carrying into effect any provisions of that Act relating to the benefits specified in section 13(2)) there shall be added at the end the words “ or any other enactment relating to those benefits ”.

(4) There shall be paid out of moneys provided by Parliament—

- (a) any increase attributable to section 1 or 2 above in the sums so payable on account of benefit by virtue of section 13(1) and (2) of the National Insurance Act 1971 c. 50. 1971 ; and
- (b) subject to the provision made by section 85 of the National Insurance Act 1965 for reimbursement out of the National Insurance Fund, or by section 61 of the National Insurance (Industrial Injuries) Act 1965 for reimbursement out of the Industrial Injuries Fund, any increase attributable to this Act in the expenses of the Secretary of State or any other Government department which are so payable under either of those sections. 1965 c. 51. 1965 c. 52.

Any reference in paragraph (b) above to section 61 of the National Insurance (Industrial Injuries) Act 1965 shall include that section as applied by section 13 of the Industrial Injuries and Diseases (Old Cases) Act 1967. 1967 c. 34.

(5) Schedule 4 to this Act shall have effect with respect to the commencement of this Act and with respect to the transitory matters dealt with in that Schedule.

7.—(1) With a view to making for Northern Ireland provision parallel to that made by this Act for Great Britain, this Act shall extend to Northern Ireland, subject to the adaptations provided for by Schedule 5 ; but— Provisions as to Northern Ireland.

- (a) in section 104 of the National Insurance Act 1965 and section 83 of the National Insurance (Industrial Injuries) Act 1965 (which provide for establishing unified systems of insurance in Great Britain and Northern Ireland) references to Northern Irish legislation shall be deemed to include this Act as it applies to Northern Ireland ; and

- 1920 c. 67. (b) this Act shall, in so far as it relates to matters in respect of which the Parliament of Northern Ireland has power to make laws, be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to have been passed before the day referred to in that section as the appointed day.
- 1954 c. 33 (N.I.). (2) The Interpretation Act (Northern Ireland) 1954 shall apply for the purposes of the interpretation of this Act in its application to Northern Ireland as that Act applies for the purposes of the interpretation of an Act of the Parliament of Northern Ireland.
- Citation, construction and repeals. 8.—(1) This Act may be cited as the National Insurance Act 1972.
- (2) This Act as it applies to Great Britain—
- (a) shall be included among the Acts that may be cited as the National Insurance Acts 1965 to 1972 and, so far as this Act relates to the subject matter of those Acts, shall be construed as one with the National Insurance Act 1965 ; and
- 1965 c. 51. (b) may be cited with the National Insurance (Industrial Injuries) Acts 1965 to 1971 as the National Insurance (Industrial Injuries) Acts 1965 to 1972 and, so far as this Act relates to the subject matter of those Acts, shall be construed as one with the National Insurance (Industrial Injuries) Act 1965 ; and
- 1965 c. 52. (c) may be cited with the Industrial Injuries and Diseases (Old Cases) Acts 1967 to 1971 as the Industrial Injuries and Diseases (Old Cases) Acts 1967 to 1972.
- (3) This Act as it applies to Northern Ireland—
- (a) shall be included among the Acts that may be cited as the National Insurance Acts (Northern Ireland) 1966 to 1972 and, so far as this Act relates to the subject matter of those Acts, shall be construed as one with the National Insurance Act (Northern Ireland) 1966 ; and
- 1966 c. 6 (N.I.). (b) may be cited with the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1971 as the National Insurance (Industrial Injuries) Acts (Northern Ireland) 1966 to 1972 and, so far as this Act relates to the subject matter of those Acts, shall be construed as one with the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 ; and
- 1966 c. 9 (N.I.). (c) may be cited with the Workmen's Compensation (Supplementation) Acts (Northern Ireland) 1966 to 1971 as the Workmen's Compensation (Supplementation) Acts (Northern Ireland) 1966 to 1972.

(4) The National Insurance (Old persons' and widows' pensions and attendance allowance) Act 1970 and the National Insurance (Old Persons' and Widows' Pensions and Attendance Allowance) Act (Northern Ireland) 1970 are cited in this Act as the National Insurance Act 1970 and the National Insurance Act (Northern Ireland) 1970 respectively, and may be so cited in any other Act or instrument.

(5) Subject to any transitional provisions in Schedule 4 to this Act, the enactments mentioned in Schedule 6 are hereby repealed to the extent specified in column 3 of the Schedule.

SCHEDULES

Section 1.

SCHEDULE 1

1965 c. 51.

PROVISIONS TO BE SUBSTITUTED IN SCHEDULE 3 TO
NATIONAL INSURANCE ACT 1965

RATES OF PERIODICAL BENEFITS AND OF INCREASES FOR DEPENDANTS

PART I

WEEKLY RATES OF PERIODICAL BENEFITS

Description of benefit	Weekly rate
1. Unemployment or sickness benefit under section 19(2)	(a) higher rate £6·75 (b) middle rate £4·75 (c) lower rate £3·70 (the appropriate rate being chosen in accordance with National Insurance Act 1972 section 1(2)).
2. Invalidity pension	£6·75
3. Invalidity allowance	(a) higher rate £1·15 (b) middle rate £0·70 (c) lower rate £0·35 (the appropriate rate being chosen in accordance with National Insurance Act 1972 section 1(4)).
4. Attendance allowance	(a) higher rate £5·40 (b) lower rate £3·60 (the appropriate rate being chosen in accordance with National Insurance Act 1972 section 2(2)).
5. Maternity allowance	£6·75
6. Widow's allowance	£9·45
7. Widowed mother's allowance.	£6·75
8. Widow's pension	£6·75
9. Guardian's allowance	£3·30
10. Retirement pension payable by virtue of this Act and not by virtue of any enactment directed to be construed as one with this Act.	(a) where the pension is payable to a woman by virtue of her husband's insurance and he is alive ... £4·15 (b) in any other case £6·75

SCH. 1

Description of benefit	Weekly rate
11. Retirement pension payable by virtue of paragraph (a) or paragraph (b) of section 1(1) of the National Insurance Act 1970 or by virtue of section 5 of the National Insurance Act 1971.	(a) except where head (b) below applies £4·05 (b) where the pension is payable to a married woman who has not, at any time since she first became entitled to the pension, ceased to be a married woman £2·50
12. Age addition	£0·25
13. Child's special allowance	£3·30

PART II

WEEKLY RATES OF INCREASES FOR DEPENDANTS

Benefit to which increase applies (1)	Increase for only, elder or eldest qualifying child (2)	Increase for second qualifying child (3)	Increase for each additional qualifying child (4)	Increase for adult dependant (where payable) (5)
	£	£	£	£
1. Unemployment or sickness benefit under section 19(2) or (3)	2·10	1·20	1·10	4·15
2. Invalidity pension	3·30	2·40	2·30	4·15
3. Maternity allowance	2·10	1·20	1·10	4·15
4. Widow's allowance	3·30	2·40	2·30	—
5. Widowed mother's allowance	3·30	2·40	2·30	—
6. Retirement pension payable by virtue of this Act and not by virtue of any enactment directed to be construed as one with this Act	3·30	2·40	2·30	4·15
7. Retirement pension payable by virtue of paragraph (a) or paragraph (b) of section 1(1) of the National Insurance Act 1970	3·30	2·40	2·30	2·50
8. Child's special allowance	—	2·40	2·30	—

Where any unemployment or sickness benefit is payable at a weekly rate determined under section 19(3) of this Act, column (5) of this Part of this Schedule shall have effect subject to section 43(3)(b) of this Act, and where an invalidity pension is payable at a weekly rate determined under section 3(4) of the National Insurance Act 1971, the said column (5) shall have effect subject to section 43A(8)(b) of this Act.

Section 3.

SCHEDULE 2

1965 c. 51.

PROVISIONS TO BE SUBSTITUTED IN SCHEDULE 1 TO
NATIONAL INSURANCE ACT 1965

RATES OF FLAT-RATE CONTRIBUTIONS

PART I

Employed persons

Description of employed person 1	Weekly Rate of Contribution	
	Unless by virtue of a non- participating employment 2	If by virtue of a non- participating employment 3
	£	£
Men between the ages of 18 and 70 (other than men over the age of 65 who have retired from regular employment) ...	0·672	0·792
Women between the ages of 18 and 65 (other than women over the age of 60 who have retired from regular employment)	0·585	0·665
Boys under the age of 18	0·461	—
Girls under the age of 18	0·381	—

PART II
Employers

SCH. 2

Description of employed person 1	Weekly Rate of Contribution	
	Unless by virtue of a non- participating employment 2	If by virtue of a non- participating employment 3
Men over the age of 18	£ 0·834	£ 0·954
Women over the age of 18	0·728	0·808
Boys under the age of 18	0·587	—
Girls under the age of 18	0·497	—

For the purposes of this Part of this Schedule a person over pensionable age, not being an insured person, shall be treated as an employed person if he would be an insured person were he under pensionable age and would be an employed person were he an insured person.

PART III
Self-employed persons

Description of self-employed person 1	Weekly Rate of Contribution 2
	£
Men between the ages of 18 and 70 (other than men over the age of 65 who have retired from regular employment)	1·513
Women between the ages of 18 and 65 (other than women over the age of 60 who have retired from regular employment)	1·267
Boys under the age of 18	0·862
Girls under the age of 18	0·722

SCH. 2

PART IV

Non-employed persons

Description of non-employed person 1	Weekly Rate of Contribution 2
	£
Men between the ages of 18 and 65	1·163
Women between the ages of 18 and 60	0·907
Boys under the age of 18	0·662
Girls under the age of 18	0·522

Section 4.

SCHEDULE 3

PROVISIONS TO BE SUBSTITUTED IN SCHEDULE 3 TO

1965 c. 52.

NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT 1965

RATE OR AMOUNT OF BENEFIT ETC.

Description of benefit, etc.	Amount
1. Injury benefit under s. 11 (weekly rate).	(a) for any period during which the beneficiary is over the age of 18 or is entitled to an increase of benefit in respect of a child or adult dependant £9·50 (b) for any period during which the beneficiary is not over the age of 18 and not entitled as aforesaid £6·20
2. Maximum disablement gratuity under s. 12(3).	£740
3. Disablement pension under s. 12(5) (weekly rate).	For the several degrees of disablement set out in column 1 of the following Table, the respective amounts in that Table, using— (a) column 2 for any period during which the beneficiary is over the age of 18 years or is entitled to an increase of benefit in respect of a child or adult dependant; (b) column 3 for any period during which the beneficiary is not over the age of 18 and not entitled as aforesaid.

TABLE

SCH. 3

Degree of disablement (1)					Amount	
					(2)	(3)
per cent.					£	£
100	...	...	...	...	11·20	6·80
90	...	...	...	...	10·08	6·12
80	...	...	...	...	8·96	5·44
70	...	...	...	...	7·84	4·76
60	...	...	...	...	6·72	4·08
50	...	...	...	...	5·60	3·40
40	...	...	...	...	4·48	2·72
30	...	...	...	...	3·36	2·04
20	...	...	...	...	2·24	1·36

Description of benefit, etc.	Amount
4. Unemployability supplement under s. 13 (increase of weekly rate of disablement pension).	£6·75
4A. Increase under s. 13A of unemployability supplement (early onset of incapacity for work).	(a) if on the qualifying date the beneficiary was under the age of 35, or if that date fell before 5th July 1948 £1·15 (b) if head (a) above does not apply and on the qualifying date the beneficiary was under the age of 45 ... £0·70 (c) if heads (a) and (b) above do not apply, and on the qualifying date the beneficiary was a man under the age of 60, or a woman under the age of 55 £0·35
5. Maximum increase under s. 14 of weekly rate of disablement pension in cases of special hardship.	£4·48 or the amount (if any) by which the weekly rate of the pension, apart from any increase under s. 15, 17 or 18 of this Act or under section 6 of the National Insurance Act 1966, falls short 1966 c. 6. of £11·20, whichever is the less.
6. Maximum increase under s. 15 of weekly rate of disablement pension where constant attendance needed.	(a) except in cases of exceptionally severe disablement ... £4·50 (b) in any case £9·00
6A. Increase under s. 6(1) of National Insurance Act 1966 of disablement pension (exceptionally severe disablement).	£4·50

SCH. 3

Description of benefit, etc.	Amount
7. Increase under s. 17 of weekly rate of benefit in respect of children, except where beneficiary is entitled to unemployability supplement.	(a) in respect of only, elder or eldest child of beneficiary's family £2·10 (b) in respect of second child of beneficiary's family £1·20 (c) in respect of each additional child of beneficiary's family £1·10
7A. Increase under s. 17 of weekly rate of disablement pension in respect of children where beneficiary is entitled to unemployability supplement.	(a) in respect of only, elder or eldest child of beneficiary's family £3·30 (b) in respect of second child of beneficiary's family £2·40 (c) in respect of each additional child of beneficiary's family £2·30
8. Increase under s. 18 of weekly rate of injury benefit or disablement pension in respect of adult dependant.	£4·15
9. Widow's pension under s. 19—	
(a) initial rate	£9·45
(b) higher permanent rate ...	£7·30
(c) lower permanent rate ...	30% of the weekly rate for the time being of a widow's pension under the National Insurance Act 1965 as specified in Schedule 3 to that Act.
10. Widower's pension under s. 20 (weekly rate).	£7·30
11. Allowance under s. 21 in respect of children of deceased's family—	
(a) weekly rate of allowance under s. 21(1).	(i) in respect of only, elder or eldest qualifying child £2·10 (ii) in respect of second qualifying child £1·20 (iii) in respect of each additional qualifying child £1·10
(b) increase under s. 21(2)...	£1·20
12. Maximum under s. 29(1)(a) of aggregate of weekly benefit payable for successive accidents.	(a) for any period during which the beneficiary is over the age of 18 or is entitled to an increase of benefit in respect of a child or adult dependant £11·20 (b) for any period during which the beneficiary is not over the age of 18 and not entitled as aforesaid £6·80

1965 c. 51.

SCHEDULE 4

Sections 6 and 8.

COMMENCEMENT AND TRANSITORY PROVISIONS

PART I

GENERAL

Commencement of this Act

1.—(1) The provisions of this Act, except section 5, shall not come into force until such date or dates as the Secretary of State may by order appoint for those provisions or any of them.

(2) Different days may be appointed under this paragraph for different purposes of the relevant provisions (that is to say, the provisions to which sub-paragraph (1) above applies) or for the same purposes in relation to different cases or classes of case; and if that is done, or if different days are appointed for different provisions, then—

- (a) an order under this paragraph may contain such incidental or supplemental provisions as appear to the Secretary of State to be necessary or expedient as respects the period or any part of the period when the relevant provisions are to have a partial operation only, and, in particular, may contain provisions modifying and supplementing, in relation to the period to which the order is to apply, the relevant provisions or the provisions of any Act amended by this Act; and
- (b) any provision made in pursuance of paragraph (a) above may be varied or revoked by a subsequent order of the Secretary of State.

(3) Section 107(4) of the National Insurance Act 1965 (which provides for orders under that Act to be subject to annulment in pursuance of a resolution of either House of Parliament) shall not apply to any order under this paragraph, but a statutory instrument containing any such order shall be laid before Parliament after being made. 1965 c. 51.

Regulations and schemes: temporary exclusion of certain requirements

2.—(1) Section 108 of the National Insurance Act 1965 (which requires a preliminary draft of regulations to be submitted to the National Insurance Advisory Committee before the regulations are made or, in certain cases, before a draft is laid before Parliament) and section 62(2) of the National Insurance (Industrial Injuries) Act 1965 (which requires a proposal to make regulations to be referred to the Industrial Injuries Advisory Council for consideration and advice) shall not apply to regulations made, or to a draft of regulations laid, before the expiration of six months beginning with the date of the passing of this Act if the instrument containing the regulations or, as the case may be, the draft states that the regulations contain no provisions other than such as— 1965 c. 52.

- (a) are made in consequence of this Act; or

SCH. 4

(b) operate with reference to the amount of a person's earnings, and are made under one or more of the following provisions (which relate to the classification of insured persons or the liability to contributions, and to days which count for un-employment benefit, sickness benefit or invalidity benefit as days of interruption of employment), that is to say—

1965 c. 51.
1965 c. 52.

(i) sections 1(3) and 8(5) of the National Insurance Act 1965 and section 3(3)(b) of the National Insurance (Industrial Injuries) Act 1965; and

(ii) section 20(2) of the National Insurance Act 1965.

(2) The following enactments, that is to say—

(a) section 107(1) of the National Insurance Act 1965; and

(b) section 85(4) of the National Insurance (Industrial Injuries) Act 1965; and

1967 c. 34.

(c) section 4(8)(a) of the Industrial Injuries and Diseases (Old Cases) Act 1967;

shall not require a draft of any regulations, order or scheme to be laid before Parliament or approved by resolution of either House before the making of the regulations, order or scheme, if the regulations, order or scheme are or is made before the expiration of six months beginning with the date of the passing of this Act, and if the instrument containing the regulations, order or scheme states that they or it are or is made in consequence of this Act; but where any of those enactments would otherwise so require, the instrument containing the regulations, order or scheme shall instead be subject to annulment in pursuance of a resolution of either House of Parliament.

PART II

ATTENDANCE ALLOWANCE

3. In relation to attendance allowance paragraph 1 above shall have effect subject to the provisions of this Part of this Schedule (but without prejudice to the power under that paragraph to make further incidental or supplemental provision).

4.—(1) A day shall be appointed so that section 2(1) of this Act shall come into force as soon as practicable after the passing of this Act.

1971 c. 50.

(2) A second day shall be appointed for the higher rate of attendance allowance to replace the rate fixed by the National Insurance Act 1971.

(3) Four later days shall be appointed for the coming into force of section 2 so as to authorise payment of attendance allowance at the lower rate for persons of the following categories successively in the order here given, that is to say,—

Category 1: Persons born in any of the years 1908–1956;

Category 2: Persons born after the year 1956;

Category 3: Persons born in any of the years 1898–1907;

Category 4: Persons born before the year 1898.

SCH. 4

1970 c. 51.

5.—(1) On and after the day appointed in accordance with paragraph 4(1) above, section 2(1) of this Act shall replace section 4(2) of the National Insurance Act 1970 for all purposes, and be applicable to periods before that day as well as to any later period; but for periods before the day appointed in accordance with paragraph 4(2) above an attendance allowance shall be payable only in cases where in accordance with the terms of section 2 of this Act it would be payable at the higher rate and, if the period is also before the day appointed in accordance with paragraph 4(1), would be payable at that rate by reason either of the condition in section 2(1)(a)(i) and that in section 2(1)(b)(i) being satisfied or of the condition in section 2(1)(a)(ii) and that in section 2(1)(b)(ii) being satisfied, and where the required certificate is framed accordingly.

(2) Where before the day appointed in accordance with paragraph 4(1) above there has been issued under section 4(3) of the National Insurance Act 1970 a certificate of a person having satisfied or being likely to satisfy one of the conditions mentioned in section 4(2)(a) and (b) of that Act, then on and after that day the certificate shall have effect as a certificate under section 2(2) of this Act of his having satisfied or being likely to satisfy both the condition mentioned in section 2(1)(a)(i) and that mentioned in section 2(1)(b)(i) or, as the case may be, both the condition mentioned in section 2(1)(a)(ii) and that mentioned in section 2(1)(b)(ii).

6. On and after the day appointed in accordance with paragraph 4(3) above for the payment of attendance allowance at the lower rate to persons of Category 1 a person not of that category shall for purposes of section 2 of this Act be treated as belonging to it if either—

- (a) an attendance allowance is payable in respect of him immediately before that day or at any time thereafter; or
- (b) an attendance allowance having been payable in respect of him at some earlier time he has throughout the interval between its ceasing to be so payable and that day satisfied one or other of the conditions mentioned in section 2(1)(a) and section 2(1)(b) of this Act;

but an attendance allowance at the lower rate shall not by virtue of sub-paragraph (a) above be payable in respect of a person for any period before the time when he first satisfies the conditions of this paragraph.

7. Any regulations in force under section 4(2), (4) or (5) of the National Insurance Act 1970 at the time when that subsection is repealed by this Act shall thereafter have effect, with any necessary adaptations, as if made under the corresponding provision of section 2 of this Act.

Section 7.

SCHEDULE 5

ADAPTATIONS FOR NORTHERN IRELAND

Introductory

1. In sections 1 to 6 of and Schedules 1 to 4 to this Act, in their application to Northern Ireland by virtue of section 7(1), there shall be made the adaptations provided for by this Schedule.

References to Acts amended

2.—(1) For any of the Acts specified in column 1 of the Table set out in this sub-paragraph there shall be substituted the Act or Order specified in relation thereto in column 2.

TABLE

1965 c. 51. 1966 c. 6 (N.I.).	The National Insurance Act 1965.	The National Insurance Act (Northern Ireland) 1966.
1965 c. 52. 1966 c. 9 (N.I.).	The National Insurance (Industrial Injuries) Act 1965.	The National Insurance (Industrial Injuries) Act (Northern Ireland) 1966.
1966 c. 6. 1966 c. 16 (N.I.).	The National Insurance Act 1966.	The National Insurance (No. 2) Act (Northern Ireland) 1966.
1967 c. 34. 1966 c. 14 (N.I.).	The Industrial Injuries and Diseases (Old Cases) Act 1967, where it is named in section 4(4) of this Act.	The Workmen's Compensation (Supplementation) Act (Northern Ireland) 1966.
1969 c. 44. 1969 c. 19 (N.I.).	The National Insurance Act 1969.	The National Insurance &c. (No. 2) Act (Northern Ireland) 1969.
1970 c. 51. 1970 c. 28 (N.I.).	The National Insurance Act 1970.	The National Insurance Act (Northern Ireland) 1970.
1971 c. 50. 1971 No. 224 (N.I.).	The National Insurance Act 1971.	The Social Services (Parity) Order (Northern Ireland) 1971.

(2) The word "Act" and the word "section", where used with reference to the National Insurance Act 1971, shall be replaced by the word "Order" and the word "Article"; and in the case of the Acts mentioned in the Table set out in this sub-paragraph for references to the provisions specified in column 1 there shall be substituted the references in column 2 (being the corresponding references where the numbering differs in the Act or Order substituted by sub-paragraph (1) above).

TABLE

1965 c. 51.	The National Insurance Act 1965:—	
	Section 19(2) or section 19(3).	Section 18(2) or section 18(3).
	Section 43(3)(b).	Section 42(3)(b).
	Section 43A(8)(b).	Section 42A(8)(b).
	Section 75(1).	Section 74(1).
	Section 107(4).	Section 101(3).

The National Insurance (Industrial Injuries) Act 1965:—		1965 c. 52.
Section 12(3) or section 12(5).	Section 12(4) or section 12(6).	
Section 48, section 48(2), section 48(3) or section 48(5).	Section 47, section 47(2), section 47(3) or section 47(5).	
Section 50(1).	Section 49(1).	
Section 57(2).	Section 55(2).	

The National Insurance Act 1971:—		1971 c. 50.
Section 1(3).	Article 1(2).	
Section 11(1).	Article 11.	

Omissions

3. There shall be omitted—

- (a) in section 3(1) and in section 4(5) the words from “ and ” onwards, and section 6(4);
- (b) section 4(4)(b), together with the “ and ” at the end of section 4(4)(a);
- (c) in section 5(5) the words from “ except ” to “ so given ”;
- (d) section 6(2);
- (e) paragraph 2 of Schedule 4.

Miscellaneous adaptations

4. In section 2—

- (a) in subsection (1) for the words “ Great Britain ” there shall be substituted the words “ Northern Ireland ”;
- (b) in subsection (2) after the words “ Attendance Allowance Board ” there shall be inserted the words “ for Northern Ireland ”;
- (c) in subsection (5) for the words from “ Part III ” to “ Social Work (Scotland) Act 1968 ” there shall be substituted the words “ the Welfare Services Act (Northern Ireland) 1971 ”. 1968 c. 49. 1971 c. 2 (N.I.).

5. For section 3(3) there shall be substituted—

“ (3) The contributions to be paid to the Northern Ireland National Insurance Fund in pursuance of Article 1(4) of the Social Services (Parity) Order (Northern Ireland) 1971 in respect of each financial year after the year 1971–72 shall include the sum of £2·2 million, instead of the amounts provided for by Article 1(4).” 1971 No. 244 (N.I.).

6. In Schedule 4—

- (a) in paragraph 1, for the words “ Secretary of State ”, wherever occurring, there shall be substituted the words “ Minister of Health and Social Services for Northern Ireland ”; and
- (b) in paragraph 1(3) after the words “ House of Parliament ” there shall be inserted the words “ and section 80(2) of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 (which makes like provision) ”. 1966 c. 9 (N.I.).

Section 8

SCHEDULE 6

REPEALS

PART I

REPEALS RELATING TO GREAT BRITAIN

Chapter	Short Title	Extent of Repeal
1965 c. 52.	The National Insurance (Industrial Injuries) Act 1965.	In section 19, subsection (3) from "and in any other case" onwards, and subsection (4).
1966 c. 6.	The National Insurance Act 1966.	Section 5(5).
1970 c. 51.	The National Insurance Act 1970.	Section 4(2) to (5). Section 6(1). Section 7(3).
1971 c. 50.	The National Insurance Act 1971.	Section 1(1) to (3) and (5). Section 2(1). Section 8(1). Section 11(1). Schedules 1, 2 and 4. In Schedule 5 paragraph 12(2).

PART II

REPEALS RELATING TO NORTHERN IRELAND

Chapter or number	Short Title	Extent of Repeal
1966 c. 9 (N.I.).	The National Insurance (Industrial Injuries) Act (Northern Ireland) 1966.	In section 19, subsection (3) from "and in any other case" onwards, and subsection (4).
1966 c. 16 (N.I.).	The National Insurance (No. 2) Act (Northern Ireland) 1966.	Section 5(5).
1970 c. 28 (N.I.).	The National Insurance Act (Northern Ireland) 1970.	Section 4(2) to (5). Section 6(1). Section 7(3).
1971 No. 224 (N.I.).	The Social Services (Parity) Order (Northern Ireland) 1971.	Article 1(1) and (2). Article 2(1). Article 8(1). Article 11. Schedules 1, 2 and 4. In Schedule 5 paragraph 11(2).



National Health Service (Scotland) Act 1972

1972 CHAPTER 58

An Act to make further provision as respects the health service in Scotland, and for connected purposes.

[9th August 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

DUTIES AND POWERS OF SECRETARY OF STATE

1.—(1) It shall be the duty of the Secretary of State so to exercise the powers and perform the duties conferred and imposed on him by the Health Service Acts as to provide or secure the effective provision of an integrated health service in Scotland.

General duty of Secretary of State.

(2) In pursuance of that duty and of the duty imposed on him by section 1 of the Act of 1947, the Secretary of State shall have the powers and duties conferred on him by this Act.

2.—(1) It shall be the duty of the Secretary of State to provide throughout Scotland, to such extent as he considers necessary to meet all reasonable requirements, accommodation and services of the following descriptions—

Provision of accommodation and medical, etc., services.

- (a) hospital accommodation, including accommodation at State hospitals within the meaning of section 89 of the Mental Health (Scotland) Act 1960 ;
- (b) premises other than hospitals at which facilities are available for any of the services provided under the Health Service Acts ;

1960 c. 61.

PART I

(c) medical, nursing and other services, whether in such accommodation or premises, in the home of the patient or elsewhere.

(2) Where accommodation or premises provided under this section afford facilities for the provision of general medical, dental or ophthalmic services or of pharmaceutical services, they shall be made available for those services on such terms and conditions as the Secretary of State may determine.

(3) The Secretary of State may permit any person to whom this subsection applies to use the facilities available at accommodation or premises provided under this section for the purposes of private practice on such terms and conditions as the Secretary of State may determine.

(4) The persons to whom subsection (3) above applies, being persons who provide services under the Health Service Acts, are as follows—

- (a) medical practitioners ;
- (b) dental practitioners ;
- (c) pharmacists ;
- (d) ophthalmic and dispensing opticians ; and
- (e) such other persons as the Secretary of State may determine.

Provision of medical, dental, etc., services.

3. It shall be the duty of the Secretary of State to secure the provision of general medical, general dental, pharmaceutical and general ophthalmic services in accordance with the provisions of Part IV of the Act of 1947.

Prevention of illness, care and after-care.

4.—(1) The Secretary of State shall make arrangements, to such extent as he considers necessary to meet all reasonable requirements, for the purposes of the prevention of illness, the care of persons suffering from illness or the after-care of such persons.

(2) Regulations may provide for the recovery of such charges as may be prescribed, in respect of such services provided by the Secretary of State under this section, otherwise than in a hospital, as may be prescribed, and may provide for the remission of any such charge, in whole or in part, in such circumstances as may be prescribed.

(3) In this section and in section 5 of this Act, “hospital” includes any maternity home, any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, any institution for providing dental treatment and maintained in connection with a dental school, and clinics, dispensaries and out-patient departments maintained in connection with any hospital or such institution or home as aforesaid.

5.—(1) It shall be the duty of the Secretary of State to make arrangements, to such extent as he considers necessary, for the care, including in particular medical and dental care, of expectant mothers and nursing mothers and of young children. **PART I**
Care of
mothers
and young
children.

(2) Regulations may provide for the recovery of such charges as may be prescribed, in respect of such articles or services provided by the Secretary of State under this section, otherwise than in a hospital (not being a drug, a medicine or an appliance of a type normally supplied), as may be prescribed, and may provide for the remission of any such charge, in whole or in part, in such circumstances as may be prescribed.

6.—(1) It shall be the duty of the Secretary of State to provide for the medical and dental inspection, at appropriate intervals, and for the medical and dental supervision of all pupils in attendance at any school under the management of an education authority and of all young persons in attendance at any junior college or other educational establishment under such management. Medical
and dental
inspection,
supervision
and
treatment of
pupils and
young persons

(2) It shall be the duty of the Secretary of State to make such arrangements as are necessary for securing that there are available for such pupils and young persons as aforesaid comprehensive facilities for free medical and dental treatment.

(3) It shall be the duty of every education authority to make arrangements for encouraging and assisting pupils and young persons to take advantage of facilities for medical and dental treatment made available under subsection (2) above:

Provided that if the parent of any child or young person gives notice to the authority that he objects to the child or young person availing himself of the said facilities, the child or young person shall not be encouraged or assisted to do so.

(4) It shall be the duty of every education authority to afford sufficient and suitable facilities for the medical and dental inspection, supervision and treatment, described in subsections (1) and (2) above.

(5) Expressions used in this section have the same meanings as in the Education (Scotland) Act 1962.

1962 c. 47.

7.—(1) The Secretary of State shall have power to make arrangements with medical practitioners for the vaccination or immunisation of persons against any disease, either by medical practitioners or by persons acting under their direction and control. Vaccination
and
immunisation.

PART I

(2) In making arrangements under this section, the Secretary of State shall, in so far as is reasonably practicable, give every medical practitioner providing general medical services under Part IV of the Act of 1947 an opportunity to provide services under this section.

(3) The Secretary of State may, either directly or by another person, supply free of charge to medical practitioners providing services under this section, vaccines, sera or other preparations for vaccinating or immunising persons against any disease.

Family planning.

8.—(1) It shall be the duty of the Secretary of State to make arrangements, to such extent as he considers necessary, for the giving of advice on contraception, the medical examination of persons seeking advice on contraception, the treatment of such persons and the supply of contraceptive substances or appliances.

(2) Regulations may provide for the recovery of charges from persons availing themselves of any service under the foregoing subsection (except advice on contraception), and may provide for the remission of any such charge, in whole or in part, in such circumstances as may be prescribed.

Educational and research facilities.

9. It shall be the duty of the Secretary of State to make available such facilities, in any premises provided by him under the Health Service Acts, as appear to him to be reasonably required for undergraduate and post-graduate clinical teaching and research and for the education and training of persons providing or intending to provide services under those Acts.

Health education.

10. The Secretary of State shall have power to disseminate, by whatever means, information relating to the promotion and maintenance of health and the prevention of illness.

Residential and practice accommodation.

11.—(1) The Secretary of State may provide, on such terms and conditions as may be agreed, residential accommodation for officers employed for the purposes of any of his functions under the Health Service Acts, or for officers employed by a voluntary organisation for the purposes of any service provided under this Part of this Act.

(2) The Secretary of State may, in any case, in view of the special circumstances thereof, provide, on such terms and conditions as may be agreed,—

- (a) residential accommodation for medical and dental practitioners providing services under Part IV of the Act of 1947 ;
- (b) practice accommodation for such medical and dental practitioners and for such other persons providing services under the Health Service Acts as he thinks fit.

(3) In subsection (2) above, "practice accommodation", in relation to a person providing services of any kind, means accommodation suitable for the provision of services of that kind.

PART I

12.—(1) The powers exercisable under sections 3(3), 3(4) and 4 of the Act of 1947 and under Part I of the Act of 1968 shall cease to be limited by the use of the term "hospital and specialist services" in those provisions.

Amendments
of Part II of
the Act of
1947 and of
Part I of the
Act of 1968.

(2) In section 16 of the Act of 1947 (ambulances), at the end of subsection (1) there shall be added the words "or of other persons for whom such transport is reasonably required in order to avail themselves of any service under the National Health Service (Scotland) Acts 1947 to 1972", and subsection (2) shall cease to have effect.

(3) In section 17 of the Act of 1947 (research), in subsection (1), for the words from "to the development" to the end there shall be substituted the words "into such other matters relating to the health service as he thinks fit", and subsection (2) shall cease to have effect.

(4) In section 18 of the Act of 1947 (bacteriological service), in subsection (1), the word "bacteriological" is hereby repealed, and subsection (2) shall cease to have effect.

(5) In section 19 of the Act of 1947 (blood transfusion and other services), the words "in providing hospital and specialist services" are hereby repealed, and for the words "local health authorities and medical practitioners" there shall be substituted the words "medical practitioners and other persons".

PART II

HEALTH BOARDS, ETC.

13.—(1) The Secretary of State shall by order constitute, in accordance with Part I of Schedule 1 to this Act, boards to be called Health Boards, for such areas as he may by order determine, for the purpose of exercising functions with respect to the administration of such health services provided by him as he may by order determine, and for the purpose of making arrangements on his behalf for the provision of the services mentioned in Part IV of the Act of 1947.

Health
Boards.

(2) The order or orders made under subsection (1) above determining the areas for which the Health Boards are to be constituted shall be separate from the order or orders constituting those Boards, and, before making any order determining such an area, the Secretary of State shall consult with such bodies and organisations as appear to him to be concerned.

PART II

(3) The Secretary of State may by order vary the area of any Health Board, whether or not the variation involves the constitution of a new Board or the termination of the functions of an existing Board, and, before making such an order, the Secretary of State shall consult with such bodies and organisations as appear to him to be concerned.

(4) Any order under subsection (3) above may make provision for any supplementary and incidental matters for which it appears to the Secretary of State to be necessary or expedient to provide, in particular for the transfer of officers and of property and liabilities.

(5) In carrying out the purposes mentioned in subsection (1) above, each Health Board shall act subject to, and in accordance with, regulations and such directions as may be given by the Secretary of State, and such regulations and directions may be made or given generally or to meet the circumstances of a particular area or matter.

(6) Regulations under subsection (5) above shall make provision requiring Health Boards to submit to the Secretary of State a scheme for the exercise of their functions, and enabling the Secretary of State to approve, with or without modifications, any such scheme and to make such a scheme in the event of the failure of any Health Board so to do.

(7) A Health Board may at any time, and if directed by the Secretary of State shall, within such period as he may specify, submit a new scheme for the exercise of their functions, and regulations mentioned in subsection (6) above shall, with any necessary modifications, apply to any such scheme.

(8) Where it appears to the Secretary of State to be expedient in the interests of efficiency that a joint committee should be established for the areas of two or more Health Boards for the purpose of exercising some but not all of their functions, the Secretary of State may by order constitute such a joint committee and provide for the exercise by that committee of such of those functions as may be specified in the order, and for the application, with such modifications as may be so specified, to that committee of any provisions of the Health Service Acts relating to those functions, and for any of the matters for which, in relation to a Health Board, provision is or may be made by or under Part III of Schedule 1 to this Act.

(9) A Health Board shall, notwithstanding that it is exercising functions on behalf of the Secretary of State, be entitled to enforce any rights acquired, and shall be liable in respect of any liabilities incurred (including liability in damages for wrongful or negligent acts or omissions) in the exercise of those functions in all respects as if the Health Board were acting as

a principal, and all proceedings for the enforcement of such rights or liabilities shall be brought by or against the Health Board in its own name.

PART II

(10) A Health Board shall not be entitled to claim in any proceedings any privilege of the Crown in respect of the recovery or production of documents, but this subsection shall be without prejudice to any right of the Crown to withhold or procure the withholding from production of any document on the ground that its disclosure would be contrary to the public interest.

(11) The supplementary provisions contained in Part III of Schedule 1 to this Act shall have effect in relation to the Boards constituted under this section.

14.—(1) Every Health Board shall, within such period as the Secretary of State may specify, submit to him a scheme for the establishment of a local health council or councils for their area or for such districts covering their whole area as the Board thinks fit, and it shall be the general function of any such council to represent the interests of the public in the health service in the area or district for which they have been established. Local health councils.

(2) A scheme under subsection (1) above shall provide for the appointment by local authorities in or for the area or district concerned of such number of members of the local health council as may be prescribed, and for the appointment by the Health Board, after consultation with such other organisations as may be specified in the scheme, of such number of members as may be so specified.

(3) The members of a local health council may appoint one of their own number as the chairman of the council.

(4) The Secretary of State may approve, with or without modifications, any scheme submitted to him under subsection (1) above, or may refuse to approve it.

(5) A Health Board may at any time, and if directed by the Secretary of State shall, within such period as he may specify, submit a new scheme under this section, and subsection (4) above shall apply to any such new scheme.

(6) The Secretary of State shall pay to members of a local health council, the committees and sub-committees thereof such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, from time to time determine.

PART II

(7) Allowances shall not be paid under subsection (6) above except in connection with the performance of such powers or duties, in such circumstances, as the Secretary of State may determine.

(8) Health Boards shall consult with local health councils on such occasions and to such extent as may be prescribed.

(9) Regulations may make provision—

- (a) enabling local health councils to consider questions relating to the health service in their area or district, whether at the request of their Health Board or otherwise, and to advise the Health Board thereon ;
- (b) enabling or requiring local health councils to submit reports to their Health Board on the operation of the health service in their area or district ;
- (c) requiring local health councils to submit annual reports on their activities to their Health Board and requiring Health Boards to transmit a copy of any such report to the Secretary of State ;
- (d) enabling local health councils to obtain information from their Health Board on such subjects and subject to such conditions as may be prescribed ;
- (e) enabling or requiring members of a local health council to visit establishments administered by their Health Board, subject to such conditions as may be prescribed ;
- (f) relating to the submission of schemes under subsection (1) above, and to the functions, procedures, staffing and expenses of local health councils.

University
Liaison
Committees.

15.—(1) The Secretary of State may by order constitute, in accordance with Part II of Schedule 1 to this Act, for the area of a Health Board or for the combined areas of two or more Boards, a University Liaison Committee for the purpose of advising that Board or those Boards on the administration of the health service in the area or combined areas so far as relating to the provision of facilities for undergraduate or post-graduate clinical teaching or for research, and for the purpose of advising that Board or those Boards and the university or universities concerned on any matter of common interest to them.

(2) The supplementary provisions contained in Part III of Schedule 1 to this Act shall have effect in relation to the Committees constituted under this section.

Local
consultative
committees.

16.—(1) Where, after consultation with the Health Board concerned, the Secretary of State is satisfied that a committee formed for the area of the Board is representative—

- (a) of the medical practitioners of that area, or
- (b) of the dental practitioners of that area, or

PART II

(c) of the nurses and midwives of that area, or
(d) of the pharmacists of that area, or
(e) of the ophthalmic and dispensing opticians of that area,
the Secretary of State shall recognise that committee.

(2) Any committee so recognised shall be called—

- (a) the area medical committee,
- (b) the area dental committee,
- (c) the area nursing and midwifery committee,
- (d) the area pharmaceutical committee, or
- (e) the area optical committee,

as the case may be, for the area concerned.

(3) Where, after consultation with the Health Board concerned, the Secretary of State is satisfied that a committee formed for the area of any Health Board is representative of any other profession engaged in the provision of care or treatment under the Health Service Acts, and that it is in the interests of the health service to recognise that committee for the purposes of those Acts, he may so recognise it.

(4) Where, after consultation with the Health Board concerned, the Secretary of State is satisfied that a committee formed for the area of any Health Board is representative of two or more of the professions mentioned in subsection (1) or (3) above, and that it is in the interests of the health service to recognise that committee for the purposes of the Health Service Acts, he may so recognise it.

(5) It shall be the general function of a committee recognised under this section to advise the Health Board for its area on the provision of services under the Health Service Acts with which that committee is concerned in that area, but, except in so far as regulations otherwise provide, in exercising functions conferred by or under this section, such a committee shall not concern itself with the remuneration and conditions of service of practitioners or other persons of whom it is representative.

(6) In addition to any other functions which committees recognised under this section may exercise, they shall exercise such functions as may be prescribed.

(7) In exercising their functions under the Health Service Acts, Health Boards shall consult with committees recognised under this section on such occasions and to such extent as may be prescribed.

(8) Any committee recognised under this section may, with the approval of the Health Board for its area, delegate any of

PART II its functions, with or without restrictions or conditions, to sub-committees and may appoint to any sub-committee persons who are not members of the committee.

(9) Health Boards shall defray the reasonable expenses of committees recognised under this section and shall pay to members of such committees and sub-committees thereof such travelling and other allowances, including compensation for loss of remunerative time, as the Secretary of State may, with the approval of the Minister for the Civil Service, from time to time determine, but payments under this subsection may only be made as respects the exercise of functions conferred by or under this section.

PART III

CENTRAL BODIES

Scottish
Health
Service
Planning
Council.

17.—(1) There shall be constituted in accordance with Schedule 2 to this Act a Council, to be called the Scottish Health Service Planning Council, and it shall be the duty of that Council to advise the Secretary of State on the exercise of his functions under the Health Service Acts, whether at his request or on their own initiative.

(2) For the purpose of performing that duty, the Council shall keep under review the development of the health service in Scotland as a whole and in the various parts of Scotland.

(3) The Council shall make an annual report to the Secretary of State on their proceedings and on the proceedings of any committee appointed by them, and the Secretary of State shall lay that report before Parliament with such comments (if any) as he thinks fit.

National
Consultative
Committees.

18.—(1) Where the Secretary of State is satisfied that a committee has been formed which is representative of any, some or all of the professions engaged in the provision of care or treatment under the Health Service Acts, and that it is in the interests of the health service to recognise the committee for the purposes of those Acts, he shall so recognise it, and any such committee shall be known as a national consultative committee.

(2) The professional teaching interests in relation to any such profession shall be represented on the national consultative committee by such number of members, appointed in such manner, as may be prescribed.

(3) Where the Secretary of State considers it necessary, he may, with the agreement of a national consultative committee, appoint additional persons to be members of that committee.

(4) It shall be the general function of a national consultative committee to advise the Scottish Health Service Planning Council on the provision of services under the Health Service Acts with which that committee is concerned, but, except in so far as regulations otherwise provide, such a committee shall not concern itself with the remuneration and conditions of service of practitioners or other persons of whom it is representative.

(5) In addition to any other functions which a national consultative committee may exercise, they shall exercise such functions as may be prescribed.

(6) The Scottish Health Service Planning Council shall consult with the national consultative committees on such occasions and to such extent as may be prescribed, and may ask any such committee to undertake, on behalf of the Council, such investigation as the Council think fit.

(7) A national consultative committee shall have power to appoint sub-committees, whether jointly with another national consultative committee or otherwise, and to appoint to any such sub-committee persons who are not members of the national consultative committee or committees concerned.

(8) The Secretary of State shall defray the reasonable expenses of national consultative committees, and shall pay to members of such committees and sub-committees thereof such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, from time to time determine.

19.—(1) There shall be constituted in accordance with Schedule 3 to this Act a body, to be called the Common Services Agency for the Scottish Health Service (referred to in this Act as “the Agency”) which shall have the functions conferred on it by this section. Common Services Agency.

(2) The Secretary of State may by order delegate to the Agency such of his functions under the Health Service Acts as he considers appropriate.

(3) Before the appointed day, after consultation with the bodies concerned and any other interests which appear to the Secretary of State to be concerned, the Secretary of State, where he considers it expedient for the efficient discharge of functions under the Health Service Acts by those bodies, may by order provide that the performance of such functions as he may determine shall stand referred to the Agency and be discharged by it.

PART III

(4) Before the appointed day, after consultation with such bodies and interests as appear to him to be concerned, the Secretary of State, where he considers it expedient for the efficient discharge of the functions of the Health Boards on or after that day, may by order provide that the performance of such functions as he may determine shall stand referred to the Agency and be discharged by it on behalf of any or all of the Health Boards.

(5) On and after the appointed day, after consultation with the Scottish Health Service Planning Council, the Health Boards and any other interests which appear to the Secretary of State to be concerned, the Secretary of State, where he considers it expedient for the efficient discharge of the functions of the Health Boards, may by order provide that the performance of such functions as he may determine shall stand referred to the Agency and be discharged by it on behalf of any or all of the Health Boards.

(6) The Secretary of State may by order withdraw from the Agency any function delegated or referred to it under this section.

(7) The Agency shall provide such services and carry out such tasks for bodies associated with the health service as the Secretary of State and those bodies may agree, and on such terms and conditions as may be agreed.

(8) In carrying out its functions, the Agency shall act subject to and in accordance with such directions as may be given by the Secretary of State.

(9) Subsections (9) and (10) of section 13 of this Act shall apply to the Agency as they apply to Health Boards, except that, in subsection (9), the reference to the Secretary of State shall include a reference to any other body associated with the health service.

PART IV

CO-OPERATION WITH LOCAL AUTHORITIES, ETC.

Co-operation
between
Health
Boards
and local
authorities.

20. In exercising their respective functions, Health Boards, local authorities and education authorities shall co-operate with one another in order to secure and advance the health of the people of Scotland.

Designated
medical
officers.

21.—(1) Every Health Board shall, in accordance with regulations, designate a medical officer or officers of the Board for the purpose of exercising such functions on behalf of local authorities as may be assigned to him by or under any enactment and such other functions as local authorities may, with the agreement of the Health Board, assign to him.

(2) Any such medical officer shall, in any enactment, be known as the "designated medical officer".

(3) A designated medical officer may exercise any powers conferred by any enactment on an authorised officer of a local authority if the local authority authorises him in writing so to do.

(4) A designated medical officer may appoint one or more persons approved by the Board to act as his depute or deputies, and all things required or authorised by law to be done by or to the designated medical officer may be done by or to any depute so appointed by him, and any reference in any enactment or instrument made under any enactment to the designated medical officer shall, where the depute is acting for the officer, include a reference to the depute.

22.—(1) The Secretary of State, a Health Board or the Agency may—

- Supply of goods and services to local authorities, etc.
- (a) purchase and store and, on such terms and conditions as may be agreed, supply to persons providing general medical, general dental, pharmaceutical or general ophthalmic services under Part IV of the Act of 1947, such equipment, goods or materials as may be prescribed ;
 - (b) purchase and store and, on such terms and conditions as may be agreed, supply to local authorities, education authorities, government departments and such public bodies or classes of public bodies as may be determined by the Secretary of State, any equipment, goods or materials of a kind used in the health service ;
 - (c) provide local authorities and education authorities, on such terms and conditions as may be agreed, with any administrative, professional or other services of persons employed by the Secretary of State, a Health Board or the Agency ;
 - (d) permit local authorities and education authorities, on such terms and conditions as may be agreed, to use premises occupied for the purposes of the health service ;
 - (e) permit local authorities and education authorities, on such terms and conditions as may be agreed, to use any vehicle, plant or apparatus belonging to a Health Board or the Agency ;
 - (f) permit education authorities, on such terms and conditions as may be agreed, and for the purpose of providing special education within the meaning of section 5 of the Education (Scotland) Act 1962, to use any premises or facilities provided under section 2 of this Act ;

1962 c. 47.

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(g) carry out, on such terms and conditions as may be agreed, maintenance work in connection with land or buildings for the maintenance of which a local authority or education authority is responsible.

(2) In paragraphs (a) and (b) of subsection (1) above, the power to supply equipment, goods and materials includes a power to make arrangements with third parties for the supply by them of those things.

Assistance to
voluntary
organisations.

23.—(1) The Secretary of State may assist any voluntary organisation whose activities include the provision of a service similar or related to a service provided under the Health Service Acts by permitting them to use premises belonging to him on such terms as may be agreed, and by making available goods, materials, vehicles or equipment (whether by way of gift, loan or otherwise) and the services of any staff who are employed in connection with the premises or other things which he permits the organisation to use.

(2) In this section, “voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority.

PART V

TRANSFER OF PROPERTY, RIGHTS, LIABILITIES AND STAFF

Dissolution of
Boards, etc.

24.—(1) On the appointed day the following bodies shall be dissolved—

- (a) Regional Hospital Boards ;
- (b) Boards of Management ;
- (c) Medical Education Committees ;
- (d) Executive Councils ;
- (e) the Scottish Health Services Council and standing advisory committees constituted under section 2(3) of the Act of 1947 ; and
- (f) Joint Ophthalmic Services Committees.

(2) The Secretary of State may make orders containing such provision as he considers necessary or expedient in connection with the dissolution of the aforesaid bodies and the winding up of their affairs, including provision for the completion of any proceedings of any such body or any committee associated with it and for securing that anything done by or to such a body or committee should have effect as if done by or to a body or committee constituted under this Act.

PART V

(3) The Secretary of State shall prepare in respect of the last financial year of the bodies mentioned in subsection (1)(a), (b) and (d) above and in respect of any period between the end of that year and the appointed day, in such form as the Treasury may direct, summarised accounts of those bodies, and shall transmit them as soon as may be to the Comptroller and Auditor General who shall examine and certify them and lay copies of them together with his report thereon before both Houses of Parliament.

25. The Secretary of State may by order make provision for the transfer of rights and liabilities, to which a Regional Hospital Board or Board of Management are entitled or subject, to such Health Board as may be specified in the order or to the Agency.

Rights and liabilities of Regional Hospital Boards and Boards of Management.

26.—(1) All interests in property, heritable or moveable, held by Executive Councils or by a joint committee of those Councils immediately before the appointed day shall, on that day, be transferred to and vest in the Secretary of State.

Transfer of property, rights and liabilities, etc., of Executive Councils and the Scottish Dental Estimates Board.

(2) Subject to subsection (3) below, all rights and liabilities to which Executive Councils or joint committees were entitled or subject immediately before the appointed day shall, on that day, be transferred to the Secretary of State.

(3) Notwithstanding subsection (2) above, the Secretary of State may by order provide that such of the rights and liabilities of an Executive Council or joint committee as may be specified in the order shall be enforceable by or against such Health Board as may be so specified or the Agency.

(4) All interests in property, heritable or moveable, held by the Scottish Dental Estimates Board immediately before the appointed day shall, on that day, be transferred to and vest in the Secretary of State, and all rights and liabilities relating to that property to which the Board were entitled or subject immediately before that day shall, on that day, be transferred to the Secretary of State.

(5) The Secretary of State may by order make provision for—

- (a) the continuation of any arrangements made by an Executive Council or joint committee or the Scottish Dental Estimates Board ;
- (b) dealing with any applications, complaints or representations made to or by such Council, committee or Board which are pending on the appointed day ;
- (c) the transfer of persons from lists of Executive Councils and Joint Ophthalmic Services Committees to lists

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of Health Boards or the removal of persons from such lists in pursuance of a direction by the Tribunal under section 43 of the Act of 1947 made before the appointed day.

Transfer of property, rights and liabilities of local authorities.
1962 c. 47.

27.—(1) In this section, “health functions” means any functions exercised by a local health authority by virtue of section 15 and Part III of the Act of 1947, and sections 10, 11 and 15 of the Act of 1968, and “school health functions” means any functions exercised by an education authority by virtue of sections 58, 58A and 59 of the Education (Scotland) Act 1962.

(2) Subject to the following provisions of this section, all interests in property, heritable or moveable (other than those to which section 39 of this Act relates), held by a local health authority or by an education authority immediately before the appointed day, wholly or mainly for the purposes of their health functions or school health functions, shall on that day be transferred to and vest in the Secretary of State.

(3) Subject to the following provisions of this section, all rights and liabilities (other than those to which section 39 of this Act relates), to which a local health authority or an education authority were entitled or subject immediately before the appointed day, being rights or liabilities wholly or mainly acquired or incurred in the performance of their health functions or school health functions, shall on that day be transferred to the Secretary of State.

(4) There shall not be transferred, by virtue of subsections (2) and (3) above, buildings or parts of buildings forming part of an educational establishment within the meaning of section 145(17) of the Education (Scotland) Act 1962 or any rights or liabilities acquired or incurred in connection with such buildings or parts of buildings.

(5) The Secretary of State may by order provide—

- (a) for the manner in which it is to be determined whether property, rights or liabilities were held, acquired or incurred wholly or mainly for the purposes of or in the performance of health functions or school health functions;
- (b) for the transfer of property to the Secretary of State where that property has undergone a change of use between 20th January 1972 and the appointed day, otherwise than in the ordinary course of business;
- (c) for exempting, either temporarily or otherwise, from the provisions of this section any property, for enabling the Secretary of State to use any property so exempted or for enabling a local authority or education authority

to continue to use, on such terms as may be agreed, any property transferred under this section ; PART V

- (d) for the determination of disputes arising under this section between the Secretary of State and a local health authority or education authority ;
- (e) that notwithstanding subsection (3) above, such of the rights and liabilities of a local health authority or an education authority as may be specified in the order shall be enforceable by or against such Health Board as may be so specified or the Agency.

28.—(1) In this section, “old authorities” means Regional Staff Hospital Boards, Boards of Management, Executive Councils, Commission, local authorities, local health authorities, port local authorities, education authorities, the Scottish Dental Estimates Board and the Drug Accounts Committee, and “new authorities” means the Health Boards and the Agency.

(2) Not later than one month after the passing of this Act, the Secretary of State shall, after consultation with such bodies as appear to him to be concerned, including bodies representative of persons employed by the old authorities, appoint a commission, to be called the Scottish National Health Service Staff Commission (hereafter referred to as the Commission) which shall consist of such number of persons as the Secretary of State thinks fit.

(3) The Commission shall have the following functions—

- (a) to consider and keep under review the arrangements for the recruitment, appointment and promotion by the old and new authorities of staff likely to be affected by this Act, and to advise the Secretary of State and those authorities about such arrangements ;
- (b) to consider and keep under review the arrangements for the transfer of staff from the old to the new authorities, and to advise the Secretary of State and those authorities about such arrangements ;
- (c) to consider the steps necessary to safeguard the interests of persons employed by the old authorities and to advise the Secretary of State thereon ;
- (d) to consider such matters relating to persons employed by the old authorities as are likely to be affected by this Act as may be referred to the Commission by the Secretary of State and to advise him thereon ;
- (e) to advise the Secretary of State on representations made to them under section 36 of this Act ;
- (f) to consider and keep under review arrangements for appointments to new posts in the new authorities which cannot be filled by transfer of persons from the old authorities.

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(4) The Secretary of State shall have power—

- (a) to give directions to the Commission as to their procedure ;
- (b) to give directions to the old and new authorities with respect to the furnishing of information requested from them by the Commission and with respect to the implementation by them of any advice given by the Commission ;
- (c) to pay the Chairman and members of the Commission such remuneration as he may, with the approval of the Minister for the Civil Service, from time to time determine ;
- (d) to pay the expenses incurred by the Commission in the performance of functions approved by the Secretary of State ;
- (e) to wind up the Commission at such time as he thinks fit.

Transfer of
staff of
Regional
Hospital
Boards and
Boards of
Management.

29.—(1) Persons employed immediately before the appointed day by a Regional Hospital Board or Board of Management shall on that day be transferred—

- (a) if they were appointed by a Regional Hospital Board, to the employment of a Health Board or the Agency in accordance with a scheme made under this section ;
- (b) if they were appointed by a Board of Management wholly or mainly for the purposes of a particular hospital or hospitals, to the employment of the Health Board which is responsible for the control of that hospital or those hospitals or of the Agency in accordance with a scheme made under this section ;
- (c) if they were appointed by a Board of Management wholly or mainly for the purposes of two or more hospitals for the control of which two or more Health Boards are responsible, to the employment of such one of the Health Boards or of the Agency as may be determined in accordance with a scheme made under this section.

(2) The Secretary of State shall have power to make a direction requiring such Regional Hospital Board or Boards, as may be specified in the direction, to make a scheme, after consultation with such Health Board or Boards as may be so specified, and with the Agency, if so specified, providing for the transfer to the employment of such Health Board or Boards as may be named in the scheme, or to the employment of the Agency if so named, of persons employed by the Regional Hospital Board or Board of Management, for such purposes as may be specified in the direction or in such capacities or classes as may be so specified.

30.—(1) Persons employed immediately before the appointed day by an Executive Council shall on that day be transferred to the employment of a Health Board or the Agency in accordance with a scheme made under this section.

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Transfer of
staff of
Executive
Councils, etc.

(2) The Secretary of State shall have power to make a direction requiring such Executive Council or Councils as may be specified in the direction to make a scheme, after consultation with such Health Boards as may be so specified, or with the Agency, if so specified, providing for the transfer of persons employed by them to the employment of such Health Board or Boards as may be named in the scheme, or of the Agency, if so named.

(3) Persons employed immediately before the appointed day by the Scottish Dental Estimates Board or the Drug Accounts Committee shall, on that day, be transferred to the employment of the Agency.

31.—(1) The Secretary of State shall have power by order to provide for the transfer of persons employed immediately before the appointed day, wholly or mainly for the purposes of the health functions of a local health authority or the school health functions of an education authority, to the employment of such Health Board as may be specified in the order or determined in accordance with a scheme made under this section, or of the Agency, if so specified or determined.

Transfer of
staff of local
health and
education
authorities.

(2) The Secretary of State shall have power to make an order requiring such local health authority or education authority as may be specified in the order to make a scheme, after consultation with such Health Board as may be so specified, or with the Agency, if so specified, providing for the transfer of persons employed by them, as mentioned in subsection (1) above, to the employment of such Health Board as may be named in the scheme, or of the Agency, if so named.

(3) In this section, “health functions” and “school health functions” have the same meanings as in section 27(1) of this Act.

32.—(1) The Secretary of State shall have power by order to provide for the transfer, on such date as may be specified in the order or as may be determined by the Secretary of State, of persons to whom this section applies to the employment of such Health Board as may be so specified, or of the Agency if so specified, or as may be determined in accordance with a scheme made under this section.

Transfer
of staff
employed for
purposes of
public health.

(2) The Secretary of State shall have power to make an order requiring such local authority as may be specified in the order

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to make a scheme, after consultation with such Health Board as may be so specified or with the Agency if so specified, providing for the transfer of persons employed by the local authority, to whom this section applies, to the employment of such Health Board as may be named in the scheme, or of the Agency, if so named.

(3) This section applies to the following persons—

- (a) medical practitioners registered under the Medical Acts 1956 to 1969 ;
- (b) nurses registered or enrolled under the Nurses (Scotland) Acts 1951 to 1969 ;
- (c) nursing auxiliaries ; and
- (d) persons registered under the Professions Supplementary to Medicine Act 1960,

1960 c. 66.

who are employed wholly or mainly for the purposes of the public health functions of a local authority.

(4) Before making an order under section 31 of this Act or under this section, the Secretary of State shall consult with such bodies representative of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable.

(5) In this section, “public health functions” means the functions specified in Schedule 4 to this Act, and “local authority” means a county council, a town council or a port local authority.

Transfer of certain staff to the employment of the Agency.

33.—(1) The Secretary of State shall have power by order to provide for the transfer of persons to whom this section applies to the employment of the Agency.

(2) This section applies—

- (a) to persons employed before the appointed day in the exercise of functions to which an order made under section 19(3) of this Act relates ; and
- (b) to such persons as may be specified in an order under subsection (1) above as are employed before the appointed day by bodies engaged in the provision of services to which section 16 or 19 of the Act of 1947 relates.

Transfer of other staff.

34.—(1) The Secretary of State shall have power by order to provide for the transfer of persons to whom this section applies to the employment of such Health Board as may be specified in the order or of the Agency if so specified.

(2) This section applies to any person who, immediately before the appointed day, was employed by—

- (a) a Regional Hospital Board ;

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- (b) a Board of Management ;
- (c) an Executive Council ;
- (d) a local authority or education authority wholly or mainly for the purposes of their health or school health functions within the meaning of section 27 of this Act, or wholly or mainly for the purposes of their public health functions within the meaning of section 32 of this Act ;
- (e) a port local authority ; or
- (f) a body established by any board, council or authority as aforesaid acting jointly with any other such board, council or authority ;

and was not transferred by virtue of the foregoing provisions of this Part of this Act.

35.—(1) Any direction or order made under sections 29 to 34 of this Act may contain provision for the determination of any question which may arise as to whether a person is wholly or mainly employed for a particular purpose, or as to what capacity or class he is employed in, by such body or person as may be specified in the direction or order. Supplementary order making powers.

(2) Any direction or order made under sections 29 to 34 of this Act may provide that, for the purposes of any enactment specified in the direction or order, there shall be deemed to have been no break in the employment of any person who is transferred by virtue of those sections from the employment of one body to that of another, and any such direction or order shall include such provision with respect to any such person so as to secure that—

- (a) so long as he continues in the employment of that other body by virtue of the transfer, and until he is served with a statement in writing referring to the direction or order and specifying new terms and conditions of employment, he enjoys terms and conditions of employment not less favourable, taken as a whole, than those which he enjoyed immediately before the date of transfer ; and
- (b) the said new terms and conditions are such that—
 - (i) so long as he is engaged in duties reasonably comparable to those in which he was engaged immediately before the date of transfer, the scale of his salary or remuneration, and
 - (ii) the other terms and conditions of his employment,

are not less favourable, taken as a whole, than those which he enjoyed immediately before the date of transfer.

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Representations to Staff Commission.

36. Any person who objects to his transfer by virtue of sections 29 to 34 of this Act or any condition attaching thereto may make representations to the Commission established under section 28 of this Act, who, having considered those representations, may give such advice as they think fit to the Secretary of State.

PART VI

HOSPITAL ENDOWMENTS AND OTHER TRUST PROPERTY

Transfer of endowments and income held under section 7(1) or 58 of the Act of 1947.

37.—(1) All endowments of a Board of Management or Regional Hospital Board and the accumulated income thereof, held by them by virtue of section 7(1) or 58 of the Act of 1947, being endowments or income held immediately before the appointed day, shall on that day be transferred to and vest in the Health Board which succeeds to the Board concerned, and shall vest in the Health Board free of any trust existing immediately before the appointed day.

(2) Where the area of a Regional Hospital Board is divided between two or more Health Boards, or the hospitals managed by a Board of Management become the responsibility of two or more Health Boards, the division of endowments and income between the Health Boards shall be determined in accordance with an order made by the Secretary of State.

(3) The endowments and income transferred under subsection (1) or (2) above shall be held by the Health Board on trust for such purposes relating to services provided under the Health Service Acts in or in relation to hospitals or to the functions of the Board with respect to research, as the Board may think fit, but the Board shall secure, so far as is reasonably practicable, that the objects of the endowment, and the observance of any conditions attaching thereto, including, in particular, conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the exercise of the power hereby conferred.

Transfer of rights held under the Hospital Endowments (Scotland) Act 1971.
1971 c. 8.

38.—(1) All rights in relevant endowments within the meaning of the Hospital Endowments (Scotland) Act 1971, including the accumulated income thereof, held by Boards of Management and Regional Hospital Boards immediately before the appointed day, shall on that day be transferred to and vest in the Health Board which administers the services formerly provided by the Board concerned.

(2) Where the area of a Regional Hospital Board is divided between two or more Health Boards, or the hospitals managed by a Board of Management become the responsibility of two or more Health Boards, the division of rights in relevant endowments and income between the Health Boards shall be determined in accordance with an order made by the Secretary of State.

(3) In making a scheme under section 7 of the said Act of 1971 after the appointed day, the Secretary of State shall have regard to the arrangements for the distribution of income made under any such scheme in operation immediately before that day.

(4) Any such scheme made after the appointed day may provide that any accumulated income held by a Health Board by virtue of section 2(2)(a) of the said Act of 1971 may only be used for such purposes as may be specified in the scheme.

(5) In section 7(3)(a) of the said Act of 1971, for the words from "hospital" to "1947" (where first occurring) there shall be substituted the words "services provided under the National Health Service (Scotland) Acts 1947 to 1972 in or in relation to hospitals".

39.—(1) All property, including the accumulated income thereof, held on trust immediately before the appointed day by a local health authority for the purposes of their health functions within the meaning of section 27(1) of this Act, shall on that day be transferred to and vest in the Health Board which administers the services formerly provided by the authority concerned, and shall vest in the Health Board free of any trust existing immediately before the appointed day.

Transfer of property held on trust by local health authorities.

(2) Where the area of a local health authority is divided between two or more Health Boards, the division of the property and income mentioned in subsection (1) above between the Health Boards shall be determined in accordance with an order made by the Secretary of State.

(3) The property and income transferred under subsection (1) or (2) above shall be held by the Health Board on trust for such purposes relating to services provided by them under the Health Service Acts or to the functions of the Board with respect to research, as the Board may think fit, but the Board shall secure, so far as is reasonably practicable, that the objects of the trust, and the observance of any conditions attaching thereto, including, in particular, conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the exercise of the power hereby conferred.

PART VI

Power of trustees to make payments to Health Boards.

40.—(1) Where property, other than property transferred to the Secretary of State under Part V of this Act or to a Health Board under this Part of this Act, is held on trust immediately before the appointed day, and the terms of the trust instrument authorise or require the trustees, whether immediately or in the future, to apply any part of the capital or income of the trust property for the purposes of any hospital or service which is to be administered by a Health Board, the trust instrument shall be construed as authorising or, as the case may be, requiring the trustees to pay that capital or income to the Health Board concerned.

(2) Where property so held in trust is, under the trust instrument, to be applied for the purposes of hospitals which are transferred to more than one Health Board, the trustees shall distribute the property between the Boards concerned, in such manner, having regard to the purposes of the trust, as the trustees may determine.

(3) Any sums paid to a Health Board under this section shall, so far as practicable, be applied by them for the purposes specified in the trust deed.

Power of Health Boards and local health councils to hold property on trust.

41.—(1) A Health Board shall have power to accept, hold and administer any property upon trust for purposes relating to any service which it is their function to make arrangements for, administer or provide, or to their functions with respect to research.

(2) A local health council shall have power to accept, hold and administer any property upon trust for purposes relating to any function conferred upon them by or under any enactment.

PART VII**THE HEALTH SERVICE COMMISSIONER FOR SCOTLAND**

Appointment of Commissioner and tenure of office.

42.—(1) For the purpose of conducting investigations in accordance with the following provisions of this Part of this Act, there shall be appointed a Commissioner, to be known as the Health Service Commissioner for Scotland.

(2) Her Majesty may, by Letters Patent, from time to time appoint a person to be the Commissioner, and any person so appointed shall, subject to subsection (3) below, hold office during good behaviour.

(3) A person appointed to be the Commissioner may be relieved of office by Her Majesty at his own request, or may be removed from office by Her Majesty in consequence of

Addresses from both Houses of Parliament, and shall in any case vacate office on completing the year of service in which he attains the age of sixty-five years.

(4) The Commissioner shall not be a member of the House of Commons, or of the Senate or House of Commons of Northern Ireland, and accordingly—

(a) in Part III of Schedule 1 to the House of Commons Disqualification Act 1957, there shall be inserted, at the appropriate point in alphabetical order, the entry “The Health Service Commissioner for Scotland”; and

(b) the like amendment shall be made in the Part substituted for the said Part III by Schedule 3 to that Act in its application to the Senate and House of Commons of Northern Ireland.

(5) The Commissioner shall not be a member of a body subject to investigation or any management committee thereof.

43.—(1) Subject to the provisions of this section, there shall be paid to the holder of the office of Commissioner such salary as the House of Commons may, by resolution, from time to time determine, and any such resolution may take effect from the date on which it is passed or such other date as may be specified therein.

(2) Subject to the provisions of this section, Schedule 1 to the Parliamentary Commissioner Act 1967 (pensions and other benefits) shall have effect with respect to persons who have held office as Commissioner as it has effect with respect to persons who have held office as Commissioner under that Act.

(3) The salary payable to a holder of the office of Commissioner shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he had previously been appointed or elected; but any such abatement shall be disregarded in computing that salary for the purposes of the said Schedule 1.

(4) If one person holds both the offices of Parliamentary Commissioner for Administration and Commissioner, he shall, so long as he does so, be entitled only to the salary, pension and other benefits pertaining to the former office.

(5) Any salary, pension or other benefit payable by virtue of this section shall be charged on and issued out of the Consolidated Fund.

44.—(1) The Commissioner may appoint such officers as he may determine with the approval of the Minister for the Civil Service as to numbers and conditions of service.

PART VII

(2) Any function of the Commissioner under this Part of this Act may be performed by any officer of the Commissioner authorised for that purpose by the Commissioner or by any officer of the Parliamentary Commissioner for Administration so authorised.

(3) To assist him in any investigation, the Commissioner may obtain advice from any person who in his opinion is qualified to give it, and such fees or allowances may be paid to such person by the Commissioner as he may, with the approval of the Minister for the Civil Service, determine.

(4) The expenses of the Commissioner under this Part of this Act, to such amount as may be sanctioned by the Minister for the Civil Service, shall be defrayed out of moneys provided by Parliament.

Bodies and
action subject
to investiga-
tion.

45.—(1) In this Part of this Act, a “ body subject to investigation ” means any of the following bodies—

- (a) Regional Hospital Boards ;
- (b) Boards of Management ;
- (c) Executive Councils ;
- (d) Health Boards ;
- (e) the Agency.

(2) Subject to the provisions of this section, the Commissioner may investigate any action taken by or on behalf of a body subject to investigation in any case where a complaint is duly made that a person claims to have sustained injustice or hardship in consequence of maladministration in connection with the action so taken, or in consequence of a failure in a service which was or ought to have been provided for him by or on behalf of the body subject to investigation, or in consequence of having been unfairly or unreasonably treated.

(3) Except as hereinafter provided, the Commissioner shall not conduct an investigation under this Part of this Act in respect of any of the following matters—

- (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment or by virtue of Her Majesty’s prerogative ;
- (b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law :

Provided that the Commissioner may conduct an investigation notwithstanding that the person aggrieved has or had such a right or remedy, if satisfied that in the particular circumstances it is not reasonable to expect him to resort or have resorted to it.

(4) Without prejudice to subsection (3) above, the Commissioner shall not conduct an investigation under this Part of this Act in respect of any such action as is described in Schedule 5 to this Act.

(5) Her Majesty may, by Order in Council, amend the said Schedule so as to exclude from the provisions of that Schedule action described in paragraph 4 or 5 of that Schedule; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In determining whether to initiate, continue or discontinue an investigation under this Part of this Act, the Commissioner shall, subject to the foregoing provisions of this section, act in accordance with his own discretion; and any question whether a complaint is duly made under this Part of this Act shall be determined by the Commissioner.

46.—(1) A complaint under this Part of this Act may be made by any individual or by any body of persons, whether incorporated or not, not being— Provisions relating to complaints.

(a) a local authority or other authority or body constituted for purposes of the public service or of local government or for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking;

(b) any other authority or body whose members are appointed by Her Majesty or any Minister of the Crown or government department, or whose revenues consist wholly or mainly of moneys provided by Parliament.

(2) Where the person by whom a complaint might have been made under the foregoing provisions of this Part of this Act has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other individual suitable to represent him; but except as aforesaid a complaint shall not be entertained under this Act unless made by the person aggrieved himself.

(3) A complaint shall not be entertained under this Part of this Act unless it is made in writing to the Commissioner by or on behalf of the person aggrieved not later than twelve months from the day on which the matters alleged in the complaint first came to the notice of the person aggrieved; but the Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers proper to do so.

PART VII

(4) Before proceeding to investigate a complaint, the Commissioner shall satisfy himself that the complaint has been brought by or on behalf of the person aggrieved to the notice of the body subject to investigation and that that body has been afforded a reasonable opportunity to investigate and reply to the complaint.

(5) Notwithstanding the foregoing provisions of this section, a body subject to investigation may itself refer to the Commissioner a complaint made against it by or on behalf of a person aggrieved, and the provisions of subsection (3) above regarding time limits shall apply to such a reference as it applies to a complaint.

Application
of certain
provisions
of the
Parliamentary
Commissioner
Act 1967.
1967 c. 13.

47. The following provisions of the Parliamentary Commissioner Act 1967 shall, with any necessary modifications, apply to the Commissioner, his officers and to a body subject to investigation as they apply to the Commissioner under that Act, his officers and to a department or authority concerned—

- (1) section 7 (procedure in respect of investigations) ;
- (2) section 8 (evidence), except subsection (4) ;
- (3) section 9 (obstruction and contempt) ;
- (4) section 11 (secrecy of information), except subsection (4).

Reports by
Commissioner.

48.—(1) In any case where the Commissioner conducts an investigation under this Part of this Act, he shall send a report of the results of his investigation to—

- (a) the person who made the complaint ;
- (b) the body subject to investigation ;
- (c) any person who is alleged in the complaint to have taken or authorised the action complained of ;
- (d) the Secretary of State.

(2) In any case where the Commissioner decides not to conduct an investigation under this Part of this Act, he shall send a statement of his reasons for doing so to the persons and bodies described in paragraphs (a) and (b) of subsection (1) above.

(3) If, after conducting an investigation under this Part of this Act, it appears to the Commissioner that injustice or hardship has been caused to the person aggrieved in the circumstances described in section 45(2) of this Act, and that the injustice or hardship has not been or will not be remedied, he may, if he thinks fit, make a special report to the Secretary of State who shall, as soon as is reasonably practicable, lay before each House of Parliament a copy of the report.

(4) The Commissioner shall annually make to the Secretary of State a general report on the performance of his functions under this Part of this Act, and may from time to time make to the Secretary of State such other reports with respect to those functions as the Commissioner thinks fit, and the Secretary of State shall lay a copy of any such report before each House of Parliament.

PART VII

(5) For the purpose of the law of defamation, any report or statement made, sent or laid in pursuance of this section, shall be absolutely privileged.

49.—(1) Notwithstanding the dissolution by this Act of any body subject to investigation, the Commissioner may continue any investigation in relation to such a body commenced by him before the date of dissolution, and may after that date commence an investigation under this Part of this Act in relation to such a body provided that the time limits mentioned in section 46(3) of this Act are observed.

Transitional provisions.

(2) As regards any investigation mentioned in subsection (1) above, the Commissioner may adopt such procedure in relation thereto, and to the report resulting therefrom, as in the circumstances he thinks fit.

50.—(1) In this Part of this Act—

Interpretation of Part VII.

“action” includes failure to act, and other expressions connoting action shall be construed accordingly;

“the Commissioner” means the Health Service Commissioner for Scotland;

“person aggrieved” means the person who claims or is alleged to have sustained such injustice or hardship as is mentioned in section 45(2) of this Act.

(2) It is hereby declared that nothing in this Part of this Act authorises or requires the Commissioner to question the merits of a decision taken without maladministration by a body subject to investigation in the exercise of a discretion vested in that body.

PART VIII

MISCELLANEOUS AND GENERAL

Miscellaneous

51.—(1) The Secretary of State may provide for the management of a State hospital either by a committee constituted under section 90(2) of the Mental Health (Scotland) Act 1960 or by a Health Board or the Agency to the extent that power to do so is delegated to the Board or Agency by the Secretary of State.

State hospitals.

1960 c. 61.

PART VIII

(2) The Secretary of State shall have power by order to dissolve any such committee as aforesaid, and any such order may contain such provision as he considers necessary or expedient in connection with the dissolution of the committee and the winding-up of their affairs.

The Mental
Welfare
Commission
for Scotland.
1960 c. 61.

52.—(1) In section 2(2) of the Mental Health (Scotland) Act 1960 (constitution of Mental Welfare Commission), for the word “nine” there shall be substituted the word “eleven”.

(2) For the purpose of any inquiry under section 4(2)(a) of the said Act of 1960 (ill-treatment etc. of mentally disordered), the Mental Welfare Commission may, by notice in writing, require any person to attend at the time and place set forth in the notice to give evidence, but no person shall be required in obedience to such a notice to go more than ten miles from his place of residence unless the necessary expenses of his attendance are paid or tendered to him.

(3) A person giving evidence at such an inquiry shall not be required to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to answer if the inquiry were a proceeding in a court of law.

(4) The proceedings in any such inquiry shall have the privilege of a court of law.

(5) The chairman of the inquiry may administer oaths to witnesses and examine witnesses on oath, and may accept, in lieu of evidence on oath by any person, evidence on affirmation or a statement in writing by that person.

(6) Any person who refuses or wilfully neglects to attend in obedience to a notice under subsection (2) above or to give evidence shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20.

Extension of
definition of
infectious
disease.
1889 c. 72.

53. For section 7 of the Infectious Disease (Notification) Act 1889 (extension of definition of infectious disease) there shall be substituted the following section—

“Extension
of definition
of infectious
disease.

7.—(1) The Secretary of State may direct, in respect of the area of any Health Board or of Scotland as a whole, in either case as may be specified in the direction, that this Act shall apply to any infectious disease so specified, other than a disease specifically mentioned in this Act, and any such direction may be permanent or for a specified period.

(2) Before making any such direction, the Secretary of State shall consult, in the case of a direction which is to apply to a particular area, the Health

Board concerned, and, in the case of a direction which is to apply to Scotland as a whole, the Scottish Health Service Planning Council.

PART VIII

(3) The Secretary of State shall give public notice of any such direction in such manner as he thinks sufficient for giving information to all persons interested, and shall notify the terms of the direction to all registered medical practitioners practising or residing in the area affected by the direction.

(4) A direction shall come into operation on such date as the Secretary of State may fix, being a date not earlier than one week from the first public notice given under subsection (3) above, or, in a case where the Secretary of State certifies that an emergency exists, a date not earlier than three days from the first public notice as aforesaid.

(5) Any direction under this section may be revoked or varied by a subsequent direction made in the like manner."

54. If the Secretary of State is of the opinion that an emergency exists, and thinks it necessary in order to secure the effective continuance of any service under the Health Service Acts, he shall have power to direct that any function conferred by or under those Acts on any body or person shall, during the period of the emergency, be performed by such other body or person as he may specify in the direction.

Power of Secretary of State in an emergency.

55.—(1) Any Health Board and the Agency shall each have power—

Furnishing of overseas aid by Health Boards and the Agency.

(a) with the consent of the Secretary of State, to enter into, and carry out, agreements with the appropriate Minister whereunder they act, at the expense of that Minister, as the instrument by means whereof technical assistance is furnished by him in exercise of the power conferred on him by section 1(1) of the Overseas Aid Act 1966 ; 1966 c. 21. and

(b) with the consent of the Secretary of State and the appropriate Minister, to enter into and carry out agreements under which they furnish technical or any other assistance, other than financial, for any purpose mentioned in the said section 1(1), to any authority or person outside the United Kingdom, on such terms as to payment as may be agreed.

(2) In this section, " appropriate Minister " means the Minister for the time being discharging the functions expressed by the said Act of 1966 to be conferred on the Minister of Overseas Development.

PART VIII

Transfer of
functions under
Nursing Homes
Registration
(Scotland) Act 1938
1938 c. 73.

Accounts
of Health
Boards and
the Agency.

56. The functions exercisable by local authorities under the Nursing Homes Registration (Scotland) Act 1938 shall henceforth be exercisable by Health Boards acting on behalf of the Secretary of State.

57.—(1) Every Health Board and the Agency shall keep, in such form as the Secretary of State may, with the approval of the Treasury, direct, accounts of all moneys received or paid out by them, and those accounts shall be audited by auditors appointed by the Secretary of State, and the Comptroller and Auditor General may examine all such accounts and any records relating thereto and any report of the auditor thereof.

(2) Regulations may make provision generally with respect to the audit of accounts under subsection (1) above and, in particular, for conferring on the auditor of any of those accounts such rights of access to, and production of, books, accounts, vouchers or other documents as may be specified in the regulations, and such right in such conditions, as may be so specified, to require from any member or officer, or former member or officer, of a Health Board or the Agency, such information relating to the affairs of the Board or Agency as the Secretary of State may think necessary for the proper performance of the duty of the auditor.

(3) Every Health Board and the Agency shall prepare and transmit to the Secretary of State, in respect of each financial year, accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.

(4) The Secretary of State shall prepare in respect of each financial year, in such form as the Treasury may direct, summarised accounts of Health Boards and the Agency, and shall transmit them on or before the 30th day of November in each year to the Comptroller and Auditor General, who shall examine and certify them and lay copies of them together with his report thereon before both Houses of Parliament.

General

Purchase of
land and
moveable
property.

58.—(1) The Secretary of State may purchase by agreement any moveable property and, by agreement or compulsorily, any land which he considers is required for the purposes of any service under the Health Service Acts, and may use for those purposes any property, heritable or moveable, acquired by him or on his behalf, under those Acts.

(2) Where the Secretary of State acquires premises under the foregoing subsection, he may acquire compulsorily, in accordance with Schedule 3 to the Act of 1947, any equipment, furniture or other moveable property used in or in connection with the premises.

(3) Any Health Board or the Agency may acquire on behalf of the Secretary of State any moveable property which may be required for the purposes aforesaid.

(4) For the purpose of the purchase of land by agreement by the Secretary of State, the Lands Clauses Acts (except so much thereof as relates to the acquisition of land otherwise than by agreement, and the provisions relating to access to the special Act, and except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845), and section 6 and sections 70 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the Mines (Working Facilities and Support) Act 1923) are hereby incorporated with this section, and, in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the Secretary of State shall be deemed to be the promoter of the undertaking.

59.—(1) Stamp duty shall not be payable on any conveyance, agreement or assignation made, or instrument executed solely for the purpose of giving effect to any transfer of property, rights or liabilities by, or by an order made under, sections 13, 25 to 27, or 37 to 39 of this Act. Exemption from stamp duty.

(2) Section 12 of the Finance Act 1895 (which requires to be stamped as conveyances on sale in certain cases) shall not apply to the transfer of property, rights or liabilities by, or by an order made under, sections 13 or 25 to 27 of this Act, and stamp duty shall not be payable on any such order.

60.—(1) There shall be paid out of moneys provided by Parliament any sums payable by the Secretary of State in consequence of the provisions of this Act and any increase in the sums payable out of moneys so provided under any other enactment. Expenses.

(2) Any sums payable under or by virtue of this Act to the Secretary of State shall be paid into the Consolidated Fund.

(3) There shall be paid by the Secretary of State such sums as may be necessary to defray the expenditure of the following bodies, being expenditure approved by him in the prescribed manner—

- (a) the Scottish Health Service Planning Council ;
- (b) every Health Board ;
- (c) the Agency ;
- (d) the Scottish Medical Practices Committee ;
- (e) the Scottish Dental Estimates Board ;
- (f) the Tribunal constituted under section 43 of the Act of 1947.

(4) The expenditure of a local health council shall, for the purposes of this section, be deemed to be the expenditure of the Health Board within whose area it has been established.

PART VIII

(5) The expenditure of a University Liaison Committee shall, for the purposes of this section, be deemed to be the expenditure of the Health Board for whose area it is constituted, and, where a University Liaison Committee is constituted for the areas of more than one Health Board, its expenditure shall be apportioned between the Boards concerned in such manner as may be determined by the Secretary of State.

(6) Payments under subsection (3) above shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise as the Secretary of State may determine.

1966 c. 51.

(7) Having regard to the relief obtained or likely to be obtained by local authorities in the year 1973-74 or in the year 1974-75 which is attributable to the coming into operation of any provision of this Act, the Secretary of State may redetermine for those years the amount and portion mentioned in section 2(2)(a) and (b) of the Local Government (Scotland) Act 1966, and by an order, made in the like manner and subject to the like provisions as a rate support grant order, reduce the amount fixed by the relevant rate support grant order as the aggregate amount of the rate support grants and any element of the grants for those years.

(8) The provisions of sections 2 and 3 of the said Act of 1966, relating to consultation and to a report of the considerations leading to a determination under the said section 2, shall apply to a redetermination under subsection (7) above as they apply to a determination under that section.

(9) Expressions used in subsections (7) and (8) above have the same meanings as in the said Act of 1966.

Supple-
mentary and
transitional.

61.—(1) The Secretary of State may at any time, whether before or after the appointed day, by order make such incidental, consequential, transitional or supplementary provision as may appear to him to be necessary or proper for the general or any particular purposes of this Act or in consequence of any of the provisions thereof or for giving full effect thereto, and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.

(2) Any such order may in particular include provision for anything duly done before the appointed day by any authority or body in the exercise of functions which, on and after that day, become functions of some other authority or body to be deemed, as from that day, to have been duly done by that other authority or body, and for any instrument made before that day, in so far as it was made in the exercise of those functions, to continue in force on and after that day until varied or revoked by that other authority or body.

(3) In so far as any apportionment, agreement, regulation or order made, or any notice, direction, consent or approval given under any enactment repealed by this Act, or proceedings instituted or other thing done under any such enactment could have been made, given, instituted or done under a corresponding provision of this Act, it shall not be invalidated by the repeals effected by this Act, but shall have effect as if it had been made, given, instituted or done under that corresponding provision and may be amended, varied, revoked or enforced accordingly, and in the case of any legal proceedings may be continued and appealed against as if this Act had not been passed.

(4) Notwithstanding the repeal by this Act of section 67 of the Act of 1947, regulations made under paragraphs (c) to (e) of subsection (1) of that section shall continue to have effect until revoked by regulations under this Act.

(5) The Secretary of State may, with any necessary modifications, by order apply any of the provisions of paragraph 1 of Schedule 9 to the Civil Aviation Act 1971 to the case of a person who enters the employment of a Health Board or the Agency after having been employed in employment to which the said paragraph 1 applies, and any such order may provide that for the purposes of any enactment specified in the order, or for any other purposes so specified, there shall be deemed to have been no break in the employment of any such person. 1971 c. 75.

62.—(1) Any power conferred by this Act on the Secretary of State to make regulations or orders shall be exercisable by statutory instrument. Regulations, orders and local enactments.

(2) All statutory instruments containing regulations made under this Act, and all statutory instruments containing orders referred to in subsection (3) below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The orders concerned are orders made under section 13 of this Act determining the area of a Health Board, orders made under subsection (3) of that section and orders made under sections 25, 26(3), 27(5), 31 to 35, 37(2), 38(2) and 39(2) of this Act and under subsections (8) and (9) of this section.

(4) Any power under this Act to make regulations or orders may be exercised—

(a) either in relation to all cases to which the power extends, or in relation to those cases subject to exceptions, or in relation to any particular case or cases, and

(b) subject to such other exceptions or conditions as the Secretary of State thinks fit,

and shall include power to make such incidental or supplementary provision as appears to the Secretary of State to be expedient.

PART VIII (5) Any power to make regulations under this Act shall, if the Treasury so direct, not be exercisable except in conjunction with the Treasury.

(6) Any order under this Act may be varied or revoked by a subsequent order made in the like manner and subject to the same provisions.

(7) Subject to subsection (8) below, where any local enactment provides for any matter which is also provided for by any provision of this Act or of any order or regulations made thereunder, the provisions of this Act, or, as the case may be, of that order or those regulations, shall have effect in substitution for the local enactment, which shall cease to have effect.

(8) The Secretary of State may by order except from the operation of subsection (7) above such local enactments as may be specified in the order and direct that the corresponding provisions of this Act or of any order or regulations made thereunder, as may be so specified, shall not have effect in the areas in which the specified local enactments have effect.

(9) If it appears to the Secretary of State that any local enactment, not being an enactment which has ceased to have effect by virtue of subsection (7) above, is inconsistent with any provision of this Act or of any order or regulations made thereunder, or is no longer required, or requires to be amended, having regard to any provision of this Act or of any order or regulations made thereunder, he may by order repeal or amend the local enactment as he may consider appropriate.

Interpretation. 63.—(1) Expressions used in this Act and the Act of 1947 have, unless the context otherwise requires, the same meanings as in that Act, and other expressions used in this Act shall, unless the context otherwise requires, have the following meanings:—

- 1947 c. 27. “the Act of 1947” means the National Health Service (Scotland) Act 1947;
- 1968 c. 46. “the Act of 1968” means the Health Services and Public Health Act 1968;
- “the Agency” means the Common Services Agency for the Scottish Health Service constituted under section 19 of this Act;
- “the appointed day” has the meaning assigned to it by section 65 of this Act;
- “designated medical officer” means a medical officer designated under section 21 of this Act;
- “Health Board” means a board constituted under section 13 of this Act;
- “the Health Service Acts” means the National Health Service (Scotland) Acts 1947 to 1972;

“local health council” means a council established by virtue of section 14 of this Act; PART VIII

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State under this Act;

“Scottish Health Service Planning Council” means the Council constituted under section 17 of this Act;

“University Liaison Committee” means a committee constituted by virtue of section 15 of this Act.

(2) Unless the context otherwise requires, any references in this Act to any enactment are references to that enactment as amended or extended by or under any other enactment, including this Act.

64.—(1) The enactments mentioned in Schedule 6 to this Act shall have effect subject to the amendments respectively specified in that Schedule, being minor amendments or amendments consequential on the provisions of this Act. Minor and consequential amendments and repeals.

(2) The enactments set out in Schedule 7 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

65.—(1) This Act (except this section) shall come into operation on the appointed day, being such day as the Secretary of State may by order appoint, and different days may be appointed under this subsection for different provisions of this Act or for different purposes, or for the purposes of the same provision in relation to different cases. Commencement, short title and extent.

(2) This Act may be cited as the National Health Service (Scotland) Act 1972, and the National Health Service (Scotland) Acts 1947 to 1968 and this Act may be cited together as the National Health Service (Scotland) Acts 1947 to 1972.

(3) This Act, except in so far as it relates to the amendment of the House of Commons Disqualification Act 1957, extends to Scotland only. 1957 c. 20.

SCHEDULES

Sections 13 and
15.

SCHEDULE 1

HEALTH BOARDS AND UNIVERSITY LIAISON COMMITTEES

PART I

HEALTH BOARDS

1. A Health Board shall be a body corporate and shall have a common seal.

2. A Health Board shall consist of a chairman appointed by the Secretary of State and such number of other members so appointed as the Secretary of State thinks fit.

3. Appointments under paragraph 2 above shall be made after consultation with the following bodies—

- 1947 c. 43.
- (a) county councils and town councils of large burghs (within the meaning of the Local Government (Scotland) Act 1947) in the area of the Health Board concerned;
 - (b) any university appearing to the Secretary of State to have an interest in the provision of health services in that area;
 - (c) such organisations as the Secretary of State may recognise as representative in that area of the medical, dental, nursing, pharmaceutical and ophthalmic professions and such other professions as the Secretary of State considers appropriate, or of those professions generally; and
 - (d) such other organisations as appear to the Secretary of State to be concerned.

4. In the case of appointments made before the appointed day for the transfer of functions to a Health Board, the Secretary of State shall also consult with such of the following bodies providing services in the area of the Health Board as appear to him to be appropriate, that is to say—

- (a) Regional Hospital Boards;
- (b) Boards of Management;
- (c) Executive Councils; and
- (d) local health authorities.

5. The Secretary of State may pay to the chairman of a Health Board such remuneration as he may, with the approval of the Minister for the Civil Service, from time to time determine.

1957 c. 20.

6. In Part III of Schedule 1 to the House of Commons Disqualification Act 1957 (which specifies offices the holders of which are disqualified under that Act) as it applies to the House of Commons of the Parliament of the United Kingdom, there shall be inserted at the appropriate point in alphabetical order the entry "Paid chairman of a Health Board constituted under the National Health Service (Scotland) Act 1972".

7. A Health Board may employ such officers and servants on such terms as to remuneration and conditions of service as the Board may, subject to regulations, determine.

8. Regulations may make provision with respect to the method of appointment of officers or servants of a Health Board and as to the qualifications, remuneration and conditions of service of those persons.

9. No officer or servant of a Health Board to whom regulations apply shall be employed otherwise than in accordance with the regulations.

10. Regulations under paragraph 8 above shall not contain a requirement that all consultants employed for the purpose of hospitals shall be employed whole-time.

11. The application of the seal of a Board to any document shall be attested by at least one member of the Board and by the person for the time being acting as Secretary of the Board.

12. Every document purporting to be an instrument issued by a Board and to be sealed and attested as aforesaid or to be duly signed on behalf of the Board shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

PART II

UNIVERSITY LIAISON COMMITTEES

The University Liaison Committee for any area or combination of areas shall consist of such number of members as the Secretary of State thinks fit, and of those members—

- (a) not less than one-third shall be appointed by any university or universities appearing to the Secretary of State to have an interest in the health service in the area or combined areas ;
- (b) a number, equal to the number appointed under paragraph (a) above, shall be appointed by the Health Board for the area or, as the case may be, by the Health Boards for the combined areas acting jointly ; and
- (c) any other members shall be appointed in such manner as may be provided in the order constituting the Committee.

The Committee shall appoint one of their number to be chairman.

PART III

SUPPLEMENTARY PROVISIONS

1. Regulations may make provision—

- (a) as to the appointment, tenure of office and vacation of office of chairmen and members of Health Boards and University Liaison Committees ;

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- (b) as to the delegation of functions to committees or sub-committees composed, as to a majority, of members of those bodies ;
- (c) as to the procedure of those bodies, their committees and sub-committees ; and
- (d) for the payment by Health Boards of subscriptions, of such amounts as the Secretary of State may approve, to the funds of such associations or other bodies as he may from time to time approve.

2. The proceedings of a Health Board or a University Liaison Committee shall not be invalidated by any vacancy in membership or by any defect in the appointment of any member thereof.

3. The Secretary of State shall pay to members of a Health Board, the committees and sub-committees thereof, and to members of University Liaison Committees, such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, from time to time determine.

4. Allowances shall not be paid under paragraph 3 above except in connection with the performance of such powers or duties, in such circumstances, as the Secretary of State may determine.

5. Payments under paragraph 3 above shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may determine.

Section 17

SCHEDULE 2

SCOTTISH HEALTH SERVICE PLANNING COUNCIL

1. The Scottish Health Service Planning Council shall consist of a chairman appointed by the Secretary of State, and other members appointed as follows—

- (a) one member appointed by each Health Board ;
- (b) one member appointed by each university in Scotland which has a medical school ;
- (c) not more than six officers of the Secretary of State appointed by him ; and
- (d) such other members, not being officers of the Secretary of State, as may be appointed by him.

2. The Secretary of State shall have power to appoint a vice-chairman from among the membership of the Council.

3. Regulations may make provision for—

- (a) the appointment, tenure and vacation of office of the chairman, vice-chairman and members of the Council ;
- (b) enabling alternate members to attend in place of any member of the Council who may be absent ;

- (c) the attendance as assessors at meetings of the Council of the chairmen of the national consultative committees ;
- (d) the appointment by the Council of committees whose membership may include persons who are not members of the Council ; and
- (e) the procedure of the Council or of any committee thereof.

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4. The proceedings of the Council or of any committee thereof shall not be invalidated by any vacancy in the membership of the Council or committee or by any defect in the appointment or qualification of any member thereof.

5. The Secretary of State shall pay to members of the Council, the committees and sub-committees thereof, such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, from time to time determine.

6. Allowances shall not be paid under paragraph 5 above except in connection with the performance of such powers or duties, in such circumstances, as the Secretary of State may determine.

7. The Secretary of State shall have power, after consultation with the Council, to make such arrangements for the provision of secretarial and other services and facilities for the Council as appear to him to be appropriate.

SCHEDULE 3

Section 19.

THE COMMON SERVICES AGENCY FOR THE SCOTTISH HEALTH SERVICE

1. The Agency shall be a body corporate and shall have a common seal.

2. The affairs of the Agency shall be managed by a management committee constituted in accordance with paragraph 3 below.

3. The management committee shall consist of a chairman appointed by the Secretary of State and other members appointed as follows—

- (a) five members appointed by the Secretary of State ;
- (b) six members appointed by the Secretary of State on the nomination of the Health Boards acting jointly ; and
- (c) such other members as may be appointed by the Secretary of State after consultation with the Health Boards, acting jointly.

4. The proceedings of the management committee shall not be invalidated by any vacancy in its membership or by any defect in the appointment of any member thereof.

5. The Secretary of State shall pay to members of the management committee and sub-committees thereof such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, from time to time determine.

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6. Allowances shall not be paid under paragraph 5 above except in connection with the performance of such powers or duties, in such circumstances, as the Secretary of State may determine.

7. The Agency may employ such officers and servants on such terms as to remuneration and conditions of service as the management committee may, subject to regulations, determine.

8. Regulations may make provision with respect to—

- (a) the appointment, tenure and vacation of office of the chairman and members of the management committee ;
- (b) enabling alternate members to attend in place of any member of the committee who may be absent ;
- (c) the appointment by the management committee of sub-committees whose membership may include persons who are not members of the management committee ;
- (d) the procedure of the management committee ; and
- (e) the method of appointment of officers or servants of the Agency and the qualifications, remuneration and conditions of service of those persons.

9. No officer or servant of the Agency to whom regulations apply shall be employed otherwise than in accordance with the regulations.

10. The application of the seal of the Agency to any document shall be attested by at least one member of the management committee and by an officer authorised for the purpose by the management committee.

11. Every document purporting to be an instrument issued by the Agency and to be sealed and attested as aforesaid or to be duly signed on behalf of the Agency shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

Section 32.

SCHEDULE 4

PUBLIC HEALTH FUNCTIONS

- 1889 c. 72. 1. Functions with respect to the notification of infectious disease under the Infectious Disease (Notification) Act 1889.
- 1897 c. 31. 2. Functions with respect to persons infested with vermin under the Cleansing of Persons Act 1897.
- 1897 c. 38. 3. Functions with respect to the notification or prevention of infectious disease, mortuaries or common lodging-houses under the Public Health (Scotland) Act 1897 or the functions of a port local authority under that Act.
- 1907 c. 40. 4. Functions with respect to the notification of births under the Notification of Births Act 1907.
- 1956 c. 30. 5. Functions with respect to the prevention and treatment of epidemic, endemic or infectious diseases, or food poisoning.
- 1956 c. 30. 6. Functions of local authorities under the Food and Drugs (Scotland) Act 1956.
- 7. Functions with respect to preventing the spread of infectious disease or food poisoning under section 71 of the Act of 1968.

SCHEDULE 5

Section 45

ACTION NOT SUBJECT TO INVESTIGATION

1. Action taken by medical practitioners, dental practitioners, pharmacists, ophthalmic or dispensing opticians in pursuance of their contracts with Executive Councils or Health Boards under Part IV of the Act of 1947.

2. Action taken in connection with the diagnosis of illness or disease or the care or treatment of a patient, being action which, in the opinion of the Commissioner, was taken solely in the exercise of clinical judgment, whether formed by the person taking the action or by any other person.

3. Action taken by an Executive Council or a Health Board in the exercise of their functions under the National Health Service (Medical and Pharmaceutical Service Committees and Tribunal) (Scotland) Regulations 1948, Parts VI and VII of the National Health Service (General Dental Services) (Scotland) Regulations 1948, Part III of the National Health Service (Joint Ophthalmic Services Committees) (Scotland) Order 1948 or any regulations or order amending or replacing those regulations or that order.

4. Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service under the Health Service Acts.

5. Action taken in matters relating to contractual or other commercial transactions other than in matters arising from arrangements between a body subject to investigation and an authority or body outwith the health service for the provision of services to patients by that authority or body.

6. Action which has been or is the subject of an inquiry under section 69 of the Act of 1947.

7. Action in relation to which the protective functions of the Mental Welfare Commission have been, are being or may be exercised under the Mental Health (Scotland) Act 1960.

1960 c. 61.

SCHEDULE 6

MINOR AND CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

Section 64.

PART I

AMENDMENTS OF THE NATIONAL HEALTH SERVICE (SCOTLAND) ACTS
1947 TO 1968*The National Health Service (Scotland) Act 1947*

1947 c. 27.

1. In section 1 (duty of Secretary of State), the following amendments shall be made:—

(a) in subsection (1), for the words “following provisions of this Act” there shall be substituted the words “provisions of the National Health Service (Scotland) Acts 1947 to 1972”;

(b) in subsection (2), for the words “this Act” there shall be substituted the words “those Acts”.

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2. In section 3 (charges and expenses), the following amendments shall be made:—

- (a) in subsection (3), at the end there shall be added the words “This subsection does not extend to appliances to which section 45 of this Act relates.”;
- (b) in subsection (4), for the words “hospital and specialist services” there shall be substituted the words “any service under the National Health Service (Scotland) Acts 1947 to 1972”.

3. In section 34(1) (general medical services), for the words “Executive Council” there shall be substituted the words “Health Board”.

4. In section 35 (distribution of medical practitioners), the following amendments shall be made:—

- (a) for the words “Executive Councils”, “Executive Council”, “an Executive Council” and “Council”, wherever they occur, there shall be substituted respectively the words “Health Boards”, “Health Board”, “a Health Board” and “Board”.
- (b) in subsection (3), for the words from “a Local Medical Committee” to “Committee” there shall be substituted the words “an area medical committee has been formed for the area of the Board and recognised under section 16 of the National Health Service (Scotland) Act 1972, consult that committee”.

5. In section 36(1) (prohibition of sale of medical practice), in the proviso, for the words from “in the area” to “been entered” there shall be substituted the words “in an area for which he has never been on any list of medical practitioners undertaking to provide general medical services”.

6. In section 39 (general dental services), the following amendments shall be made:—

- (a) in subsection (1), for the words “Executive Council” there shall be substituted the words “Health Board”;
- (b) in paragraph (e) of subsection (2), for the words “an Executive Council” there shall be substituted the words “a Health Board” and for the words “the Sixth Schedule to this Act” there shall be substituted the words “Schedule 1 to the National Health Service (Scotland) Act 1972”.

7. In section 40(1) (pharmaceutical services), for the words “Executive Council” there shall be substituted the words “Health Board”.

8. In section 41(1) (provision of pharmaceutical services), for the words “the Executive Council” there shall be substituted the words “a Health Board”.

9. In section 42(1) (general ophthalmic services), for the words “Executive Council” there shall be substituted the words “Health Board”.

10. In section 43 (disqualification of persons providing services), the following amendments shall be made—

(a) for the words “Executive Council”, “an Executive Council” and “Councils”, wherever they occur, there shall be substituted respectively the words “Health Board”, “a Health Board” and “Boards”;

(b) for subsection (8) there shall be substituted the following subsection—

“(8) Where immediately before the appointed day any person is disqualified under this section from inclusion in any list kept by an Executive Council under Part IV of this Act, he shall, until such time as the Tribunal or the Secretary of State directs to the contrary, be disqualified for inclusion in the appropriate list referred to in subsection (1) of this section.”;

(c) at the end there shall be added the following subsection—

“(9) The references in subsections (1), (3) and (5) above to a Health Board shall include a reference to such committee or joint committee as may be prescribed.”

11. In section 44 (powers of Secretary of State where services inadequate), for the words “Executive Council”, in both places where they occur, there shall be substituted the words “Health Board”.

12. In section 56 (default powers of Secretary of State), the following amendments shall be made:—

(a) in subsection (1), for the words from “any Regional” to “health authority” there shall be substituted the words “any Health Board”, and for the words “this Act” there shall be substituted the words “the National Health Service (Scotland) Acts 1947 to 1972”;

(b) in subsection (2), for the words from “Except” to “health authority” there shall be substituted the words “When such an order is made”, and for the words “this Act” there shall be substituted the words “the National Health Service (Scotland) Acts 1947 to 1972”;

(c) subsection (3) shall cease to have effect.

13. In section 69(1) (inquiries), for the words “this Act” there shall be substituted the words “the National Health Service (Scotland) Acts 1947 to 1972”.

14. In section 70 (protection of certain bodies and officers), for the words from “a Regional” to “Council” there shall be substituted the words “a Health Board and the Common Services Agency for the Scottish Health Service”, and for the words “this Act, and” there shall be substituted the words “the National Health Service (Scotland) Acts 1947 to 1972”.

15. In section 72(c) (proof of resolutions), for the words from “local” to “this Act” there shall be substituted the words “any bodies constituted under the National Health Service (Scotland) Acts 1947 to 1972”.

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16. In section 77 (arbitration), for the words "this Act" there shall be substituted the words "the National Health Service (Scotland) Acts 1947 to 1972".

17. In Schedule 3 (acquisition of moveable property), for the head-note and paragraph 1 there shall be substituted the following head-note and paragraph—

"Acquisition of Property other than Land

1. Where under the National Health Service (Scotland) Acts 1947 to 1972, in connection with the acquisition of any premises, the Secretary of State proposes to acquire any equipment, furniture or other moveable property used in or in connection with the premises, he may, at any time after the acquisition of the premises (in the case of acquisition by agreement) or at any time after the service of a notice to treat (in the case of a compulsory acquisition of premises), serve a notice on the owner of the premises specifying the property proposed to be acquired, and specifying the time within which and the manner in which any objection to such acquisition may be made".

18. In Schedule 8 (tribunal), in paragraph 3, for the words from "associations" onwards there shall be substituted the words "body as the Secretary of State may recognise as being representative of Health Boards".

19. In Schedule 10 (inquiries), in paragraph 6, for the words from "such reasonable" to "day" there shall be substituted the words "a reasonable sum".

1949 c. 93.

The National Health Service (Amendment) Act 1949

20. In section 8 (removal of doubts regarding section 35), after "Council" there shall be inserted the words "or a Health Board".

21. In section 23(1) (transfer of property by voluntary organisations), for the words "a local health authority" and for the words "the authority", where subsequently occurring, there shall be substituted the words "the Secretary of State".

22. In section 28 (recovery of expenses), for the words "hospital and specialist services" there shall be substituted the words "services under the National Health Service (Scotland) Acts 1947 to 1972".

1951 c. 31.

The National Health Service Act 1951

23. In section 1 (charges for appliances), the following amendments shall be made:—

(a) in subsection (1), for the words "Part II or Part IV of those Acts respectively" there shall be substituted the words "the National Health Service (Scotland) Acts 1947 to 1972";

(b) in subsection (3)(a), for the words "said Part II" (where first occurring) there shall be substituted the words "National Health Service (Scotland) Acts 1947 to 1972, otherwise than under the said Part IV", and for the words

“the said Part II” (where second occurring) there shall be substituted the words “those Acts”;

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(c) in subsection (4), for the words “an Executive Council” there shall be substituted the words “a Health Board”.

24. In the Schedule, in the definition of “current specified cost”, for the words “Part II of those Acts respectively” there shall be substituted the words “the National Health Service (Scotland) Acts 1947 to 1972, otherwise than under Part IV of the said Act of 1947”.

The National Health Service Act 1952

1952 c. 25.

25. In section 1(1) (charges), for the words from “as part” to “Part II” there shall be substituted the words “under the National Health Service Acts, otherwise than under Part IV”.

26. In section 7 (regulations as to charges), the following amendments shall be made—

(a) in subsection (4), for the words from the beginning to “education authorities” there shall be substituted the words “For the purposes of section 6(2) of the National Health Service (Scotland) Act 1972 (which requires the Secretary of State”;

(b) in subsection (6), for the words from “Regional” to “Council” there shall be substituted the words “Health Board”.

27. In section 8(1) (interpretation), for the word “1951” (where second occurring) there shall be substituted the word “1972”.

The National Health Service Act 1961

1961 c. 19.

28. In section 1(4) (charges), for the words “of the Act of 1947” there shall be substituted the words “the National Health Service (Scotland) Acts 1947 to 1972”.

29. In section 3(1) (interpretation), in paragraph (a) of the definition of “the relevant time”, for the words “of the Act of 1947” there shall be substituted the words “the National Health Service (Scotland) Acts 1947 to 1972, otherwise than under Part IV of the Act of 1947”, and for the words “Part II or Part IV thereof” there shall be substituted the words “those Acts”, and, in paragraph (b) of that definition, for the words “either of the said Acts” there shall be substituted the words “the Act of 1947”.

The Health Services and Public Health Act 1968

1968 c. 46.

30. In section 1(1) (accommodation for private patients), for the words “providing hospital and specialist services” there shall be substituted the words “vested in him”.

31. In section 2(1) (accommodation and treatment of non-resident private patients), for the words “providing hospital and specialist services” there shall be substituted the words “vested in him”.

32. In section 29(3) (regulation of financial arrangements of certain bodies), after the words “as if—” there shall be inserted the following paragraph—“(aa) in subsection (1) there were substituted for the words from “Regional” to “1946 Act” the words “Health Boards, the Common Services Agency for the Scottish Health Service” ;” and paragraphs (b) and (d) shall be omitted.

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33. In section 30(1) (certificates for exemption from prescription charges), for the words "section 38(3) of the 1946 Act" there shall be substituted the words "section 40(3) of the 1947 Act" and for the words "as part of hospital and specialist services under Part II of the 1946 Act" there shall be substituted the words "under the National Health Service (Scotland) Acts 1947 to 1972, otherwise than under Part IV of the 1947 Act".

34. In section 31 (power to make services available), the following amendments shall be made—

- (a) for the words "hospital and specialist services" (where first occurring) there shall be substituted the words "services under the National Health Service (Scotland) Acts 1947 to 1972";
- (b) for the words "hospital and specialist services" (where second occurring) there shall be substituted the words "services under those Acts".

35. In section 32 (power to dispose of and produce goods), the following amendments shall be made—

- (a) in subsection (1), for the words "hospital and specialist services" there shall be substituted the words "any service under the National Health Service (Scotland) Acts 1947 to 1972";
- (b) in subsection (2), for the words "1947 Act" there shall be substituted the words "National Health Service (Scotland) Acts 1947 to 1972".

36. In section 40(1) (accommodation for persons displaced in course of development), for the words "of hospital" there shall be substituted the words "or the National Health Service (Scotland) Act 1972 of".

PART II**AMENDMENTS OF OTHER ENACTMENTS***The Infectious Disease (Notification) Act 1889*

1889 c. 72.

37. In section 3(1) (notification of infectious disease), for the words "medical officer of health" (wherever they occur) there shall be substituted the words "chief administrative medical officer of the Health Board".

38. In section 6 (definition of infectious disease), for the words "local authority for the district" there shall be substituted the words "Secretary of State".

39. In section 8(2) (notices and certificates), for the words "a medical officer of health" there shall be substituted the words "the chief administrative medical officer of a Health Board", for the words "his office or residence" there shall be substituted the words "the office of the Health Board" and for the words "his office or at his residence" there shall be substituted the words "that office".

40. In section 13(2) (application of Act to ships, etc.), for the words from "district of any" onwards there shall be substituted the words "area of any Health Board shall be deemed for the purposes of this Act to be within the area of the Board nearest which it is lying".

The Burgh Police (Scotland) Act 1892

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41. In section 126 (manure offensive to health), for the words "medical officer of health" there shall be substituted the words "sanitary inspector".

42. In section 255 (defective privies), for the words "medical officer of health" there shall be substituted the words "designated medical officer".

The Public Health (Scotland) Act 1897

1897 c. 38.

43. In section 18 (power of entry), for the words "medical officer", wherever they occur, there shall be substituted the words "designated medical officer", and for the words "their officers", where first occurring, and the words "their officers or other persons" there shall be substituted the words "others aforesaid".

44. In section 36(1) (nuisance), for the words "their medical officer" there shall be substituted the words "the designated medical officer or their sanitary inspector".

45. For the purposes of sections 46 to 51, 53 to 57, 59, 62 to 64, 66, 69 (so far as relating to infectious diseases), 70, 96 and 97, the term "local authority" means a county council or the town council of a large burgh within the meaning of the Local Government (Scotland) Act 1947.

46. In section 47(1) (cleansing and disinfecting of premises), for the words "medical officer or any other legally qualified medical practitioner" and for the words "medical officer or of any other legally qualified medical practitioner" there shall be substituted the words "designated medical officer".

47. In section 49 (launderers to supply names), for the words "medical officer of health" there shall be substituted the words "designated medical officer".

48. In section 51 (infected lodgings not to be let), for the words "medical officer" there shall be substituted the words "designated medical officer".

49. In section 53(1)(a) (disinfection of houses), for the words "medical officer" there shall be substituted the words "designated medical officer".

50. In section 54(1) (hospitalisation of infected persons), for the words from "medical officer" to "to be removed" there shall be substituted the words "designated medical officer".

51. In section 56(1)(c) (exposure of infected persons), for the words "medical officer" there shall be substituted the words "designated medical officer".

52. In section 57 (penalty for sending infected child to school), for the words "medical officer" there shall be substituted the words "designated medical officer".

53. In section 62(1) (dead bodies not to be retained), for the words "medical officer" there shall be substituted the words "designated medical officer".

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54. In section 63(1) (infected bodies to be removed only for burial), for the words "medical officer" there shall be substituted the words "designated medical officer".

55. In section 69 (power to order removal of body to mortuary), in subsections (1) and (3), for the words "medical officer", wherever they occur, there shall be substituted the words "designated medical officer".

56. In section 73(3) (entry to tents, etc.), for the words "medical officer", wherever they occur, there shall be substituted the words "designated medical officer", and after the words "local authority" there shall be inserted the words "or the designated medical officer".

57. In section 96 (removal of sick to hospitals), for the words "without further warrant" to "so certified" there shall be substituted the words "on the certificate of the designated medical officer that the disease is infectious and that the patient may be safely removed, cause him to be removed to a hospital vested in the Secretary of State, but if removal be considered dangerous to life by such officer and is so certified."

58. In section 97 (sick persons in common lodging-houses), for the words "medical officer", wherever they occur, there shall be substituted the words "designated medical officer".

59. In section 98 (inspection of common lodging-houses), after the word "authority" there shall be inserted the words "or by the designated medical officer".

1907 c. 40.

The Notification of Births Act 1907

60. In section 1 (early notification of births), the following amendments shall be made—

- (a) in subsection (1), for the words "medical officer of health of the district" there shall be substituted the words "chief administrative medical officer of the Health Board for the area";
- (b) in subsection (2), for the words "medical officer of health" there shall be substituted the words "chief administrative medical officer of the Health Board", and for the words "the medical", where second occurring, there shall be substituted the word "that";
- (c) in subsection (4), for the words "medical officer of health" there shall be substituted the words "chief administrative medical officer of the Health Board".

1914 c. 46.

The Milk and Dairies (Scotland) Act 1914

61. In section 4(3) (inspection of dairies), for the words "medical officer of health", where second occurring, there shall be substituted the words "sanitary inspector".

62. In section 6 (intimation of inspection of dairies), for the words "medical officer of health", where first occurring, there shall be substituted the words "sanitary inspector".

63. In section 15 (notification of sick employees), for the words "medical officer of health for the district" there shall be substituted the words "chief administrative medical officer of the Health Board for the area."

64. For section 16 (dairies and infectious disease), there shall be substituted the following section—

"Notifica- 16. Where infectious disease occurs among the persons
tion of employed, or in the families of persons employed, or
districts among the persons residing at a dairy from which milk
to which milk is consigned, the dairyman may be required to furnish
milk is the designated medical officer with a list of the districts
consigned. to which the milk is consigned."

65. In section 17(1) (persons with disease not to assist in dairy), for the words "the medical officer of health" there shall be substituted the words "a medical officer duly authorised by the Health Board or any officer duly authorised by the local authority".

66. In section 18 (procedure for stoppage of milk supplies), the following amendments shall be made—

(a) in subsections (1) and (3), for the words "medical officer of health" and "medical officer", wherever they occur, there shall be substituted the words "designated medical officer or sanitary inspector";

(b) in subsection (6), for the words "their medical officer" and "medical officer" there shall be substituted the words "the designated medical officer or sanitary inspector".

67. In section 19 (dairymen to produce lists of customers), for the words "medical officer of health" there shall be substituted the words "designated medical officer or sanitary inspector", and after the words "such medical officer" there shall be inserted the words "or sanitary inspector".

68. In section 20 (power to inspect dairies), for the words "medical officer of health" there shall be substituted the words "designated medical officer or sanitary inspector".

69. In section 21 (sampling of milk), for the words "medical officer of health", wherever they occur, there shall be substituted the words "designated medical officer".

The Local Government (Emergency Provisions) Act 1916

1916 c. 12.

70. In section 5(b) (notification of disease), for the words "medical officer of health of the district" there shall be substituted the words "chief administrative medical officer of the Health Board for the area" and for the words "local authority" there shall be substituted the words "Health Board".

The Nursing Homes Registration (Scotland) Act 1938

1938 c. 73.

71. In section 1 (registration), the following amendments shall be made—

(a) in subsection (2), for the words "local authority" there shall be substituted the words "Health Board", and for

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the words "a fee of £1" there shall be substituted the words "such fee as may be so prescribed";

- (b) in subsection (3), for the words "local authority" and "authority" there shall be substituted respectively the words "Health Board" and "Board".

72. In sections 2 and 3 (cancellation of registration and notification thereof), for the words "local authority" and "authority", wherever they occur, there shall be substituted respectively the words "Health Board" and "Board".

73. At the end of section 4(1) (regulations), there shall be added the following words—

"and

- (d) with respect to such matters as appear to be expedient in order to secure continuity between the system of registration by local authorities and the system of registration by Health Boards."

74. In section 5(1) (inspection of nursing homes), for the words from the beginning to "made by the authority" there shall be substituted the words "Any medical officer, qualified nurse or other officer of the Health Board duly authorised by the Board".

75. In section 6 (power to exempt certain institutions), for the words "local authority" and "authority", wherever they occur, there shall be substituted respectively the words "Health Board" and "Board".

1945 c. 15.

The Public Health (Scotland) Act 1945

76. In section 1 (enforcement of regulations), the following amendments shall be made—

- (a) in subsection (3), after the words "port local authorities" there shall be inserted the words "or Health Boards", and, in the proviso, after the word "authority" there shall be inserted the word "Board";
- (b) in subsection (4), after the word "authority" there shall be inserted the word "Board";
- (c) in subsection (8), in the definition of "authorised officer", for the words "medical officer of health" there shall be substituted the words "designated medical officer".

1947 c. 19.

The Polish Resettlement Act 1947

77. In section 4(1) (health services for Poles), for the words "local health authorities", where first occurring, there shall be substituted the words "Health Boards".

78. In section 11(3)(b) (application to Scotland), for the words "any corresponding Act applying to Scotland" there shall be substituted the words "the National Health Service (Scotland) Acts 1947 to 1972".

The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 SCH. 6
1947 c. 42.

79. In section 1(1)(d) (compulsory purchase of land by Secretary of State), for the words from "57" to "1947" there shall be substituted the words "58 of the National Health Service (Scotland) Act 1972".

The Local Government (Scotland) Act 1947 1947 c. 43.

80. For section 79(7) (medical officer and sanitary inspector), there shall be substituted the following subsection—

"(7) The sanitary inspector of a county shall not be removable from office except by or with the sanction of the Secretary of State."

81. For section 87(8) (burgh medical officers and sanitary inspectors), there shall be substituted the following subsection—

"(8) The sanitary inspector of a burgh shall not be removable from office except by or with the sanction of the Secretary of State."

The National Assistance Act 1948 1948 c. 29.

82. In section 24(6) (ordinary residence of patient), for the words "Part II of the National Health Service (Scotland) Act 1947" there shall be substituted the words "in a hospital vested in the Secretary of State".

83. In section 47 (removal of persons in need of care), the following amendment shall be made—

(a) in subsections (2) and (7), for the words "medical officer of health" there shall be substituted the words "designated medical officer";

(b) in subsection (8), for the words "Act 1947" there shall be substituted the words "Acts 1947 to 1972".

The Midwives (Scotland) Act 1951 1951 c. 54.

84. In section 17 (local supervising authorities), for the words from "local health" to "1947" there shall be substituted the words "Health Board", and for the words "the authority" there shall be substituted the words "the Health Board".

85. In section 28(2) (apportionment of balances), for the words from "proportion" to "time being" there shall be substituted the words "such proportion as the Secretary of State may approve".

The Nurses (Scotland) Act 1951 1951 c. 55.

General amendments

86. For the words "regional nurse-training committee", "a regional nurse-training committee" and "regional nurse-training committees", wherever they occur, there shall be substituted respectively the words "area nurse-training committee", "an area nurse-training committee" and "area nurse-training committees".

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Particular amendments

87. In section 19(4) (definition of "area"), for the words "a hospital area" there shall be substituted the words "the area of a Health Board", and for the words "two or more hospital areas" there shall be substituted the words "the areas of two or more Health Boards".

88. In section 20 (schemes for training of nurses), the following amendments shall be made—

(a) in subsection (1), for the words "Board of Management acting on behalf of a Regional Hospital Board" and for the words "Board of Management" there shall be substituted respectively the words "Health Board" and "Health Boards";

(b) in subsections (2) and (3), for the words "Regional Hospital Board", wherever they occur, there shall be substituted the words "Health Board".

89. In section 22 (expenditure on training of nurses), for the words "Board of Management", wherever they occur, there shall be substituted the words "Health Board", and, in subsection (1), for the words "section 54 of the National Health Service (Scotland) Act 1947" there shall be substituted the words "section 60 of the National Health Service (Scotland) Act 1972".

90. In section 32 (supplemental), for the definition of "licensing authority" there shall be substituted the following definition—

"licensing authority" means the Health Board for the area concerned."

91. In Schedule 4 (nurse-training committees), for the words "Regional Hospital Board" and "Regional Hospital Boards", wherever they occur, there shall be substituted respectively the words "Health Board" and "Health Boards".

92. In paragraphs 1(a) and 4(1) of Schedule 4, for the words "more than one hospital area" there shall be substituted the words "the area of more than one Health Board".

1951 c. 63.

The Rag Flock and Other Filling Materials Act 1951

93. In section 35 (interpretation), in the definition of "authorised officer of a local authority", for the words "medical officer of health" there shall be substituted the words "designated medical officer".

1951 c. 65.

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

94. In Schedule 2 (relevant service), the following amendments shall be made—

(a) in item 15, for the words "the National Health Service (Scotland) Act 1947" there shall be substituted the words "a Health Board or the Common Services Agency for the Scottish Health Service or other body constituted under the National Health Service (Scotland) Acts 1947 to 1972, and, in the second column, after the word "Council" there shall be inserted the word "Agency";

- (b) in item 16, in the second column, after the word "Council" there shall be inserted the words "or Health Board".

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The Food and Drugs (Scotland) Act 1956

1956 c. 30.

95. In section 22 (notification of food poisoning), for the words "local health authority", wherever they occur, there shall be substituted the words "Health Board", and, in subsection (1), for the words "medical officer for that area" there shall be substituted the words "chief administrative medical officer of the Board".

96. In section 24 (suspected food), for the words "medical officer of any local authority" and the words "medical officer", wherever they occur, there shall be substituted the words "designated medical officer or sanitary inspector", and, in subsection (3), for the words "local authority", in both places where they occur, there shall be substituted the words "Health Board".

97. In section 58(1) (interpretation), in the proviso to the definition of "authorised officer", for the words "medical officer" there shall be substituted the words "designated medical officer".

The Medical Act 1956

1956 c. 76.

98. In section 16 (employment in health centres), the following amendments shall be made—

- (a) in subsection (1), for the words "section 15 of the National Health Service (Scotland) Act 1947" there shall be substituted the words "section 2 of the National Health Service (Scotland) Act 1972";
- (b) in subsection (2)(b), for the words from "such out-patient" to "1947" there shall be substituted the words "the services of specialists or other services provided for out-patients in such a health centre as is referred to in subsection (1) above".

The Dentists Act 1957

1957 c. 28.

99. In section 42(4) (national and local authority health services), the following amendments shall be made—

- (a) in paragraph (a), after "1948" there shall be inserted the words "or of services under section 2 of the National Health Service (Scotland) Act 1972";
- (b) in paragraph (b), for the words "section 15 of the National Health Service (Scotland) Act 1947" there shall be substituted the words "section 2 of the National Health Service (Scotland) Act 1972";
- (c) in paragraph (c), for the words "section 22 of the National Health Service (Scotland) Act 1947" there shall be substituted the words "section 5 of the National Health Service (Scotland) Act 1972";
- (d) in paragraph (d), for the words from "section 51" to "1956" there shall be substituted the words "section 6 of the National Health Service (Scotland) Act 1972".

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The Opticians Act 1958

1958 c. 32.

100. In section 21(2)(b) (restriction on sale or supply of optical appliances), after the word "1947" there shall be inserted the words "the National Health Service (Scotland) Act 1972".

1959 c. 30.

The National Assistance (Amendment) Act 1959

101. In section 1(1) (determination of ordinary residence), for the words "Part II of the National Health Service (Scotland) Act 1947" there shall be substituted the words "in a hospital vested in the Secretary of State".

1959 c. 72.

The Mental Health Act 1959

102. In section 81(2)(a) (removal of patients to Scotland), for the words "board of management" there shall be substituted the words "Health Board responsible for the administration of the hospital".

1960 c. 16.

The Road Traffic Act 1960

103. In section 214(1)(c) (payment for treatment), for the words from "any" onwards there shall be substituted the words "the Health Board responsible for the administration of the hospital".

1960 c. 34.

The Radioactive Substances Act 1960

104. In section 14(1) (application to Crown), for the words "Board of Management", in both places where they occur, there shall be substituted the words "Health Board".

1960 c. 61.

The Mental Health (Scotland) Act 1960

105. In section 7(1A) (functions of local authorities), for the words "the aforesaid persons" there shall be substituted the words "persons who are or have been suffering from mental disorder".

106. In section 15(3)(a) (registration of private hospitals), for the words from "provided" to "1947" there shall be substituted the words "vested in the Secretary of State".

107. In section 27 (medical recommendations), the following amendments shall be made—

(a) in paragraph (b), for the words "Regional Hospital Board" there shall be substituted the words "Health Board";

(b) in paragraph (c), for the words "section 5 of the National Health Service (Scotland) Act 1947" there shall be substituted the words "section 1 or 2 of the Health Services and Public Health Act 1968".

108. In section 30(2) (rectification of application etc.), for the words "medical officer of the local authority" there shall be substituted the words "designated medical officer".

109. In the proviso to section 34(2) (correspondence of patients), after the words "any of the following—" there shall be inserted the following item—

"(i) the European Commission of Human Rights ;".

110. In section 53(1)(b) (interpretation), for the words from "the medical" to "that authority" there shall be substituted the words "any medical practitioner authorised by the local authority".

111. In section 57(1) (medical evidence), for the words "Regional Hospital Board" there shall be substituted the words "Health Board".

112. In section 60(2) (restriction of discharge), for the words "Regional Hospital Board" there shall be substituted the words "Health Board".

113. In section 65(4) (removal to hospital of prisoners awaiting trial), for the words "Regional Hospital Board" there shall be substituted the words "Health Board".

114. In section 92(2) (limitation on valuables held on behalf of a patient), for the words "an amount of one hundred pounds" there shall be substituted the words "such sum as the Secretary of State may from time to time direct".

115. In section 97(1)(b) (protection of female patients), for the words from "or in pursuance" onwards there shall be substituted the words "or in the care of a local authority under the Social Work (Scotland) Act 1968 or resident in a house provided by a local authority under that Act". 1968 c. 49.

116. In section 101(2) (pocket money for patients), for the words "Act 1947" there shall be substituted the words "Acts 1947 to 1972", and for the words from "hospital" to "that Act" there shall be substituted the words "services are provided under those Acts".

117. In section 111(1) (interpretation), in paragraph (a) of the definition of "board of management", for the words "board of management" there shall be substituted the words "Health Board responsible for the administration", and at the end of that definition there shall be added the words "or if the management has been delegated to a Health Board or to the Common Services Agency for the Scottish Health Service, that Board or Agency, as the case may be".

The Public Bodies (Admission to Meetings) Act 1960

1960 c. 67.

118. In paragraph 2 of the Schedule (bodies to which Act applies), for sub-paragraphs (d) and (e) there shall be substituted the following paragraph—

"(d) Health Boards constituted under the National Health Service (Scotland) Act 1972, but only so far as regards the exercise of their executive functions".

The Factories Act 1961

1961 c. 34.

119. In section 8(6) (enforcement by district council), for the words "medical officer of health" there shall be substituted the words "sanitary inspector".

120. In section 9(2) (powers of inspectors), for the words "of health" there shall be substituted the words "of the Health Board for the area".

121. In section 153 (officers of councils), the following amendments shall be made—

(a) in subsection (1), for the words "medical officer of health" there shall be substituted the words "sanitary inspector";

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- (b) in subsection (3), after the words "this Act", where first occurring, there shall be inserted the words "the designated medical officer", and after the words "except by" there shall be inserted the words "the designated medical officer or".

122. In Schedule 5, in section 110(2) and (3) (provisions of Act of 1901), for the words "medical officer of health", in both places where they occur, there shall be substituted the words "designated medical officer".

1962 c. 47.

The Education (Scotland) Act 1962

123. In section 57 (regulations as to medical and dental examination and inspection), for the words from "this Act" onwards there shall be substituted the words "the performance of his duties under section 6 of the National Health Service (Scotland) Act 1972".

124. In section 58(2) (medical inspection of pupils and young persons), for the words "their duty under this section" there shall be substituted the words "the duty of the Secretary of State under section 6 of the National Health Service (Scotland) Act 1972", and for the words "by the authority" there shall be substituted the words "by the Health Board in agreement with the authority".

125. In section 58A(2) (dental inspection of pupils and young persons), for the words "their duty under this section" there shall be substituted the words "the duty of the Secretary of State under section 6 of the National Health Service (Scotland) Act 1972", and for the words "by the authority" there shall be substituted the words "by the Health Board in agreement with the authority".

126. In section 61 (power to ensure cleanliness), the following amendments shall be made—

- (a) in subsection (1), for the words "the authority" there shall be substituted the words "the Health Board for the area";
- (b) in subsection (2), for the words from "the medical officer" to "their behalf" there shall be substituted the words "the authority";
- (c) in subsection (6), for the words "he may, if he considers" there shall be substituted the words "he shall so advise the authority, who may, if they consider";
- (d) in subsection (7), for the words "an education authority" there shall be substituted the words "a Health Board".

127. In section 101(d) (admissibility of documents), for the words "an education authority" onwards there shall be substituted the words "a Health Board, and to be signed by such officer".

1964 c. 60.

The Emergency Laws (Re-enactments and Repeals) Act 1964

128. In section 15 (interpretation), for the words "1947 to 1961" there shall be substituted the words "1947 to 1972".

1965 c. 49.

The Registration of Births, Deaths and Marriages (Scotland) Act 1965

129. In section 51(b) (returns), for the words "medical officer of health for the local authority" there shall be substituted the words "chief administrative medical officer of the Health Board".

The Redundancy Payments Act 1965

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130. In Schedule 3 (National Health Service Employers), for paragraph 1 there shall be substituted the following paragraph—

“ 1. A Health Board or the Common Services Agency for the Scottish Health Service.”,

and, in paragraph 7, for the words “ section 32(4) of the said Act of 1947 ” there shall be substituted the words “ section 13(8) of the National Health Service (Scotland) Act 1972 ”.

The Ministry of Social Security Act 1966

1966 c. 20.

131. In section 6(1)(b) (medical requirements etc), for the words “ 1947 to 1966 ” there shall be substituted the words “ 1947 to 1972 ”.

The Housing (Scotland) Act 1966

1966 c. 49.

132. In sections 98(1), 180, 184 and 185(1)(b), for the words “ medical officer of health ”, wherever they occur, there shall be substituted the words “ sanitary inspector ”.

The Parliamentary Commissioner Act 1967

1967 c. 13.

133. In paragraph 8 of Schedule 3 (matters not subject to investigation), for the words “ Regional Hospital Board ” there shall be substituted the words “ Health Board ”, and for the words “ Board of Management ” there shall be substituted the words “ the Common Services Agency for the Scottish Health Service ”.

The Superannuation (Miscellaneous Provisions) Act 1967

1967 c. 28.

134. In section 7(5) (superannuation provisions of National Health Service Acts), for the words “ Act 1947 ” there shall be substituted the words “ Acts 1947 to 1972 ”.

The Health Services and Public Health Act 1968

1968 c. 46.

135. In section 63 (provision of instruction for employees), the following amendments shall be made—

- (a) in subsection (1)(a), for the words from “ Regional ” to “ teaching hospital ” there shall be substituted the words “ Health Board ” ;
- (b) in subsection (1)(b), for the words from “ specified ” to “ Treasury ” there shall be substituted the words “ determined by him ” ;
- (c) in subsection (2)(d), for the words “ an Executive Council ” there shall be substituted the words “ a Health Board ” ;
- (d) in subsection (8), in paragraph (b) of the definition of “ the relevant enactments ”, for the words “ sections 58 and 59 of the Education (Scotland) Act 1962 ” there shall be substituted the words “ section 6 of the National Health Service (Scotland) Act 1972 ”.

136. In section 64 (financial assistance to voluntary organisations), the following amendments shall be made—

- (a) at the end of subsection (4)(a) there shall be added the words “ and the National Health Service (Scotland) Act 1972 ” ;

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(b) in subsection (4)(b), for the words “an Executive Council” there shall be substituted the words “a Health Board”.

137. In section 65(6) (assistance by local authorities to voluntary organisations), for subsection (2B)(c) there shall be substituted the following paragraph—

“(c) “the relevant enactments” means the National Health Service (Scotland) Acts 1947 to 1972, Part III of the National Assistance Act 1948 and section 3 of the Disabled Persons (Employment) Act 1958 ;”.

138. In section 71(1) (compensation for stopping employment), for the words “medical officer of health” there shall be substituted the words “designated medical officer”.

139. In subsections (1) and (2) of section 72 (sheriff may order medical examination), for the words “medical officer of health”, wherever they occur, there shall be substituted the words “designated medical officer”.

140. In section 73 (power of medical officers to enter premises), for the words “medical officer of health”, wherever they occur, there shall be substituted the words “designated medical officer”.

1968 c. 49.

The Social Work (Scotland) Act 1968

141. In section 60(1)(f) (control of certain establishments), at the end there shall be added the words “or the National Health Service (Scotland) Act 1972”.

1968 c. 67.

The Medicines Act 1968

142. In section 55(2)(b) (exemptions for doctors etc.), for the words “a local health authority in Great Britain” there shall be substituted the words “the Secretary of State”.

143. In section 131(5) (meaning of certain expressions), for the words “Act 1947” there shall be substituted the words “Acts 1947 to 1972”.

144. In section 132(1) (interpretation), in the definition of “health centre”, for the words from “section 15” to “1947” there shall be substituted the words “section 2 of the National Health Service (Scotland) Act 1972”.

1969 c. 48.

The Post Office Act 1969

145. In section 86(1) (interpretation), in paragraph (b) of the definition of “national health service authority”, for the words from “a regional” onwards there shall be substituted the words “a Health Board or the Common Services Agency for the Scottish Health Service constituted under the National Health Service (Scotland) Act 1972”.

1970 c. 44.

The Chronically Sick and Disabled Persons Act 1970

146. In section 17(1) (separation of younger and older patients), for the words from “Regional”, where second occurring, to “1947” there shall be substituted the words “Health Board constituted under the National Health Service (Scotland) Act 1972”.

The Hospital Endowments (Scotland) Act 1971

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147. In section 1(4) (Scottish Hospital Trust), in the proviso, for 1971 c. 8. the words from "Boards" onwards there shall be substituted the words "Health Boards".

148. In section 3 (powers of the Trust), the following amendments shall be made—

- (a) in paragraph (c), for the words from "Boards" to "Boards" there shall be substituted the words "Health Boards";
- (b) for paragraph (e) there shall be substituted the following paragraph—
 - "(e) to accept from any Health Board for investment and management on behalf of the Board any endowments or accumulated income thereof transferred to the Board under Part VI of the National Health Service (Scotland) Act 1972, and any endowments or accumulated income thereof otherwise held by a Health Board;";
- (c) in paragraph (f), for the words "Board of Management" there shall be substituted the words "Health Board";
- (d) in paragraph (g), for the words from "Board" to "Board" there shall be substituted the words "Health Board".

149. In section 5 (further provisions relating to transference of funds), the following amendments shall be made—

- (a) in subsection (1), for the words from the beginning to "Board", where second occurring, there shall be substituted the words "A Health Board";
- (b) in subsection (2), for the words "such Boards" there shall be substituted the words "Health Boards".

150. In section 6 (borrowing by Boards), the following amendments shall be made—

- (a) in subsection (1), for the words from "Board" to "Board" there shall be substituted the words "Health Board";
- (b) in subsection (2), for the words "such Boards" there shall be substituted the words "Health Boards".

151. In section 7 (distribution of income), the following amendments shall be made—

- (a) in subsection (1), for the words "Boards of Management, Regional Hospital Boards" there shall be substituted the words "Health Boards";
- (b) in subsection (2), for the words "Boards of Management, Regional Hospital Boards and the Committees" there shall be substituted the words "Health Boards and the bodies charged with the management";
- (c) in subsection (3), for the words "Boards of Management and Regional Hospital Boards" there shall be substituted the words "Health Boards".

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1971 c. 62.

The Tribunals and Inquiries Act 1971

152. In paragraph 41 of Part II of Schedule 1 (tribunals supervised by Scottish Committee), the following amendments shall be made—

(a) for sub-paragraph (a) there shall be substituted the following paragraph—

“(a) Health Boards and joint committees of those Boards constituted under section 13 of the National Health Service (Scotland) Act 1972 ;” ;

(b) in sub-paragraph (c), for the words “an Executive Council” and “Act 1947 (c.27)” there shall be substituted respectively the words “a Health Board or a joint committee of Health Boards” and “Acts 1947 to 1972”.

1971 c. 72.

The Industrial Relations Act 1971

153. In section 167(2) (interpretation), in paragraph (a), after the words “1946 or” there shall be inserted the words “by a Health Board”, and, in paragraph (b), for the words “Executive Council” there shall be substituted the words “Health Board”.

1971 c. 74.

The Education (Milk) Act 1971

154. In section 2(1)(b) (provision of milk in Scotland), for the words “education authority” there shall be substituted the words “Health Board”.

1971 c. 77.

The Immigration Act 1971

155. In section 24(1)(d) (offences), for the words “a medical officer of health” there shall be substituted the words “the chief administrative medical officer of a Health Board”.

156. In paragraph 7 of Schedule 2 (medical examination after entry), for the words “such medical officer of health” there shall be substituted the words “the chief administrative medical officer of such Health Board” and the words “of health” shall be omitted.

1972 c. 28.

The Employment Medical Advisory Service Act 1972

157. In section 1(6) (school medical records), for the words “education authority”, where second occurring, there shall be substituted the words “Health Board”.

SCHEDULE 7

Section 64.

REPEAL OF ENACTMENTS

PART I

REPEALS RELATING TO THE
NATIONAL HEALTH SERVICE (SCOTLAND) ACTS 1947 TO 1968

Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6. c. 27.	The National Health Service (Scotland) Act 1947.	<p>Section 2.</p> <p>In section 3, subsections (1) and (2), and, in subsection (3), the words "as part of the hospital and specialist services" and the words "part of the services".</p> <p>In section 4, the words "as part of the hospital and specialist services".</p> <p>In section 6, subsections (1) to (3), and subsections (5) to (8). Sections 7, 9 and 10 to 15.</p> <p>Section 16(2). Section 17(2).</p> <p>In section 18, in subsection (1), the word "bacteriological", and subsection (2).</p> <p>In section 19, the words "in providing hospital and specialist services".</p> <p>Sections 20 to 22. Sections 24 to 26.</p> <p>Section 27, so far as concerned with functions relating to medical, dental or nursing care, or to health visiting.</p> <p>Sections 29 to 33.</p> <p>In section 35, subsection (1), subsection (2)(a) and, in subsection (2)(b), the word "such".</p> <p>Section 38.</p> <p>In section 42, in subsection (1), the words from the beginning to "optical appliances", and subsections (2) and (2A).</p> <p>Section 47. Section 53(7). Sections 54 and 55. Section 56(3). Sections 57 to 59.</p> <p>In section 60, the words "and in the making of appointments to the Board of Management".</p> <p>Sections 61 to 65.</p>

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Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6. c. 27— <i>cont.</i>	The National Health Service (Scotland) Act 1947— <i>cont.</i>	<p>Sections 67 and 68. Section 71. In section 73, in subsection (1), in paragraph (a), the words “(except regulations made under section 67)”, in paragraph (b), the words “under subsection (2) of section 2 or” and the words “or under subsection (3) of section 32”, paragraphs (c) and (d), and subsection (2). In section 74, the words from “and the enactments” to “that Part”, and the words “and repeal”. Sections 75 and 76. Section 78. In section 80, in subsection (1), the definitions of “appointed day”, “insurance committee” and “local health authority”, and subsection (3). Schedule 1. Schedule 4. Schedule 6. In Schedule 11, in Part I, the entry relating to the Infectious Disease (Notification) Act 1889, in the entry relating to the Public Health (Scotland) Act 1897, the words from the beginning to “local health authority”, where second occurring, the entry relating to the Notification of Births Act 1907 and all entries following thereon.</p>
12, 13 & 14 Geo. 6. c. 93.	The National Health Service (Amendment) Act 1949.	<p>Section 3(1). Section 12. Section 20(2). In section 29(1), the proviso, and section 29(3). In Part II of the Schedule, the entries relating to sections 15 and 33 and to Schedule 6.</p>
14 & 15 Geo. 6. c. 31.	The National Health Service Act 1951.	<p>In section 1(2), the words “under the said Part II”. Section 3.</p>
1968 c. 46.	The Health Services and Public Health Act 1968.	<p>In section 1, in subsection (2), the words “providing hospital and specialist services”, and, in subsection (3), the words “providing hospital and specialist services” and the words “hospital and specialist”.</p>

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Chapter	Short Title	Extent of Repeal
1968 c. 46— <i>cont.</i>	The Health Services and Public Health Act 1968— <i>cont.</i>	<p>Section 8. Section 9(2). Sections 10 and 11. Section 14(2). Section 15. In section 19, subsections (2) and (3) and (5) to (7). In section 21(4), the words from “but section 15(6)” onwards. Section 24. Section 27(2). Section 28. In section 29(3), paragraphs (b) and (d). Section 30(2). In section 33, in subsection (4), the words “as part of hospital and specialist services”, and the words “supplied as part of such services”, and subsection (6). In section 37(1)(a), sub-paragraphs (i) to (iii), except the words “the Scottish Dental Estimates Board”. In section 39, the words “as part of the hospital and specialist services”. Section 41. In section 43(4), the words from “and in section 64” onwards. In Part I of Schedule 3, the entry relating to the Act of 1947.</p>

PART II

REPEALS RELATING TO OTHER ENACTMENTS

Chapter	Short Title	Extent of Repeal
52 & 53 Vict. c. 72.	The Infectious Disease (Notification) Act 1889.	<p>Section 2. Section 4(2) and (3). Section 5. Section 8(1). Section 11. Section 14. In section 16, the definitions of “urban or rural district” and “port sanitary district”. In section 17, the words from “The expression “local authority”” onwards.</p>

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Chapter	Short Title	Extent of Repeal
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act 1892.	In section 118, the words "medical officer of health" and the words "medical officer", in both places where they occur.
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act 1897.	In section 243, the words "the medical officer of health or". In section 3, the definitions of "medical officer of health" and "medical officer". In section 15, the words "the medical officers and". In section 31(2), the words "or medical officer".
7 Edw. 7. c. 40.	The Notification of Births Act 1907.	In section 1(2), the words "or residence", in both places where they occur.
4 & 5 Geo. 5. c. 46.	The Milk and Dairies (Scotland) Act 1914.	In section 4, the words from " (1) The expression " to " 1897, and ". In section 4, in subsection (1), the words "the medical officer of health or", in subsection (3), the words "medical officer of health or" and the words "medical officer of health", where last occurring, and, in subsection (5), the words "Medical officers of health". In section 5, the words "the medical officer of health". In section 6, the words "medical officer of health", where second occurring.
1 & 2 Geo. 6. c. 73.	The Nursing Homes Registration (Scotland) Act 1938.	In section 7(3), the words "medical officer of health". In section 18(1), the words "in the district", and section 18(2). In section 21, the words "medical officer of health or", where first occurring, and the words from "such examination" to "shall be final".
2 & 3 Geo. 6. c. 94.	The Local Government Staffs (War Service) Act 1939.	Section 9. In section 10, the definitions of "local authority" and "county".
9 & 10 Geo. 6. c. 15.	The Public Health (Scotland) Act 1945.	In section 15(5), in the section substituted for section 2, paragraph (a) and the words "medical officer or". In section 1(8), in paragraph (c) of the definition of "local authority", the words from "and includes" onwards.

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Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6. c. 19.	The Polish Resettlement Act 1947.	In section 4(1), the words from "on or after" to "that Act", where first occurring.
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act 1947.	<p>In section 79, in subsection (1), the words from "a medical" to "health of the county and", the words "medical officer and", and the words "and their relations to each other", subsection (2), in subsection (4), the words "the medical officer of health and", subsection (5), in subsection (6), the words "the medical officer of health of a county or", in subsection (9), the words "The medical officer of health of a county and", and, in subsection (10), the words "two or more medical officers of health or" and proviso (a).</p> <p>In section 83, in subsection (1), the words "a medical officer of health of a county", and subsection (4).</p> <p>In section 87, in subsection (1), the words from "a medical" to "health of the burgh, and", the words "the medical officer and" and the words "and their relations to each other", subsection (2), in subsection (4), the words "the medical officer of health and", subsection (5), in subsection (6), the words "the medical officer of health of a large burgh or", subsection (7), in subsection (10), the words "The medical officer of health of a burgh and" and, in subsection (11), the words "two or more medical officers of health or" and proviso (a).</p> <p>In section 93, in subsection (1), the words "a medical officer of health of a burgh", and subsection (5).</p> <p>In section 115(3), the words "the National Health Service (Scotland) Act 1947".</p> <p>In section 119(6), the words "the National Health Service (Scotland) Act 1947".</p>

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Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6 c. 43— <i>cont.</i>	The Local Government (Scotland) Act 1947— <i>cont.</i>	In section 120(6), the words “ the National Health Service (Scotland) Act 1947 ”. In Schedule 6, item 27.
14 & 15 Geo. 6. c. 54.	The Midwives (Scotland) Act 1951.	Section 11(3). In section 18(1), the words “ by themselves or by their medical officer acting under their instruction ”. Section 21. In section 26, the words “ local health authority or other ”. Sections 31 and 32.
14 & 15 Geo. 6. c. 55.	The Nurses (Scotland) Act 1951.	In section 32, the definition of “ county ”. In section 34, the definition of “ hospital area ”. In Schedule 1, in paragraph 3, sub-paragraphs (a) and (d). In Schedule 4, in paragraph 1, sub-paragraph (d), and paragraph 3.
14 & 15 Geo. 6. c. 65.	The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.	In section 50, in subsection (2), paragraph (d), and, in subsection (3), the words “ and (2) ” and the words “ medical officer of health or ”.
4 & 5 Eliz. 2. c. 30.	The Food and Drugs (Scotland) Act 1956.	In section 58(1), the definition of “ local health authority ”.
5 & 6 Eliz. 2. c. 28.	The Dentists Act 1957.	In section 42(4)(a), the words “ Part II of the National Health Service (Scotland) Act 1947 ”.
6 & 7 Eliz. 2. c. 32.	The Opticians Act 1958.	In section 21(2)(b), the words “ Part II ”, where second occurring.
6 & 7 Eliz. 2. c. 64.	The Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958.	In section 15(1)(b), the words “ the National Health Service (Scotland) Act 1947 ”. In Schedule 1, paragraph 2.
8 & 9 Eliz. 2. c. 61.	The Mental Health (Scotland) Act 1960.	Section 7(1), so far as relating to local health authorities. Section 12(5). Section 27(d). In section 90, in subsection (1), the words from “ and the provisions ” onwards. Section 91(2)(b). In section 111(1), the definition of “ local health authority ”. Section 117(3).

SCH. 7

Chapter	Short Title	Extent of Repeal
10 & 11 Eliz. 2. c. 34.	The Education (Scotland) Act 1962.	In section 58, subsections (1) and (3). Section 58A(1). Sections 59 and 60.
1965 c. 62.	The Redundancy Payments Act 1965.	In section 145, paragraph (29). In Schedule 3, paragraphs 3, 5 and 6.
1966 c. 49.	The Housing (Scotland) Act 1966.	Section 98(2).
1966 c. 51.	The Local Government (Scotland) Act 1966.	In Part II of Schedule 4, the entry (numbered 18) relating to the Nursing Homes Registration (Scotland) Act 1938.
1968 c. 46.	The Health Services and Public Health Act 1968.	In section 63, subsections (4) and (7), and, in subsection (9), the words from "and as if" onwards. Section 67.
1968 c. 49.	The Social Work (Scotland) Act 1968.	In section 73(9), the words from "medical officer" to "1897; and". In section 1(4)(b), the words from "other than" to "deficiency". Section 14(3).
1969 c. 47.	The Nurses Act 1969.	In section 86(3), the words "forming part of the hospital and specialist services". In section 6, the words "or (in Scotland) a regional nurse-training committee" and the words "or Schedule 4 to the Nurses (Scotland) Act 1951".
1970 c. 44.	The Chronically Sick and Disabled Persons Act 1970.	In section 19, the words from "or under" to "1947".
1971 c. 28.	The Rent (Scotland) Act 1971.	Section 5(2)(e).
1971 c. 77.	The Immigration Act 1971.	In paragraph 7 of Schedule 2, the words "of health", where second occurring.
1972 c. 11.	The Superannuation Act 1972.	In section 10(1)(a), the words "local health authority or other".



Administration of Justice (Scotland) Act 1972

1972 CHAPTER 59

An Act to confer extended powers on the courts in Scotland to order the inspection of documents and other property, and related matters; to enable an appeal to be taken to the House of Lords from an interlocutor of the Court of Session on a motion for a new trial; to enable a case to be stated on a question of law to the Court of Session in an arbitration; and to enable alterations to be made by act of sederunt in the rate of interest to be included in sheriff court decrees or extracts.
[9th August 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Extended powers of courts to order inspection of documents and other property, etc.

1.—(1) Without prejudice to the existing powers of the Court of Session and of the sheriff court, those courts shall have power, subject to the provisions of subsection (4) of this section, to order the inspection, photographing, preservation, custody and detention of documents and other property (including, where appropriate, land) which appear to the court to be property as to which any question may relevantly arise in any existing civil proceedings before that court or in civil proceedings which are likely to be brought, and to order the production and recovery of any such property, the taking of samples thereof and the carrying out of any experiment thereon or therewith.

(2) Notwithstanding any rule of law or practice to the contrary, the court may exercise the powers mentioned in subsection (1) of this section—

(a) where proceedings have been commenced, on the application, at any time after such commencement, of a

party to or minuter in the proceedings, or any other person who appears to the court to have an interest to be joined as such party or minuter;

- (b) where proceedings have not been commenced, on the application at any time of a person who appears to the court to be likely to be a party to or minuter in proceedings which are likely to be brought;

unless there is special reason why the application should not be granted.

(3) The powers conferred on the Court of Session by section 16 of the Administration of Justice (Scotland) Act 1933 c. 41. regulate its own procedure and the powers conferred on that Court by section 32 of the Sheriff Courts (Scotland) Act 1971 1971 c. 58. to regulate the procedure of the sheriff court shall include power to regulate and prescribe the procedure to be followed, and the form of any document to be used, in any application under the foregoing provisions of this section in a case where the application is in respect of proceedings which have not been commenced, and such incidental, supplementary and consequential provisions as appear appropriate; and without prejudice to the said generality, the said powers shall include power to provide in such a case for the application to be granted *ex parte*, for the intimation of the application to such persons (if any) as the court thinks fit, and for the finding of caution where appropriate for any loss, damage or expenses which may be incurred as a result of the application.

(4) Nothing in this section shall affect any rule of law or practice relating to the privilege of witnesses and havers, confidentiality of communications and withholding or non-disclosure of information on the grounds of public interest; and section 47 of the Crown Proceedings Act 1947 (recovery of documents in possession of Crown) shall apply in relation to any application under this section in respect of a document or other property as it applied before the commencement of this section to an application for commission and diligence for the recovery of a document. 1947 c. 44.

2.—(1) An appeal shall lie to the House of Lords without Appeal to the leave of the Court of Session from an interlocutor of that House of Court on a motion for a new trial in terms of section 6 of the Lords from Jury Trials (Scotland) Act 1815; and accordingly, the following Court of enactments are hereby repealed— interlocutor of Session on motion for new trial.

- (a) in the said section 6, the words from “ Provided also ” onwards; 1815 c. 42.
 (b) in section 17 of the Jury Trials (Scotland) Act 1819, 1819 c. 35. the words from “ Provided nevertheless ” onwards.

(2) In an appeal under this section, the House of Lords shall have the same powers as are exercisable by the Court of Session

on such a motion as aforesaid, and in particular shall have the same power—

- 1910 c. 31. (a) under the said section 6, to grant a new trial which shall be restricted to the question of the amount of damages only;
- (b) under section 2 of the Jury Trials Amendment (Scotland) Act 1910, in place of granting a new trial, to enter judgment for the party unsuccessful at the trial.

Power of
arbitrer to
state case to
Court of
Session.

3.—(1) Subject to express provision to the contrary in an agreement to refer to arbitration, the arbitrer or oversman may, on the application of a party to the arbitration, and shall, if the Court of Session on such an application so directs, at any stage in the arbitration state a case for the opinion of that Court on any question of law arising in the arbitration.

(2) This section shall not apply to an arbitration under any enactment which confers a power to appeal to or state a case for the opinion of a court or tribunal in relation to that arbitration.

- 1919 c. 69. (3) This section shall not apply to any form of arbitration relating to a trade dispute within the meaning of the Industrial Courts Act 1919 or relating to an industrial dispute within the meaning of the Industrial Relations Act 1971; to any other arbitration arising from a collective agreement within the meaning of the said Act of 1971; or to proceedings before the Industrial Arbitration Board described in section 124 of that Act.

1971 c. 72.

(4) This section shall not apply in relation to an agreement to refer to arbitration made before the commencement of this Act.

Rate of
interest in
sheriff court
decrees or
extracts.

1892 c. 17.

4. The Court of Session may by act of sederunt direct that section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (interest included in sheriff court decree or extract), as that enactment has effect for the time being whether by virtue of this section or otherwise, shall be amended so as to substitute, for the rate of interest specified in that section, such rate as may be specified in the act of sederunt.

Short title,
interpretation,
commence-
ment and
extent.

5.—(1) This Act may be cited as the Administration of Justice (Scotland) Act 1972.

(2) In this Act any reference to an enactment shall be construed as a reference to that enactment as amended by or under any other enactment.

(3) Sections 1 and 3 of this Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be appointed for different purposes.

(4) This Act shall extend to Scotland only.



Gas Act 1972

1972 CHAPTER 60

An Act to make fresh provision with respect to the gas industry in Great Britain and related matters, and for purposes connected therewith. [9th August 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

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NEW STRUCTURE FOR BRITISH GAS INDUSTRY

The British Gas Corporation

1.—(1) As from such day as the Secretary of State may by order appoint for the purposes of this Act, being a day not later than 1st July 1973, the body established under the Gas Act 1948 by the name of the Gas Council shall continue in existence as a body corporate having perpetual succession and a common seal, but—

The British Gas Corporation.
1948 c. 67.

- (a) shall be known as the British Gas Corporation, and
- (b) shall consist of members appointed by the Secretary of State under and in accordance with the provisions of this Act;

and on that day, the Area Boards established under the said Act of 1948 shall be dissolved, and all property, rights, liabilities and obligations vested in any of them immediately before that day shall vest in the British Gas Corporation by virtue of this Act and without further assurance.

(2) The Secretary of State shall appoint as members of the Corporation—

- (a) a chairman, and

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- (b) not less than ten nor more than twenty other persons, of whom he may designate one or more as deputy chairman or deputy chairmen ;

and in making appointments to the Corporation, the Secretary of State shall have regard to the desirability of having members who are familiar with the special requirements and circumstances of particular regions and areas.

(3) The Corporation shall pay to the members thereof such remuneration and such allowances as may be determined by the Secretary of State with the consent of the Minister for the Civil Service, and, if the Secretary of State with the consent of that Minister so determines in the case of any person who is or has been a member of the Corporation, shall pay or make arrangements for the payment of a pension to or in respect of that person in accordance with the determination ; and if a person ceases to be a member of the Corporation and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, the Secretary of State may require the Corporation to pay to that person a sum of such amount as the Secretary of State may with the consent of the Minister for the Civil Service determine.

(4) The Secretary of State may make regulations with respect to—

- (a) the appointment of, and the tenure and vacation of office by, members of the Corporation,
- (b) the quorum, proceedings, meetings and determinations of the Corporation,
- (c) the execution of instruments and the mode of entering into contracts by and on behalf of the Corporation, and the proof of documents purporting to be executed, issued or signed by the Corporation or a member or officer thereof, and
- (d) any other matters supplementary or incidental to those above mentioned for which provision appears to the Secretary of State to be necessary or expedient.

Subject to any such regulations, the Corporation shall have power to regulate their own procedure.

(5) The validity of any proceedings of the Corporation shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

(6) The provisions of Schedule 1 to this Act shall have effect for the purpose of supplementing the preceding provisions of this section.

2.—(1) It shall be the duty of the Corporation to develop and maintain an efficient, co-ordinated and economical system of gas supply for Great Britain, and to satisfy, so far as it is economical to do so, all reasonable demands for gas in Great Britain.

PART I
Principal
duties and
powers of
Corporation.

(2) Subject to subsection (3) below, the Corporation shall have power to carry on all such activities as it may appear to them to be requisite, advantageous or convenient for them to carry on for or in connection with the discharge of their duty under subsection (1) above, including in particular, but without prejudice to the generality of the preceding provision, power—

- (a)** to search and bore for and get natural gas,
- (b)** to bore for and get petroleum found in the form of crude oil in the course of searching, boring for or getting natural gas, to treat any petroleum got by virtue of this paragraph for the purpose of rendering it saleable in the form of crude oil, to supply or sell any such petroleum (whether or not so treated) to any person, and to supply or sell to any person any by-products obtained in the process of treating any such petroleum for the purpose of rendering it so saleable,
- (c)** to manufacture gas (and to use for that purpose any petroleum, whether got by virtue of paragraph (b) above or otherwise),
- (d)** to acquire gas from any source,
- (e)** to transmit and distribute gas,
- (f)** to manufacture, treat, render saleable, supply or sell any by-products obtained in the process of manufacturing gas, and any products made or derived from gas or from any by-product so obtained,
- (g)** to manufacture plant required by the Corporation, and to instal, repair, maintain or remove any such plant, and
- (h)** to manufacture gas fittings, to sell, hire or otherwise supply gas fittings, and to instal, repair, maintain or remove gas fittings.

In this subsection “petroleum” means petroleum within the meaning of the Petroleum (Production) Act 1934.

1934 c. 36.

(3) Notwithstanding subsection (2) above, the Corporation shall not, except with the consent of the Secretary of State and in accordance with any conditions he may attach to his consent—

- (a)** carry out any operations for searching or boring for natural gas, or for getting natural gas, otherwise than within Great Britain, the territorial waters of the United Kingdom adjacent to Great Britain or an area

PART I
1964 c. 29.

for the time being designated under section 1(7) of the Continental Shelf Act 1964, or

- (b) export gas, or
- (c) manufacture gas fittings for export.

Duties of Corporation towards employees, and in respect of research.

3.—(1) It shall be the duty of the Corporation, in exercising and performing the functions conferred or imposed on them by this Act or any other enactment, to promote the welfare, health and safety of persons in their employment.

(2) It shall be the duty of the Corporation, in consultation with any organisation appearing to them to be appropriate, to make provision for advancing the skill of persons employed by them, including the provision by them, and the assistance of the provision by others, of facilities for training and education.

(3) It shall be the duty of the Corporation to settle from time to time, in consultation with the Secretary of State, a general programme of research into matters affecting gas supply and other matters affecting their functions, and of technological development connected with such matters, and to secure (whether by themselves conducting research into, or technological development connected with, any such matters, or by making arrangements for the conduct of such research or development by others) the carrying out of any programme so settled.

Duties of Corporation as respects management of affairs.

4.—(1) The Corporation shall, forthwith after the appointed day and subsequently from time to time when they consider it appropriate or the Secretary of State so requires—

(a) undertake a review of the affairs of the Corporation and their subsidiaries for the purpose of determining how the management of the activities of the Corporation and their subsidiaries can most efficiently be organised, and

(b) make a report to the Secretary of State upon the Corporation's conclusions arising from the review.

(2) The Corporation's report on their first review under subsection (1) above shall be made to the Secretary of State before such date as he may after consultation with them determine.

(3) The Secretary of State shall lay before each House of Parliament a copy of any report under subsection (1) above, and may after doing so, and after considering the report and consulting the Corporation about it, give to the Corporation such directions as he considers appropriate for securing that the management of the activities of the Corporation and their subsidiaries is organised in the most efficient manner; and it shall be the duty of the Corporation to give effect to any such directions.

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(4) The Corporation shall exercise their control over any subsidiary of theirs so as to secure that the subsidiary does not, either alone or in association with any other person, engage in any activity which the Corporation are not empowered to carry on, but not so as to prevent any subsidiary from carrying on with the consent of the Secretary of State, and in accordance with any conditions attached thereto, any activity which the Corporation would have power to carry on if the consent had been given to them.

(5) It shall be the duty of the Corporation, in appointing persons to manage on their behalf the carrying on of any of their activities in particular regions of Great Britain, to secure that any such region shall consist of, or lie exclusively within, England or Scotland or Wales (including Monmouthshire).

5. In carrying out any measures involving substantial outlay on capital account, the Corporation shall act in accordance with a general programme settled from time to time by them and approved by the Secretary of State; and the Corporation shall exercise their control over any wholly owned subsidiary of theirs so as to secure that the subsidiary also acts in accordance with a programme so settled and approved in carrying out any such measures.

Programmes for measures involving substantial capital outlay.

6.—(1) Subject to subsections (2) and (3) below, the Corporation shall have power to do any thing, and to enter into any transaction (whether or not involving the expenditure of money, the borrowing of money, the lending of money, the acquisition of any property or rights or the disposal of any property or rights), which in their opinion is calculated to facilitate the exercise or performance of their functions under any enactment other than this subsection (including any enactment passed or made after the passing of this Act), or is incidental or conducive to the exercise or performance of any such function.

Miscellaneous powers and duties of Corporation.

(2) So much of subsection (1) above as relates to the borrowing of money by the Corporation shall have effect subject to the provisions of Part II of this Act.

(3) Notwithstanding the generality of the said subsection (1), the Corporation shall not, except with the consent of the Secretary of State or in accordance with a general authority given by him, guarantee the repayment of, or the payment of interest on, any loan other than one raised by a wholly owned subsidiary of theirs; and it shall be the duty of the Corporation to exercise their control over any such subsidiary so as to secure that that subsidiary does not, except with such consent or in accordance with such an authority, guarantee the repayment of, or the payment of interest on, any such loan.

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(4) Without prejudice to the generality of the said subsection (1), the Corporation shall have power to subscribe for or acquire any securities of a body corporate, to procure their admission to membership of any such body, and to promote or participate in the promotion of any such body.

(5) The provisions of Schedule 2 to this Act shall have effect with respect to the acquisition of land by the Corporation (and without prejudice to the generality of the said subsection (1) so far as they concern its acquisition by agreement).

(6) The Corporation may with the consent of the Secretary of State promote Bills in Parliament, and may without any such consent oppose any Bill in Parliament.

1936 c. 52. Any reference in this subsection to a Bill in Parliament includes a reference to an order under the Private Legislation Procedure (Scotland) Act 1936.

1966 c. 21. (7) The Corporation may, with the consent of the Secretary of State, enter into and carry out agreements with the Minister of the Crown for the time being discharging the functions expressed by the Overseas Aid Act 1966 to be conferred on the Minister of Overseas Development whereunder the Corporation act, at the expense of that Minister, as the instrument by means whereof technical assistance is furnished by him in exercise of the power conferred by section 1(1) of that Act; and the Corporation may, with the consent of both the Secretary of State and the said Minister of the Crown, enter into and carry out agreements whereunder the Corporation, for any purpose specified in the said section 1(1), furnish technical assistance in a country or territory outside the United Kingdom against reimbursement to them of the cost of furnishing that assistance.

(8) For the avoidance of doubt it is hereby declared that the preceding provisions of this Act, so far as they confer powers on the Corporation, relate only to the capacity of the Corporation as a statutory corporation, and nothing in those provisions shall be construed as authorising the disregard by the Corporation of any enactment or rule of law.

General powers of Secretary of State to give directions to Corporation and obtain information.

7.—(1) The Secretary of State may, after consultation with the Corporation, give to the Corporation directions of a general character as to the exercise and performance by the Corporation of their functions (including the exercise of rights conferred by the holding of interests in companies) in relation to matters which appear to him to affect the national interest, and the Corporation shall give effect to any such directions.

(2) Without prejudice to the generality of subsection (1) above, the Secretary of State may, after consultation with the Corporation, direct the Corporation—

PART I

- (a) to discontinue any activity either wholly or to a specified extent, not to extend any activity or not to extend it beyond specified limits, to dispose of any part of their undertaking or of any assets held by them, or to call in any loan made by them, or
- (b) to exercise their control over any wholly owned subsidiary of theirs so as to cause the subsidiary to discontinue any activity either wholly or to a specified extent, not to extend any activity or not to extend it beyond specified limits, to dispose of any part of its undertaking or of any assets held by it, or to call in any loan made by it,

and the Corporation shall give effect to any such direction :

Provided that the Secretary of State shall not give any direction under this subsection unless he is satisfied that he will not thereby impede or prevent the proper discharge of the Corporation's duties.

(3) A direction under subsection (2) above shall be given by statutory instrument, of which a draft shall be laid before Parliament.

(4) The Corporation shall furnish the Secretary of State with such returns, accounts and other information as he may from time to time require with respect to their property and activities, or the property and activities of any of their subsidiaries, and shall afford to the Secretary of State facilities for the verification of information so furnished.

8.—(1) The Corporation shall make to the Secretary of State, as soon as possible after the end of each financial year and, if the Secretary of State so directs, in such form as is specified in the direction, a report on the exercise and performance by them of their functions during that year and on their policy and programmes.

Reports by
Corporation
to Secretary
of State.

(2) Subject to subsection (3) below, the report of the Corporation for any year shall set out any direction given to them during that year under section 4(3), 7(1), 10(4), 15, 16 or 23 of this Act, or under subsection (1) of this section.

(3) Subsection (2) above shall not apply to any direction in the case of which the Corporation are notified by the Secretary of State of his opinion that it is against the interests of national security for the direction to be included in a report.

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(4) The Secretary of State shall lay a copy of every report made to him under this section before each House of Parliament.

The consumers' bodies

The
National Gas
Consumers'
Council and
the Regional
Gas
Consumers'
Councils.

9.—(1) As from the appointed day there shall be—

- (a) a council to be known as the National Gas Consumers' Council, and
- (b) other councils to be known as Regional Gas Consumers' Councils.

(2) The National Gas Consumers' Council (hereafter referred to as "the National Council") shall consist of a chairman appointed by the Secretary of State, and not more than thirty other members made up of—

- (a) the chairmen for the time being of the Regional Gas Consumers' Councils or, if one of those chairmen is appointed chairman of the National Council, the remainder of them, and
- (b) such other persons as the Secretary of State may from time to time appoint after consultation with such bodies as he thinks fit.

(3) The Regional Gas Consumers' Councils (hereafter referred to as "the Regional Councils") shall exist for particular areas of Great Britain, and those areas—

- (a) subject to any variations which the Secretary of State may think fit to direct, shall in the first instance be the areas immediately before the appointed day of the Area Boards, and
- (b) may be varied from time to time thereafter by directions given by the Secretary of State after consultation with the National Council and every Regional Council to be affected by the variation.

The Secretary of State shall so exercise his powers under this subsection as to secure that there is no part of Great Britain which is not within the area of a Regional Council and that the area of every Regional Council consists of, or lies exclusively within, England or Scotland or Wales (including Monmouthshire).

(4) Subject to subsection (5) below, a Regional Council shall consist of a chairman appointed by the Secretary of State, and not less than twenty nor more than thirty other members so appointed of whom—

- (a) not less than two-fifths and not more than three-fifths shall be appointed from a panel of persons nominated from amongst members of local authorities in the area

of the Council by such associations as appear to the Secretary of State to represent those authorities, and

PART I

- (b) the remainder shall be appointed, after consultation with such bodies as the Secretary of State thinks fit, to represent commerce, industry, labour and the general interests of consumers of gas and other persons or organisations interested in the development of gas in that area.

(5) Where a Regional Council is to exist as from the appointed day for the area of one of the Area Boards, the members immediately before that day of the Gas Consultative Council established for that area under section 9 of the Gas Act 1948 shall, unless the Secretary of State otherwise directs, become on that day the members of the Regional Council, and the chairman of the former chairman of the latter, and shall, subject to regulations made by virtue of section 12 below, hold office until the expiry of their original terms of appointment. 1948 c. 67.

10.—(1) The National Council shall be charged with the duties— Functions of National and Regional Councils.

- (a) of considering any matter affecting the interests of consumers of gas generally or any class or description of consumers of gas (and, in particular, any matter relating to the supply of gas, including the variation of tariffs, or to the supply of gas fittings or the provision of other services and facilities), being a matter which is the subject of a report or representation made to them by a Regional Council under subsection (5) or (6) below, or which appears to them to be a matter to which consideration ought to be given apart from any such report or representation,
- (b) where action appears to them to be requisite as to any such matter, of notifying their conclusions to the Corporation,
- (c) of considering, and reporting to the Corporation on, any such matter which may be referred to them by the Corporation, and
- (d) of considering, and reporting to the Secretary of State on, any such matter which may be referred to them by the Secretary of State.

(2) The National Council shall be informed by the Corporation of the Corporation's general plans and arrangements for exercising and performing their functions in relation to the supply of gas, and in particular of any proposal on the part of the Corporation to vary a tariff, shall consider any plans, arrangements or proposal of which they are informed, and may make representations to the Corporation with respect thereto.

PART I

(3) The Corporation shall consider any conclusions, reports or representations notified or made to them under the preceding provisions of this section, and the National Council may, after consultation with the Corporation, make representations to the Secretary of State on matters arising thereout.

(4) The Secretary of State may, after consultation with the Corporation, give to the Corporation such directions as he thinks fit with respect to matters arising out of representations made by the National Council under subsection (3) above, and shall send a copy of any such directions to the National Council ; and it shall be the duty of the Corporation to comply with the directions.

(5) A Regional Council shall be charged with the duties—

- (a) of considering any matter affecting the interests of consumers of gas in their area (and, in particular, any matter relating to the supply of gas, including the variation of tariffs, or to the supply of gas fittings or the provision of other services and facilities), being a matter which is the subject of a representation made to them by one or more consumers in their area or which appears to them to be a matter to which consideration ought to be given apart from any such representation,
- (b) where action appears to them to be requisite as to any such matter, of notifying their conclusions to the Corporation,
- (c) of considering, and reporting to the Corporation on, any such matter which may be referred to them by the Corporation, and
- (d) of considering, and reporting to the National Council on, any such matter which may be referred to them by that Council.

(6) A Regional Council may make representations to the National Council with respect to any matter considered by them pursuant to subsection (5)(a) above.

(7) The Corporation shall consider any conclusions or reports notified or made to them under subsection (5)(b) or (5)(c) above.

(8) References in the preceding provisions of this section to consumers of gas include references to prospective consumers.

Local
representatives
of Regional
Councils.

11.—(1) It shall be the duty of every Regional Council to appoint in accordance with a scheme under this section committees or individuals to be local representatives of the Council in such localities as are specified in the scheme ; and it shall

be the duty of a committee or individual representing the Council in any locality—

- (a) to consider the particular requirements and circumstances of that locality with respect to the supply of gas and gas fittings and the provision of other services and facilities, and to make representations to the Council thereon, and
- (b) to be available for receiving on behalf of the Council representations from consumers or prospective consumers of gas in the locality.

(2) A member of a Regional Council shall be eligible for appointment under such a scheme, either as a member of a committee or as an individual, but membership of a Regional Council shall not be a necessary qualification for appointment.

(3) A scheme under this section—

- (a) shall be prepared by the Regional Council, and shall come into force on being approved by the National Council and, so far as it fixes the number of local representatives to be appointed, how many of them are to be committees and how many individuals, and the size of any committee, by the Secretary of State ;
- (b) may be varied from time to time by the Regional Council with the approval of the National Council and, if the variation affects the number of local representatives, how many of them are to be committees and how many individuals, or the size of any committee, by the Secretary of State.

(4) Each of the Regional Councils shall submit a scheme under this section to the National Council within the period of twelve months beginning with the appointed day.

(5) Any committee or individual acting immediately before the appointed day as the local representative in any locality of a Gas Consultative Council established under section 9 of the Gas Act 1948 shall become on that day the local representative in that locality of the Regional Council in whose area the locality is (or, if the locality is in the areas of two or more Regional Councils, the local representative of each of those Councils in that part of the locality which is in their area) and shall have as such the duties specified in subsection (1) above. 1948 c. 67.

(6) A person holding office as a member of a committee or a local representative by virtue of subsection (5) above shall, subject to the terms of his appointment by the Gas Consultative Council, do so until the putting into effect of the Regional Council's scheme in the locality or part in question ; and if

PART I

such a person ceases to hold office before the Regional Council's scheme is so put into effect, the Regional Council may from time to time fill the office either by re-appointing him or by appointing some other person in accordance with the scheme of the Gas Consultative Council as in force immediately before the appointed day.

Supplementary provisions with respect to Councils etc.

12. The supplementary provisions contained in Schedule 3 to this Act shall have effect with respect to the National Council and the Regional Councils, the members of those Councils, and the local representatives of the Regional Councils.

Reports by Councils to Secretary of State.

13.—(1) The National Council and each of the Regional Councils shall make to the Secretary of State, as soon as possible after the end of each financial year of the Corporation, a report on the exercise and performance by them of their functions during that year:

Provided that, unless the Secretary of State otherwise directs, the first reports under this section shall not be required until after the end of the financial year following that in which the appointed day falls, and shall relate to the period from that day to the end of that year.

(2) The Secretary of State shall lay a copy of every report made to him under this section before each House of Parliament.

PART II

FINANCIAL PROVISIONS

General financial duties of British Gas Corporation

Revenues of Corporation and subsidiaries to cover outgoings and allocations to reserves.

14. It shall be the duty of the Corporation so to exercise and perform their functions (including those conferred or imposed on them by any enactment other than this Act), and so to exercise their control over their subsidiaries, as to secure that, taking one year with another, the combined revenues of the Corporation and their subsidiaries are not less than sufficient—

- (a) to meet the total outgoings of the Corporation and their subsidiaries properly chargeable to revenue account, and
- (b) to enable the Corporation and their subsidiaries to make such allocations to reserve as the Corporation consider adequate, and as may be necessary to comply

with any directions given by the Secretary of State under section 15 below. PART II

15.—(1) The Secretary of State may from time to time, after consultation with the Corporation and with the approval of the Treasury, give to the Corporation directions—

Directions by Secretary of State as to reserves of Corporation and wholly owned subsidiaries.

- (a) requiring them to allocate to reserve generally, or to reserve for a particular purpose, or to cause any wholly owned subsidiary of theirs so to allocate, either a specified amount or such amount as the Corporation consider adequate, or
- (b) requiring them to re-allocate for a specified purpose or to cause any wholly owned subsidiary of theirs so to re-allocate, the whole or part of any amount previously allocated by them or, as the case may be, by the subsidiary to reserve for some other purpose, or
- (c) with respect to the application by them, or by any wholly owned subsidiary of theirs, of amounts allocated to reserve,

and it shall be the duty of the Corporation to comply with any such directions.

(2) Directions under subsection (1) above requiring the allocation of any amount to reserve may provide for it to be so allocated either at a specified time or during the course of a specified period.

16. If in any financial year of the Corporation there is an excess of the revenue of the Corporation over the total sums properly chargeable by them to revenue account, the Secretary of State may with the approval of the Treasury direct the Corporation to pay over to him so much of that excess as appears to him, after consultation with the Corporation, to be—

Payment of excess revenue to Secretary of State.

- (a) attributable to the carrying on, whether by the Corporation or by any subsidiary of theirs, of activities falling within paragraph (a) or (b) of section 2(2) of this Act, and

- (b) surplus to the Corporation's requirements ;

and it shall be the duty of the Corporation to comply with any such direction :

Provided that no such direction shall be given as respects any financial year unless the total of the sums standing to the credit of the Corporation's reserves at the beginning of that year exceeds 10 per cent. of the value at the beginning of that year of their net assets as for the time being defined for the purposes of this section by the Secretary of State.

PART II
Borrowing
powers of
Corporation.

Borrowings etc.

17.—(1) Subject to subsection (5) below, the Corporation may borrow money in accordance, and only in accordance, with the provisions of the next two following subsections.

(2) The Corporation may borrow temporarily, by way of overdraft or otherwise, such sums as they may require for meeting their obligations and discharging their functions—

(a) in sterling from the Secretary of State, or

(b) with the consent of the Secretary of State and the approval of the Treasury, or in accordance with any general authority given by the Secretary of State with the approval of the Treasury, either in sterling or in a currency other than sterling from a person other than the Secretary of State.

(3) The Corporation may borrow otherwise than by way of temporary loan such sums as they may require for all or any of the purposes specified in subsection (4) below—

(a) in sterling from the Secretary of State, or

(b) with the consent of the Secretary of State and the approval of the Treasury, by the issue of British Gas Stock under section 21 below, or

(c) with the like consent and approval, in any currency other than sterling from a person other than the Secretary of State.

(4) The purposes referred to in subsection (3) above are the following—

(a) the redemption of any British Gas Stock or other security issued by the Corporation (whether as such or as the Gas Council);

(b) the repayment of any money borrowed or raised by the Corporation (whether as such or as the Gas Council) otherwise than by the issue of British Gas Stock or other securities, or borrowed by any of the Area Boards, but, in the case of money temporarily borrowed, or borrowed by the Corporation from a wholly owned subsidiary of theirs, only if so borrowed for a purpose mentioned in this subsection;

(c) the provision of money for meeting any expenditure incurred by the Corporation in connection with any works the cost of which is properly chargeable to capital account;

(d) the provision of any working capital required by the Corporation;

(e) any other purpose for which capital moneys are properly applicable by the Corporation; and

- (f) the making of any other payment which the Corporation are authorised to make, and which ought in the opinion of the Corporation to be spread over a term of years.

PART II

(5) References in subsections (1) to (3) above to borrowing by the Corporation do not include references to borrowing by them from any of their wholly owned subsidiaries.

18. It shall be the duty of the Corporation to secure that no wholly owned subsidiary of theirs borrows money otherwise than from the Corporation or from another wholly owned subsidiary of theirs except with the consent of the Secretary of State and the approval of the Treasury.

Borrowing by wholly owned subsidiaries.

19.—(1) Subject to subsection (2) below, the aggregate of the amounts outstanding in respect of the principal of—

Limitation on total indebtedness of Corporation and wholly owned subsidiaries.

(a) any British Gas Stock or other security issued by the Corporation (whether as such or as the Gas Council), and

(b) any money borrowed or raised by the Corporation (whether as such or as the Gas Council) otherwise than by the issue of British Gas Stock or other securities, and otherwise than from a wholly owned subsidiary of theirs, and

(c) any money borrowed by any wholly owned subsidiary of the Corporation otherwise than from the Corporation (whether as such or as the Gas Council) or from another such subsidiary, and

(d) any money borrowed by any of the Area Boards,

shall not at any time exceed £2,500 million or such greater sum not exceeding £2,700 million as the Secretary of State may from time to time by order specify.

(2) Nothing in subsection (1) above shall prevent the Corporation and their wholly owned subsidiaries from borrowing in excess of the said sum for the purpose of the redemption of any British Gas Stock or other security which the Corporation are required or entitled to redeem or the repayment of any money borrowed or raised as therein mentioned.

(3) No order shall be made under the said subsection (1) unless a draft thereof has been laid before the House of Commons, and has been approved by a resolution of that House.

20.—(1) The Secretary of State may with the approval of the Treasury lend to the Corporation any sums which the Corporation have power to borrow from him under section 17 above.

Loans to Corporation by Secretary of State.

PART II

(2) Any loans which the Secretary of State makes under this section shall be repaid to him at such times and by such methods, and interest thereon shall be paid to him at such rates and at such times, as he may with the approval of the Treasury from time to time direct.

(3) The Treasury may issue to the Secretary of State out of the National Loans Fund such sums as are necessary to enable him to make loans under this section.

(4) Any sums received by the Secretary of State under subsection (2) above shall be paid into the National Loans Fund.

(5) The Secretary of State shall, as respects each financial year, prepare in such form as the Treasury may direct an account of sums issued to him under subsection (3) above or received by him under subsection (2) above, and of the disposal by him of those sums respectively, and shall send the account to the Comptroller and Auditor General not later than the end of November following the year; and the Comptroller and Auditor General shall examine, certify and report on the account, and shall lay copies of it and his report before each House of Parliament.

British Gas
Stock.

1948 c. 67.

21.—(1) The Corporation may create and issue in terms of sterling any stock required for the purpose of exercising the power conferred on them by section 17(3)(b) above; and any stock created and issued under this section or under section 43 of the Gas Act 1948 is in this Act referred to as “British Gas Stock”.

1875 c. 83.

(2) British Gas Stock shall be issued, transferred, dealt with, redeemed and cancelled upon such terms, and in accordance with such provisions, as may be prescribed by regulations made by the Secretary of State with the approval of the Treasury; and any such regulations may, in relation to any such stock, apply with or without modification any provisions of the Local Loans Act 1875, or of any enactment relating to stock issued by a local authority.

Guarantees.

22.—(1) The Treasury may guarantee, in such manner and on such conditions as they think fit, the redemption or repayment of, and the payment of any interest on, any British Gas Stock issued by the Corporation under section 21 above or any sums borrowed by the Corporation from a person other than the Secretary of State.

(2) Immediately after a guarantee is given under this section, the Treasury shall lay a statement of the guarantee before each House of Parliament.

(3) Any sum required by the Treasury for fulfilling a guarantee given under this section or under section 45 of the Gas Act 1948 shall be charged on and issued out of the Consolidated Fund. PART II
1948 c. 67.

(4) Where any sum is so issued for fulfilling any such guarantee—

- (a) the Corporation shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct, payments of such amounts as the Treasury may so direct in or towards repayment of that sum, and payments of interest on what is outstanding for the time being in respect of that sum at such rate as the Treasury may so direct, and
- (b) the Treasury shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to the sum.

Accounts and audit

23.—(1) It shall be the duty of the Corporation—

Accounts
and audit.

- (a) to keep proper accounts and proper records in relation thereto, and
- (b) subject to subsection (2) below, to prepare in respect of each financial year of the Corporation, in such form as the Secretary of State may with the approval of the Treasury direct, a statement of those accounts showing the state of affairs of the Corporation and their profit or loss.

(2) If the Secretary of State with the approval of the Treasury so directs, it shall be the duty of the Corporation to prepare, in respect of each financial year of the Corporation during which the direction is in force and in such form as is specified in the direction, statements of the consolidated accounts of the Corporation and their subsidiaries, or of the Corporation and any specified subsidiary or subsidiaries, showing the state of affairs and the profit or loss of the Corporation and the subsidiary or subsidiaries in question; and a direction under this subsection may provide that the statement of accounts to be prepared by the Corporation under subsection (1)(b) above in respect of any financial year of theirs for which the direction is in force shall not be required to show the Corporation's profit or loss.

(3) If the Secretary of State with the approval of the Treasury so directs, it shall be the duty of the Corporation to prepare,

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in respect of each financial year of the Corporation during which the direction is in force and in such form as is specified in the direction, statements of accounts showing the state of affairs and the profit or loss of the Corporation's subsidiaries or such of them as are specified in the direction, including (if the Secretary of State so requires) a statement of consolidated accounts for any two or more specified subsidiaries.

(4) A statement under subsection (1)(b) or (2) above shall give separate information with respect to, and show as far as may be the financial and operating results of, each of the main activities of the Corporation or, as the case may be, of the group consisting of the Corporation and their subsidiary or subsidiaries in question; and if the Secretary of State so directs with respect to any statement required by the said subsection (1)(b), or it is so provided in any direction under the said subsection (2) for the preparation of a statement, the statement shall also give separate information with respect to, and show so far as may be the financial and operating results of, each, or such as are specified in the direction, of the activities other than main activities of the Corporation or group.

(5) If it is so provided in any direction under subsection (3) above for the preparation of a statement, the statement shall give separate information with respect to, and show so far as may be the financial and operating results of, each, or such as are specified in the direction, of the activities of the body or group of bodies to which the statement relates.

(6) The accounts kept, and all statements prepared, by the Corporation in pursuance of the preceding provisions of this section shall be audited by auditors appointed for each financial year of the Corporation by the Secretary of State.

(7) A person shall not be qualified for appointment under subsection (6) above unless he is a member of one or more of the following bodies—

the Institute of Chartered Accountants in England and Wales;

the Institute of Chartered Accountants of Scotland;

the Association of Certified Accountants;

the Institute of Chartered Accountants in Ireland;

any other body of accountants established in the United Kingdom, and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State:

1948 c. 38.

Provided that a Scottish firm may be so appointed if each of the partners therein is qualified to be so appointed.

(8) As soon as the accounts kept, and the statement or statements prepared, by the Corporation in pursuance of the preceding provisions of this section have been audited, the Corporation shall send to the Secretary of State a copy of the statement or statements, together with a copy of any report made by the auditors on the statement or statements or on the accounts of the Corporation; and the Secretary of State shall lay a copy of every statement and report of which a copy is received by him in pursuance of this subsection before each House of Parliament.

PART II

PART III

PROVISIONS AS TO SUPPLY AND USE OF GAS

Supply by British Gas Corporation

24.—(1) Subject to subsection (2) below and to any directions given to them by the Secretary of State under section 7(1) of this Act, the Corporation shall avoid any undue preference in the supply of gas to consumers.

Duty of Corporation to avoid undue preference in supply.

(2) Nothing in subsection (1) above shall be construed as applying to the terms of any special agreement made by the Corporation under subsection (6) of section 25 below so far as those terms relate to the charges to be made for the supply of gas.

25.—(1) Subject to the following provisions of this section and to any regulations made under section 41 of this Act, the Corporation shall charge for the gas supplied by them according to the number of therms supplied, that number being calculated in the prescribed manner on the basis of the declared calorific value of the gas.

Methods of charge and tariffs.

In this Act—

“calorific value” means, subject to the provisions of any regulations made under section 41 of this Act, the number of British thermal units (gross) produced by the combustion of one cubic foot of gas measured at sixty degrees Fahrenheit under a pressure of thirty inches of mercury and, if the Secretary of State so determines in relation to gas supplied to any area, containing such an amount of water vapour as is specified in the determination, and

“declared calorific value” means calorific value declared by the Corporation in accordance with regulations under subsection (2) below.

(2) Regulations shall make provision—

(a) as to the time when, and the manner in which, the calorific value of gas supplied by the Corporation is

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to be declared, and is to be brought to the notice of consumers,

- (b) as to the time when any such declaration is to take effect, and
- (c) for the adjustment of charges for gas in cases where an alteration in the declared calorific value occurs in the course of a period for which such charges are made.

(3) Subject to the following provisions of this section, the prices to be charged by the Corporation for the supply of gas by them shall be in accordance with such tariffs as may be fixed from time to time by them, and those tariffs, which may relate to the supply of gas in different areas, cases and circumstances, shall be so framed as to show the methods by which and the principles on which the charges are to be made as well as the prices which are to be charged, and shall be published in such manner as in the opinion of the Corporation will secure adequate publicity for them.

(4) A tariff fixed by the Corporation under subsection (3) above may include a standing charge in addition to the charge for the actual gas supplied, and may also include a rent or other charge in respect of any gas meter or gas fittings provided by the Corporation on the premises of the consumer.

(5) In fixing tariffs under subsection (3) above, the Corporation shall not show undue preference to any person or class of persons, and shall not exercise any undue discrimination against any person or class of persons.

(6) Notwithstanding anything in the preceding provisions of this section, the Corporation may enter into a special agreement with any consumer for the supply of gas to him on such terms as may be specified in the agreement:

Provided that the Corporation shall not enter into any such agreement except in cases where the tariffs in force are not appropriate owing to special circumstances.

(7) Where, immediately before the appointed day, charges for gas supplied by an Area Board from any gasworks are, by virtue of an authorisation granted to the Board under section 53(2) of the Gas Act 1948, being made by some method other than according to the number of therms supplied, the Corporation may continue to charge for gas supplied from those gasworks by that other method until the expiry of the period specified in the authorisation, and may be authorised by the Secretary of State to continue so to charge after the expiry of that period if it appears to him that it would be impracticable or uneconomical to require them to charge according to the number of therms supplied.

26.—(1) The Secretary of State shall after consultation with the Corporation prescribe standards of pressure, purity and uniformity of calorific value to be complied with by the Corporation in supplying gas, and may after such consultation prescribe other standards with respect to the properties, condition and composition of gas supplied by the Corporation.

(2) The Secretary of State shall appoint competent and impartial persons to carry out tests of the gas supplied by the Corporation for the purpose of ascertaining whether it is of the declared calorific value and conforms with the standards prescribed under this section.

(3) Regulations may provide—

- (a) for determining the places at which such tests as aforesaid are to be carried out,
- (b) for requiring premises, apparatus and equipment to be provided and maintained by the Corporation for the purpose of carrying out such tests,
- (c) for persons representing the Corporation to be present during the carrying out of such tests,
- (d) for the manner in which the results of such tests are to be made available to the public,
- (e) for conferring powers of entry on property of the Corporation for the purpose of deciding where tests are to be carried out and otherwise for the purposes of this section, and
- (f) for any other matters supplementary or incidental to the matters aforesaid for which provision appears to the Secretary of State to be necessary or expedient.

(4) There shall be paid out of moneys provided by Parliament to the persons appointed under subsection (2) above such remuneration and such allowances as may be determined by the Secretary of State with the approval of the Minister for the Civil Service, and such pensions as may be so determined may be paid out of moneys provided by Parliament to or in respect of those persons.

(5) The Corporation shall repay to the Secretary of State any sums paid by him under subsection (4) above, and such part of his other expenses as he may with the consent of the Treasury determine to be attributable to his functions in connection with the testing of gas for the purposes of this section; and any liability of the Corporation under this subsection to pay to the Secretary of State sums on account of pensions (whether paid by him under subsection (4) above or otherwise) shall, if the Secretary of State so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Minister for the Civil Service, by reference to remuneration.

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(6) The reference in subsection (5) above to expenses of the Secretary of State includes a reference to expenses incurred by any government department in connection with the Department of Trade and Industry, and to such sums as the Treasury may determine in respect of the use for the purposes of that department of any premises belonging to the Crown.

Supply code.

27. The provisions of Schedule 4 to this Act (which relate to the supply of gas by the Corporation and connected matters) shall have effect.

Relief to Corporation in emergency conditions.

28. Without prejudice to any other provision of this Act or the provisions of any regulations thereunder, in any proceedings against the Corporation for or arising out of a failure by them to comply with any duty with respect to the supply of gas imposed on them by or under any enactment (including any duty with respect to pressure of supply), it shall be a defence for the Corporation to prove that circumstances existed by reason of which compliance with the duty would or might have involved danger to the public, and that they took all such steps as it was reasonable for them to take both to prevent the circumstances from occurring and to prevent them from having that effect.

Supply by other persons

Restrictions on supply by persons other than the Corporation, and related provisions.

29.—(1) Subject to subsections (4), (10) and (11) below, no person other than the Corporation shall on or after the appointed day supply gas to any premises except with the consent of the Corporation and in accordance with such conditions as may be attached to that consent.

(2) The Corporation shall give their consent under subsection (1) above to the supply of gas if the supply is for industrial purposes which do not consist of or include the use as a fuel of the gas except in so far as it is required to provide heat or other energy required—

(a) for a process in which the gas is used otherwise than as a fuel, or

(b) where such a process is one of a series, for any further process in the same series, not being a process in which a bulk product is converted into manufactured articles ;

and in determining whether any industrial purposes are as mentioned in this subsection, the use of any gas derived otherwise than as a by-product from the gas which it is proposed to supply shall be treated as the use of that gas.

If any question arises whether the purposes for which gas is to be supplied are purposes mentioned in this subsection, it shall be determined by the Secretary of State.

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(3) The Corporation shall not attach any conditions to their consent to a supply of gas for purposes mentioned in subsection (2) above except conditions requiring the supplier of the gas to provide, periodically or on request by the Corporation, information with respect to the type of gas supplied, the amount supplied, and the use of the gas supplied; and any person aggrieved by any such condition may refer it to the Secretary of State, who may confirm, vary or revoke it, or impose instead some other condition which the Corporation could have imposed under this subsection.

(4) A person who produces gas as a by-product of an industrial process and who is aggrieved by a refusal of consent under subsection (1) above or by any conditions attached to such a consent may apply to the Secretary of State; and the Secretary of State, if he thinks fit to do so after affording to the Corporation an opportunity to make representations to him and considering any representations so made, may himself authorise that person to make the supply in question in accordance with such conditions as the Secretary of State may specify.

(5) Any person who is engaged after the appointed day in the manufacture of gas may by notice require the Corporation to buy all or part of the gas manufactured by him which he does not require for his own use; and the Corporation shall, if and so far as it is reasonably practicable and economical for them to do so, comply with that requirement.

(6) The Corporation may, if it appears to them to be necessary for the proper performance of their duty under section 2(1) of this Act, require any person manufacturing gas to sell to them all or part of the gas manufactured by him which he does not require for his own use, and the said person shall comply with that requirement; and where the Corporation make such a requirement, any rights and obligations of the person on whom it is made relating to the supply of gas after the date on which the requirement takes effect shall be transferred to the Corporation, and any agreement relating to such supply shall have effect accordingly:

Provided that the Corporation shall not be under any liability by reason of any failure to provide a supply in pursuance of any such obligation if the failure is due to any deficiency in the quantity or quality of the gas supplied in pursuance of the said requirement.

(7) Where any requirement is made under subsection (5) or (6) above, any pipes or other plant or gas fittings which the person who is to sell gas to the Corporation uses or holds for the purpose of or in connection with the supply of gas manufactured by him and which will in consequence of the said

PART III requirement no longer be required by him, but not including any pipes, plant or fittings which it is not reasonably practicable and economical for the Corporation to take over, shall if either the Corporation or the said person so requires, be transferred to the Corporation.

(8) Any question arising under subsection (5), (6) or (7) above as to whether, or as to the extent to which, it is reasonably practicable and economical for the Corporation to buy a supply of gas, or as to the terms and conditions on which the supply is to be given, or as to whether, or as to the extent to which, pipes, plant or gas fittings are to be transferred to the Corporation, or as to the terms and conditions on which they are to be transferred, shall be referred for inquiry and report to a person appointed by the Secretary of State for Trade and Industry after consultation with the Lord Chancellor or, in Scotland, after consultation with the Secretary of State for Scotland, and shall be determined by the Secretary of State for Trade and Industry after considering the report of the said person.

(9) For the purposes of this section—

(a) a person providing gas for his own use shall not in so doing be deemed to be supplying gas, and gas provided by a company for the use of any subsidiary or holding company of that company, or of any subsidiary of a holding company of that company, shall be deemed to be provided for the use of that company ;

(b) a person providing, for use in a flat or part of a building let by him, gas supplied to him shall not in so doing be deemed to be supplying gas.

(10) This section shall not affect the supply of gas by any person otherwise than through pipes.

1934 c. 36. (11) This section shall not apply to natural gas got in
1964 c. 29. pursuance of a licence under the Petroleum (Production) Act 1934 (including a licence under that Act as applied by section 1(3) of the Continental Shelf Act 1964).

Meter testing and stamping

Meter testing
and stamping.

30.—(1) As from the appointed day, no meter shall be used for the purpose of ascertaining the quantity of gas supplied to any person unless it is stamped either by, or on the authority of, a meter examiner appointed under this section or in such other manner as may be authorised by regulations.

(2) A meter examiner shall not stamp, or authorise the stamping of, any meter unless he is satisfied that it is of such pattern and construction and is marked in such manner as is

approved by the Secretary of State and that the meter conforms with such standards as may be prescribed.

(3) The Secretary of State shall appoint competent and impartial persons as meter examiners for the purposes of this section, and it shall be the duty of such an examiner, on being required to do so by any person and on payment of the prescribed fee, to examine any meter used or intended to be used for ascertaining the quantity of gas supplied to any person, and to stamp, or authorise the stamping of, that meter if the examiner is satisfied of the matters aforesaid.

(4) There shall be paid out of moneys provided by Parliament to meter examiners such remuneration and such allowances as may be determined by the Secretary of State with the approval of the Minister for the Civil Service, and such pensions as may be so determined may be paid out of moneys provided by Parliament to or in respect of such examiners.

(5) All fees payable in respect of the examination of meters by meter examiners shall be paid to the Secretary of State.

(6) Regulations may make provision—

- (a) for re-examining meters already stamped, and for the cancellation of stamps in the case of meters which no longer conform with the prescribed standards and in such other circumstances as may be prescribed,
- (b) for requiring meters to be periodically overhauled,
- (c) for the revocation of any approval given by the Secretary of State to any particular pattern or construction of meter, and for requiring existing meters of that pattern or construction to be replaced within such period as may be prescribed,
- (d) for determining the fees to be paid for examining, stamping and re-examining meters, and the persons by whom they are to be paid, and
- (e) for any matters supplementary or incidental to the matters aforesaid and to the provisions of this section for which provision appears to the Secretary of State to be necessary or expedient.

(7) If any person supplies gas through a meter which has not been stamped under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(8) The preceding provisions of this section shall not have effect in relation to the supply of gas to a person under any agreement made with the Corporation and providing for the quantity of gas supplied to him to be ascertained otherwise than by means of a duly stamped meter.

PART III

**Power to
make safety
regulations.**

Safety regulations

31.—(1) The Secretary of State may make such regulations as he thinks fit for the purpose of securing that the public is so far as practicable protected from any personal injury, fire, explosion or other dangers arising from the transmission or distribution of gas by the Corporation, or from the use of gas supplied by the Corporation.

(2) Without prejudice to the generality of subsection (1) above, any regulations made under this section may make provision for empowering any officer authorised by the Corporation, with such other persons (if any) as may be necessary,—

(a) to enter any premises in which there is a service pipe connected with gas mains of the Corporation, for the purpose of inspecting any gas fitting on the premises, any flue or means of ventilation used in connection with any such gas fitting, or any service pipe or other apparatus (not being a gas fitting) which is on the premises and belongs to the Corporation or is connected with the gas mains of the Corporation,

(b) where he so enters any such premises, to examine or apply any test to any such object as is mentioned in paragraph (a) above and (where the object is a gas fitting) to verify what supply of air is available for it, with a view to ascertaining whether the provisions of any regulations made under this section have been complied with or whether the object is in such a condition, or (in the case of a gas fitting) the supply of air available for it is so inadequate, that it (or, in the case of a flue or means of ventilation, the gas fitting in connection with which it is used) is likely to constitute a danger to any person or property, and

(c) where in his opinion it is necessary to do so for the purpose of averting danger to life or property, and notwithstanding any contract previously existing, to disconnect and seal off any gas fitting or any part of the gas supply system on the premises, or to cut off the supply of gas to the premises or, if no such supply is being given, to signify the refusal of the Corporation to give such a supply.

(3) Where any regulations under this section confer any power in accordance with paragraph (c) of subsection (2) above, the regulations shall also include provision—

(a) for securing that, where any such power is exercised, the consumer will be notified as to the nature of the defect or other circumstances in consequence of which it has been exercised,

- (b) for enabling any consumer so notified to appeal to the Secretary of State on the grounds that the defect or other circumstances in question did not constitute a danger such as to justify the action taken in the exercise of the power, or did not exist or have ceased to exist, and
- (c) for enabling the Secretary of State to give such directions as may in accordance with the regulations be determined by him to be appropriate in consequence of any such appeal.

PART III

(4) Regulations made under this section may make provision for prohibiting any person, except with the consent of the Corporation or in pursuance of any directions given by the Secretary of State as mentioned in subsection (3)(c) above, from—

- (a) reconnecting any gas fitting or part of a gas supply system which has been disconnected by or on behalf of the Corporation in the exercise of a power conferred by the regulations, or
- (b) restoring the supply of gas to any premises where it has been cut off by or on behalf of the Corporation in the exercise of any such power, or
- (c) causing gas from the gas mains of the Corporation to be supplied to any premises where in pursuance of the regulations the refusal of the Corporation to give a supply to those premises has been signified and that refusal has not been withdrawn.

(5) Any local enactment which is inconsistent with or rendered redundant by any regulations made under this section shall cease to have effect as from the date on which those regulations come into operation.

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MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

32. With the exception of sections 33 and 34 below, nothing in this Act shall be deemed to exempt the Corporation from any liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local.

Position of Corporation as respects taxation etc. generally.

33.—(1) Section 12 of the Finance Act 1895 (which requires certain Acts to be stamped as conveyances on sale) shall not apply to this Act.

Special provisions with respect to stamp duty.

(2) Where the redemption of, and the payment of interest on any British Gas Stock issued by the Corporation is guaranteed

1895 c. 16.

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by the Treasury under section 22 of this Act, transfers of the stock shall be exempt from all stamp duty (including stamp duty payable in Northern Ireland).

1920 c. 67.

For the purposes of section 6 of the Government of Ireland Act 1920, this subsection shall, so far as it relates to stamp duty payable in Northern Ireland, be deemed to be contained in an Act passed before the day appointed for the purposes of that section.

(3) Where a subsidiary is to be formed by the Corporation, or the amount of the nominal share capital of a subsidiary of the Corporation is to be increased, then, if the Treasury are satisfied that the formation of the subsidiary or, as the case may be, the increase of capital, is for the purpose of giving effect to conclusions reported to the Secretary of State under subsection (1) of section 4 of this Act or a direction given by the Secretary of State under subsection (3) of that section, or is for purposes that include that purpose, stamp duty shall not be chargeable on so much of the nominal share capital of the subsidiary or, as the case may be, of the increase in the nominal share capital of the subsidiary as, in the opinion of the Treasury, is necessary for achieving that purpose.

Rating of Corporation.

34.—(1) Subsection (2) below applies to the rating of the Corporation in England and Wales, and subsection (3) to the rating of the Corporation in Scotland.

1967 c. 9.

(2) As from the appointed day, the provisions set out in Part I of Schedule 5 to this Act shall, as there directed, be substituted for section 33 of, and Schedule 6 to, the General Rate Act 1967 (which relate to the rating of the Gas Council and the Area Boards in England and Wales).

The transitional provisions contained in Part II of the said Schedule 5 shall also have effect, and the provisions in the said Part I shall have effect subject to them.

(3) For the purposes of the levying of rates in respect of—

(a) the year following the appointed day, the Corporation shall be treated as having—

(i) supplied, manufactured or produced all gas supplied or manufactured or produced in Scotland by the Gas Council and the Scottish Gas Board during the twelve months ending with the 31st March falling within the immediately preceding year, and

(ii) purchased all gas purchased by the Gas Council in order to supply the Scottish Gas Board and consumers in Scotland, and all gas purchased by the Scottish Gas Board from any person other than the Gas Council during the said period, and

(iii) occupied during that year the lands and heritages mentioned in section 24(1) of the Valuation and Rating (Scotland) Act 1956, PART IV
1956 c. 60.

and for this purpose that Act and any other enactments relating to the levying of rates in Scotland on the Gas Council and the Scottish Gas Board shall apply as in operation immediately before the appointed day, except in relation to the definition of "excepted premises" in section 24(4) of the Valuation and Rating (Scotland) Act 1956,

- (b) any subsequent year, the provisions of section 24 of, and Schedule 4 to, the Valuation and Rating (Scotland) Act 1956, shall apply as read with section 3 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962, section 12 of the Local Government (Financial Provisions) (Scotland) Act 1963 and sections 18 and 19 of the Local Government (Scotland) Act 1966. 1962 c. 9.
1963 c. 12.
1966 c. 51.

35.—(1) Except so far as they are satisfied that adequate machinery exists for achieving the purposes of this section— Machinery for settling terms and conditions of employment etc.

- (a) it shall be the duty of the Corporation to seek consultation with any organisation appearing to them to be appropriate with a view to the conclusion between the Corporation and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for the settlement by negotiation of terms and conditions of employment of persons employed by the Corporation, with provision for reference to arbitration in default of such settlement in such cases as may be determined by or under the agreements, and
- (b) it shall be the duty of the Corporation to seek consultation with any organisation appearing to them to be appropriate with a view to the conclusion between the Corporation and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for the promotion and encouragement of measures affecting the safety, health and welfare of persons employed by the Corporation and the discussion of other matters of mutual interest to the Corporation and other persons, including the training and education of such persons and efficiency in the operation of the services of the Corporation.

(2) The Corporation shall send to the Secretary of State for Trade and Industry and to the Secretary of State for Employment

PART IV copies of any agreement made by them under this section and of any instrument varying the terms of any such agreement.

Provisions as to pension rights.

36.—(1) The Corporation may, in the case of such of the persons to whom this subsection applies as they may determine, pay such pensions to or in respect of those persons as they may determine, make such payments as they may determine towards the provision of such pensions, or establish and maintain such schemes as they may determine for the payment of such pensions.

1948 c. 67.

The persons to whom this subsection applies are all persons who are or at any time have been employed by the Corporation (whether as such or as the Gas Council), an Area Board, the National Council, a Regional Council, or a Gas Consultative Council established under section 9 of the Gas Act 1948, and all persons who were at any time before 1st May 1949 (the vesting date for the purposes of the said Act of 1948) either employed by an undertaker to whom Part II of that Act applied or employed whole-time for the purpose of administering the undertaking of such an undertaker or a part of that undertaking (the expression "undertaker to whom Part II of that Act applied" including for this purpose the bodies mentioned in section 62(1) of that Act, which relates to certain gas and coke associations).

(2) A scheme under subsection (1) above may provide that, where a person participating therein as an employee of the Corporation becomes a member of the Corporation, his service as a member shall be treated for the purposes of the scheme as if it were service as an employee; and any such scheme may also provide for the like treatment, in the case of any person who is a member of the Corporation as from the appointed day, and was immediately before that day participating in a pension scheme maintained by the Gas Council or an Area Board either as an employee of the body in question or as a member whose service as such was treated for the purposes of that scheme as service as an employee, of the whole service of that person as a member of the Corporation and a member or employee of the Council or Board.

(3) Notwithstanding the repeal by this Act of section 58 of the Gas Act 1948 (pensions for persons employed in the gas industry), any regulations in force under that section immediately before the appointed day (including regulations made by virtue of section 62(2) of that Act), and any pension scheme subsisting immediately before that day under or by virtue of any such regulations, shall continue in force thereafter by virtue of this subsection, subject however to the necessary modifications and to the provisions of any regulations made under subsection (4) below.

(4) Under this subsection (in which "old scheme" and "new scheme" mean respectively a pension scheme continued in force by subsection (3) above, and a pension scheme established under subsection (1) above), the Secretary of State may make regulations providing for all or any of the following matters—

- (a) the amendment, repeal or revocation of an old scheme, or the amalgamation of such a scheme either with another old scheme or with a new scheme,
- (b) the amendment, repeal or revocation of any enactment relating to an old scheme or to a new scheme, of any regulations continued in force by subsection (3) above and not constituting such an enactment, and of any trust deed, rules or other instrument made for the purpose of any such scheme,
- (c) the transfer in whole or in part, or the extinguishment, of liabilities and obligations under an old scheme,
- (d) the transfer in whole or in part, or the winding up, of any pension fund held for the purposes of an old scheme, and
- (e) any matter supplemental to or consequential on any of the matters aforesaid, including the dissolution or winding up of bodies, whether incorporated or not, the continued existence of which is unnecessary having regard to the regulations ;

but nothing in this subsection shall authorise the making of provision for the diversion of any pension fund to purposes other than the payment of pensions to or in respect of persons to whom subsection (1) above applies.

(5) Regulations made under subsection (4) above shall be so framed as to secure that persons having pension rights under any scheme or regulations to which they relate are not placed in any worse position by reason of the regulations.

Regulations shall not be invalid by reason that in fact they fail to secure that result ; but if the Secretary of State is satisfied that they have failed to secure it, or it is so determined as hereinafter mentioned, the Secretary of State shall as soon as possible make the necessary amending regulations.

Any dispute arising as to whether or not the said result has been secured shall be referred to and determined by a tribunal established under section 12 of the Industrial Training Act 1964 c. 16, 1964.

(6) Regulations made under the said subsection (4) may be made so as to have effect from a date prior to the making thereof, so however that so much of any regulations as provides that any provision thereof is to have effect from a date prior to the

PART IV making thereof shall not place any person other than the Corporation in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.

Compensation to members and officers of Gas Council and Area Boards, and officers of Gas Consultative Councils.

37.—(1) The Secretary of State may require the Corporation to pay—

(a) to any person whose term of office as a member of the Gas Council expires on the appointed day by virtue of paragraph 1 of Schedule 1 to this Act, and who is not appointed to membership of the body under its new name for a term of office beginning on that day, and

(b) to the persons who are members of Area Boards immediately before the appointed day,

such sums by way of compensation for loss of office as the Secretary of State may with the consent of the Minister for the Civil Service determine.

(2) The Secretary of State may by regulations require the Corporation to pay, in such cases and to such extent as may be determined by or under the regulations, compensation to or in respect of officers of the Gas Council, of Area Boards, or of Gas Consultative Councils established under section 9 of the Gas Act 1948, being officers who suffer loss of employment, or loss or diminution of emoluments or pension rights, in consequence of this Act.

1948 c. 67.

(3) Different regulations may be made under subsection (2) above in relation to different classes of persons, and any such regulations may be so framed as to have effect as from a date prior to the making thereof, so, however, that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person other than the Corporation in a worse position than he would have been in if the regulations had been made to have effect only as from the date of the making thereof.

(4) Regulations under subsection (2) above—

(a) shall prescribe the procedure to be followed in making claims for compensation, and the manner in which and the person by whom the question whether any or what compensation is payable is to be determined, and

(b) shall in particular contain provisions enabling appeals from any determination as to whether any or what compensation is payable to be brought, in such cases

and subject to such conditions as may be prescribed by the regulations, before a tribunal established under section 12 of the Industrial Training Act 1964.

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1964 c. 16.

38.—(1) There may be defrayed out of moneys provided by Parliament such sums not in the aggregate exceeding £5 million as may be required by the Secretary of State for the purpose of making with the approval of the Treasury contributions towards expenses to which this section applies.

Contributions by Secretary of State towards expenditure designed to promote employment.

(2) This section applies—

- (a) to expenses incurred by the Gas Council, any of the Area Boards or the Corporation in or in connection with the carrying out of any project which is commenced before 1st April 1974 and which, pursuant to an agreement entered into with the Secretary of State with a view to promoting employment (whether or not in the gas industry) is, in whole or in part, commenced or carried out earlier than it would have been but for the agreement, and
- (b) to expenses incurred by any of those bodies in or by reason of the purchase before that date of materials for any project, being a purchase which, pursuant to any such agreement, was effected earlier than it would have been but for the agreement ;

and, in the case of the Gas Council and the Area Boards, this section applies to expenses incurred before as well as after the passing of this Act.

39.—(1) As from the appointed day, section 58(1) of the Pipe-lines Act 1962 (which sets out certain statutory bodies to whom, or in relation to whose pipe-lines, certain provisions of that Act are not to apply) shall be amended by substituting the following paragraph for paragraphs (a) and (b) (Area Boards and Gas Council)—

Application of Pipe-lines Act 1962.
1962 c. 58.

“ (a) the British Gas Corporation ; ”.

(2) Notwithstanding subsections (4) and (5) of the said section 58 and subsection (1) above, but subject to subsection (3) below, the references to a pipe-line in sections 27(1), 31(1) and 42 of the said Act (protection of pipe-lines imperilled by buildings, structures or deposits, and powers of inspectors) shall include references to any pipe-line vested in the Corporation other than one laid in a street or a service pipe, and the references in the said section 42 to pipe-line works shall include references to any such works executed by the Corporation in relation to such a pipe-line.

In this subsection “ street ” has the same meaning as in the Public Utilities Street Works Act 1950.

1950 c. 39.

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(3) The application by virtue of subsection (2) above of the said section 27(1) and the said section 31(1) to a particular part of any pipe-line shall be dependent upon there having been previously deposited with every local authority in whose area the part lies, either by the Corporation or, before the appointed day, by the Gas Council or an Area Board, a map, on a scale not less than 1 in 10,560, showing the route taken by the part.

A local authority holding a map relating to a pipe-line vested in the Corporation shall keep the map at their offices, and shall secure that it is open to inspection by any person at all reasonable times free of charge.

In this subsection "local authority" means—

- (a) in England and Wales, the council of a county, county borough or county district, the Greater London Council, the council of a London borough, and the Common Council of the City of London, and
- (b) in Scotland, a town or county council.

Meaning of
"operational
land" in
Planning
Acts.
1971 c. 78.
1972 c. 52.

40. Section 223 of the Town and Country Planning Act 1971 and section 212 of the Town and Country Planning (Scotland) Act 1972 (which relate to the determination of what is operational land for the purposes of those Acts) shall each be amended by inserting in subsection (2)(b), before the words "the Transport Act 1968", the words "the Gas Act 1972 or".

Adaptation
to metric
units.

41.—(1) The Secretary of State may by regulations amend any provision of this Act, or any other enactment (whenever passed or made) relating to gas by substituting—

- (a) for any reference therein to the therm, a reference to a unit of measurement defined in terms of metric units, and
- (b) for any reference therein to a distance expressed in imperial units, a reference to one expressed in metric units, being one which is either equivalent thereto or such an approximation thereto as the Secretary of State considers it preferable to substitute for the purpose of securing that the enactment in question as amended is expressed in convenient terms.

(2) The Secretary of State may also by regulations amend section 25(1) of this Act by substituting for the definition of "calorific value" a definition expressed in terms of metric units.

(3) Regulations under this section may contain such incidental, supplemental and consequential provisions as the Secretary of State considers expedient.

Supplementary

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42.—(1) If any person, in giving any information, making any claim or giving any notice for the purposes of any provision of this Act, or of any regulation thereunder, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding £400,

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(2) Regulations made under any provision of this Act may provide that any person contravening or failing to comply with any provision of the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

43.—(1) Proceedings for an offence under section 42(1) above or any regulation made under this Act shall not in England and Wales be instituted except by or with the consent of the Secretary of State or by the Director of Public Prosecutions.

Provisions as to prosecutions, and as to offences by corporations.

(2) In England and Wales, any proceedings before a court of summary jurisdiction—

(a) for an offence against any regulations made under section 31 above, or for aiding, abetting, counselling or procuring the commission of such an offence, or

(b) for an offence under section 42(1) above relating to any information, claim or notice given or made for the purposes of any such regulations,

may, notwithstanding any enactment prescribing the time within which proceedings may be brought, be brought either within the time so prescribed or within three months from the date on which evidence sufficient in the opinion of the Secretary of State to justify a prosecution for the offence comes to his knowledge, whichever is the longer; and for the purposes of this subsection a certificate purporting to be signed by the Secretary of State as to the date on which such evidence comes to his knowledge shall be conclusive evidence thereof.

(3) Summary proceedings in Scotland for an offence mentioned in the last foregoing subsection may notwithstanding the limitation in section 23(1) of the Summary Jurisdiction (Scotland) Act 1954 be commenced at any time within three months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify a prosecution comes to his knowledge, or where such evidence was reported to him by the Secretary of State, within three months after the date on which it came

PART IV to the knowledge of the Secretary of State and for the purposes of this subsection—

(a) a certificate purporting to be signed by or on behalf of the Lord Advocate or the Secretary of State, as the case may be, as to the date on which such evidence as aforesaid came to their knowledge shall be conclusive evidence; and

(b) section 23(2) of the said Act of 1954 shall have effect as it has effect for the purposes of that section.

(4) Where an offence under section 42(1) above or any regulations made under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, subsection (4) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Service of
notices etc.

44.—(1) Subject to subsection (2) below, any notice or other document required or authorised to be given, delivered or served under this Act or regulations made thereunder, or under any enactment applied by this Act, other than one contained in the Pipe-lines Act 1962, may be given, delivered or served either—

1962 c. 58.

(a) by delivering it to the person to whom it is to be given or delivered or on whom it is to be served, or

(b) by leaving it at the usual or last known place of abode of that person, or

(c) by sending it in a prepaid letter addressed to that person at his usual or last known place of abode, or

(d) in the case of a body corporate, by delivering it to the secretary or clerk of the body at their registered or principal office, or sending it in a prepaid letter addressed to the secretary or clerk of the body at that office, or

(e) if it is not practicable after reasonable inquiry to ascertain the name or address of a person to whom it should be given or delivered, or on whom it should be served, as being a person having any interest in premises, by addressing it to him by the description of the person having that interest in the premises (naming them) to which it relates and delivering it to

some responsible person on the premises, or affixing it or a copy of it to some conspicuous part of the premises.

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(2) Subsection (1) above shall not apply to notices to be given to or served on the Corporation under the provisions of Schedule 4 to this Act, but any such notice may be given or served by delivering it at, or sending it in a prepaid letter addressed to, an appropriate office of the Corporation, and, in the case of a notice under paragraph 15 or 22 of that Schedule, shall be treated as received by the Corporation only if received by them at an appropriate office.

(3) For the purposes of subsection (2) above, the Corporation shall divide Great Britain into such areas as they think fit, and shall fix in the case of each area offices of theirs which are to be appropriate offices in relation to notices relating to matters arising in that area; and the Corporation shall publish in each area, in such manner as they consider adequate, the addresses of the offices fixed by them for that area, and shall endorse the addresses of the offices fixed for the area in question on every demand note for gas charges payable to them.

45.—(1) Any power conferred by this Act to make regulations or orders shall include power to provide by those regulations or orders for the determination of questions of fact or of law which may arise in giving effect to the regulations or orders and for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions, including provision as to the mode of proof of any matters and provision as to parties and their representation and provision for the right to appear and be heard (as well in court proceedings as otherwise) of the Secretary of State or other authorities, and as to awarding costs of proceedings (other than court proceedings) for the determination of such questions, determining the amount thereof and the enforcement of awards thereof.

Provisions as to regulations and orders.

(2) Any power conferred by this Act to prescribe by regulations a period within which things are to be done shall include power to provide by those regulations for extending the period so prescribed.

(3) Any power conferred by this Act to make regulations or orders may be exercised so as to make different provision for different areas or in relation to different cases or different circumstances to which the power is applicable, and so as to provide for such exceptions, limitations and conditions as the Secretary of State considers necessary or expedient.

(4) Any power conferred by this Act to make regulations or orders shall be exercisable by statutory instrument which,

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except in the case of an order appointing a day or an instrument which is required to be laid before Parliament in draft, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any order made under any such power may be revoked or varied by a subsequent order made in the like manner and subject to the like conditions; but an order appointing a day shall not be revoked or varied by virtue of this subsection by an order made on or after that day.

Inquiries.

46.—(1) The Secretary of State may cause an inquiry to be held in any case when he deems it advisable to do so in connection with any matter arising under this Act, and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply to any inquiry held by the Secretary of State in pursuance of this section, and shall have effect as if the expression “department” included the Secretary of State:

1933 c. 51.

Provided that no local authority shall be ordered to pay costs under subsection (4) of the said section 290 in the case of any inquiry unless they are a party thereto.

1947 c. 43.

(2) Subsections (2) to (9) of section 355 of the Local Government (Scotland) Act 1947 shall apply to any inquiry held under the preceding subsection in Scotland in lieu of the enactments therein mentioned:

Provided that no local authority shall be directed under subsection (8) of the said section to pay any part of the expenses incurred in relation to any inquiry unless the authority are a party thereto.

Expenses and receipts of Secretary of State etc.

47. Any administrative expenses incurred under this Act by the Secretary of State or by any other Minister of the Crown or government department shall be paid out of moneys provided by Parliament; and any sums received by the Secretary of State or by any other Minister of the Crown or government department under or by virtue of this Act shall, except as provided by section 20(4) of this Act, be paid into the Consolidated Fund.

Interpretation.

48.—(1) In this Act the following expressions have the following meanings except where the context otherwise requires—

“appointed day” means the day appointed by the Secretary of State under section 1(1) of this Act;

“Area Board” means an Area Board established under the Gas Act 1948;

1948 c. 67.

“British Gas Stock” has the meaning given by section 21(1) of this Act;

“calorific value” and “declared calorific value” have the meanings given by section 25(1) of this Act;

- “company” means a company incorporated by any enactment or by Royal Charter, any company within the meaning of the Companies Act 1948 and any company registered or incorporated outside Great Britain; 1948 c. 38.
- “the Corporation” means the British Gas Corporation;
- “emoluments” includes any allowances, privileges or benefits, whether obtaining legally or by customary practice;
- “enactment” means any provision of a public general Act, of a local, private or personal Act, of a provisional order confirmed by an Act or of any regulation or order made under an Act;
- “financial year”, in relation to the Corporation, means a period of twelve months ending with a day to be prescribed, so however that the first financial year shall be the period of whatever length running from the end of the last full financial year of the Gas Council as such until the first occurrence of the prescribed day after the appointed day, and, in the case of any alteration of the prescribed day, the duration of the financial year as to which the alteration is first to have effect shall be shortened or extended as may be prescribed, by not more than six months, so as to end on the new prescribed day;
- “functions” means duties and powers;
- “gas fittings” means gas pipes, fittings, meters, apparatus and appliances designed for use by consumers of gas for lighting, heating, motive power and other purposes for which gas can be used;
- “gasworks” means works for the manufacture of gas and gas holders, and any works used in connection with such works or holders;
- “holding company” shall be construed in accordance with section 154 of the Companies Act 1948;
- “local enactment” means any enactment except one contained in or made under a public general Act, and also includes any provision of the Metropolis Gas Act 1860 and the Metropolis Gas Act 1861; 1860 c. 125.
1861 c. 79.
- “the National Council” means the National Gas Consumers’ Council;
- “natural gas” means any gas derived from natural strata;
- “pension”, in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions to a pension fund with or without interest thereon or any other addition thereto;

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“pension rights” includes, in relation to any person, all forms of right to, or eligibility for, the present or future payment of a pension to or in respect of that person, and any expectation of the accruer of a pension to or in respect of that person under any customary practice and includes a right of allocation in respect of the present or future payment of a pension;

“pension scheme” includes any form of arrangements for the payment of pensions, whether subsisting by virtue of an Act, trust, contract or otherwise;

“plant” includes any equipment, apparatus and appliances except gas fittings;

“prescribed” means prescribed by regulations;

“Regional Council” means a Regional Gas Consumers’ Council;

“regulations” means regulations made by the Secretary of State;

1948 c. 38.

“subsidiary” shall be construed in accordance with section 154 of the Companies Act 1948, and “wholly owned subsidiary” in accordance with section 150(4) of that Act;

“therm” means 100,000 British thermal units.

(2) References in this Act to any other enactment shall be construed as references to that enactment as amended by any other enactment including this Act.

Amendments, savings, transitional provisions and repeals

49.—(1) The enactments mentioned in Part I of Schedule 6 to this Act shall have effect as from the appointed day subject to the minor and consequential amendments there specified; and the provisions of Part II of that Schedule shall have effect with respect to the enactments there mentioned.

(2) This Act shall have effect subject to the savings and transitional provisions contained in Schedule 7 to this Act.

(3) The enactments specified in Schedule 8 to this Act are hereby repealed as from the appointed day to the extent specified in the third column of that Schedule:

1939 c. xcix

Provided that the repeal of the London Gas Undertakings (Regulations) Act 1939 shall have effect as from such day as the Secretary of State may by order appoint for that particular purpose.

Short title and extent.

50.—(1) This Act may be cited as the Gas Act 1972.

1957 c. 20.

(2) This Act, except section 33(2) and the provisions thereof relating to the House of Commons Disqualification Act 1957 (that is to say, paragraph 4 of Schedule 3, paragraph 7 of Schedule 6, and the repeals in that Act effected by Schedule 8), does not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 1(6).

THE BRITISH GAS CORPORATION: SUPPLEMENTARY PROVISIONS

Termination of office of existing members of Gas Council

1. The terms of office of all persons who are members of the Gas Council immediately before the appointed day shall expire on that day, but without prejudice to the appointment of any of those persons under section 1(2) of this Act to membership of the body under its new name for a term of office beginning on that day.

Functions etc. of first members of British Gas Corporation before the appointed day

2.—(1) It shall be the duty of the persons appointed to membership of the Corporation as from the appointed day to meet from time to time before that day for the purpose of planning the organisation and operation of the gas industry in Great Britain as from that day; and the Gas Council shall provide those persons with the accommodation and staff necessary for the carrying out of that duty, shall supply them with such information as they may reasonably require for that purpose, shall meet any expenses reasonably incurred by them in that connection, and shall give effect to any recommendation for the appointment of officers with effect from the appointed day which may have been decided upon by a majority of those persons in accordance with rules of procedure (which may include provision for a casting vote) determined by them for the purpose.

(2) The Gas Council shall pay to the persons appointed to membership as aforesaid, for the period beginning with their appointment and ending immediately before the appointed day, such remuneration and such allowances as may be determined by the Secretary of State with the consent of the Minister for the Civil Service.

Supplementary provisions with respect to vesting of assets etc.

3.—(1) The Secretary of State may provide by regulations for the registration of the title of the Corporation to assets vesting in them by virtue of this Act and of a kind subject to provision for the registration of title thereto, and for any matters for which provision appears to him to be necessary or expedient for the purpose of securing the effective transfer of any assets so vesting.

(2) In the application of sub-paragraph (1) above to Scotland, after the word "thereto" there shall be inserted the words "for the completion of the title of the Corporation to heritable property vesting in them as aforesaid".

4. Every agreement to which any Area Board was a party immediately before the appointed day, whether in writing or not, and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned by the Board, shall, unless its terms or subject matter make it impossible that it should have

SCH. 1

effect as modified in the manner provided by this paragraph, have effect as from that day as if—

- (a) the Corporation had been a party to the agreement,
- (b) subject to sub-paragraph (e) below, for any reference (however worded, and whether express or implied) to the Board there were substituted, as respects anything falling to be done on or after the appointed day, a reference to the Corporation,
- (c) for any reference (however worded, and whether express or implied) to any member or officer of the Board not being a party to the agreement and beneficially interested therein there were substituted, as respects anything falling to be done on or after the appointed day, a reference to such person as the Corporation may appoint, or, in default of appointment, to the member or officer of the Corporation who corresponds as nearly as may be to the member or officer of the Board,
- (d) in the case of an agreement for the rendering of personal services to the Board, the services to which the agreement relates were, on and after the appointed day, any services under the Corporation, to be selected by the Corporation, which are reasonably equivalent services, and
- (e) except as provided in sub-paragraphs (c) and (d) above, for any reference (however worded, and whether express or implied) to the business carried on by the Board or to the Board's area of supply or part of it there were substituted, as respects anything falling to be done on or after the appointed day, a reference to the corresponding part of the Corporation's business or, as the case may be, to the corresponding area supplied by the Corporation.

5. Every agreement, whether in writing or not, and every document (not being an agreement to which paragraph 4 above applies or an enactment) which refers whether specifically or generally to any Area Board shall be construed in accordance with the provisions of that paragraph so far as applicable.

6. Paragraphs 4 and 5 above shall have effect subject to the provisions of any regulations made under section 36 of this Act.

7. Without prejudice to the generality of paragraphs 4 and 5 above, where any right, liability or obligation vests in the Corporation by virtue of this Act, the Corporation and all other persons shall, as from the appointed day, have the same rights, powers and remedies (and, in particular, the same rights as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Corporation, and any legal proceedings or applications to any authority pending on the appointed day by or against any Area Board, in so far as they relate to any property, right, liability or obligation vesting in the Corporation by virtue of this Act or to any agreement or document

which has effect in accordance with paragraph 4 or 5 above or to any enactment applied by or under this Act, shall be continued by or against the Corporation to the exclusion of the Board. SCH. 1

SCHEDULE 2

Section 6(5).

ACQUISITION OF LAND BY CORPORATION

PART I

POWERS OF ACQUISITION

1. The Secretary of State may authorise the Corporation to purchase compulsorily any land in Great Britain which they require for or in connection with the exercise and performance of their functions under any enactment.

2. In paragraph 1 above "land" includes any right over land; and the power of the Secretary of State under that paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.

3.—(1) This paragraph applies to land which, for the purposes of the Acquisition of Land (Authorisation Procedure) Act 1946 or of 1946 c. 49. the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, is or forms part of a common, open space or fuel or field garden allotment. 1947 c. 42.

(2) Where for any purpose the Corporation have acquired, or propose to acquire, any land to which this paragraph applies, or any right over any such land, and other land is required for the purpose of being given in exchange for the land or right in question, the Secretary of State may authorise the Corporation to purchase that other land compulsorily, or they may acquire it by agreement.

PART II

PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES)

Application of Acquisition of Land (Authorisation Procedure) Act 1946 generally

4. The Acquisition of Land (Authorisation Procedure) Act 1946 (hereafter referred to as "the Act of 1946") shall apply to the compulsory purchase by the Corporation of land or rights in England or Wales as if the Corporation were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.

New rights: general adaptation of Act of 1946 and Compulsory Purchase Act 1965

5. The Act of 1946 and the Compulsory Purchase Act 1965 1965 c. 56. (hereafter referred to as "the Act of 1965") shall have effect with the modifications necessary to make them apply to the Corporation's compulsory acquisition of a right in England or Wales by the creation of a new right as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those Acts to

SCH. 2 land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is, or is to be, exercisable, according to the requirements of the particular context.

New rights : specific adaptations of Act of 1946

6. Without prejudice to the generality of paragraph 5 above, Part III of Schedule 1 to the Act of 1946 (requirement of special parliamentary procedure, and other special provisions, in the case of acquisition of certain descriptions of land) shall apply in relation to the Corporation's compulsory acquisition of a right in England or Wales by the creation of a new right with the modifications specified in paragraphs 7 to 10 below.

7. In paragraph 9 of that Schedule (compulsory purchase affecting land of local authorities, statutory undertakers or National Trust) for references to the compulsory purchase of land there shall be substituted references to the compulsory acquisition of rights over land.

8. In paragraph 10 of that Schedule (land of statutory undertakers)—

- (a) for the words "land comprised in the order" there shall be substituted the words "land over which a right is to be acquired by virtue of the order",
- (b) for the words "purchase of" there shall be substituted the words "acquisition of a right over",
- (c) for the words "it can be purchased and not replaced" there shall be substituted the words "the right can be acquired". and
- (d) for sub-paragraph (ii) there shall be substituted the following:—

"(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them".

9.—(1) In paragraph 11 of that Schedule (common land, open spaces, etc.) the following shall be substituted for sub-paragraph (1):—

"(1) In so far as a compulsory purchase order authorises the acquisition of a right over land forming part of a common, open space or fuel or field garden allotment, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

- (a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before ; or

- (b) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order ; or
- (c) that the land affected by the right to be acquired does not exceed 250 square yards in extent, and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

SCH. 2

and certifies accordingly.”.

(2) In the said paragraph 11, in sub-paragraph (3), the following shall be substituted for the words from “and for discharging” to the end—

“and for discharging the land over which any right is to be acquired from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of that right”.

10. In paragraph 12 of that Schedule, for the words “the purchase of” there shall be substituted the words “the acquisition of a right over”.

Restriction on application of paragraphs 5 to 10 above

11. So much of paragraph 5 above as relates to the Act of 1946, and paragraphs 6 to 10 above, shall not apply to any compulsory purchase to which, by virtue of section 12 or 13 of the Gas Act 1965 as amended by paragraph 14(2) of Schedule 6 to this Act, Part I of Schedule 4 to that Act applies. 1965 c. 36.

New rights : specific adaptations of Act of 1965

12. Without prejudice to the generality of paragraph 5 above, Part 1 of the Act of 1965 shall apply in relation to the Corporation's compulsory acquisition of a right in England or Wales by the creation of a new right with the modifications specified in paragraphs 13 to 18 below.

13. For section 7 of that Act (measure of compensation) there shall be substituted the following:—

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other

SCH. 2

land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

14. For section 8(1) of that Act (protection for vendor against severance of house, garden, etc.) there shall be substituted the following:—

“(1) No person shall be required to grant any right over part only—

(a) of any house, building or manufactory ; or

(b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determines that—

(i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory ; or

(ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house ;

and if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value ; and thereupon the party interested shall be required to grant to the acquiring authority that right over that part of the house, building, manufactory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”

15. The following provisions of that Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land):—

section 9(4) (refusal by owners to convey) ;

Schedule 1, paragraph 10(3) (owners under incapacity) ;

Schedule 2, paragraph 2(3) (absent and untraced owners) ; and

Schedule 4, paragraphs 2(3) and 7(2) (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

16. Section 11 of that Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power,

exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) shall be modified correspondingly.

SCH. 2

17. Section 20 of that Act (protection for interests of tenants at will, etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

18. Section 22 of that Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

New rights : compensation

19. The enactments in force in England and Wales with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of the Corporation's compulsory acquisition of a right by the creation of a new right as they apply to compensation on the compulsory purchase of land and interests in land.

PART III

PROCEDURE, COMPENSATION ETC. (SCOTLAND)

Application of Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 generally

20. The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (hereafter referred to as "the Act of 1947") shall apply to the compulsory purchase by the Corporation of land or rights in Scotland as if the Corporation were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.

New rights : general application of Act of 1947 and incorporated enactments

21. The enactments incorporated with this Act by virtue of Part I of Schedule 2 to the Act of 1947 and that Act shall have effect with the modifications necessary to make them apply to the Corporation's compulsory acquisition of a right in Scotland in the manner described in paragraph 5 of this Schedule.

New rights : specific adaptations of Act of 1947

22. Paragraphs 6, 7, 8, 9(1) (so far as relating to the acquisition of a right over land forming part of a common or open space) and

SCH. 2 10 of this Schedule shall apply for the adaptation of the Act of 1947 as they apply for the adaptation of the Act of 1946 with the substitution in paragraph 6 of "Scotland" for England and Wales and in paragraph 7 of "The National Trust for Scotland" for National Trust.

23. Paragraph 16 of this Schedule shall have effect in relation to that Act with the substitution of a reference to paragraph 3(1) of the Second Schedule to that Act for the reference to section 11 of the Act of 1965, and with the omission of the words from "and sections" to the end of the paragraph.

24. For paragraph 4 of the Second Schedule to that Act (protection for owner against severance of property) there shall be substituted the provisions substituted by paragraph 14 of this Schedule for section 8(1) of the Act of 1965, and any reference in those provisions to the Lands Tribunal shall be construed as a reference to the Lands Tribunal for Scotland.

Restrictions on application of paragraphs 21 and 22 above

1965 c. 36. 25. So much of paragraph 21 above as relates to the Act of 1947, and paragraph 22 above, shall not apply to any compulsory purchase to which, by virtue of section 12 or 13 of the Gas Act 1965 as amended by paragraph 14(2) of Schedule 6 to this Act, Part I of Schedule 4 to that Act applies.

New rights : specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845

1845 c. 19. 26. For section 61 of the Lands Clauses Consolidation (Scotland) Act 1845 (estimation of compensation) there shall be substituted the following:—

"61. In estimating the purchase money or compensation to be paid by the promoters of the undertaking in the Special Act, in any of the cases aforesaid, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the Special Act."

27. The following provisions of that Act (being provisions stating the effect of a notarial instrument or of a disposition executed in various circumstances where there is no conveyance by persons with interests in the land):—

section 74 (failure by owner to convey) ;

section 76 (refusal to convey or show title or owner cannot be found) ;

section 98 (vesting of common land),

shall be so modified as to secure that, as against persons with interests in the land over which the right is to be compulsorily acquired such right is vested absolutely in the promoters of the undertaking.

28. Paragraph 17 of this Schedule shall have effect in relation to that Act with the substitution of a reference to sections 114 and 115 thereof for the reference to section 20 of the Act of 1965.

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29. Paragraph 18 of this Schedule shall have effect in relation to that Act with the substitution of a reference to sections 117 and 118 thereof for any reference to section 22 of the Act of 1965.

New rights : compensation

30. Paragraph 19 of this Schedule shall have effect in relation to Scotland with the substitution of "Scotland" for England and Wales.

31. This Part of this Schedule shall extend to Scotland only.

SCHEDULE 3

Section 12.

THE CONSUMERS' BODIES : SUPPLEMENTARY PROVISIONS

Remuneration and allowances, officers, accommodation etc.

1.—(1) The chairman of the National Council, and the chairmen of the Regional Councils, shall be paid such remuneration, or such allowances in respect of any loss of remunerative time, and such travelling allowances and allowances in respect of their out-of-pocket expenses, as the Secretary of State may with the consent of the Minister for the Civil Service determine.

(2) The other members of those Councils, and the members of committees and individuals acting as local representatives of the Regional Councils, shall be paid such allowances in respect of any loss of remunerative time, travelling allowances and allowances in respect of their out-of-pocket expenses as the Secretary of State may with the consent of the Minister for the Civil Service determine.

(3) There shall be paid such pensions, or arrangements shall be made for the payment of such pensions, to or in respect of persons who are or have been in receipt of remuneration under sub-paragraph (1) above as the Secretary of State may with the consent of the Minister for the Civil Service determine; and if a person in receipt of remuneration under that sub-paragraph ceases to hold the office by virtue of which he receives it, and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, that person shall be paid a sum of such amount as the Secretary of State may with the consent of the Minister for the Civil Service determine.

2.—(1) The National Council and each of the Regional Councils may, subject to the approval of the Secretary of State as to numbers, appoint such officers as appear to them to be requisite for the proper discharge of their functions; and the officers of the said Councils shall be paid such remuneration and allowances as the Secretary of State may determine.

(2) There shall be paid such pensions, or arrangements shall be made for the payment of such pensions, to or in respect of persons who are or have been officers of any of the said Councils as the Secretary of State may determine.

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(3) Each of the said Councils shall be furnished with such office accommodation and equipment as they reasonably consider requisite for the proper discharge of their functions, or as the Secretary of State may after consultation with them determine.

(4) There shall be paid such expenses incurred by the National Council, the Regional Councils or the local representatives of the Regional Councils as the Secretary of State may after consultation with the Council in question determine.

(5) In this paragraph, references to the functions of Regional Councils include references to the functions of local representatives of Regional Councils.

3. The payments to be made under paragraphs 1 and 2 above shall be provided from the funds of the Corporation; and the arrangements to be made, and accommodation and equipment to be furnished, under those paragraphs shall be made or, as the case may be, furnished by the Corporation.

Parliamentary disqualification of paid chairmen

1957 c. 20.

4. In Part III of Schedule 1 to the House of Commons Disqualification Act 1957 as it applies in relation to the House of Commons of the Parliament of the United Kingdom, after the entry relating to the Chairman of the Mining Qualifications Board there shall be inserted the words "Chairman in receipt of remuneration of the National Gas Consumers' Council or any Regional Gas Consumers' Council."

Procedure etc.

5.—(1) The Secretary of State may make regulations with respect to—

- (a) the appointment of, and the tenure and vacation of office by, members of the National Council and the Regional Councils,
- (b) the appointment of deputy chairmen of those Councils,
- (c) the quorum, proceedings, meetings and determinations of those Councils,
- (d) the execution of instruments on behalf of those Councils, and the proof of documents purporting to be executed on their behalf, and
- (e) any other matters supplementary or incidental to those above mentioned for which provision appears to him to be necessary or expedient.

(2) Subject to any such regulations, the said Councils shall have power to regulate their own procedure.

6. The validity of any proceedings of the National Council or any of the Regional Councils shall not be affected by any vacancy amongst the members or of any defect in the appointment of a member.

Dissolution etc. of Regional Councils on variation of areas

7. Directions under section 9(3)(b) of this Act may contain such provision consequential on any variation of area thereby effected as the Secretary of State may consider expedient, and may in particular

provide for the dissolution of any Regional Council, the winding up of their affairs and the disposal of their records in such manner as the National Council consider desirable, and the payment by the Corporation of any specified expenses arising out of the dissolution and winding up.

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SCHEDULE 4

Section 27.

GAS SUPPLY CODE

Laying of pipes etc.

1.—(1) Subject to the following provisions of this paragraph, the Corporation may, for the purposes of the exercise or performance of any of their functions under this Act or any other enactment, open and break up any street or bridge, and open and break up any sewers, drains or tunnels within or under any such street or bridge, and place pipes, conduits, service pipes, cables, pressure governors, sewers and other works, and from time to time repair, alter or remove them, and for the purposes aforesaid may remove or use all earth and materials in or under any such street or bridge, and may in any such street erect any pillars, lamps and other works, and do all other acts which the Corporation from time to time think necessary for the purposes of the exercise or performance of any of their said functions, doing as little damage as may be in the exercise of the powers hereby conferred and making compensation for any damage done in the exercise of those powers.

Power to
break up
streets, bridges
etc.

(2) The powers of the Corporation under sub-paragraph (1) above shall include power to erect in any street one or more structures for housing pressure governors, but only with the consent, which shall not be unreasonably withheld, of the highway authority or other person having the control or management of the street.

Any question whether or not consent to the erection of such a structure is unreasonably withheld shall be determined by arbitration; and for the purposes of this sub-paragraph, the withholding of consent shall, to the extent that it is based on the ground that the structure ought to be erected elsewhere than in a street, be treated as unreasonable if the Corporation show either that there is no reasonably practicable alternative to erecting it in a street, or that all such alternatives would, on the balance of probabilities, involve greater danger to life or property.

(3) Nothing in sub-paragraph (1) above shall empower the Corporation to lay down or place any pipe or other works into, through or against any building, or in any land not dedicated to the public use, without the consent of the owners and occupiers thereof:

Provided that—

- (a) the Corporation may exercise the powers conferred by that sub-paragraph in relation to any street which has been laid out but not dedicated to the public use for the purpose of giving a supply of gas to any premises which abut on the street, and
- (b) the Corporation may, after giving notice in writing to the owners and occupiers of the land or building not less than

SCH. 4

seven clear days before the entry, enter upon any land (not being a street to which paragraph (a) above applies) or building for the purpose of placing a new pipe in the place of an existing pipe which has already been lawfully placed, or of repairing or altering any pipe lawfully placed, so, however, that entry may be made without such notice in cases of emergency arising from defects in any pipes, but notice shall then be given as soon as possible after the occurrence of the emergency.

1959 c. 25. (4) Except in cases of emergency arising from defects in any pipes or other works, a street or bridge which does not constitute for the purposes of the Highways Act 1959 a highway or part of a highway maintainable at the public expense, and is under the control or management of, or maintainable by, any railway authority or navigation authority, shall not be opened or broken up without the consent of that authority; but that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be determined by arbitration.

1970 c. 20. In the application of this sub-paragraph to Scotland, for the words from "constitute" to "public expense" there shall be substituted the words "constitute a highway as defined in section 50(1) of the Roads (Scotland) Act 1970".

(5) If the Corporation open or break up a street or bridge to which sub-paragraph (4) above applies without the consent required by that sub-paragraph, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

1949 c. 32. (6) The powers conferred by sub-paragraph (1) above shall be included among those to which section 15 of the Highways Act 1959 and (in Scotland) section 4 of the Special Roads Act 1949 (restriction on laying of mains etc. in special roads) apply.

Obligation to supply gas

Right to demand supply. 2.—(1) The Corporation shall, upon being required to do so by the owner or occupier of any premises situated within twenty-five yards from any main of the Corporation through which the Corporation are for the time being distributing gas, give and continue to give a supply of gas to those premises, and shall furnish and lay any pipe that may be necessary for that purpose subject to the conditions specified in the following provisions of this paragraph:

Provided that this provision shall not apply in relation to any main used only for the purpose of giving a separate supply of gas for industrial purposes, or of conveying gas in bulk.

(2) The cost of providing and laying so much of any pipe for the supply of gas to any owner or occupier as may be laid upon the property of the owner or in possession of the occupier, not being property dedicated to public use, and of so much of any such pipe as may be laid for a greater distance than thirty feet from any pipe of the Corporation, although not on such property, shall, if the Corporation so require, be defrayed by the owner or occupier.

(3) The Corporation shall carry out any necessary work of maintenance, repair or renewal of any such pipe which is provided and

laid at the cost of the owner or occupier of any premises, and may recover the expenses reasonably incurred by them in so doing from the owner or occupier of the premises.

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(4) Nothing in sub-paragraph (2) or (3) above shall be taken as affecting any rights or obligations as between the owner and occupier of the premises in relation to any such pipe as aforesaid.

(5) Every owner or occupier of premises requiring under this paragraph a supply of gas shall—

(a) serve a notice on the Corporation specifying the premises in respect of which the supply is required, and the day (not being earlier than a reasonable time after the service of the notice) upon which the supply is required to commence, and undertaking to pay the charges in respect of the supply as they become due, and

(b) give to the Corporation (if required by them to do so) security for the payment to them of all money which may become due to them from such owner or occupier in respect of any pipe to be provided by the Corporation and in respect of gas to be supplied by the Corporation.

(6) Where the Corporation have given a supply of gas for any premises and the owner or occupier has not given such security as aforesaid, or the security given has become invalid or insufficient, the Corporation may, by notice in writing, require the owner or occupier, within seven days after the service of the notice, to give them security for the payment of all money which may from time to time become due to them in respect of the supply, and if the owner or occupier fails to comply with the notice the Corporation may if they think fit discontinue the supply for those premises so long as the failure continues.

3.—(1) Where a new or increased supply of gas is required under paragraph 2 above for purposes other than lighting or domestic use, and the supply cannot be given without the laying of a new main, or the enlarging of an existing main, or the constructing or enlarging of any other works required for the supply of gas by the Corporation, the Corporation shall, notwithstanding the provisions of that paragraph, not be obliged to give the supply unless the person requiring it enters into a written contract with them—

Relief from obligation to supply.

(a) to continue to receive and pay for a supply of gas of such minimum quantity and for such minimum period as the Corporation may reasonably require, having regard to the expense to be incurred by them in laying or enlarging the main or constructing or enlarging the other works, or

(b) to make such payment to the Corporation (in addition to any payments to be made from time to time for gas supplied) as the Corporation may reasonably require having regard to the matters aforesaid,

and gives to the Corporation (if required by them to do so) security for the payment of all money which may become due under the contract.

(2) Any question arising under sub-paragraph (1) above whether a supply can be given without the laying or enlarging of a main

SCH. 4

or the constructing or enlarging of other works, or as to the reasonableness of the minimum quantity or period therein referred to or of the payment required by the Corporation, or as to the nature and amount of the security to be given, shall in default of agreement be determined by arbitration.

(3) In determining any such question, the arbitrator (or, in Scotland, arbiter) shall have regard to the following among other considerations—

- (a) the total annual quantity of gas required by the applicant, the maximum quantity required per hour, and the hours of the day during which the Corporation may be called upon to supply gas to the applicant,
- (b) the capital expenditure which the Corporation would have to incur in the laying of a new main or the enlarging of an existing main or the construction or enlarging of other works for the purpose of giving the supply, and
- (c) how far the capital expenditure may become unproductive to the Corporation in the event of the supply ceasing to be given.

Stand by supply.

4.—(1) Notwithstanding anything in any enactment a person shall not be entitled to demand or continue to receive a supply of gas from the Corporation for the purposes only of a stand-by supply for any premises having a separate supply of gas, or having a supply (in use or ready for use for the purpose for which the stand-by supply of gas is required) of electricity, steam, or other form of energy, unless he has agreed with the Corporation to pay them such annual sum in addition to any charge for gas supplied as will give them a reasonable return on the capital expenditure incurred by them in providing the stand-by supply, and will cover other charges incurred by them in order to meet the possible maximum demand for those premises.

(2) Any question arising under this paragraph—

- (a) as to whether a supply of gas is demanded or received for the purpose only of a stand-by supply, or
- (b) as to whether any premises have a separate supply of gas or have a supply (in use or ready for use for the purpose for which a stand-by supply of gas is required) of electricity, steam, or other form of energy, or
- (c) as to the amount of the said annual sum to be specified in the agreement,

shall in default of agreement be determined by arbitration.

Supply to public lamps.

1948 c. 67.

Penalty for default.

5. The Corporation shall supply gas to any public lamps to which, immediately before the appointed day, an Area Board were supplying gas under the duty imposed on them by paragraph 11 of Schedule 3 to the Gas Act 1948 in such quantities as the authority by or for whom the lamps are maintained may from time to time require.

6. If the Corporation fail to give a supply of gas to any owner or occupier of premises entitled to such a supply, or to supply gas to any public lamps in accordance with paragraph 5 above, they shall, unless the failure was due to circumstances not within their control,

or was authorised by any provision of this Schedule or by regulations made under section 31 of this Act, be guilty of an offence and liable on summary conviction to a fine not exceeding £20.

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Meters and fittings

7. Every consumer of gas supplied by the Corporation shall, if required to do so by them, take his supply through a meter duly stamped in accordance with section 30 of this Act; and the Corporation shall if so required by the owner or occupier of any premises, or by any authority within paragraph 5 above, supply to the said owner, occupier or authority, either by way of sale or by way of hire, an appropriate meter (whether a prepayment meter or otherwise) for ascertaining the quantity of gas supplied by them:

Consumption of gas to be ascertained by meter.

Provided that—

- (a) the said owner, occupier or authority shall, if so required by the Corporation, before receiving the meter give to the Corporation security for payment to them of the price of the meter if it is to be purchased, or of the rent of the meter if it is to be hired, and
- (b) the preceding provisions of this paragraph shall not have effect in relation to the supply of gas to a person under any agreement made with the Corporation and providing for the quantity of gas supplied to him to be ascertained otherwise than by means of a duly stamped meter.

8.—(1) Every consumer shall at all times, at his own expense, keep all meters belonging to him, whereby the quantity of gas supplied by the Corporation is registered, in proper order for correctly registering the quantity of gas, and in default of his doing so the Corporation may cease to supply gas through that meter.

Meters to be kept in proper order.

(2) The Corporation shall at all times at their own expense, keep all meters let for hire by them to any consumer in proper order for correctly registering the quantity of gas supplied, and in default of their so doing the consumer shall not be liable to pay rent for the meter in respect of the period of the default.

(3) The Corporation shall have access to and be at liberty to remove, inspect and replace any meter at all reasonable times, and shall, while any such meter is removed, fix a substituted meter on the premises; and, subject to sub-paragraph (4) below, the cost of removing, inspecting and replacing a meter and of fixing a substituted meter shall be defrayed by the Corporation.

(4) Where a meter is removed for the purpose of being examined by a meter examiner in accordance with this Act, the person at whose request the examination is to be carried out shall, unless the meter is found to register erroneously to a degree exceeding the degree permissible under the regulations for the time being in force, defray the expenses incurred in removing, examining and replacing the meter and fixing a substituted meter, and the said expenses shall, if the meter is found to register erroneously as aforesaid, be defrayed by the owner of the meter.

9.—(1) Every meter to be used in a building not previously supplied with gas or in connection with a new or substituted pipe laid between

Placing of meters in new premises.

SCH. 4 the main and the meter shall be placed as near as practicable to the main, but within the outside wall of the building:

Provided that the meter may be placed otherwise than within the outside wall of the building if it is placed either in accommodation of a type and construction reasonably approved by the Corporation by an approval given in relation to buildings generally, or to any class or description of buildings, or in a separate meter house or other accommodation outside the building reasonably approved by the Corporation in the case of that particular building.

(2) If the requirements of sub-paragraph (1) above are not complied with, the Corporation may refuse to supply gas to the premises until those requirements have been complied with.

Meter to be evidence of quantity of gas supplied.

10.—(1) Subject to sub-paragraph (2) below, where gas is supplied through a meter, the register of the meter shall be prima facie evidence of the quantity of gas supplied:

Provided that where a meter is found, when examined by a meter examiner appointed under this Act, to register erroneously to a degree exceeding the degree permissible under the regulations for the time being in force—

- (a) the meter shall be deemed to have registered erroneously to the degree so found since the penultimate date on which the register of the meter was ascertained before the date of the examination and otherwise than in connection therewith, except in a case where it is proved to have begun to register erroneously as aforesaid on some later date; and
- (b) the amount of allowance to be made to, or the surcharge to be made on, the consumer by the Corporation in consequence of the erroneous registration shall be paid to or by the consumer, as the case may be, and shall, in the case of a surcharge, be recoverable in like manner as charges for gas are recoverable by the Corporation.

(2) Sub-paragraph (1) above shall not have effect in relation to the supply of gas to a person under any agreement made with the Corporation and providing for the quantity of gas supplied to him to be ascertained otherwise than by means of a duly stamped meter.

Alteration and replacement of burners on change of calorific value.

11. The Corporation shall, in the case of any alteration in the calorific value declared in respect of any gas supplied by them, take at their own expense such steps as may be necessary to alter, adjust or replace the burners in the appliances of consumers of that gas in such manner as to secure that the gas can be burned with safety and efficiency:

Provided that in the case of any consumer who objects thereto the Corporation shall not carry out any such alteration, adjustment or replacement except where in the opinion of the Corporation such alteration, adjustment or replacement is necessary in the interests of safety.

Resale of gas supplied

Maximum charges for reselling gas supplied by the Corporation.

12.—(1) The Corporation shall from time to time fix maximum prices at which gas supplied by them may be re-sold, and shall publish the prices so fixed in such manner as in their opinion will secure adequate publicity therefor.

(2) Different prices may be fixed under this paragraph in different classes of cases which may be defined by reference to areas, tariffs applicable to gas supplied by the Corporation, or any other relevant circumstances.

(3) If any person resells any gas supplied by the Corporation at a price exceeding the maximum price fixed under this paragraph and applicable thereto, the amount of the excess shall be recoverable by the person to whom the gas was resold in any court of competent jurisdiction, and in England and Wales shall be so recoverable as a simple contract debt.

Recovery of gas charges, etc.

13. Any charges due to the Corporation in respect of the supply of gas, and any charges due to the Corporation in respect of the supplying and fixing of any meter or fittings, shall be recoverable by the Corporation in any court of competent jurisdiction, and in England and Wales shall be so recoverable as a simple contract debt.

14. If the occupier of any premises, being premises supplied with gas by the Corporation, quits the premises without paying any amount due from him in respect of charges in respect of the supply, the Corporation shall not be entitled to require from the next occupier of the premises the payment of the amount due, unless that occupier has undertaken with the former occupier to pay or exonerate him for the payment of that amount.

15.—(1) If the occupier of any premises, being premises supplied with gas by meter by the Corporation, quits the premises without giving notice thereof in writing to the Corporation so that it is received by the Corporation at least twenty-four hours before he quits the premises, he shall be liable to pay to the Corporation all charges in respect of the supply of gas to the premises accruing due up to the next date on which the register of the meter on the premises is usually ascertained, or the date from which any subsequent occupier of the premises requires the Corporation to supply gas to the premises, whichever first occurs.

(2) Sub-paragraph (1) above, or a statement of the effect thereof, shall be endorsed upon every demand note for gas charges payable to the Corporation.

16. If a person requiring a supply of gas from the Corporation has previously quitted premises at which gas was supplied to him by the Corporation without paying all money due from him by way of charges in respect of the supply of gas to those premises, the Corporation may refuse to furnish him with a supply of gas until he pays the money so due.

17.—(1) If any person has not, after the expiry of twenty-eight days from the making of a demand in writing by the Corporation for payment thereof, paid the charges due from him in respect of the supply of gas by them to any premises, the Corporation, after the expiration of not less than seven days' notice in writing of their intention, may cut off the supply from the premises by disconnecting

SCH. 4 the service pipe at the meter (whether the pipe belongs to the Corporation or not) or by such other means as they think fit, and any expense incurred in cutting off the supply shall be recoverable in like manner as charges for gas.

(2) Where the Corporation have cut off the supply of gas from any premises in consequence of any default on the part of the occupier thereof, the Corporation shall not be under any obligation to resume the supply of gas to the occupier so in default until he has made good the default and paid the reasonable expenses of re-connecting the supply, but subject as aforesaid, nothing in this paragraph shall prejudice or interfere with any rights conferred on any person by paragraph 2 of this Schedule.

Use of antifluatuators and valves

Antifluatuators
and valves.

18.—(1) Where a consumer of gas supplied by the Corporation uses the gas for working or supplying an engine, gas compressor or other similar apparatus or any apparatus liable to produce in any main of the Corporation a pressure less than atmospheric pressure (any such engine, compressor or apparatus being hereafter in this paragraph referred to as a “compressor”), he shall, if so required by the Corporation by notice in writing, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent pressure fluctuation in the supply mains and any other inconvenience or danger being caused to other consumers of gas by reason that they and the first-mentioned consumer are supplied with gas from the same source.

(2) Where a consumer of gas supplied by the Corporation uses for or in connection with the consumption of the gas so supplied any air at high pressure (in this paragraph referred to as “compressed air”) or any gas not supplied by the Corporation (in this paragraph referred to as “extraneous gas”), he shall, if so required by the Corporation by notice in writing, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent the admission of the compressed air or extraneous gas into the service pipe or into any main through which gas is supplied by the Corporation.

(3) Where a consumer is required by this paragraph to keep in use any appliance, he shall at his own expense keep it in proper order and repair, and repair, renew or replace it if it is not in proper order or repair.

(4) It shall not be lawful for a consumer of gas supplied by the Corporation to use a compressor, or any apparatus for using compressed air or extraneous gas, unless he has given to the Corporation not less than fourteen days’ notice in writing of his intention to do so:

Provided that this sub-paragraph shall not apply to the use of any compressor or apparatus which was lawfully in use immediately before the appointed day.

(5) If a consumer makes default in complying with any provision of this paragraph, the Corporation may cut off the supply of gas to him and shall not be required to resume the supply until the default has been remedied to their reasonable satisfaction.

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(6) The Corporation shall, as soon as is practicable after any person first becomes a consumer of gas supplied by them, give to that person notice in writing of the effect of the preceding provisions of this paragraph:

Provided that this requirement shall not apply in the case of any person who is a consumer of gas immediately before the appointed day, and to whom a notice has been given before that day pursuant to paragraph 27(6) of Schedule 3 to the Gas Act 1948 (which 1948 c. 67. imposes a similar requirement).

(7) The Corporation shall have access at all reasonable times to any premises supplied by them with gas upon which the Corporation have reason to believe that a compressor or compressed air or extraneous gas is being used, in order to ascertain whether the provisions of this paragraph are being complied with.

(8) The Corporation shall have power to disconnect, remove, test and replace any appliance which a consumer of gas supplied by them is required by this paragraph to keep in use, and any expenses incurred by the Corporation under this sub-paragraph shall, if the appliance is found in proper order and repair, be paid by the Corporation but otherwise shall be paid by the consumer.

Penalties

19. If any person supplied with gas by the Corporation improperly uses or deals with the gas so as to interfere with the efficient supply of gas by the Corporation to any consumer, the Corporation may, if they think fit, cease to supply gas to that person. Improper use of gas.

20.—(1) If any person wilfully, fraudulently, or by culpable negligence, injures or suffers to be injured any pipes, meter or fittings belonging to the Corporation, or alters the index to any meter, or prevents any meter from duly registering the quantity of gas supplied, he shall (without prejudice to any other right or remedy for the protection of the Corporation or the punishment of the offender) be guilty of an offence and liable on summary conviction to a fine not exceeding £100. Injury to pipes and fittings and interference with meters.

(2) The prosecution of any such offence shall not prevent the Corporation from recovering the amount of any damage caused to them by the offence, and, if the offence involves any injury to or interference with any pipes, meter or fittings belonging to the Corporation, the Corporation may also, until the matter has been remedied, but no longer, discontinue the supply of gas to the person so offending (notwithstanding any contract previously existing).

(3) The existence of artificial means for causing an alteration of the index to any meter or the prevention of any meter from duly registering, when the meter is under the custody or control of the consumer, shall be prima facie evidence that the alteration or prevention, as the case may be, has been fraudulently and wilfully caused by the consumer using the meter.

21. If any person, without the consent of the Corporation, restores to any premises a supply of gas which has been cut off by them otherwise than in the exercise of a power conferred by regulations Restoration of supply without consent.

SCH. 4 made under section 31 of this Act, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100 and the Corporation may again cut off the supply.

Notice of connection or disconnection of service pipe.

22. No person shall connect any meter with a service pipe through which gas is supplied by the Corporation, or disconnect any meter from any such pipe, unless he has given to the Corporation, so that it is received by them at least twenty-four hours before he does so, notice in writing of his intention to do so, specifying the time and place of the proposed connection or disconnection; and if any person acts in contravention of this provision, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10.

Escape of gas.

23. Where any gas escapes from any pipe of the Corporation, they shall, immediately after receiving notice of the escape in writing, prevent the gas from escaping; and if the Corporation fail within twenty-four hours from the service of the notice effectually to prevent the gas from escaping, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100:

Provided that in any proceedings for an offence under this paragraph it shall be a defence for the Corporation to prove that it was not reasonably practicable for them effectually to prevent the gas from escaping within the said period of twenty-four hours, and that they did effectually prevent the escape as soon as it was reasonably practicable for them to do so.

Rights of entry

Entry for purposes of inspection.

24.—(1) Any officer authorised by the Corporation may at all reasonable times, on the production of some duly authenticated document showing his authority, enter any premises in which there is a service pipe connected with the gas mains of the Corporation in order to inspect the meters, fittings and works for the supply of gas, or for the purpose of ascertaining the quantity of gas consumed or supplied, except in a case where the occupier of the premises has applied in writing to the Corporation for the disconnection of the service pipe from the mains and the Corporation have failed to disconnect it within a reasonable time.

1961 c. 34.

(2) The said powers of inspection shall, in relation to any premises or part of any premises which are or is wholly occupied as a factory within the meaning of the Factories Act 1961, extend only to the inspection of—

- (a) such of the meters on the premises, or on that part of the premises as the case may be, as are used by the Corporation for measuring gas supplied by them, and
- (b) the pipes and other fittings or works by which those meters are connected with the gas mains of the Corporation.

Entry for purposes of removing pipes etc. on discontinuance of supply.

25.—(1) Where—

- (a) a person occupying premises supplied with gas by the Corporation ceases to require such a supply, or
- (b) a person entering into occupation of any premises previously supplied with gas by the Corporation does not take a

supply of gas from the Corporation or hire such of the pipes, meters, fittings or apparatus on the premises as belong to the Corporation, or

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- (c) the Corporation are authorised to cut off the supply of gas from any premises otherwise than by virtue of any regulations made under section 31 of this Act,

it shall be lawful for an officer authorised by the Corporation, after twenty-four hours' notice to the occupier under the hand of an officer so authorised, or to the owner or lessee of the premises if they are unoccupied, to enter the premises at all reasonable times for the purpose of removing and to remove any pipes, meters, fittings or apparatus through which the supply was given to the premises.

(2) The notice required to be given by sub-paragraph (1) above may, in the case of unoccupied premises the owner or lessee of which is unknown to the Corporation and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises not less than forty-eight hours before the premises are entered.

(3) Where the Corporation have reasonable cause to suspect that gas is escaping, or may escape, in any premises, it shall be lawful for an officer authorised by them to enter the premises for the purpose of inspecting the gas fittings and preventing the escape, and to inspect the fittings, carry out any work necessary to prevent the escape, and take any other steps necessary to avert danger to life or property ; and where the Corporation have reasonable cause to suspect that gas which has escaped has entered, or may enter, any premises, it shall be lawful for such an officer to enter those premises also and to take any steps necessary to avert danger to life or property.

26. Where, in pursuance of any powers conferred by this Schedule or by regulations made under section 31 of this Act, entry is made on any premises by an officer of the Corporation, the officer shall ensure that the premises are not left less secure by reason of the entry ; and the Corporation shall make good, or pay compensation for, any damage caused by the officer or by any person accompanying him in entering the premises, in taking any action therein authorised by this Schedule or the said regulations, or in making the premises secure.

Premises to be left secure, and damage to be made good.

27. If any person wilfully obstructs any officer exercising powers under paragraphs 24 to 26 above or under any regulations made under section 31 of this Act, or any other power of entry conferred by this Schedule, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 if it is his first conviction of an offence under this paragraph or, in any other case, a fine not exceeding £100.

Penalty for obstruction.

28. The provisions of this Schedule and any regulations under section 31 of this Act conferring powers of entry or otherwise relating thereto shall have effect subject to the provisions of the Rights of Entry (Gas and Electricity Boards) Act 1954 as amended by paragraph 5 of Schedule 6 to this Act.

Application of Rights of Entry (Gas and Electricity Boards) Act 1954.

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Gas fittings not to be subject to distress.

General

29.—(1) Any gas fittings let for hire by the Corporation and marked or impressed with a sufficient mark or brand indicating the Corporation as the owner thereof—

- (a) shall not be subject to distress or to the landlord's remedy for rent, or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession they may be, and
- (b) shall not be deemed to be landlord's fixtures, notwithstanding that they may be fixed or fastened to any part of the premises in which they may be situated.

(2) In the application of sub-paragraph (1)(a) above to Scotland, for the word "distress" and the words "in bankruptcy against" there shall be substituted respectively the word "poinding" and the words "for the sequestration of the estate of".

Provisions as to security.

30.—(1) Where any security is required by the provisions of this Schedule to be given to the Corporation, the security may be by way of deposit or otherwise, and of such amount as the person required to give the security and the Corporation may agree on or as, in default of such agreement, may be determined by arbitration.

(2) Where any money is deposited with the Corporation by way of such security as aforesaid, the Corporation shall pay interest at such rate as may from time to time be fixed by order of the Secretary of State made with the approval of the Treasury, on every sum of 50p so deposited for every six months during which it remains in the hands of the Corporation.

Arbitration.

31. Where under any provision in this Schedule the determination of any question is referred to arbitration, the reference shall be to a single arbitrator (or, in Scotland, arbiter) to be appointed by agreement between the parties or, in default of agreement, by the Secretary of State.

Copies of enactments to be available for inspection.

32. The Corporation shall keep in their principal office copies of all local enactments which apply to the Corporation, and at such other places as they may determine copies of such of those enactments as they consider appropriate, and the enactments kept by the Corporation pursuant to this paragraph shall be available for public inspection at all reasonable hours, and any person shall be entitled during those hours to take copies thereof and extracts therefrom.

Nuisance.

33. Nothing in this Act shall exonerate the Corporation from any proceedings for any nuisance caused by them.

Saving for Coast Protection Act 1949. 1949 c. 74.

34. Nothing in this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (restriction of works detrimental to navigation).

Justices and judges not to be disqualified.

35. No justice of the peace or judge of any court shall be disqualified from acting in cases arising under this Schedule by reason only of his being liable to the payment of any charges for gas or other charges under this Act.

36. In this Schedule—

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- “navigation authority” means any person or body of persons, whether incorporated or not, authorised by or under an enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock ;
- “railway authority” means any person or body of persons, whether incorporated or not, authorised by an enactment to construct, work or carry on a railway ; and
- “street” includes any square, court, alley, highway, road, lane, thoroughfare, or public passage or place.

Section 34.

SCHEDULE 5

RATING OF CORPORATION IN ENGLAND AND WALES

PART I

AMENDMENT OF GENERAL RATE ACT 1967

1. The section to be substituted for section 33 of the General Rate Act 1967 is as follows:—

“ British Gas Corporation. 33.—(1) Subject to subsection (2) and without prejudice to subsections (3) and (5) of this section, no premises occupied by the British Gas Corporation (hereafter referred to as “the Corporation”) shall be liable to be rated or to be included in any valuation list or in any rate.

(2) The foregoing subsection shall not apply—

- (a) to premises used as a dwelling ; or
- (b) to premises occupied by the Corporation wholly or mainly for the purposes of an undertaking for the supply of water ; or
- (c) to premises occupied and used by the Corporation wholly or mainly for the manufacture of plant or gas fittings ; or
- (d) to a shop, room or other place occupied and used by the Corporation wholly or mainly for the sale, display or demonstration of apparatus or accessories for use by consumers of gas (any use for the receipt of payments for gas consumed being disregarded) ; or
- (e) subject and without prejudice to the provisions of paragraph 12 of Schedule 6 to this Act, to office premises occupied by the Corporation and not situated on operational land of theirs.

(3) For the purposes of the making and levying of a rate for any rating area for any rate period, if in the penultimate year the Corporation—

- (a) supplied gas to consumers in that area ; or
- (b) manufactured gas in that area ; or

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- (c) produced gas in that area by the application to gas purchased by them of any process not consisting only of purification, or of blending with other gases, or of both purification and such blending.

the Corporation shall be treated as occupying in that area during that rate period a hereditament of a rateable value calculated in accordance with the provisions of Part I of Schedule 6 to this Act.

(4) The hereditament which the Corporation are to be treated as occupying in a rating area by virtue of subsection (3) of this section shall be taken not to be situated in any part of that area in which there are leviable, as an additional item of the rate, expenses which are not leviable in the area taken as a whole.

(5) If the Secretary of State is of opinion that payments by way of rates should be made by the Corporation by virtue of this subsection by reference to any premises occupied and used by them for the reception or liquefaction of gas or the evaporation of gas in a liquid state, being in any case gas purchased by the Corporation, he may, subject to paragraph 13 of Schedule 6 to this Act, make an order designating the premises for the purposes of this subsection and providing for the determination, by such method as may be specified by the order, of a value for the premises for those purposes; and where such an order is in force, the Secretary of State may direct—

- (a) that the Corporation shall, during such period as is specified in the direction, be treated for rating purposes as occupying within the rating area in which the premises designated by the order are situated (and whether or not the Corporation occupy or are treated as occupying any other hereditament in that area) a hereditament of a rateable value equal to the value determined as aforesaid; and
- (b) that paragraph 5 of Schedule 6 to this Act shall have effect during the said period as if the Corporation's adjusted basic total of rateable values mentioned in that paragraph were reduced by an amount equal to that value;

and any direction under this subsection may be varied or revoked by a subsequent direction thereunder.

(6) Subject to paragraph 13 of Schedule 6 to this Act, the Secretary of State may by order provide that, in such of the provisions of this section, the said Schedule 6, or any other enactment relating to rating as may be specified

in the order, any reference to the manufacture of gas shall include a reference to such dealings with gas as may be specified by the order.

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(7) There shall have effect for the purposes of this section and Part I of Schedule 6 to this Act the supplementary provisions contained in Part II of that Schedule ; and for the purposes of this section and that Schedule—

(a) the expression “ gas ” includes gas in a liquid state, and, without prejudice to the provisions of any order under subsection (6) of this section, the following operations—

(i) the liquefaction of gas, and

(ii) the evaporation of gas in a liquid state,

shall not of themselves be taken to constitute the manufacture of gas or the application of a process to gas ;

(b) the expression “ penultimate year ”, in relation to a rate period or to a year, means the last but one year before that rate period or year ;

(c) the expressions “ office premises ” and “ operational land ” have the meanings respectively assigned by section 32(8) of this Act.”

2. The Schedule to be substituted for Schedule 6 to the General 1967 c. 9. Rate Act 1967 is as follows:—

“ SCHEDULE 6

THE BRITISH GAS CORPORATION

PART I

Calculation of rateable value of notional hereditament

1. The provisions of this Part of this Schedule shall have effect for the purpose of calculating for any rate period the rateable value of the hereditament which, by virtue of section 33(3) of this Act, the British Gas Corporation (hereafter referred to as “ the Corporation ”) are to be treated as occupying in any rating area.

2.—(1) Subject to sub-paragraph (2) of this paragraph and to paragraph 4(3) of Schedule 5 to the Gas Act 1972, the Corporation shall be taken for the purposes of this Part of this Schedule to have a basic total of rateable values equal to £9,640,560.

(2) If it appears to the Secretary of State that by reason of any substantial change of circumstances it is expedient so to do, he may, by order made after consultation with the Corporation and with such associations of local authorities as appear to him to be concerned, and

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with any local authority with whom consultation appears to him to be desirable, vary the Corporation's basic total of rateable values for the purposes of this Part of this Schedule; but an order under this sub-paragraph shall not have effect until approved by a resolution of each House of Parliament.

3. For the purposes of this Part of this Schedule, the standard number of therms of the Corporation shall be 2, 154, 934, 611.

4. For each year the Corporation shall—

- (a) estimate the number representing the total number of therms which, in the penultimate year, they supplied to consumers in England and Wales less one-half the number of therms in any gas which they purchased in that year in order to supply consumers in England or Wales; and
- (b) calculate and certify the amount by which that estimated number exceeds or falls short of their standard number of therms;

and the Corporation's basic total of rateable values shall be adjusted for that year by multiplying it by the fraction of which the numerator is their standard number of therms increased by one-fifth of the said excess or, as the case may be, decreased by one-fifth of the said deficiency, and the denominator is their standard number of therms.

5.—(1) Subject to sub-paragraph (4) of this paragraph and to section 33(5) of this Act, the Corporation's basic total of rateable values, as adjusted for any year under paragraph 4 of this Schedule, shall be apportioned in accordance with sub-paragraph (2) of this paragraph for that year among all the rating areas in which, in the penultimate year, the Corporation supplied any therms to consumers, manufactured any therms, or produced any therms by such an application of such a process as is mentioned in section 33(3)(c) of this Act.

(2) The proportion of the Corporation's adjusted total to be allocated under sub-paragraph (1) of this paragraph to any one rating area shall be ascertained by multiplying that adjusted total by the fraction of which—

- (a) the numerator is the number of therms, as estimated and certified by the Corporation, which the Corporation supplied in the penultimate year to consumers in that area, plus nine-tenths of the number of therms (if any), as so estimated and certified, which in that year the Corporation manufactured in that area or produced in that area by such an application of such a process as is mentioned in section 33(3)(c) of this Act; and

(b) the denominator is the total number of therms, as so estimated and certified, which the Corporation supplied in the penultimate year to consumers in England and Wales, plus nine-tenths of the total number of therms, as so estimated and certified, which in that year the Corporation manufactured in England or Wales or produced in England or Wales by such an application of such a process.

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(3) For the purposes of sub-paragraph (2) of this paragraph, the number of therms produced by such an application of such a process as aforesaid shall be taken to be half the actual number thereof.

(4) Subject to paragraph 13 of this Schedule, the Secretary of State may by order provide that the adjusted total aforesaid shall, instead of being apportioned and allocated as provided by the foregoing provisions of this paragraph, be apportioned and allocated as provided by the order.

6. The amount which, in accordance with paragraph 5 of this Schedule, is allocated for any year to a rating area shall be the rateable value of the hereditament which, by virtue of section 33(3) of this Act, the Corporation are to be treated as occupying in that area for any rate period consisting of or forming part of that year.

PART II

Supplementary provisions

7. As respects each rating area in which the Corporation will fall to be treated as occupying during any rate period a hereditament of a rateable value calculated in accordance with Part I of this Schedule, it shall be the duty of the Corporation, before the end of the month of October preceding the beginning of that period, to transmit to the rating authority and to the valuation officer a statement setting out particulars of all the matters estimated, calculated and certified for the purpose of computing the rateable value of that hereditament.

8. On receipt of a statement under paragraph 7 of this Schedule, the valuation officer shall calculate the rateable value of the hereditament which the Corporation are to be treated as occupying during the rate period in question, and shall notify the amount of that rateable value to the rating authority before the end of the month of December preceding the beginning of that rate period.

9. The duty imposed on the Corporation by paragraph 7 of this Schedule shall be enforceable by mandamus at the instance of the rating authority or of

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the valuation officer ; and the duty imposed on the valuation officer by paragraph 8 of this Schedule shall be enforceable by mandamus at the instance of the rating authority.

10. Where the valuation officer notifies the amount of a rateable value to the rating authority in accordance with paragraph 8 of this Schedule—

- (a) the rating authority, in making and levying any rate for a rate period to which the notification relates, shall include the Corporation as the occupier of a hereditament of that rateable value ; and
- (b) the valuation officer, at or as soon as may be after the beginning of the year consisting of or comprising any such rate period, shall cause such alterations (if any) to be made in the valuation list as may be requisite for showing the Corporation in the list as the occupier of a hereditament of that rateable value, and if any such alteration is made after the beginning of the year, it shall be treated as having been made at the beginning of the year :

Provided that, if the year referred to in sub-paragraph (b) of this paragraph is a year beginning with the date on which a new valuation list comes into force, that sub-paragraph shall not apply, but the valuation officer shall include the Corporation in the list as the occupier of a hereditament of the said rateable value.

11.—(1) The provisions of this paragraph shall have effect where gas is manufactured by the Corporation in a gasworks which is situated partly in one rating area and partly in one or more other rating areas.

(2) For the purposes of section 33 of this Act, the Corporation shall be treated as manufacturing gas in each of the rating areas in which a part of the gasworks is situated, notwithstanding that no gas is actually manufactured in one or more of those areas.

(3) For the purposes of paragraph 5 of this Schedule the gas manufactured in the gasworks in any year shall be treated as apportioned between all the rating areas in which parts of the gasworks are situated, in such proportions as may be agreed between the rating authorities of those areas and the Corporation :

Provided that if any apportionment required by this sub-paragraph for the purpose of apportioning the Corporation's adjusted total of rateable values for any year has not been agreed between the rating authorities and the Corporation before the end of the month of September preceding the beginning of that year, the apportionment required by this sub-paragraph shall be

made by the Secretary of State and notified by him to the rating authorities and to the Corporation as soon as may be after the end of that month.

SCH. 5

(4) In this paragraph—

- (a) the expression “gasworks” means any group of premises within one curtilage which is occupied by the Corporation for the purposes of the manufacture of gas, and a group of premises shall not be treated as being otherwise than within one curtilage by reason only that it is traversed by a public highway ;
- (b) any reference to the manufacture of gas shall be construed as including a reference to the production of gas by such an application of such process as is mentioned in section 33(3)(c) of this Act.

12. For the purposes of section 33(2)(e) of this Act, paragraph 8 of Schedule 5 to this Act shall have effect as if for any reference therein to section 32(2)(b) of this Act there were substituted a reference to the said section 33(2)(e), and as if it provided for the determination of any such question as is mentioned in sub-paragraph (3) or (4) thereof by the Secretary of State for Trade and Industry.

13. Before making any order under section 33(5) or (6) of this Act, or under paragraph 5(4) of this Schedule, the Secretary of State shall consult with the Corporation, with such associations of local authorities as appear to him to be concerned, and with any local authority with whom consultation appears to him to be desirable ; and any such order—

- (a) may contain such incidental, supplemental and consequential provisions, including any provisions altering any enactment or instrument, as the Secretary of State considers expedient for the purposes of the order ; and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

PART II

TRANSITIONAL PROVISIONS

3.—(1) The Corporation shall not by virtue of section 33(3) of the General Rate Act 1967 as set out in paragraph 1 of this Schedule be treated as occupying a hereditament in any rating area for any rate period beginning before 1st April 1974 ; but if during any rate period beginning on or after the appointed day and ending before the said 1st April an Area Board would if this Act had not been passed have been treated as occupying a hereditament in any area by virtue of section 33(3) of the said Act of 1967 as in force immediately before the appointed day, the Corporation shall

1967 c. 9.

SCH. 5 be treated for the purpose of the making and levying of a rate for that area for that period as occupying the like hereditament during that period.

(2) If the appointed day falls before 1st April 1973, the Secretary of State may nevertheless make at any time before the said 1st April an order under paragraph 2(2) of Schedule 6 to the said Act of 1967 as in force immediately before the appointed day which shall have effect for the purpose of calculating in accordance with Part I of that Schedule as so in force the rateable values of the hereditaments which the Corporation are to be treated as occupying by virtue of sub-paragraph (1) above.

(3) For the purposes of sub-paragraph (1) above, paragraphs 7 to 10 of the said Schedule 6 shall have effect until the appointed day as if this Act had not been passed, and, as then in force, shall thereafter continue to have effect with the necessary modifications.

1967 c. 9.

4.—(1) Subject to sub-paragraph (2) below, in relation to any rate period or year beginning on or after 1st April 1974, section 33(3) of and Schedule 6 to the General Rate Act 1967 as set out in Part I of this Schedule shall have effect as if references to gas supplied, manufactured, produced or purchased by the Corporation included references to gas supplied, manufactured, produced or, as the case may be, purchased by the Corporation as the Gas Council and by Area Boards.

(2) Sub-paragraph (1) above shall not apply to paragraph 4(a) of the said Schedule 6, but, in relation to any such rate period or year as is mentioned in the said sub-paragraph (1), the reference in the said paragraph 4(a) to gas purchased by the Corporation in order to supply consumers in England or Wales shall include a reference to gas purchased by the Corporation as the Gas Council in order to supply Area Boards or consumers in England or Wales, and to gas purchased by Area Boards otherwise than from the Corporation as such.

(3) If, by virtue of any order under paragraph 2(2) of the said Schedule 6 as in force immediately before the appointed day (including an order made by virtue of paragraph 3(2) above), the basic totals of rateable values of the Area Boards in England and Wales as on 1st April 1973 amount in the aggregate to a sum other than £9,640,560, that sum shall be substituted for the reference to £9,640,560 in paragraph 2(1) of that Schedule as set out in paragraph 2 above.

5.—(1) Where any premises designated by an order in force immediately before the appointed day under subsection (5) of section 33 of the General Rate Act 1967 are thereafter occupied and used by the Corporation as mentioned in that subsection in relation to gas purchased either by the Corporation (whether as such or as the Gas Council) or by an Area Board, the order and any related direction so in force shall, with the necessary modifications, have effect as from that day as if authorised by, and made or given under, the new section 33(5) set out in paragraph 1 of this Schedule; but the Secretary of State shall vary the direction as from that day so that it provides as mentioned in the said section 33(5) as so set

out, subject to the qualification that, so far as it requires a reduction in the basic total of rateable values of any Area Board, that requirement shall continue to have effect for the purpose of calculating the rateable values of the hereditaments which the Corporation are to be treated as occupying by virtue of paragraph 3(1) of this Schedule.

SCH. 5

(2) Any direction given by virtue of an order made under the said section 33(5) on or after the appointed day may make such provision as is mentioned in the said section 33(5) as in force immediately before that day for the purpose specified in subparagraph (1) above.

SCHEDULE 6

Section 49(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

SPECIFIC AMENDMENTS OF PUBLIC GENERAL ACTS

The Land Drainage Act 1930

1. In section 61(1)(e) of the Land Drainage Act 1930, for the 1930 c. 44. words "the undertakings of Area Boards (within the meaning of the Gas Act, 1948)", there shall be substituted the words "the undertaking of the British Gas Corporation".

The Petroleum (Production) Act 1934

2. For the proviso to section 4 of the Petroleum (Production) Act 1934 c. 36. 1934, there shall be substituted the following proviso—

"Provided that the Secretary of State shall not give an authorisation under this section in respect of any premises unless he is satisfied—

- (a) that the British Gas Corporation have been given an opportunity of purchasing the gas at a reasonable price, and
- (b) that the gas is to be supplied to those premises for industrial purposes only".

The Gas Act 1948

3. Section 46 of the Gas Act 1948 (central guarantee fund) and 1948 c. 67. paragraph 32 of Schedule 3 to that Act (pollution of inland waters) shall cease to have effect.

The Iron and Steel Act 1949

4. In section 47 of the Iron and Steel Act 1949 (as revived by 1949 c. 72. section 34 of the Iron and Steel Act 1967 and set out in Schedule 1967 c. 17. 4 to that Act), the words "with the Gas Council and with any Area Gas Board in whose area those activities are or are to be carried on" shall be omitted.

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Rights of Entry (Gas and Electricity Boards) Act 1954

1954 c. 21.

5.—(1) In section 1(2) of the Rights of Entry (Gas and Electricity Boards) Act 1954, for the words “the enactments relating to gas”, there shall be substituted the words “the Gas Act 1972 or regulations made thereunder, by any other enactment relating to gas”, and for the words “a Gas Board or Electricity Board”, there shall be substituted the words “the British Gas Corporation or an Electricity Board”.

(2) In section 2(1)(a) of the said Act, for the words “a Gas Board or”, there shall be substituted the words “the Corporation or an”, and before the words “such a Board”, there shall be inserted the words “the Corporation or”.

(3) In the said section 2(1), for the words “the Board” (in both places where they appear), there shall be substituted the words “the Corporation or Board”.

(4) In section 2(3) of the said Act, for the words “section seventy of the Gas Act, 1948 (if entry is required for the purposes of a Gas Board)”, there shall be substituted the words “section 44 of the Gas Act 1972 (if entry is required for the purposes of the Corporation)”.

(5) In section 3(1) of the said Act:—

(a) the following definition shall be inserted before that of “Electricity Board”—

“‘the Corporation’ means the British Gas Corporation;”,

(b) the following definition shall be substituted for that of “employee”—

“‘employee’, in relation to the Corporation or to an Electricity Board, means an officer, servant or agent of the Corporation or of the Board;”,

(c) the definition of “Gas Board” shall be omitted.

The Valuation and Rating (Scotland) Act 1956

1956 c. 60.

6.—(1) In section 24 of the Valuation and Rating (Scotland) Act 1956—

(a) any reference to a Gas Board shall be construed as a reference to the British Gas Corporation,

(b) in subsection (1)—

(i) for the words “the year 1961-1962 and of any subsequent year”, there shall be substituted the words “any year subsequent to the year following the appointed day”.

(ii) the words “the year 1961-1962 or” shall be omitted,

(c) in subsection (2)—

(i) for the words “1961-1962”, there shall be substituted the words “subsequent to the year following the appointed day”.

(ii) the words “except as provided in this Part of this Act” shall be omitted,

(d) in subsection (4)—

(i) the words “and the next following” shall be omitted,

(ii) after the word “section”, the following definition shall be inserted—

“‘appointed day’ means the day appointed by the Secretary of State under section 1(1) of the Gas Act 1972”,

(iii) in the definition of “excepted premises”, after the words “functions of a Gas Board”, there shall be inserted the words “or lands and heritages occupied and used by the British Gas Corporation wholly or mainly for the manufacture of plant or gas fittings”.

(2) In section 43(1) of the said Act, the definition of “Gas Board” shall be omitted and there shall be inserted the following definition—

“‘gas’ includes gas in a liquid state, but—

(a) the liquefaction of gas, and

(b) the evaporation of gas in a liquid state,

shall not of themselves be taken to constitute the manufacture of gas or the application of a process to gas”.

(3) In Schedule 4 to the said Act—

(a) any reference to a Gas Board shall be construed as a reference to the British Gas Corporation,

(b) in paragraph 1, for the words “1963-1964”, there shall be substituted the words “subsequent to the year following the appointed day”,

(c) for paragraph 3, there shall be substituted the following paragraph—

“3. For the purposes of this Schedule the standard number of therms shall be 157, 613, 661,”

(d) in paragraph 4—

(i) in sub-paragraph (1), after the word “For” there shall be inserted the words “the basic year and”,

(ii) in sub-paragraph (2)(a), for the words “their area”, there shall be substituted the word “Scotland”,

(e) in paragraph 5(1)(b), for the words “the area of the Board”, there shall be substituted the word “Scotland”.

House of Commons Disqualification Act 1957

7. In Part II of Schedule I to the House of Commons Disqualification Act 1957 (which lists bodies of which all members are disqualified for membership of the House of Commons), as it applies in relation to the House of Commons of the Parliament of the United Kingdom, the references to an Area Gas Board and to the Gas Council shall be omitted, and there shall be inserted at the appropriate point the words “The British Gas Corporation”. 1957 c. 20.

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The Housing Act 1957

1957 c. 56.

8. In section 130 of the Housing Act 1957, the words “gas boards”, “and gas works respectively” and “or gas” shall be omitted.

The Rivers (Prevention of Pollution) Act 1961

1961 c. 50.

9. In section 2(2)(e) and section 4(1)(e) of the Rivers (Prevention of Pollution) Act 1961, the words “paragraph 32 of the Third Schedule to the Gas Act, 1948, or” shall be omitted.

The Local Government (Financial Provisions etc.) (Scotland) Act 1962

1962 c. 9.

10. In section 3 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962—

- (a) any reference to a Gas Board shall be construed as a reference to the British Gas Corporation,
- (b) in paragraph (a), for the words from “Boards)” to the end there shall be substituted the words “the number of therms estimated under paragraph 4(2) of that Schedule shall be reduced by one-half of the number of therms purchased by the British Gas Corporation in order to supply consumers in Scotland in the period of twelve months referred to in that paragraph”,
- (c) in paragraph (c)—
 - (i) after the word “manufactured” there shall be inserted the words “in Scotland”,
 - (ii) after the word “produced” there shall be inserted the words “in Scotland”,
- (d) after paragraph (d), the following paragraph shall be inserted—

“(e) in this section the expression ‘gas’ has the same meaning as in section 43(1) of the Act of 1956”.

The Local Government (Financial Provisions) (Scotland) Act 1963

1963 c. 12.

11. In section 12 of the Local Government (Financial Provisions) (Scotland) Act 1963—

- (a) any reference to a Gas Board shall be construed as a reference to the British Gas Corporation,
- (b) in subsection (1), for the words “1963-1964”, there shall be substituted the words “subsequent to the year following the appointed day”,
- (c) after subsection (3), the following subsection shall be added—

“(4) In this section the expression ‘the appointed day’ means the day appointed by the Secretary of State under section 1(1) of the Gas Act 1972.”

The Continental Shelf Act 1964

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12.—(1) In section 9(3) of the Continental Shelf Act 1964, for 1964 c. 29. paragraph (a), there shall be substituted the following paragraph—

“(a) that the supply is for industrial purposes and that the British Gas Corporation have been given an opportunity of purchasing the gas at a reasonable price ; or”.

(2) In section 9(6) of the said Act, for the words “an Area Board”, there shall be substituted the words “the British Gas Corporation”.

(3) In section 9(7) of the said Act, the words “‘Area Board’ has the same meaning as in the Gas Act 1948 and” shall be omitted.

The Rivers (Prevention of Pollution) (Scotland) Act 1965

13. In section 2(2) of the Rivers (Prevention of Pollution) (Scotland) Act 1965, paragraph (e) shall be omitted.

The Gas Act 1965

14.—(1) In Part II of the Gas Act 1965, for the words “a gas 1965 c. 36. authority”, “the gas authority”, “the gas authority concerned” and “any gas authority” (wherever those words occur), there shall be substituted the words “the Corporation”.

Provided that—

- (a) the words “the Corporation” shall be substituted in section 5(2) for the words “the gas authority authorised to operate the underground gas storage”, in section 5(4) for the words “the gas authority to whom the storage authorisation order applies”, in section 5(11) for the words “the gas authority named in the order”, and in section 19(5)(c) for the words “the gas authority having responsibilities as respects the storage”;
- (b) in section 16(4), for the words “The gas authority on whom a notice is served under this section”, there shall be substituted the words “Where a notice is served on the Corporation under this section, they”, and
- (c) in section 17(1), for the words “and a gas authority failing to comply with this subsection”, there shall be substituted the words “and if the Corporation fail to comply with this subsection, they”;
- (d) in section 17(5), for the words “A gas authority failing to comply with this subsection”, there shall be substituted the words “If the Corporation fail to comply with this subsection, they”, and
- (e) in section 17(6), for the words “A gas authority guilty of an offence under this Part of this Act by virtue of this section”, there shall be substituted the words “If the Corporation are guilty of an offence under this Part of this Act by virtue of this section, they”.

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(2) In Part II of the said Act, for the words "section 11 of the principal Act" (wherever those words occur), there shall be substituted the words "Schedule 2 to the principal Act"; and in section 13(3) of the said Act, for the words "the said section 11", there shall be substituted the words "the said Schedule 2".

(3) In section 4(8) of the said Act, paragraph (a) shall be omitted.

(4) In section 12(6) of the said Act, the words "another gas authority or" shall be omitted.

(5) In section 19(3) and in section 19(4) of the said Act, for the words "the Gas Council", there shall be substituted the words "the Corporation".

(6) In section 21(1) and in section 21(2) of the said Act, for the words "section 68(1)", there shall be substituted the words "section 42(1)" and in section 21(2), for the words "Section 69(1)", there shall be substituted the words "Section 43(1)".

(7) In section 21(3) of the said Act, for the words "that authority or", there shall be substituted the words "the Corporation or that".

(8) In section 22(1) of the said Act, for the words "Section 70", there shall be substituted the words "Section 44" and in section 22(2), for the words "Section 73", there shall be substituted the words "Section 46".

(9) In section 28(1) of the said Act:—

(a) the following definition shall be inserted before that of "danger"—

"'the Corporation' means the British Gas Corporation";

(b) the following definition shall be substituted for that of "large-scale map"—

"'large-scale map' means a map on a scale not less than 1 in 10,560"; and

(c) the definition of "gas authority" shall be omitted.

(10) In section 32(2) of the said Act, for the words from "the Gas Act, 1948" to "that Act", there shall be substituted the words "the Gas Act 1972".

(11) In paragraph 1(1) of Schedule 2 to the said Act, paragraph (a) shall be omitted.

(12) In paragraph 8(1), in paragraph 8(5) and in paragraph 12(8) of Schedule 2 to the said Act, for the words "section 73", there shall be substituted the words "section 46".

(13) Paragraph 14 of Schedule 2 to the said Act shall be omitted.

(14) In paragraph 1(4) of Schedule 6 to the said Act, the words "or any other gas authority" shall be omitted.

(15) In paragraph 5 of Schedule 6 to the said Act, for the words "a gas board", there shall be substituted the words "the Corporation". SCH. 6

(16) In paragraph 6 of Schedule 6 to the said Act, for the words "that gas authority", there shall be substituted the words "the Corporation".

The Selective Employment Payments Act 1966

15.—(1) In Part I of Schedule 1 to the Selective Employment Payments Act 1966, the following entry shall be substituted for the entries numbered 7 and 8— 1966 c. 32.

"7. The British Gas Corporation."

(2) In Part II of that Schedule, for the words "an Area Gas Board" there shall be substituted the words "the British Gas Corporation".

The Local Government (Scotland) Act 1966

16.—(1) In section 18 of the Local Government (Scotland) Act 1966— 1966 c. 51.

(a) in subsection (1), the words "or section 3(1) of the Gas Act 1965" shall be omitted,

(b) in subsection (4), for paragraph (b), there shall be substituted the following paragraph—

"(b) the British Gas Corporation, is the Secretary of State for Trade and Industry; and",

(c) in subsection (5), for the words from "Gas Council" to "1948", there shall be substituted the words "British Gas Corporation".

(2) In section 19 of the said Act—

(a) in subsection (1), the words "or section 3(1) of the Gas Act 1965" shall be omitted,

(b) in subsection (3), for the words from "any area board" to "1948", there shall be substituted the words "the British Gas Corporation".

The General Rate Act 1967

17. In paragraph 5(1)(b) of Schedule 3 to the General Rate Act 1967, for the words "an area board established by the Gas Act 1948, in the Gas Council", there shall be substituted the words "the British Gas Corporation". 1967 c. 9.

The Chronically Sick and Disabled Persons Act 1970

18. In section 14(1) of the Chronically Sick and Disabled Persons Act 1970, for the words "the Gas Consultative Councils", there shall be substituted the words "the National Gas Consumers' Council and the Regional Gas Consumers' Councils". 1970 c. 44.

SCH. 6

PART II

GENERAL ADAPTATIONS ETC.

19. All local enactments, and (under whatever Act made) all regulations, rules and orders, which are in force immediately before the appointed day and then applicable to the Gas Council or an Area Board shall have effect as from that day as if—

(a) for references therein to the Gas Council or an Area Board there were substituted references to the Corporation, and

(b) for any reference therein (however worded, and whether expressed or implied) to the business, or any part of the business, of the Gas Council or an Area Board, or to the area of supply of an Area Board or any part thereof, there were substituted a reference to the corresponding part of the Corporation's business or, as the case may be, to the corresponding area supplied by the Corporation,

and shall also have effect, as from such date as may be prescribed (which may be prior to the making of the regulations but not to the appointed day), with such other adaptations and modifications (if any) as may be prescribed, being adaptations or modifications required in consequence of the provisions of this Act.

1948^{c.} 67.

20. Any public general Act passed before 1st May 1949 (the vesting date for the purposes of the Gas Act 1948) and, by virtue of section 56(3) of that Act, to be construed immediately before the appointed day as referring to an Area Board or the business of an Area Board shall be construed as from the appointed day as referring to the Corporation or, as the case may be, the corresponding part of the Corporation's business.

21. For the purpose of securing, so far as is reasonably practicable, a uniform statutory code applicable throughout any part of Great Britain, the Secretary of State may by order provide for the amendment or repeal of any local enactment, regulation or order to which paragraph 19 above applies, or for its extension to any area specified in the order, and for such matters consequential on or incidental to any such amendment, repeal or extension for which the Secretary of State considers it necessary or expedient to provide.

Section 49(2).

SCHEDULE 7

SAVINGS AND TRANSITIONAL PROVISIONS

PART I

MATTERS ARISING FROM THE INDUSTRY'S NEW STRUCTURE

Pensions for members of Gas Council and Area Boards

1. In section 1(3) of this Act, the reference to any person who is or has been a member of the Corporation shall include a reference to any person who has at any time been a member of the Gas Council or an Area Board.

Corporation's first report, and terminal reports etc. on Gas Council and Area Boards SCH. 7

2.—(1) In relation to the Corporation's report under section 8(1) of this Act in respect of their first financial year, the reference in that provision to the Corporation's functions, policy and programmes includes a reference to their functions, policy and programmes as the Gas Council, and the directions referred to in subsection (2) of the said section 8 include any directions given to them as the Gas Council, other than directions in respect of which a notification has been given before the appointed day under section 10(2) of the Gas Act 1948. 1948 c. 67.

(2) If by the appointed day the Gas Council have not made a report under section 10 of the said Act of 1948 in respect of their last full financial year as the Gas Council, it shall be the duty of the Corporation to make to the Secretary of State as soon as possible after the appointed day a report for that year complying with the said section 10 in its application to the Gas Council.

(3) It shall be the duty of the Corporation to make to the Secretary of State, as soon as possible after the appointed day and, if the Secretary of State so directs, in such form as is specified in the direction—

- (a) in the case of each of the Area Boards, a report for the period from the end of the Board's last full financial year until the appointed day, being one complying with the said section 10 in its application to the Board as respects that period, and
- (b) in the case of any Area Board who have not by that day made a report under the said section 10 in respect of their last full financial year, a report for that year complying with the said section 10 in its application to the Board as respects that year.

(4) The Secretary of State shall lay a copy of every report made to him under this paragraph before each House of Parliament.

(5) The Corporation shall also furnish the Secretary of State with such returns, accounts and other information as he may from time to time require with respect to the activities before the appointed day of any of the Area Boards, and shall afford to the Secretary of State facilities for the verification of information so furnished.

Gas Consultative Councils : transfer of pending matters, and terminal reports by Regional Councils

3.—(1) Where immediately before the appointed day a Gas Consultative Council established under section 9 of the Gas Act 1948 have any matter under consideration pursuant to paragraph (a) or (b) of subsection (4) of that section, that matter shall be included among those which it is the duty of the appropriate Regional Council or Councils to consider pursuant to the corresponding provision (that is to say, paragraph (a) or paragraph (c)) of section 10(5) of this Act; and the duty of the Corporation under section 10(7) of this Act shall include a duty to consider any conclusions or reports of a

SCR. 7 Gas Consultative Council which, immediately before the appointed day, are required by subsection (6) of the said section 9 to be considered by one of the Area Boards.

(2) Any representation received by a local representative of a Gas Consultative Council on behalf of that Council shall be treated as from the appointed day as having been received on behalf of the appropriate Regional Council or Councils.

4.—(1) Each of the Regional Councils existing as from the appointed day for the area of one of the Area Boards shall, as soon as possible thereafter, make to the Corporation—

- (a) a report on the exercise and performance of their functions by the Gas Consultative Council for that area during the period from the end of the last full financial year of the Area Board until the appointed day, and
- (b) if as respects that year the Gas Consultative Council have not by that day made a report to the Area Board under section 10(4) of the Gas Act 1948, a report on the exercise and performance of their functions by that Council during that year ;

1948 c. 67.

and the Corporation shall include any report under this sub-paragraph in their appropriate report under paragraph 2 above on the Area Board in question.

(2) The Secretary of State may give directions requiring any Regional Council specified therein to make to the Corporation, as soon as possible after the appointed day,—

- (a) a report on the exercise and performance of their functions by any Gas Consultative Council in respect of whom a report is not required under sub-paragraph (1) above during the period from the end of the last full financial year of the Area Board for whose area that Council was established until the appointed day, and
- (b) if as respects that year the Gas Consultative Council have not by that day made a report to that Area Board under the said section 10(4), a report on the exercise and performance of their functions by that Council during that year ;

and the Corporation shall include any report under this sub-paragraph in their appropriate report under paragraph 2 above on that Area Board.

Compulsory purchase

5. Anything done before the appointed day for the purposes of or otherwise in connection with, the compulsory purchase of land, or rights over land, by the Gas Council or an Area Board under section 11 of the Gas Act 1948 shall have effect as from that day as if done for the purposes of, or otherwise in connection with, the compulsory purchase of the land or rights in question by the Corporation under Schedule 2 to this Act.

PART II

SCH. 7

FINANCIAL MATTERS

Government advances to Gas Council before appointed day

6. Section 20(5) of this Act shall have effect as if the sums therein referred to included any sums issued to the Secretary of State in the financial year in which the appointed day falls for the purpose of enabling him to make advances to the Gas Council under section 2 of the Electricity and Gas Act 1963, and any sums received by him in that or any subsequent year in respect of advances to the Council under that section or section 42 of the Finance Act 1956; and the Secretary of State shall not include any sums to which this paragraph applies in any account prepared by him under the said section 2. 1963 c. 59. 1956 c. 54.

British Gas Stock regulations

7. Any regulations under section 43(2) of the Gas Act 1948 in force immediately before the appointed day shall, with the necessary modifications, have effect as from that day as if made under section 21(2) of this Act and referring to stock created under that section as well as stock created under the said section 43. 1948 c. 67.

Compensation to local authorities

8. Payments made by the Corporation in satisfaction of the liabilities of Area Boards under section 28 of the Gas Act 1948 shall be treated as capital payments or annual ones according as they would have been treated by virtue of subsection (5) of that section if made before the appointed day by those Boards.

Accounts

9.—(1) The statement to be prepared by the Corporation under section 23(1)(b) of this Act in respect of their first financial year shall be one showing the state of affairs of the Corporation, and the aggregate profit or loss in that year of the Corporation (whether as such or as the Gas Council) and the Area Boards.

(2) If by the appointed day the Gas Council or any of the Area Boards have not prepared a statement of accounts in respect of their last full financial year pursuant to section 50(1) of the Gas Act 1948, it shall be the duty of the Corporation to prepare a statement in respect of that year as soon as possible after that day, being one complying with the requirements of the said section 50 and any relevant direction in force thereunder immediately before that day; and if by the appointed day the accounts of the Gas Council or of any Area Board for the said financial year have not been audited pursuant to section 50(3) of the said Act of 1948 they shall be audited pursuant to this sub-paragraph by the auditors appointed in respect of that year under the said section 50(3).

(3) It shall be the duty of the Corporation to prepare as soon as possible after the appointed day a statement of accounts in respect of each of the Area Boards for the period from the end of their last full financial year until that day, being a statement complying with the requirements of the said section 50 and any relevant direction

SCH. 7 in force thereunder immediately before that day; and the accounts of each of the Area Boards for the said period shall be audited by persons appointed for the purpose by the Secretary of State, being persons qualified for appointment as auditors under section 23(6) of this Act.

(4) As soon as any accounts have been audited by virtue of the preceding provisions of this paragraph, the Corporation shall send a copy of any statement of those accounts prepared pursuant to those provisions or to the said section 50 to the Secretary of State, together with a copy of any report made by the auditors on the statement or accounts; and the Secretary of State shall lay a copy of the statement and of any such report before each House of Parliament.

PART III

GAS SUPPLY MATTERS

Agreements not affected by duty of Corporation to avoid undue preference in supply

10. The reference in section 24(2) of this Act to any special agreement made by the Corporation under section 25(6) thereof shall include a reference to any special agreement made by an Area Board under section 53(6) of the Gas Act 1948, and any agreement made by the Gas Council by virtue of section 1(3) of the Gas Act 1965.

1948 c. 67.
1965 c. 36.

Calorific value

11.—(1) Any declaration having effect immediately before the appointed day with respect to the calorific value within the meaning of the Gas Act 1948 of gas supplied by an Area Board shall, notwithstanding the different meaning given to that expression for the purposes of this Act, have effect as from that day as a declaration of calorific value validly made by the Corporation for those purposes.

(2) Subject to sub-paragraph (3) below, for the purpose of ascertaining the calorific value of gas supplied by the Corporation to any area, the Secretary of State shall be treated as having made on the appointed day a determination under section 25(1) of this Act that the gas supplied to that area is to be treated as containing such an amount of water vapour as is requisite to saturate the gas with water vapour.

(3) Sub-paragraph (2) above shall not apply in the case of gas supplied by the Corporation from any gasworks or group of gasworks in relation to which a direction under section 74(1) of the said Act of 1948 is in force immediately before the appointed day, but, instead, for the purpose mentioned in the said sub-paragraph (2), the Secretary of State shall be treated as having made on the appointed day a determination under the said section 25(1) in relation to that gas having the like effect as that direction or, as the case may require, it shall be assumed as from the appointed day that the Secretary of State has made no such determination in relation to that gas.

Charges

SCH. 7

12.—(1) Any tariff in force immediately before the appointed day under section 53(4) of the Gas Act 1948 shall have effect as from that day as if fixed by the Corporation under section 25(3) of this Act. 1948 c. 67.

(2) Nothing in the said section 25 shall affect any special agreement made by an Area Board under section 53(6) of the said Act of 1948, or any agreement made by the Gas Council by virtue of section 1(3) of the Gas Act 1965. 1965 c. 36.

Standards

13.—(1) In relation to any regulations made before the appointed day under subsection (1) of section 26 of this Act, the first reference in that subsection to the Corporation shall be read as a reference to the Gas Council.

(2) Any regulations in force immediately before the appointed day under section 55(4) of the Gas Act 1948 shall, with the necessary modifications, have effect as from that day as if made under subsection (3) of the said section 26:

Provided that this sub-paragraph shall not apply to regulations relating to any such matter as is specified in paragraph (f) of the said section 55(4).

(3) Any appointment having effect immediately before the appointed day under and for the purposes of section 55(2) of the said Act of 1948 shall have effect as from that day as if made under and for the purposes of subsection (2) of the said section 26.

(4) The repeals effected by this Act shall not affect—

(a) the operation of section 55(3) of the said Act of 1948 in relation to the payment of pensions to or in respect of persons whose appointments under section 55(2) of that Act come to an end before the appointed day, or

(b) the operation of the said section 55(3), section 2 of the Gas Act 1960 or any related enactment in relation to sums paid by the Secretary of State under the said section 55(3) or other expenses incurred before the appointed day. 1960 c. 27.

Supply by other persons

14. Section 29(1) of this Act shall not apply—

(a) to the supply of gas by any person to premises which he was supplying immediately before 1st May 1949 (the vesting date for the purposes of the Gas Act 1948), or

(b) to a person's supply of gas to any premises in accordance with the consent of an Area Board granted to him before the appointed day under section 52(1) of the said Act of 1948.

SCH. 7

Meters

1948 c. 67.

15.—(1) Any appointment having effect immediately before the appointed day under section 54 of the Gas Act 1948 shall have effect as from that day as if made under section 30 of this Act.

(2) Any regulations in force immediately before the appointed day under the said section 54 shall, with the necessary modifications, have effect as from that day as if made under the said section 30.

(3) Any meter which, immediately before the appointed day, is duly stamped under the said section 54 or is treated by virtue of subsection (7) of that section as so stamped, shall be treated as from that day as stamped by a meter examiner appointed under the said section 30.

(4) The repeal by this Act of subsection (3) of the said section 54 shall not affect the operation of that subsection in relation to the payment of pensions to or in respect of persons whose appointments under that section come to an end before the appointed day.

Safety regulations

16. Any regulations in force immediately before the appointed day under section 67 of the Gas Act 1948 shall, with the necessary modifications, have effect as from that day as if made under section 31 of this Act.

Re-sale charges

17. The maximum prices for the re-sale of gas supplied by Area Boards in force immediately before the appointed day under paragraph 17 of Schedule 3 to the Gas Act 1948 shall be treated as from that day as prices fixed by the Corporation under paragraph 12 of Schedule 4 to this Act.

Interest on deposits with Corporation by way of security

18. Any order in force immediately before the appointed day under paragraph 39(2) of Schedule 3 to the Gas Act 1948 shall, with the necessary modifications, have effect as from that day as if made under paragraph 30(2) of Schedule 4 to this Act.

PART IV

MISCELLANEOUS MATTERS

Conditions of employment, etc.

19. Any agreement with any organisation concluded by the Gas Council or an Area Board for the purposes of section 57 of the Gas Act 1948 shall, so far as in force immediately before the appointed day, have effect as from that day as if concluded with that organisation by the Corporation and for the purposes of section 35 of this Act, but, as continued in force by this paragraph, shall apply only to such class or description of persons employed by the

Corporation as corresponds as nearly as may be to the class or description of persons employed by the Council or Board to which the agreement applies immediately before the appointed day. SCH. 7

Pension rights

20. The repeal by this Act of section 58 of the Gas Act 1948 shall 1948 c. 67. not affect the operation of subsection (3) of that section in relation to regulations made before the appointed day, and, notwithstanding that repeal, subsection (5) of that section shall, with the necessary modifications, continue to have effect in relation to any such question as is therein mentioned.

Compensation to officers of nationalised undertakings, etc.

21. Any regulations in force immediately before the appointed day under section 60 of the Gas Act 1948 (including regulations made by virtue of section 62(2) of that Act) shall, notwithstanding the repeal of those provisions by this Act, continue in force thereafter subject to the necessary modifications.

Payments in respect of selective employment tax

22. The payments which may be made to the Corporation under section 3(2) of the Selective Employment Payments Act 1966 shall 1966 c. 32. include payments in respect of tax paid before the appointed day either by the Corporation as the Gas Council or by an Area Board.

*British Gas Stock issued under Gas Act 1948
by way of compensation*

23. Notwithstanding the repeal by this Act of the Gas Act 1948—
- (a) composite companies within the meaning of that Act shall continue to have the rights and powers conferred on them in connection with British Gas Stock by section 30(7) of that Act, and
 - (b) paragraph 5 of Part I of Schedule 2 to that Act, including that paragraph as applied by paragraph 6 of Part II of that Schedule, shall continue to apply to British Gas Stock issued pursuant to that Schedule.

Section 49(3).

SCHEDULE 8

REPEALS

Chapter	Short Title	Extent of Repeal
2 & 3 Geo. 6. c. xcix.	The London Gas Undertakings (Regulations) Act 1939.	The whole Act.
11 & 12 Geo. 6. c. 67.	The Gas Act 1948.	The whole Act.
12 & 13 Geo. 6. c. 72.	The Iron and Steel Act 1949.	In section 47, the words from "with the Gas Council" to "are to be carried on".
14 Geo. 6. c. 39.	The Public Utilities Street Works Act 1950.	In Schedule 5, the entries relating to the Gas Act 1948.
2 & 3 Eliz. 2. c. 21.	The Rights of Entry (Gas and Electricity Boards) Act 1954.	In section 3(1), the definition of "Gas Board".
4 & 5 Eliz. 2. c. 60.	The Valuation and Rating (Scotland) Act 1956.	In section 24, in subsection (1) the words "the year 1961-1962 or", in subsection (2) the words "except as provided in this Part of this Act", and in subsection (4) the words "and the next following". In section 43(1), the definition of "Gas Board". In Schedule 4, paragraph 12.
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	In Part II of Schedule 1, the words "An Area Gas Board" and the words "The Gas Council".
5 & 6 Eliz. 2. c. 56.	The Housing Act 1957.	In section 130, the words "gas boards", the words "and gas works respectively" and the words "or gas".
6 & 7 Eliz. 2. c. 55.	The Local Government Act 1958.	In section 66(1), the definition of "Gas Board".
8 & 9 Eliz. 2. c. 27.	The Gas Act 1960.	The whole Act.
9 & 10 Eliz. 2. c. 50.	The Rivers (Prevention of Pollution) Act 1961.	In sections 2(2)(e) and 4(1)(e), the words "paragraph 32 of the Third Schedule to the Gas Act 1948 or".
1963 c. 33.	The London Government Act 1963.	In section 93(3), the words "or gas" and the words "or the Gas Act 1948", and, in Schedule 2, paragraph 31(e).
1963 c. 59.	The Electricity and Gas Act 1963.	In section 2(1), the words "or the Gas Council". In section 3(2), paragraphs (f) and (g). In Schedule 1, the entries relating to the Gas Act 1948.

SCH. 8

Chapter	Short Title	Extent of Repeal
1964 c. 29.	The Continental Shelf Act 1964.	In section 9(1), the words " and section 52 of the Gas Act 1948 shall not apply to any such gas ", and, in section 9(7), the words " ' Area Board ' has the same meaning as in the Gas Act 1948 and ".
1965 c. 13.	The Rivers (Prevention of Pollution) (Scotland) Act 1965.	Section 2(2)(e).
1965 c. 36.	The Gas Act 1965.	Part I. Section 4(8)(a). In section 12(6), the words " another gas authority or ". In section 28(1), the definition of " gas authority ". Sections 29 and 30. Schedule 1. In Schedule 2, paragraphs 1(1)(a) and 14. In paragraph 1(4) of Schedule 6, the words " or any other gas authority ".
1966 c. 51.	The Local Government (Scotland) Act 1966.	In section 18(1), the words " or section 3(1) of the Gas Act 1965 ". In section 19(1), the words " or section 3(1) of the Gas Act 1965 ".
1968 c. 13.	The National Loans Act 1968.	In Schedule 1, the entry relating to the Gas Act 1948.
1968 c. 39.	The Gas and Electricity Act 1968.	Sections 1 and 4. In section 5, the words " the Gas Council and an Area Gas Board ".
1969 c. 32. 1972 c. 17.	The Finance Act 1969. The Electricity Act 1972.	Section 6. In Schedule 20, paragraph 26. In section 1(5), the words " or gas ".



Land Charges Act 1972

1972 CHAPTER 61

An Act to consolidate certain enactments relating to the registration of land charges and other instruments and matters affecting land. [9th August 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary

1.—(1) The registrar shall continue to keep at the registry in the prescribed manner the following registers, namely— The registers and the index.

- (a) a register of land charges ;
- (b) a register of pending actions ;
- (c) a register of writs and orders affecting land ;
- (d) a register of deeds of arrangement affecting land ;
- (e) a register of annuities,

and shall also continue to keep there an index whereby all entries made in any of those registers can readily be traced.

(2) Every application to register shall be in the prescribed form and shall contain the prescribed particulars.

(3) Where any charge or other matter is registrable in more than one of the registers kept under this Act or is registrable in one or more of those registers and also in a register kept under the Land Charges Act 1925 (registers of local land charges), 1925 c. 22. it shall be sufficient if it is registered in one register, and if it is so registered the person entitled to the benefit of it shall not be prejudicially affected by the provisions of this Act or that Act applying to any other register.

(4) Schedule 1 to this Act shall have effect in relation to the register of annuities.

(5) An office copy of an entry in any register kept under this section shall be admissible in evidence in all proceedings and between all parties to the same extent as the original would be admissible.

(6) Subject to the provisions of this Act, registration may be vacated pursuant to an order of the court.

(7) In this section "index" includes any device or combination of devices serving the purpose of an index.

Registration in register of land charges

The register
of land
charges.

2.—(1) If a charge on or obligation affecting land falls into one of the classes described in this section, it may be registered in the register of land charges as a land charge of that class.

(2) A Class A land charge is—

(a) a rent or annuity or principal money payable by instalments or otherwise, with or without interest, which is not a charge created by deed but is a charge upon land (other than a rate) created pursuant to the application of some person under the provisions of any Act of Parliament, for securing to any person either the money spent by him or the costs, charges and expenses incurred by him under such Act, or the money advanced by him for repaying the money spent or the costs, charges and expenses incurred by another person under the authority of an Act of Parliament; or

(b) a rent or annuity or principal money payable as mentioned in paragraph (a) above which is not a charge created by deed but is a charge upon land (other than a rate) created pursuant to the application of some person under any of the enactments mentioned in Schedule 2 to this Act.

1925 c. 22. (3) A Class B land charge is a charge on land (not being a local land charge within the meaning of the Land Charges Act 1925) of any of the kinds described in paragraph (a) of subsection (2) above, created otherwise than pursuant to the application of any person.

(4) A Class C land charge is any of the following, namely—

- (i) a puisne mortgage;
- (ii) a limited owner's charge;
- (iii) a general equitable charge;

(iv) an estate contract ;

and for this purpose—

- (i) a puisne mortgage is a legal mortgage which is not protected by a deposit of documents relating to the legal estate affected ;
- (ii) a limited owner's charge is an equitable charge acquired by a tenant for life or statutory owner under the Finance Act 1894 or any other statute by reason of 1894 c. 30. the discharge by him of any death duties or other liabilities and to which special priority is given by the statute ;
- (iii) a general equitable charge is any equitable charge which—
 - (a) is not secured by a deposit of documents relating to the legal estate affected ; and
 - (b) does not arise or affect an interest arising under a trust for sale or a settlement ; and
 - (c) is not a charge given by way of indemnity against rents equitably apportioned or charged exclusively on land in exoneration of other land and against the breach or non-observance of covenants or conditions ; and
 - (d) is not included in any other class of land charge ;
- (iv) an estate contract is a contract by an estate owner or by a person entitled at the date of the contract to have a legal estate conveyed to him to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option to purchase, a right of pre-emption or any other like right.

(5) A Class D land charge is any of the following, namely—

- (i) an Inland Revenue charge ;
- (ii) a restrictive covenant ;
- (iii) an equitable easement ;

and for this purpose—

- (i) an Inland Revenue charge is a charge on land, being a charge acquired by the Board under any enactment (including an enactment passed after this Act) for death duties leviable or payable on any death occurring on or after 1st January 1926 ;
- (ii) a restrictive covenant is a covenant or agreement (other than a covenant or agreement between a lessor and a lessee) restrictive of the user of land and entered into on or after 1st January 1926 ;

(iii) an equitable easement is an easement, right or privilege over or affecting land created or arising on or after 1st January 1926, and being merely an equitable interest.

(6) A Class E land charge is an annuity created before 1st January 1926 and not registered in the register of annuities.

1967 c. 75. (7) A Class F land charge is a charge affecting any land by virtue of the Matrimonial Homes Act 1967.

(8) A charge or obligation created before 1st January 1926 can only be registered as a Class B land charge or a Class C land charge if it is acquired under a conveyance made on or after that date.

1936 c. 43. (9) Neither a redemption annuity charged by section 3 of the Tithe Act 1936 nor a substituted annuity within the meaning of that Act shall be deemed to be a land charge of any class.

Registration
of land
charges.

3.—(1) A land charge shall be registered in the name of the estate owner whose estate is intended to be affected.

1925 c. 22.

(2) A land charge registered before 1st January 1926 under any enactment replaced by the Land Charges Act 1925 in the name of a person other than the estate owner may remain so registered until it is registered in the name of the estate owner in the prescribed manner.

(3) A puisne mortgage created before 1st January 1926 may be registered as a land charge before any transfer of the mortgage is made.

(4) The expenses incurred by the person entitled to the charge in registering a land charge of Class A, Class B or Class C (other than an estate contract) or by the Board in registering an Inland Revenue charge shall be deemed to form part of the land charge, and shall be recoverable accordingly on the day for payment of any part of the land charge next after such expenses are incurred.

(5) Where a land charge is not created by an instrument, short particulars of the effect of the charge shall be furnished with the application to register the charge.

(6) An application to register an Inland Revenue charge shall state the duties in respect of which the charge is claimed and, so far as possible, shall define the land affected, and such particulars shall be entered or referred to in the register.

(7) In the case of a land charge for securing money created by a company before 1st January 1970 or so created at any

time as a floating charge, registration under any of the enactments mentioned in subsection (8) below shall be sufficient in place of registration under this Act, and shall have effect as if the land charge had been registered under this Act.

(8) The enactments referred to in subsection (7) above are section 93 of the Companies (Consolidation) Act 1908, section 1908 c. 69. 79 of the Companies Act 1929 and section 95 of the Companies Act 1948. 1929 c. 23. 1948 c. 38.

4.—(1) A land charge of Class A (other than a land improvement charge registered after 31st December 1969) or of Class B shall, when registered, take effect as if it had been created by a deed of charge by way of legal mortgage, but without prejudice to the priority of the charge. Effect of land charges and protection of purchasers.

(2) A land charge of Class A created after 31st December 1888 shall be void as against a purchaser of the land charged with it or of any interest in such land, unless the land charge is registered in the register of land charges before the completion of the purchase.

(3) After the expiration of one year from the first conveyance occurring on or after 1st January 1889 of a land charge of Class A created before that date the person entitled to the land charge shall not be able to recover the land charge or any part of it as against a purchaser of the land charged with it or of any interest in the land, unless the land charge is registered in the register of land charges before the completion of the purchase.

(4) If a land improvement charge was registered as a land charge of Class A before 1st January 1970, any body corporate which, but for the charge, would have power to advance money on the security of the estate or interest affected by it shall have that power notwithstanding the charge.

(5) A land charge of Class B and a land charge of Class C (other than an estate contract) created or arising on or after 1st January 1926 shall be void as against a purchaser of the land charged with it, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase.

(6) An estate contract and a land charge of Class D created or entered into on or after 1st January 1926 shall be void as against a purchaser for money or money's worth of a legal estate in the land charged with it, unless the land charge is registered in the appropriate register before the completion of the purchase.

(7) After the expiration of one year from the first conveyance occurring on or after 1st January 1926 of a land charge of Class B or Class C created before that date the person entitled to the land charge shall not be able to enforce or recover the land charge or any part of it as against a purchaser of the land charged with it, or of any interest in the land, unless the land charge is registered in the appropriate register before the completion of the purchase.

(8) A land charge of Class F shall be void as against a purchaser of the land charged with it, or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase.

Registration in registers of pending actions, writs and orders and deeds of arrangement

The register of pending actions.

5.—(1) There may be registered in the register of pending actions—

- (a) a pending land action ;
- (b) a petition in bankruptcy filed on or after 1st January 1926.

(2) Subject to general rules under section 16 of this Act, every application for registration under this section shall contain particulars of the title of the proceedings and the name, address and description of the estate owner or other person whose estate or interest is intended to be affected.

(3) An application for registration shall also state—

- (a) if it relates to a pending land action, the court in which and the day on which the action was commenced ; and
- (b) if it relates to a petition in bankruptcy, the court in which and the day on which the petition was filed.

(4) The registrar shall forthwith enter the particulars in the register, in the name of the estate owner or other person whose estate or interest is intended to be affected.

(5) An application to register a petition in bankruptcy against a firm shall state the names and addresses of the partners, and the registration shall be effected against each partner as well as against the firm.

(6) No fee shall be charged for the registration of a petition in bankruptcy if the application for registration is made by the registrar of the court in which the petition is filed.

(7) A pending land action shall not bind a purchaser without express notice of it unless it is for the time being registered under this section.

(8) A petition in bankruptcy shall not bind a purchaser of a legal estate in good faith, for money or money's worth, without notice of an available act of bankruptcy, unless it is for the time being registered under this section.

(9) As respects any transfer or creation of a legal estate, a petition in bankruptcy which is not for the time being registered under this section shall not be notice or evidence of any act of bankruptcy alleged in the petition.

(10) The court, if it thinks fit, may, upon the determination of the proceedings, or during the pendency of the proceedings if satisfied that they are not prosecuted in good faith, make an order vacating a registration under this section, and direct the party on whose behalf it was made to pay all or any of the costs and expenses occasioned by the registration and by its vacation.

6.—(1) There may be registered in the register of writs and orders affecting land—

The register of writs and orders affecting land.

(a) any writ or order affecting land issued or made by any court for the purpose of enforcing a judgment or recognisance ;

(b) any order appointing a receiver or sequestrator of land ;

(c) any receiving order in bankruptcy made on or after 1st January 1926, whether or not it is known to affect land.

(2) Every entry made pursuant to this section shall be made in the name of the estate owner or other person whose land, if any, is affected by the writ or order registered.

(3) No fee shall be charged for the registration of a receiving order in bankruptcy if the application for registration is made by an official receiver.

(4) Except as provided by subsection (5) below and by section 36(3) of the Administration of Justice Act 1956 and section 142(3) of the County Courts Act 1959 (which make special provision as to receiving orders in respect of land of judgment debtors) every such writ and order as is mentioned in subsection (1) above, and every delivery in execution or other proceeding taken pursuant to any such writ or order, or in obedience to any such writ or order, shall be void as against a purchaser of the land unless the writ or order is for the time being registered under this section.

1956 c. 46.
1959 c. 22.

(5) A receiving order in bankruptcy shall be void as against a purchaser of a legal estate in good faith for money or money's worth, without notice of an available act of bankruptcy, unless it is for the time being registered under this section.

(6) Where a petition in bankruptcy has been registered under section 5 above, the title of the trustee in bankruptcy shall be

void as against a purchaser of a legal estate in good faith for money or money's worth without notice of an available act of bankruptcy claiming under a conveyance made after the date of registration, unless at the date of the conveyance either the registration of the petition is in force or a receiving order on the petition is registered under this section.

The register of deeds of arrangement affecting land.

7.—(1) A deed of arrangement affecting land may be registered in the register of deeds of arrangement affecting land, in the name of the debtor, on the application of a trustee of the deed or a creditor assenting to or taking the benefit of the deed.

(2) Every deed of arrangement shall be void as against a purchaser of any land comprised in it or affected by it unless it is for the time being registered under this section.

Expiry and renewal of registrations.

8. A registration under section 5, section 6 or section 7 of this Act shall cease to have effect at the end of the period of five years from the date on which it is made, but may be renewed from time to time and, if so renewed, shall have effect for five years from the date of renewal.

Searches and official searches

Searches.

9.—(1) Any person may search in any register kept under this Act on paying the prescribed fee.

(2) Without prejudice to subsection (1) above, the registrar may provide facilities for enabling persons entitled to search in any such register to see photographic or other images or copies of any portion of the register which they may wish to examine.

Official searches.

10.—(1) Where any person requires search to be made at the registry for entries of any matters or documents, entries of which are required or allowed to be made in the registry by this Act, he may make a requisition in that behalf to the registrar, which may be either—

- (a) a written requisition delivered at or sent by post to the registry ; or
- (b) a requisition communicated by teleprinter, telephone or other means in such manner as may be prescribed in relation to the means in question, in which case it shall be treated as made to the registrar if, but only if, he accepts it ;

and the registrar shall not accept a requisition made in accordance with paragraph (b) above unless it is made by a person maintaining a credit account at the registry, and may at his discretion refuse to accept it notwithstanding that it is made by such a person.

(2) The prescribed fee shall be payable in respect of every requisition made under this section ; and that fee—

(a) in the case of a requisition made in accordance with subsection (1)(a) above, shall be paid in such manner as may be prescribed for the purposes of this paragraph unless the requisition is made by a person maintaining a credit account at the registry and the fee is debited to that account ;

(b) in the case of a requisition made in accordance with subsection (1)(b) above, shall be debited to the credit account of the person by whom the requisition is made.

(3) Where a requisition is made under subsection (1) above and the fee payable in respect of it is paid or debited in accordance with subsection (2) above, the registrar shall thereupon make the search required and—

(a) shall issue a certificate setting out the result of the search ; and

(b) without prejudice to paragraph (a) above, may take such other steps as he considers appropriate to communicate that result to the person by whom the requisition was made.

(4) In favour of a purchaser or an intending purchaser, as against persons interested under or in respect of matters or documents entries of which are required or allowed as aforesaid, the certificate, according to its tenor, shall be conclusive, affirmatively or negatively, as the case may be.

(5) If any officer, clerk or person employed in the registry commits, or is party or privy to, any act of fraud or collusion, or is wilfully negligent, in the making of or otherwise in relation to any certificate under this section, he shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20, or to both such imprisonment and fine.

(6) Without prejudice to subsection (5) above, no officer, clerk or person employed in the registry shall, in the absence of fraud on his part, be liable for any loss which may be suffered—

(a) by reason of any discrepancy between—

(i) the particulars which are shown in a certificate under this section as being the particulars in respect of which the search for entries was made, and

(ii) the particulars in respect of which a search for entries was required by the person who made the requisition ; or

- (b) by reason of any communication of the result of a search under this section made otherwise than by issuing a certificate under this section.

Miscellaneous and supplementary

Date of effective registration and priority notices.

11.—(1) Any person intending to make an application for the registration of any contemplated charge, instrument or other matter in pursuance of this Act or any rule made under this Act may give a priority notice in the prescribed form at least the relevant number of days before the registration is to take effect.

(2) Where a notice is given under subsection (1) above, it shall be entered in the register to which the intended application when made will relate.

(3) If the application is presented within the relevant number of days thereafter and refers in the prescribed manner to the notice, the registration shall take effect as if the registration had been made at the time when the charge, instrument or matter was created, entered into, made or arose, and the date at which the registration so takes effect shall be deemed to be the date of registration.

(4) Where—

- (a) any two charges, instruments or matters are contemporaneous ; and
- (b) one of them (whether or not protected by a priority notice) is subject to or dependent on the other ; and
- (c) the latter is protected by a priority notice,

the subsequent or dependent charge, instrument or matter shall be deemed to have been created, entered into or made, or to have arisen, after the registration of the other.

(5) Where a purchaser has obtained a certificate under section 10 above, any entry which is made in the register after the date of the certificate and before the completion of the purchase, and is not made pursuant to a priority notice entered on the register on or before the date of the certificate, shall not affect the purchaser if the purchase is completed before the expiration of the relevant number of days after the date of the certificate.

(6) The relevant number of days is—

- (a) for the purposes of subsections (1) and (5) above, fifteen ;
- (b) for the purposes of subsection (3) above, thirty.

or such other number as may be prescribed ; but in reckoning the relevant number of days for any of the purposes of this section any days when the registry is not open to the public shall be excluded.

12. A solicitor, or a trustee, personal representative, agent or other person in a fiduciary position, shall not be answerable— Protection of solicitors, trustees, etc.

- (a) in respect of any loss occasioned by reliance on an office copy of an entry in any register kept under this Act ;
- (b) for any loss that may arise from error in a certificate under section 10 above obtained by him.

13.—(1) The registration of any charge, annuity or other interest under this Act shall not prevent the charge, annuity or interest being overreached under any other Act, except where otherwise provided by that other Act. Saving for overreaching powers.

(2) The registration as a land charge of a puisne mortgage or charge shall not operate to prevent that mortgage or charge being overreached in favour of a prior mortgagee or a person deriving title under him where, by reason of a sale or foreclosure, or otherwise, the right of the puisne mortgagee or subsequent chargee to redeem is barred.

14.—(1) This Act shall not apply to instruments or matters required to be registered or re-registered on or after 1st January 1926, if and so far as they affect registered land, and can be protected under the Land Registration Act 1925 by lodging or registering a creditor's notice, restriction, caution, inhibition or other notice. Exclusion of matters affecting registered land or created by instruments necessitating registration of land.

(2) Nothing in this Act imposes on the registrar any obligation to ascertain whether or not an instrument or matter affects registered land. 1925 c. 21.

(3) Where an instrument executed on or after 27th July 1971 conveys, grants or assigns an estate in land and creates a land charge affecting that estate, this Act shall not apply to the land charge, so far as it affects that estate, if under section 123 of the Land Registration Act 1925 (effect of that Act in areas where registration is compulsory) the instrument will, unless the necessary application for registration under that Act is made within the time allowed by or under that section, become void so far as respects the conveyance, grant or assignment of that estate.

15.—(1) This Act binds the Crown, but nothing in this Act shall be construed as rendering land owned by or occupied for the purposes of the Crown subject to any charge to which, independently of this Act, it would not be subject. Application to the Crown.

(2) References in this Act to restrictive covenants include references to any conditions, stipulations or restrictions imposed

1922 c. 16.

on or after 1st January 1926, by virtue of section 137 of the Law of Property Act 1922, for the protection of the amenities of royal parks, gardens and palaces.

General
rules.

16.—(1) The Lord Chancellor may, with the concurrence of the Treasury as to fees, make such general rules as may be required for carrying this Act into effect, and in particular—

- (a) as to forms and contents of applications for registration, modes of identifying where practicable the land affected, requisitions for and certificates of official searches, and regulating the practice of the registry in connection therewith ;
- (b) for providing for the mode of registration of a land charge (and in the case of a puisne mortgage, general equitable charge, estate contract, restrictive covenant or equitable easement by reference to the instrument imposing or creating the charge, interest or restriction, or an extract from that instrument) and for the cancellation without an order of court of the registration of a land charge, on its cesser, or with the consent of the person entitled to it, or on sufficient evidence being furnished that the land charge has been overreached under the provisions of any Act or otherwise ;
- (c) for determining the date on which applications and notices shall be treated for the purposes of section 11 of this Act as having been made or given ;
- (d) for determining the times and order at and in which applications and priority notices are to be registered ;
- (e) for varying the relevant number of days for any of the purposes of section 11 of this Act ;
- (f) for enabling the registrar to provide credit accounting facilities in respect of fees payable by virtue of this Act ;
- (g) for treating the debiting of such a fee to a credit account maintained at the registry as being, for such purposes of this Act or of the rules as may be specified in the rules, payment of that fee ;
- (h) for the termination or general suspension of any credit accounting facilities provided under the rules or for their withdrawal or suspension in particular cases at the discretion of the registrar ;
- (j) for requiring the registrar to take steps in relation to any instrument or matter in respect of which compensation has been claimed under section 25 of the Law of Property Act 1969 which would be likely to bring that instrument or matter to the notice of any person

1969 c. 59.

who subsequently makes a search of the registers kept under section 1 of this Act or requires such a search to be made in relation to the estate or interest affected by the instrument or matter ; and

- (k) for authorising the use of the index kept under this Act in any manner which will serve that purpose, notwithstanding that its use in that manner is not otherwise authorised by or by virtue of this Act.

(2) The power of the Lord Chancellor, with the concurrence of the Secretary of State, to make general rules under section 132 of the Bankruptcy Act 1914 for carrying into effect the objects of that Act shall include power to make rules as respects the registration and re-registration of a petition in bankruptcy under section 5 of this Act and a receiving order in bankruptcy under section 6 of this Act, as if the registration and re-registration were required by that Act. 1914 c. 59.

17.—(1) In this Act, unless the context otherwise requires,— Interpretation.

“annuity” means a rentcharge or an annuity for a life or lives or for any term of years or greater estate determinable on a life or on lives and created after 25th April 1855 and before 1st January 1926, but does not include an annuity created by a marriage settlement or will ;

“the Board” means the Commissioners of Inland Revenue ;

“conveyance” includes a mortgage, charge, lease, assent, vesting declaration, vesting instrument, release and every other assurance of property, or of an interest in property, by any instrument except a will, and “convey” has a corresponding meaning ;

“court” means the High Court, or the county court in a case where that court has jurisdiction ;

“deed of arrangement” has the same meaning as in the Deeds of Arrangement Act 1914 ; 1914 c. 47.

“estate owner”, “legal estate”, “equitable interest”, “trust for sale”, “charge by way of legal mortgage”, “will” and “death duties” have the same meanings as in the Law of Property Act 1925 ; 1925 c. 20.

“judgment” includes any order or decree having the effect of a judgment ;

“land” includes land of any tenure and mines and minerals, whether or not severed from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) and other corporeal hereditaments, also a manor, an advowson and a rent

and other incorporeal hereditaments, and an easement, right, privilege or benefit in, over or derived from land, but not an undivided share in land, and "hereditament" means real property which, on an intestacy occurring before 1st January 1926, might have devolved on an heir ;

1864 c. 114. "land improvement charge" means any charge under the Improvement of Land Act 1864 or under any special improvement Act within the meaning of the Improvement of Land Act 1899 ;

1899 c. 46. "pending land action" means any action or proceeding pending in court relating to land or any interest in or charge on land ;

"prescribed" means prescribed by rules made pursuant to this Act ;

"purchaser" means any person (including a mortgagee or lessee) who, for valuable consideration, takes any interest in land or in a charge on land, and "purchase" has a corresponding meaning ;

1925 c. 21. "registrar" means the Chief Land Registrar, "registry" means Her Majesty's Land Registry, and "registered land" has the same meaning as in the Land Registration Act 1925 ;

1925 c. 18. "tenant for life", "statutory owner", "vesting instrument" and "settlement" have the same meanings as in the Settled Land Act 1925.

(2) For the purposes of any provision in this Act requiring or authorising anything to be done at or delivered or sent to the registry, any reference to the registry shall, if the registrar so directs, be read as a reference to such office of the registry (whether in London or elsewhere) as may be specified in the direction.

(3) Any reference in this Act to any enactment is a reference to it as amended by or under any other enactment, including this Act.

Consequential amendments, repeals, savings, etc.
1925 c. 22.
1969 c. 59.

18.—(1) Schedule 3 to this Act, which contains consequential amendments of other Acts, shall have effect.

(2) The Land Charges Act 1925 is set out in Schedule 4 to this Act as it will have effect when all repeals and amendments made in it by this Act and by the Law of Property Act 1969 (repeals of provisions relating to Yorkshire deeds registries) operate.

(3) The enactments specified in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(4) The Land Charges Rules 1972 are hereby revoked. S.I. 1972/50.

(5) In so far as any entry in a register or instrument made or other thing whatsoever done under any enactment repealed by this Act could have been made or done under a corresponding provision in this Act, it shall have effect as if made or done under that corresponding provision ; and for the purposes of this provision any entry in a register which under section 24 of the Land Charges Act 1925 had effect as if made under that Act shall, so far as may be necessary for the continuity of the law, be treated as made under this Act. 1925 c. 22.

(6) Any enactment or other document referring to an enactment repealed by this Act or to an enactment repealed by the Land Charges Act 1925 shall, as far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding enactment in this Act.

(7) Nothing in the foregoing provisions of this section shall be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals). 1889 c. 63.

19.—(1) This Act may be cited as the Land Charges Act 1972. Short title, commencement and extent.

(2) This Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint ; and different days may be so appointed for different purposes.

(3) This Act extends to England and Wales only.

SCHEDULES**Section 1.****SCHEDULE 1****ANNUITIES**

1. No further entries shall be made in the register of annuities.
2. An entry of an annuity made in the register of annuities before 1st January 1926 may be vacated in the prescribed manner on the prescribed evidence as to satisfaction, cesser or discharge being furnished.
3. The register shall be closed when all the entries in it have been vacated or the prescribed evidence of the satisfaction, cesser or discharge of all the annuities has been furnished.
4. An annuity which before 1st January 1926 was capable of being registered in the register of annuities shall be void as against a creditor or a purchaser of any interest in the land charged with the annuity unless the annuity is for the time being registered in the register of annuities or in the register of land charges.

Section 2.**SCHEDULE 2****CLASS A LAND CHARGES**

1. Charges created pursuant to applications under the enactments mentioned in this Schedule may be registered as land charges of Class A by virtue of paragraph (b) of section 2(2) of this Act:—
 - (a) The Tithe Act 1918 (8 & 9 Geo. 5. c. 54) Sections 4(2) and 6(1) (charge of consideration money for redemption of tithe rentcharge).
 - (b) The Tithe Annuities Apportionment Act 1921 (11 & 12 Geo. 5. c. 20) Section 1 (charge of apportioned part of tithe redemption annuity).
 - (c) The Landlord and Tenant Act 1927 (17 & 18 Geo. 5. c. 36) Paragraph (7) of Schedule 1 (charge in respect of improvements to business premises).
 - (d) The Land Drainage Act 1930 (20 & 21 Geo. 5. c. 44) Section 9(5) (charge in respect of sum paid in commutation of certain obligations to repair banks, water-courses etc.).
 - (e) The Tithe Act 1936 (26 Geo. 5 & 1 Edw. 8. c. 43) Section 30(1) (charge for redemption of corn rents etc.).
 - (f) The Civil Defence Act 1939 (2 & 3 Geo. 6. c. 31) Sections 18(4) and 19(1) (charges in respect of civil defence works).

- | | | |
|--|---|--------|
| (g) The Agricultural Holdings Act 1948 (11 & 12 Geo. 6. c. 63) | Sections 72, 73 and 74 (charges in respect of sums due to tenant or occupier of agricultural holding).
Section 82 (charge in favour of landlord of agricultural holding in respect of compensation for or cost of certain improvements). | SCH. 2 |
| (h) The Corn Rents Act 1963 (1963 c. 14) | Section 1(5) (charge under a scheme for the apportionment or redemption of corn rents or other payments in lieu of tithes). | |

2. The following provisions of paragraph 1 above shall cease to have effect upon the coming into operation of the first scheme under the Corn Rents Act 1963, that is to say:—

- (a) in sub-paragraph (a), the words “ and 6(1) ”; and
- (b) sub-paragraph (e).

3. The references in paragraph 1(g) above to sections 72, 73, 74 and 82 of the Agricultural Holdings Act 1948 include references to any previous similar enactment.

SCHEDULE 3

Section 18.

CONSEQUENTIAL AMENDMENTS

Law of Property Act 1925

1. In section 97 of the Law of Property Act 1925 (priorities as between puisne mortgages) for the words from “ to mortgages ” to “ 1925), or ” (which were inserted by section 9(2) of the Land Registration and Land Charges Act 1971) there shall be substituted the words “ to mortgages or charges to which the Land Charges Act 1972 does not apply by virtue of section 14(3) of that Act (which excludes certain land charges created by instruments necessitating registration under the Land Registration Act 1925), or ”.

Land Charges Act 1925

2. In section 15 of the Land Charges Act 1925 (registration of local land charges), after subsection (1) there shall be inserted—

“(1A) The expenses incurred by the person entitled to a charge registrable under subsection (1) above in causing the charge to be registered in the proper register shall be deemed to form part of the charge, and shall be recoverable by him accordingly on the day for payment of any part of the charge next after such expenses are incurred.”

3. Subsection (6) of that section shall cease to have effect.

4. After subsection (7) there shall be inserted—

“(7A) Where any matter is registrable both in a register kept under this Act and in one or more of the registers kept

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under the Land Charges Act 1972, it shall be sufficient if it is registered in one register, and if it is so registered the person entitled to the benefit of it shall not be prejudicially affected by the provisions of this Act or that Act applying to any other register.

(7B) The registration of a charge under this Act may be vacated pursuant to an order of the court."

5. In section 19 of that Act (general rules), for paragraphs (a) and (b) of subsection (1) there shall be substituted—

"(a) for prescribing the mode of registration of a local land charge, whether by reference to the estate owner or to the land affected or otherwise ;

(b) for prescribing the proper officer to act as local registrar, and making provision as to official certificates of search to be given by him in reference to subsisting entries in his register ;

(c) for determining the effect of an official certificate of search in regard to the protection of a purchaser, or a solicitor, trustee or other person in a fiduciary position, and for prescribing the fees to be paid for any such certificate or for a search ;

(d) for adapting the provisions of section 11 of the Land Charges Act 1972 to local land charges ;

(e) for providing for the cancellation without an order of the court of the registration of a local land charge, on the cesser thereof, or with the consent of the person entitled thereto ;

(f) for prescribing the fees, if any, to be paid for the cancellation of an entry in the register ;

(g) for providing that any enactment which was contained in Part II of the Land Registration and Land Charges Act 1971, and any specific repeal made by that Act in so far as it reproduced the effect of any such enactment, shall have effect in relation to local land charges."

6. In section 20 of that Act (definitions)—

(a) for paragraph (2) there shall be substituted—

"(2) 'court' means the High Court of Justice, or the county court where that court has jurisdiction ;"

(b) for paragraph (4) there shall be substituted—

"(4) 'estate owner' and 'legal estate' have the same meanings as in the Law of Property Act 1925 ;".

Agricultural Credits Act 1928

1928 c. 43.

7. For section 9(7) of the Agricultural Credits Act 1928 (agricultural charges) there shall be substituted—

"(7) The Schedule to this Act shall have effect in relation to official searches in the register of agricultural charges." ;

and at the end of that Act there shall be added—

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“ SCHEDULE

OFFICIAL SEARCHES IN THE REGISTER OF AGRICULTURAL CHARGES

1. Where any person requires search to be made at the Land Registry for entries of agricultural charges, he may on payment of a prescribed fee lodge at the Land Registry a requisition in that behalf.

2. The reference to the Land Registry in paragraph 1 above shall, if the Land Registrar so directs, be read as a reference to such office of Her Majesty's Land Registry (whether in London or elsewhere) as may be specified in the direction.

3. The Land Registrar shall make the search required, and shall issue a certificate setting forth the result of the search.

4. In favour of a purchaser or an intending purchaser, as against persons interested under or in respect of an agricultural charge, the certificate, according to its tenor, shall be conclusive, affirmatively or negatively, as the case may be.

5. Every requisition under this Schedule shall be in writing, signed by the person making it, specifying the name against which he desires search to be made, or in relation to which he requires a certificate of result of search, and other sufficient particulars.

6. If any officer, clerk or person employed in the Land Registry commits, or is party or privy to, any act of fraud or collusion, or is wilfully negligent, in the making of or otherwise in relation to any certificate under this Schedule, he shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £20, or to both such imprisonment and fine.

7. A solicitor, or a trustee, personal representative, agent, or other person in a fiduciary position, shall not be answerable for any loss that may arise from error in a certificate under this Schedule obtained by him.”

Matrimonial Homes Act 1967

8.—(1) In section 2(5) of the Matrimonial Homes Act 1967 (effect of statutory rights of occupation of dwelling house) for the words “in accordance with the following provisions of this section” there shall be substituted the words “under section 2 of the Land Charges Act 1972 or subsection (7) below”.

(2) In subsection (8) of the said section 2 for the words “by virtue of subsection (6) above,” there shall be substituted the words “under section 2 of the Land Charges Act 1972.”

9. In section 3 of that Act (restriction on registration where spouse entitled to more than one charge) for the words “in accordance with subsection (6) or (7) of that section” there shall be substituted the words “under section 2 of the Land Charges Act 1972 or

SCH. 3 section 2(7) above” and for the words “in accordance with the said subsection (6) or (7)” there shall be substituted the words “under either of those provisions.”

10. In section 4(1) of that Act (cancellation of charge before completion of sale of house) for the words “in accordance with subsection (6) or (7) of that section” there shall be substituted the words “under section 2 of the Land Charges Act 1972 or section 2(7) above”.

11. In section 5 of that Act (cancellation of registration after termination of marriage, etc.)—

(a) in subsection (1), and in paragraph (a) of subsection (3), for the words “in accordance with subsection (6) or (7) of section 2 above” there shall be substituted the words “under section 2 of the Land Charges Act 1972 or section 2(7) above”;

(b) in paragraph (b) of subsection (3), for the words “in accordance with the said subsection (6) or (7)” there shall be substituted the words “under section 2 of the Land Charges Act 1972 or section 2(7) of this Act;”;

1925 c. 22.

(c) in subsection (6), for the words “section 19 of the Land Charges Act 1925” there shall be substituted the words “section 16 of the Land Charges Act 1972”.

12. In section 6(2) of that Act (release of rights of occupation) for the words “in accordance with subsection (6) or (7) of section 2 above” there shall be substituted the words “under section 2 of the Land Charges Act 1972 or section 2(7) above”.

Section 18.

SCHEDULE 4

THE LAND CHARGES ACT 1925, AS AMENDED

PART VI

LOCAL LAND CHARGES

Registration
of local
land charges.

15.—(1) Any charge (hereinafter called “a local land charge”) acquired either before or after the commencement of this Act by the council of any administrative county, London borough, or urban or rural district, or by the corporation of any municipal borough, or by any other local authority under the Public Health Acts 1936 and 1937, the Highways Act 1959 or the Public Health Act 1961 or under any similar statute (public, general or local or private) passed or hereafter to be passed, which takes effect by virtue of the statute, shall be registered in the prescribed manner by the proper officer of the local authority, and shall (except as hereinafter mentioned in regard to charges created or arising before the commencement of this Act) be void as against a purchaser for money or money’s worth of a legal estate in the land affected thereby, unless registered in the appropriate register before the completion of the purchase.

1959 c. 25.
1961 c. 64.

For the purposes of this section any sum which is recoverable by a local authority under any of the Acts aforesaid from successive owners or occupiers of the property in respect of which the sum is recoverable shall, whether such sum is expressed to be a charge on the property or not, be deemed to be a charge.

(1A) The expenses incurred by the person entitled to a charge registrable under subsection (1) above in causing the charge to be registered in the appropriate register shall be deemed to form part of the charge, and shall be recoverable by him accordingly on the day for payment of any part of the charge next after such expenses are incurred.

(2) Except as expressly provided by this section, the provisions of the Land Charges Act 1972 relating to a land charge of Class B shall apply to a local land charge.

(3) As regards a local land charge, the registration by the proper officer shall (without prejudice to the right of the registrar also to register the charge if and when the prescribed application and information is made and furnished to him) take the place of registration by the registrar, and, in reference thereto, the proper officer of the local authority shall have all the powers and be subject to the same obligations as the registrar has or is subject to in regard to a land charge under the Land Charges Act 1972.

(4) Where a local authority has expended money for any purpose which, when the work is completed and any requisite resolution is passed or order is made, will confer a charge upon land, the proper officer of the local authority may in the meantime register a local land charge in his register against the land generally, without specifying the amount, but the registration of any such general charge shall be cancelled within the prescribed time not being less than one year after the charge is ascertained and allotted, and thereupon the specific local land charges shall, unless previously discharged, be registered as of the date on which the general charge was registered.

(5) Nothing in this section operates to impose any obligation to register any local land charge created or arising before the commencement of this Act except after the expiration of one year from such commencement or to discharge a purchaser from liability in respect of any local land charge which is not for the time being required to be registered.

(7) The foregoing provisions of this section shall apply to—

- (b) any prohibition of or restriction on the user or mode of user of land or buildings imposed by a local authority after the commencement of this Act by order, instrument, or resolution, or enforceable by a local authority under any covenant or agreement made with them after the commencement of this Act or by virtue of any conditions attached to a consent, approval, or licence granted by a local authority after that date, being a prohibition or restriction

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binding on successive owners of the land or buildings, and not being—

(i) a prohibition or restriction operating over the whole of the district of the authority or over the whole of any contributory place thereof ; or

(iii) a prohibition or restriction imposed by a covenant or agreement made between a lessor and lessee,

as if the resolution, authority, prohibition or restriction were a local land charge ; and the same shall be registered by the proper officer as a local land charge accordingly.

(7A) Where any matter is registrable both in a register kept under this Act and in one or more of the registers kept under the Land Charges Act 1972, it shall be sufficient if it is registered in one register, and if it is so registered the person entitled to the benefit of it shall not be prejudicially affected by the provisions of this Act or that Act applying to any other register.

(7B) The registration of a local land charge may be vacated pursuant to an order of the court.

(8) This section applies to local land charges affecting registered as well as unregistered land.

PART VII

SEARCHES

Power to make searches.

16. Any person may search in any register or index kept in pursuance of this Act on paying the prescribed fee.

PART VIII

GENERAL

General rules.

19. The Lord Chancellor may, with the concurrence of the Treasury as to fees, make such general rules as may be required for carrying this Act into effect, and in particular—

- (a) for prescribing the mode of registration of a charge, whether by reference to the estate owner or to the land affected or otherwise ;
- (b) for prescribing the proper officer to act as local registrar, and making provision as to official certificates of search to be given by him in reference to subsisting entries in his register ;
- (c) for determining the effect of an official certificate of search in regard to the protection of a purchaser, or a solicitor, trustee or other person in a fiduciary position, and for prescribing the fees to be paid for any such certificate or for a search ;
- (d) for adapting the provisions of section 11 of the Land Charges Act 1972 to local land charges ;

- (e) for providing for the cancellation without an order of the court of the registration of a local land charge, on the cesser thereof, or with the consent of the person entitled thereto ; SCH. 4
- (f) for prescribing the fees, if any, to be paid for the cancellation of an entry in the register ;
- (g) for providing that any enactment which was contained in Part II of the Land Registration and Land Charges Act 1971 c. 54. 1971, and any specific repeal made by that Act in so far as it reproduced the effect of any such enactment, shall have effect in relation to local land charges."

20. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them that is to say:— Definitions.

- (2) "court" means the High Court of Justice or the county court where that court has jurisdiction ;
- (4) "estate owner" and "legal estate" have the same meanings as in the Law of Property Act 1925 ; 1925 c. 20.
- (6) "land" includes land of any tenure and mines and minerals, whether or not severed from the surface, buildings or parts of buildings (whether the definition is horizontal, vertical or made any other way) and other corporeal hereditaments, also a manor, an advowson and a rent and other incorporeal hereditaments, and an easement, right, privilege or benefit in, over or derived from land, but not an undivided share in land ; and "hereditament" means real property which, on an intestacy occurring before the commencement of this Act, might have devolved on an heir.
- (8) "purchaser" means any person (including a mortgagee or lessee) who, for valuable consideration, takes any interest in land or in a charge on land, and "purchase" has a corresponding meaning ;
- (9) "prescribed" means prescribed by rules made pursuant to this Act ;
- (10) "registrar" means the Chief Land Registrar and "registered land" has the same meaning as in the Land Registration Act 1925. 1925 c. 21.

24. Without prejudice to the provisions of section 38 of the Interpretation Act 1889:— Repeals.
1889 c. 63.

- (a) nothing in this repeal shall affect any entry in a register made under any enactment so repealed, but the registration shall have effect as if made under this Act ;
- (c) references in any document to any enactment repealed by this Act shall be construed as references to this Act or to the corresponding enactment in this Act.

25. The provisions of this Act bind the Crown, but nothing in this Act shall be construed as rendering land owned by or occupied for the purposes of the Crown subject to any charge to which, independently of this Act, it would not be subject. Application
to the Crown.

SCH. 4
Short title and
Extent.

26. (1) This Act may be cited as the Land Charges Act 1925.
(3) This Act extends to England and Wales only.

Section 18.

SCHEDULE 5

REPEALS

Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 22.	The Land Charges Act 1925.	Sections 1 to 14, except section 10(6). Section 15(6). Section 16(2). Section 17. Section 19(2). In section 20, paragraphs (1), (3), (5) and (7), in paragraph (10) the words " ' registry ' means His Majesty's Land Registry, " and paragraphs (11) and (13). Sections 21 to 23. In section 24, paragraph (b). Section 4.
16 & 17 Geo. 5. c. 11.	The Law of Property (Amendment) Act 1926.	In the Schedule, the first entry relating to section 10 of the Land Charges Act 1925.
26 Geo. 5. and 1 Edw. 8. c. 43.	The Tithe Act 1936.	Section 13(10).
11 & 12 Geo. 6. c. 63. 1967 c. 75.	The Agricultural Holdings Act 1948. The Matrimonial Homes Act 1967.	In Schedule 7, paragraph 3.
1969 c. 59.	The Law of Property Act 1969.	Section 2(6), except so far as it relates to paragraphs 1 and 4 of the Schedule. In the Schedule, paragraphs 2 and 3. Section 25(7). Sections 26 and 27.
1971 c. 54.	The Land Registration and Land Charges Act 1971.	Sections 5 to 11. In section 12, the words from " and for " to the end of the section. In section 15(1), paragraph (b) and the word " and " immediately preceding it. In section 15(2), the words from " and Part II " to the end of the subsection. In section 15(3), the words " Without prejudice to subsection (2) above ". Schedule 1.



Agriculture (Miscellaneous Provisions) Act 1972

1972 CHAPTER 62

An Act to make new provision for the prevention of diseases suffered or disseminated by animals and to amend the Diseases of Animals Act 1950; to amend the law relating to slaughterhouses, to the slaughter of animals in Scotland and to the improvement of live stock; to amend Part II of the Agriculture Act 1967; to make new provision in relation to the Agricultural Marketing Fund and the Agricultural Marketing (Scotland) Fund; to increase the amount which may be advanced under section 2 of the Agriculture Mortgage Corporation Act 1956; to increase the penalties under the Agriculture (Poisonous Substances) Act 1952 and the Agriculture (Safety, Health and Welfare Provisions) Act 1956; to make new provision with respect to arbitrations under the Agricultural Holdings Act 1948; to amend the Cereals Marketing Act 1965; to amend the Corn Returns Act 1882 and the Corn Sales Act 1921; to make new provision for obtaining agricultural statistics; to make further provision as to the use of poison against grey squirrels or coypus; to clarify the Plant Health Act 1967 as respects the recovery of expenses incurred by an authority exercising default powers under orders made by virtue of that Act; to abolish agricultural executive committees and certain other committees having functions in relation to agriculture or apiculture; to confer powers on the Secretary of State in relation to certain parks and other land in Scotland; to repeal paragraph (f) of

Case 14 in Schedule 3 to the Rent Act 1968 and paragraph (f) of Case 15 in Schedule 3 to the Rent (Scotland) Act 1971; and for purposes connected with those matters. [9th August 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Control of
zoonoses.

1.—(1) This section shall have effect with a view to reducing the risk to human health from any disease of, or organism carried in, animals; and the Ministers may by order designate any such disease or organism which in their opinion constitutes such a risk as aforesaid.

(2) Where any disease or organism is for the time being designated under this section, the Ministers may by order—

1950 c. 36.

(a) provide for any provision of the Diseases of Animals Act 1950 which has effect in relation to the disease to have effect in relation thereto subject to such modifications as may be specified in the order;

(b) apply any provision of that Act, subject to any modifications so specified, in relation to the presence of the organism in an animal as if the presence of the organism were a disease to which that Act applied.

(3) The Ministers may by order make provision for requiring a person who, in such circumstances as are specified by the order, knows or has reason to suspect that an animal of such description as is specified in the order is or was—

(a) affected with a disease designated under this section;

or

(b) a carrier of an organism so designated,

to furnish to such person and in such form and within such period as are specified in the order such information relating to the animal as is so specified.

(4) If it appears to the Minister that a person may have information relating to an animal affected with a disease designated under this section or an animal which is a carrier of an organism so designated, the Minister may by notice in writing require him to furnish to such person and in such form and within such period as are specified in the notice such information relating to the animal as he possesses and is so specified.

(5) Where a veterinary inspector has reason to believe that an animal such as is mentioned in subsection (4) of this section

is or has been on any land he may, on producing if so required evidence of his authority—

(a) enter the land and make such tests and take such samples of any animal, feeding stuff, litter, dung, vessel, pen, vehicle or other thing whatsoever which is on or forms part of the land as he thinks appropriate for the purpose of ascertaining whether such an animal is or has been on the land ; and

(b) require the owner or person having charge of any animals on the land to take such reasonable steps as the inspector may specify for the purpose of collecting or restraining them so as to facilitate the exercise in relation to them of the powers conferred on the inspector by the preceding paragraph.

(6) Any person who—

(a) fails to comply with a requirement imposed on him by virtue of this section ; or

(b) in purported compliance with a requirement to furnish information which is imposed on him by virtue of this section, knowingly or recklessly furnishes information which is false in a material particular,

shall be guilty of an offence.

(7) This section shall have effect in relation to poultry as it has effect in relation to animals.

(8) In this section “the Ministers” means the Minister and the Secretary of State acting jointly ; and in the application of subsection (4) of this section to Scotland for any reference to the Minister there shall be substituted a reference to the Secretary of State.

(9) This section and the Diseases of Animals Act 1950 shall have effect as if this section were contained in that Act, except that in this section the expression “disease” is not restricted by its definition in that Act. 1950 c. 36.

2.—(1) In paragraph (a) of the proviso to section 84(1) of the Diseases of Animals Act 1950 (which enables the Minister and the Secretary of State acting jointly by order to extend the definition of animals in that Act so as to include any four-footed beasts not already mentioned in the definition), for the words “any other kind of four-footed beasts” there shall be substituted the words “any kind of mammal, except man, and any kind of four-footed beast which is not a mammal”, and after that paragraph there shall be inserted the following paragraph—

Application of provisions of Diseases of Animals Act 1950 to further animals.

“(aa) the Minister and the Secretary of State acting jointly may, for all or any of the purposes of this Act (except

so far as it relates to disease), by order extend this definition so that it shall, for those purposes or any of them, comprise fish, reptiles, crustaceans or other cold-blooded creatures of any species, not being creatures in respect of which an order can be made under the preceding paragraph”.

1968 c. 59. (2) The enactments and instruments with respect to which provision may be made by Order in Council by virtue of section 1(1)(h) of the Hovercraft Act 1968 shall include the said Act of 1950 as amended by the preceding subsection and any instrument made under that Act as so amended.

Seizure of milk etc. liable to spread disease.
1963 c. 11.

3. In section 13 of the Agriculture (Miscellaneous Provisions) Act 1963 (which among other things provides for the seizure and disposal of carcasses and other things including eggs with a view to preventing the spread of certain diseases and for the payment in certain cases of compensation for things seized) after the word “eggs” in subsection (1) there shall be inserted the words “milk, skim milk, whey, buttermilk, cream”.

Furnishing by milk marketing boards of information derived from tests of milk.
1958 c. 47.

4.—(1) The relevant Minister may, by a direction in writing given to the board administering a scheme under the Agricultural Marketing Act 1958 for regulating the marketing of cows’ milk, require the board to furnish in writing to any appropriate authority specified in the direction information of a description so specified, being information which is derived from tests of cows’ milk carried out (whether before or after the giving of the direction) by or by agreement with the board and is of a kind appearing to the relevant Minister to be required by the appropriate authority for the purposes of any Milk and Dairies Regulations or for the purposes of any regulation, order or byelaw in force by virtue of the Milk and Dairies (Scotland) Acts 1914 to 1949 or the Food and Drugs (Scotland) Act 1956; and notwithstanding anything in section 47 of the said Act of 1958 (which restricts disclosure of information) it shall be the duty of the board to comply with the direction.

1956 c. 30.

(2) In the preceding subsection—

1947 c. 43.

“appropriate authority” means any of the following authorities, that is to say, the Minister, the Secretary of State, any county council in Scotland and any council of a large burgh in Scotland within the meaning of the Local Government (Scotland) Act 1947, and any small burgh within the meaning of that Act shall, for the purposes of this section, be included in the county in which it is situated; and

“the relevant Minister” means the Secretary of State in relation to the board administering such a scheme as

aforesaid for any area in Scotland and the Minister in relation to the board administering such a scheme for any other area ;

and a direction under the preceding subsection may require different information to be furnished to different authorities and may be varied or revoked by a subsequent direction under that subsection.

(3) Information furnished under this section shall not be used as evidence in proceedings for an offence under any such regulation, order or byelaw as is mentioned in subsection (1) of this section.

5.—(1) The following enactments shall cease to have effect, that is to say—

- (a) section 70(1) of the Food and Drugs Act 1955 (duty of local authorities as to provision of additional slaughterhouse facilities) ;
- (b) section 73(3) of that Act (power of Minister to require alterations in scales of charges for use of public slaughterhouses) ;
- (c) sections 75 to 78 of that Act (restriction of private slaughterhouses) ;
- (d) section 2 of the Slaughterhouses Act 1958 (licensing of slaughterhouses where local restrictions are in force) ; and
- (e) sections 3 and 4 of that Act (reports by local authorities on slaughterhouse facilities, and grants of new licences after submission of reports).

Repeal and amendment of certain enactments relating to slaughterhouses in England and Wales.
1955 c. 16
(4 Eliz. 2).

1958 c. 70.

(2) For subsection (2) of section 1 of the Slaughterhouses Act 1958 there shall be substituted the following subsections—

“ (2) Where an application for the grant or renewal of a slaughterhouse licence is made to a local authority in respect of any premises, then, subject to subsections (3) and (4) of section sixty-six of the principal Act (which relate to appeals) and to section five of this Act, the authority—

- (a) shall grant or, as the case may be, renew the licence in accordance with the application if they are satisfied that the requirements relating to slaughterhouses of regulations under section thirteen of the principal Act, of construction regulations under section four of the Slaughter of Animals Act 1958 and of byelaws, if any, made by the authority under section sixty-eight of the principal Act are, or within a reasonable time will be, complied with in respect of the premises ; and
- (b) shall refuse to grant, or, as the case may be, renew the licence if they are not so satisfied.

1958 c. 8
(7 & 8 Eliz. 2).

(2A) The reference in paragraph (a) of the preceding subsection to the requirements of construction regulations under the said section four shall, in relation to an application which does not state expressly that it is for a slaughterhouse licence containing an authorisation in respect of horses under subsection (3) of section sixty-two of the principal Act, be construed as excluding such of those requirements as relate only to horses within the meaning of the said subsection (3); but any licence granted or renewed in pursuance of such an application shall not contain such an authorisation."

1955 c. 16.
(4 & 5 Eliz. 2.)

(3) Nothing in, or in any instrument made under, any local Act shall make unlawful, or subject any person to any penalty by reason of, the use of any premises as a slaughterhouse or the slaughter of animals on any premises at a time when a slaughterhouse licence under the Food and Drugs Act 1955 is in force in respect of the premises.

1971 c. lxxvii.

(4) Nothing in paragraph (b) of subsection (1) of this section or in Schedule 6 to this Act affects any provision of section 73 of the Food and Drugs Act 1955 as applied by section 65 of the Manchester Corporation (General Powers) Act 1971; but in the said section 65—

(a) in subsection (3) the words "public abattoir" and in subsection (4) the words "the abattoir or of" shall be omitted;

(b) for the word "Ministers" in those subsections there shall be substituted the words "Secretary of State"; and

(c) subsection (6) shall be omitted.

Repeal and amendment of enactments relating to slaughterhouses in Scotland.
1954 c. 42.

6.—(1) For section 7 of the Slaughterhouses Act 1954 (duty of local authorities in Scotland in regard to slaughtering facilities) there shall be substituted the following section:—

"Power of local authorities to provide slaughterhouses.

7. Subject to the following provisions of this Part of this Act, a local authority may provide and, if they think fit, operate a slaughterhouse, and may dispose of any slaughterhouse belonging to them by feu, sale, lease or excambion; and any slaughterhouse so disposed of shall be deemed to be disposed of under Part VIII of the Local Government (Scotland) Act 1947."

1947 c. 43.

(2) In section 9 of the said Act of 1954 (registration in respect of private slaughterhouses in Scotland), in subsection (3) for the word "may" there shall be substituted the word "shall".

(3) Part II of the said Act of 1954 (provisions relating to Scotland) shall have effect subject to the amendments specified

in Schedule 1 to this Act (being amendments consequential on the foregoing provisions of this section, or of a minor nature).

7.—(1) For section 1 of the Slaughter of Animals (Scotland) Act 1928 there shall be substituted the following section—

“Provisions as to slaughter of animals in slaughterhouses and knackers’ yards.

1.—(1) Subject to the provisions of this Act, no animal shall, in a slaughterhouse or knacker’s yard, be slaughtered otherwise than instantaneously by means of a mechanically-operated instrument in proper repair unless—

Amendment of Slaughter of Animals (Scotland) Acts etc. 1928 c. 29.

- (a) by stunning, effected by means of a mechanically-operated instrument or an instrument for stunning by means of electricity, being in either case an instrument in proper repair, it is instantaneously rendered insensible to pain until death supervenes ; or
- (b) by such other means as may be prescribed, it is rendered insensible to pain until death supervenes, and there are complied with such conditions (if any) as respects the use of those means as may be prescribed.

In this subsection “prescribed” means prescribed by regulations made by the Secretary of State after consultation with such organisations as appear to him to represent the interests concerned.

- (2) Regulations under this section may make—
 - (a) provision as respects all animals or any class of animals ;
 - (b) different provision as respects different classes of animals and as respects different classes of slaughterhouses or knackers’ yards ; and
 - (c) such incidental or consequential provision as may appear to the Secretary of State to be necessary or expedient for the purposes of the regulations, including, in particular, in a case where a condition as respects the use of any means of rendering an animal insensible to pain consists in the giving of approval to any matter by a local authority, provision for securing a right of appeal to the sheriff against a withholding or withdrawal of approval.

(3) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(2) The Slaughter of Animals (Scotland) Acts 1928 to 1954 shall have effect subject to the amendments specified in Schedule 2 to this Act (being amendments consequential on the provisions of subsection (1) of this section, or of a minor nature).

(3) It shall be the duty of every local authority to execute and enforce within their district the provisions of the Slaughter of Animals (Scotland) Acts 1928 to 1954 and of any regulations made thereunder; but this subsection shall not be construed as authorising a local authority to institute proceedings for any offence.

1956 c. 30. (4) For the purposes of any regulations made under section 13 of the Food and Drugs (Scotland) Act 1956 (regulations as to food hygiene) in respect of any premises to which the Slaughter of Animals (Scotland) Acts 1928 to 1954 apply, the provisions of section 36 of the said Act of 1956 (power to enter premises) shall apply in relation to an authorised officer of the Secretary of State as they apply in relation to an authorised officer of the local authority who are empowered to enforce those regulations so far as they apply to such premises.

Amendment of law relating to improvement of live stock. 8.—(1) Section 6(1) of the Agriculture (Miscellaneous Provisions) Act 1944 (which applies the Improvement of Live Stock (Licensing of Bulls) Act 1931 to pigs) shall cease to have effect.

1944 c. 28. (2) The grounds on which a licence to keep a bull for breeding purposes may be refused under section 2(2) of the said Act of 1931 shall cease to include those mentioned in—

1931 c. 43. (a) section 6(3) of the said Act of 1944 (pedigree standards);
1963 c. 11. (b) section 17 of the Agriculture (Miscellaneous Provisions) Act 1963 (prescribed standards of suitability);

and accordingly the said sections 6(3) and 17 shall cease to have effect and, in section 6(4) of the said Act of 1944, for the words “the said section two” there shall be substituted the words “section two of the Improvement of Live Stock (Licensing of Bulls) Act 1931”.

1946 c. 26. (3) The amendments of the said Act of 1931 contained in Schedule 2 to the Emergency Laws (Transitional Provisions) Act 1946 shall apply to Scotland.

(4) The said Act of 1931 shall have effect subject to the provisions of Schedule 3 to this Act, being provisions amending and modifying that Act in various respects and enabling its operation to be suspended by order.

1943 c. 16. (5) Section 17(4) of the Agriculture (Miscellaneous Provisions) Act 1943 (which prohibits the export of animal semen except under licence) shall cease to have effect.

1950 c. 36. (6) In section 27 of the Diseases of Animals Act 1950 (which enables the Minister and the Secretary of State acting jointly to allow animals imported into Great Britain to be landed without

being slaughtered if they are intended for exhibition or for other exceptional purposes) after the words “exceptional purposes” there shall be inserted the words “or, in the case of cattle, sheep or swine, intended for use in breeding”.

9.—(1) Part II of the Agriculture Act 1967 (grants and loans in connection with alterations in farm structure) shall have effect with the amendments specified in subsections (2) to (6) of this section. Amendments as to grants and loans in connection with alterations of farm structure. 1967 c. 22.

(2) In section 26—

(a) in subsection (1)—

(i) for the words preceding paragraph (a) there shall be substituted the words “The appropriate Minister may in accordance with a scheme and subject to section 50 of the Agriculture Act 1970 make, out of money provided by Parliament, grants of amounts determined in such manner as may be provided by or under the scheme in connection with the carrying out of any of the following transactions approved by him in pursuance of the scheme, that is to say—”; 1970 c. 40.

(ii) after paragraph (b) there shall be inserted—

“*(bb)* transactions for securing that, where the person occupying an intermediate unit or a commercial unit occupies any part or parts of it otherwise than as owner or as a tenant as defined in the Agricultural Holdings Act 1948 (or, in Scotland, the Agricultural Holdings (Scotland) Act 1949), he comes to occupy that part or all those parts as owner or as such a tenant, and”; 1948 c. 63.
1949 c. 75.

(iii) in the final paragraph for the words “Transactions within paragraphs (a) and (b) above” there shall be substituted the words “Transactions within paragraphs (a), (b) and (bb) above”;

(b) at the end of subsection (2) there shall be inserted the words “or, as respects transactions within subsection (1)(bb) of this section, cases where after the transaction has been effected the unit is not in single ownership”;

(c) subsections (3) and (5) shall be omitted;

(d) in subsection (6)—

(i) for the words preceding paragraph (a) there shall be substituted the words “Any approval in

pursuance of a scheme under this section of an amalgamation or boundary adjustment—”;

(ii) in paragraph (a) the words “the expenditure has been incurred or” shall be omitted.

(3) In section 27—

(a) in subsection (1) in the words preceding paragraph (a) for the words “relinquishes his occupation of an uncommercial unit” there shall be substituted the words “relinquishes his occupation of, or of a part of, an uncommercial unit”;

(b) after subsection (5A) there shall be inserted—

“(5B) A scheme made by virtue of subsection (1)(a) or (b) of this section may make provision whereby a person is treated for the purposes of the scheme, to such extent and in such cases as may be prescribed—

(a) as the occupier of any land in respect of which he has granted, or agreed to grant, to another person a licence or tenancy of a kind not making that other person a tenant as defined in the Agricultural Holdings Act 1948 (or, in Scotland, the Agricultural Holdings (Scotland) Act 1949);

(b) as relinquishing his occupation of that land if he relinquishes his remaining estate or interest in the land;

(c) as relinquishing his occupation of, or of part of, an uncommercial unit of agricultural land if the land was, or was part of, such a unit immediately before he first granted or agreed to grant such a licence or tenancy as aforesaid;

and, in relation to any provision made by virtue of this subsection, subsections (2), (4) and (5A) of this section shall not apply but provision may be made in the scheme for corresponding purposes.”

(4) In section 28(1) for paragraph (a) there shall be substituted—

“(a) the costs of the amalgamation or boundary adjustment consisting of surveyor’s fees and legal costs, stamp duty on any conveyance, lease, tenancy agreement or mortgage or heritable security and any compensation for disturbance under section 34 of the Agricultural Holdings Act 1948 or section 35 of the Agricultural Holdings (Scotland) Act 1949, or

1948 c. 63.

1949 c. 75.

(aa) expenditure incurred in the carrying out or provision of works or facilities which the appropriate Minister considers to be necessary or desirable as a consequence of the amalgamation, or to be necessary as a consequence of the boundary adjustment, or ”;

and for the words “ or expenditure under both paragraphs (a) and (b) above ” there shall be substituted the words “ or expenditure under all or any two of paragraphs (a), (aa) and (b) above ”.

(5) In section 39 (application to Northern Ireland) after subsection (5) there shall be inserted—

“ (5A) Sections 26(1)(bb) and 27(5B) of this Act shall, in their application to Northern Ireland, have effect as if references to a tenant as defined in the Acts there mentioned were references to a tenant who holds under a contract of tenancy for a life or lives or for a term of years.”

(6) In section 40(3) (uncommercial unit not to include dwelling house) after the words “ exclusive of any one dwelling house of the unit ” there shall be inserted the words “ or of an area sufficient to provide a site for one dwelling house ”.

(7) In section 50 of the Agriculture Act 1970 (which among other things precludes the making of certain grants to small-holdings authorities under schemes made under section 26 of the said Act of 1967 unless an application for the grant has been made within five years from the date when the scheme comes into operation) for the words “ within five years from the date when the scheme comes into operation ” there shall be substituted the words “ before the end of 1975 ”.

(8) Any scheme made by virtue of section 26 of the said Act of 1967 as that section had effect before the passing of this Act shall (without prejudice to its variation or revocation by a subsequent scheme) continue to have effect as if this Act had not been passed.

(9) Sections 26(1) to (6) and 28(1) of the said Act of 1967 as amended by this section are set out in Schedule 4 to this Act.

10.—(1) Subsections (7) and (8) of section 26 of the Agriculture Act 1967 (which apply the conditions in Schedule 3 to that Act to agricultural units where certain grants have been paid) shall not apply in relation to the payment of—

(a) any grant under a scheme made under that section or section 27 of that Act after the passing of this Act ; or

(b) any grant under section 29 of the Agriculture Act 1970 in respect of any work or facility certified under the said section 26 in connection with an amalgamation or boundary adjustment approved under any scheme

Conditions applicable to land where amalgamation or boundary adjustment has been assisted by a grant or loan. 1967 c. 22.

made under the said section 26 after the passing of this Act.

(2) Where, by reason of the payment of a grant under a scheme made under the said section 27 before the passing of this Act, any land became subject to the provisions of the said Schedule 3, that land shall cease to be subject to those provisions if, by virtue of transitional provisions in a scheme made under that section after the passing of this Act, the approval in consequence of which the grant was paid falls to be treated as if given under the latter scheme.

(3) Subsections (6) and (7) of section 28 of the said Act of 1967 (which apply the conditions in the said Schedule 3 to agricultural units where loans or guarantees have been made or given under that section) shall not apply in relation to any loan or guarantee in connection with an amalgamation or boundary adjustment approved under a scheme made under the said section 26 after the passing of this Act or treated by virtue of transitional provisions in such a scheme as approved thereunder.

(4) In making a grant under the said section 26 the appropriate Minister may impose such conditions as he thinks fit; and any such conditions, and any conditions imposed under section 28(5) of the said Act of 1967 or section 29(3) of the said Act of 1970, may require the recipient of the grant or loan, or the person whose indebtedness is guaranteed, to make such payments or repayments to the appropriate Minister in such circumstances as may be specified in the conditions.

(5) Paragraph 1 of the said Schedule 3 (duration of conditions imposed by that Schedule) shall have effect, and be deemed always to have had effect, with the substitution for the words "fifteen years" of the words "five years".

Grants
for farm
improvements.
1967 c. 22.

11. In subsection (9) of section 30 of the Agriculture Act 1967 (which limits the grants referred to in that subsection to one hundred and seventy million pounds) for the words "one hundred and seventy million pounds" there shall be substituted the words "one hundred and eighty million pounds".

Payments into
and out of
Agricultural
Marketing
Funds, and
abolition of
Marketing
Facilities
Committees.
1958 c. 47.

12.—(1) If the Minister considers that the sums standing to the credit of the Agricultural Marketing Fund should be reduced, he may pay such sums as he thinks fit out of that Fund into the Consolidated Fund; and if the Secretary of State considers that the sums standing to the credit of the Agricultural Marketing (Scotland) Fund should be reduced, he may pay such sums as he thinks fit out of that Fund into the Consolidated Fund:

Provided that nothing in this subsection shall be construed as conferring authority on the Minister or Secretary of State to wind up the Agricultural Marketing Fund or, as the case may be the Agricultural Marketing (Scotland) Fund.

(2) The limits imposed by subsection (3) of section 22 of the Agricultural Marketing Act 1958 on the sums which may be paid out of money provided by Parliament into the Marketing Funds mentioned in the preceding subsection are hereby abolished; and accordingly for paragraphs (a) and (b) of the said subsection (3) (which provide that the sums payable out of money so provided into each of those funds shall not in the aggregate exceed the difference between £500,000 in the case of the English fund and £125,000 in the case of the Scottish fund and the sums paid into the fund in question under section 11(2) of the Agricultural Marketing Act 1931) there shall be substituted the words "into the English fund and the Scottish fund respectively such sums".

(3) Section 23 of the Agricultural Marketing Act 1958 (which provides for the appointment of Agricultural Marketing Facilities Committees for England and Wales, for Scotland and for Great Britain) shall cease to have effect; and accordingly—

(a) the committees mentioned in that section are hereby abolished;

(b) in section 24(4) of that Act for the words from "renewal is recommended" to "they are" there shall be substituted the words "Minister is" and in section 53(5) of that Act after the words "consumers' committees" there shall be inserted the word "and"; and

(c) the following provisions of that Act shall be omitted, that is to say—

(i) in section 24(1) and 25 the words "on the recommendation of the appropriate Agricultural Marketing Facilities Committee" and in section 24(1) the proviso,

(ii) in section 53(5) the words from "and Agricultural" to "for Scotland",

(iii) in Schedule 3, paragraph 4 of Part II, paragraph 5 of Part V and paragraph 5 of Part VI.

13. The amount of the advances which the Minister may make to the Agricultural Mortgage Corporation Limited under section 2 of the Agricultural Mortgage Corporation Act 1956 for the purpose of increasing its guarantee fund shall be increased by five million pounds; and accordingly in subsection (1) of that section, as amended by section 63(1) of the Agriculture Act 1967, for the words "twelve million pounds" there shall be substituted the words "seventeen million pounds".

14. In section 4(2) of the Agriculture (Poisonous Substances) Act 1952 and section 14(1) of the Agriculture (Safety, Health and Welfare Provisions) Act 1956 (which provide that a person guilty of an offence under either of those Acts shall be liable

on summary conviction to a fine not exceeding fifty pounds) for the word "fifty" there shall be substituted the words "two hundred"; but nothing in this section affects the amount of the fine which may be imposed in respect of an offence committed before the passing of this Act.

Arbitrations
under the
Agricultural
Holdings
Act 1948.
1948 c. 63.

15.—(1) In paragraph 25(2) of Schedule 6 to the Agricultural Holdings Act 1948 (power of county court to set aside award of arbitrator under that Act if he has misconducted himself or the arbitration or award has been improperly procured) after the words "improperly procured" there shall be inserted the words "or there is an error of law on the face of the award"; but nothing in this subsection affects any proceedings begun in the High Court before the passing of this Act.

(2) It is hereby declared that regulations made by virtue of section 6 of the Agricultural Holdings Act 1948 (which authorises the Minister to prescribe terms as to the maintenance, repair and insurance of fixed equipment which, except as mentioned in that section, shall be deemed to be incorporated in every contract of tenancy of an agricultural holding) may make provision for any matter arising under such regulations to be determined by arbitration under that Act.

Levies on
processors of
and dealers in
home-grown
cereals.
1965 c. 14.

16.—(1) In subsection (1) of section 16 of the Cereals Marketing Act 1965 (which enables the Home-Grown Cereals Authority to prepare schemes for imposing levies on growers of home-grown cereals) for the words from "for imposing" onwards there shall be substituted the words "for imposing a levy on persons or classes of persons specified in the scheme who are growers or processors of or dealers in home-grown cereals of a kind specified in the scheme"; and accordingly in subsection (6) of that section for the words "growers of home-grown cereals" there shall be substituted the words "the persons or classes of persons specified in the scheme as liable to a levy on home-grown cereals".

(2) In subsection (4) of section 16 of that Act (which makes provision for the Ministers by order to approve, modify or revoke a scheme) after the words "Ministers by order" there shall be inserted the words "after consultation with such persons or organisations as appear to the Ministers to represent the interests concerned".

(3) In section 24(5) of that Act (which among other things provides that any reference in that Act to a person who processes home-grown cereals is a reference to a person who applies an industrial process to home-grown cereals in the course of a business carried on by him) before the words "in the course of" there shall be inserted the words "with a view to selling the processed cereals".

17.—(1) Section 1 of the Corn Sales Act 1921 (which provides that any contract or other dealing relating to corn shall be void unless it is made by reference to the weight of the corn in hundredweights) shall cease to have effect.

(2) The Minister may as respects England and Wales, and the Secretary of State may as respects Scotland, provide by order made by statutory instrument that sections 8 and 9(6) of the Corn Returns Act 1882 (which respectively require that computations of corn in returns under that Act shall be in hundredweights and that the annual and septennial average price published in pursuance of that Act shall be for a hundredweight of corn) shall have effect as if for any reference to the hundredweight of one hundred and twelve imperial standard pounds there were substituted a reference to another weight prescribed by the order; and an order under this subsection may—

- (a) make such modifications of section 9(4) and (5) of that Act as the authority making the order considers are appropriate in consequence of any other provision made by the order or by another order under this subsection;
- (b) be varied or revoked by a subsequent order under this subsection.

18. Section 78(1) of the Agriculture Act 1947 shall have effect with the following amendments (which replace provisions authorising the making, after consultation with the relevant advisory committee established in pursuance of section 77 of that Act, of regulations with respect to the service of notices requiring the furnishing of information relating to agriculture by provisions authorising the service of such notices) that is to say—

- (a) for the words from “ after consultation ” to “ of notices requiring them ” there shall be substituted the words “ serve on any owners or occupiers of land used for agriculture, or of land which the Minister has reason to believe may be so used, notices requiring them ”; and
- (b) for the word “ prescribed ” where it first occurs there shall be substituted the words “ specified in the notice ” and for the words “ prescribed information ” in both places where they occur there shall be substituted the words “ information referred to in the notice ”; and
- (c) the words from “ and regulations ” to “ be prescribed ” shall be omitted;

and accordingly section 77 of that Act shall cease to have effect and the committees mentioned in that section are hereby abolished.

Use of
poison
against grey
squirrels and
coypus.

19.—(1) The relevant Minister may, by an order made for the purposes of this section and applying either to the whole of Great Britain or to any specified part or area thereof, specify a poison for use for the purpose of destroying grey squirrels or coypus and the manner of its use for that purpose; and it shall be a defence in proceedings for an offence against any of the enactments mentioned in subsection (2) of this section to show that—

- (a) the act alleged to constitute the offence was done for the purpose of destroying grey squirrels or coypus and was done at a time when, and in a place where, such an order had effect; and
- (b) the poison used and the manner of its use were such as to comply with the provisions of the order.

1911 c. 27.
1912 c. 14.

(2) The said enactments are section 8(b) of the Protection of Animals Act 1911, section 7(b) of the Protection of Animals (Scotland) Act 1912 (which restrict the placing on land of poison and poisoned substances) and so much of section 5(1)(a) of the Protection of Birds Act 1954 as relates to poisoned or poisonous substances.

1954 c. 30.

(3) The relevant Minister shall not make an order for the purposes of this section except after such consultation as he considers appropriate with such organisations as appear to him to represent the interests concerned and unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(4) Any order made for the purposes of this section may make different provision in relation to grey squirrels and in relation to coypus; and the power to make orders for the purposes of this section shall be exercisable by statutory instrument and shall include power to vary or revoke a previous order.

(5) In this section “the relevant Minister” means—

- (a) in the case of an order which does not apply outside England, the Minister;
- (b) in the case of an order which does not apply outside Scotland, the Secretary of State for Scotland;
- (c) in the case of an order which applies both in England and in Scotland but not in Wales, the Minister and the Secretary of State for Scotland acting jointly;
- (d) in the case of an order which applies in Wales or both in England and Wales but not (in either case) in Scotland, the Minister and the Secretary of State for Wales acting jointly; and

(e) in the case of an order which applies in England, Scotland and Wales, the Minister and those Secretaries of State acting jointly.

For the purposes of this subsection Monmouthshire shall be treated as part of Wales and not of England.

(6) This section is without prejudice to any defence available apart from this section in proceedings for any such offence as is mentioned in subsection (1) of this section; and nothing in this section shall be construed as conferring any exemption from any provision contained in or having effect under any enactment not mentioned in subsection (2) of this section.

20. It is hereby declared that an order made or having effect under the Plant Health Act 1967 may contain provisions for requiring a person to pay to a competent authority or local authority for the purposes of that Act the cost to the authority of doing anything which that person has, in breach of a requirement imposed on him by or under the order, failed to do. Recovery of expenses incurred by authority exercising default powers under orders made by virtue of Plant Health Act 1967. 1967 c. 8.

21.—(1) Sections 71 and 72 of the Agriculture Act 1947 (which respectively provide for the establishment of County Agricultural Executive Committees, sub-committees of the Committees and district committees and authorise the delegation to Executive Committees of the Minister's functions relating to agriculture) shall cease to have effect; and accordingly the Executive Committees and other committees mentioned in section 71 of that Act are hereby abolished. Abolition of agricultural executive committees etc. 1947 c. 48.

(2) Sections 68 and 69 of the Agriculture (Scotland) Act 1948 (which respectively provide for the establishment of Agricultural Executive Committees and sub-committees and authorise the delegation to Executive Committees of the functions of the Secretary of State relating to agriculture) shall cease to have effect; and accordingly the Executive Committees and sub-committees mentioned in section 68 of that Act are hereby abolished. 1948 c. 45.

(3) Subsection (2) of section 11 of the Agriculture (Miscellaneous Provisions) Act 1941 (which requires the Minister and the Secretary of State acting jointly to appoint and consult an advisory committee in connection with the prevention of the spread of pests and disease among bees) shall cease to have effect; and accordingly the committee mentioned in that subsection is hereby abolished. 1941 c. 50.

Abolition of agricultural wages committees in Scotland. 1949 c. 30.

22. The agricultural wages committees constituted under section 2 of the Agricultural Wages (Scotland) Act 1949 are hereby abolished, and the provisions of Schedule 5 to this Act shall have effect for that purpose and for the purpose of transferring to the Secretary of State certain of the functions of the said committees.

Powers of Secretary of State in relation to certain parks, gardens etc. in Scotland.

23.—(1) Subject to the provisions of subsection (3) of this section, the Parks Regulation Acts 1872 and 1926 shall apply to all parks, gardens, recreation grounds, open spaces and other land for the time being vested in, or under the control or management of, the Secretary of State for Scotland in the same manner as to land vested in him to which they applied before the commencement of this Act.

(2) As respects land to which the said Parks Regulation Acts are extended by subsection (1) of this section, the Secretary of State shall have the following powers—

- (a) the power to carry out or commission the carrying out of scientific inquiries, experiments and research on and in connection with the land, either on his own account or jointly with other persons ;
- (b) the power to manage, maintain and improve the land and to erect and maintain buildings and other structures on the land for the purpose of providing office or other accommodation in connection with the exercise of any of his powers relating to the land ;
- (c) the power to make such charges as he thinks fit for admission to the land and in connection with any of the activities mentioned in paragraph (a) of this subsection.

1967 c. 10.
1967 c. 86.

(3) This section shall not apply to land in respect of which byelaws may be made under section 46 of the Forestry Act 1967 or under section 60 of the Countryside (Scotland) Act 1967.

Recovery of possession of redundant farmhouses. 1968 c. 23.
1971 c. 28.

24. Paragraph (f) of Case 14 in Schedule 3 to the Rent Act 1968 and paragraph (f) of Case 15 in Schedule 3 to the Rent (Scotland) Act 1971 (under which the right conferred by those Cases to recover possession of a dwelling-house is available only if proceedings are commenced within the appropriate time limit specified in those paragraphs) shall cease to have effect except where the relevant date for the purposes of the said Case 14 or, as the case may be, Case 15 was before the passing of this Act.

Expenses and receipts.

25. There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by any Minister under this Act ;

(b) any increase attributable to this Act in the sums payable out of moneys so provided under any other Act ; and any sums received by any Minister by virtue of this Act shall be paid into the Consolidated Fund.

26.—(1) Except where the context otherwise requires, in this Act “ the Minister ” means the Minister of Agriculture, Fisheries and Food. Interpretation and repeals.

(2) Except where the context otherwise requires, any reference in this Act to any enactment is a reference to it as amended, and includes a reference to it as applied, by or under any other enactment, including this Act.

(3) Subject to subsection (4) of this section, the enactments mentioned in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(4) The repeals in section 26 of the Agriculture Act 1967 1967 c. 22. and in sections 32, 33 and 50 of the Agriculture Act 1970 1970 c. 40. shall not have effect in relation to any scheme made under section 26 of the said Act of 1967 before the passing of this Act.

27.—(1) This Act may be cited as the Agriculture Short title, commencement and extent. (Miscellaneous Provisions) Act 1972.

(2) The following provisions of this Act, that is to say—

(a) paragraphs (a), (c), (d) and (e) of subsection (1), and subsections (2) and (3), of section 5, section 6, and Schedule 1 ;

(b) Schedule 6 so far as it relates to the Slaughterhouses Act 1954, to sections 65, 70(1) and 75 to 78 of the Food and Drugs Act 1955, to the Slaughterhouses Act 1958 1954 c. 42. 1955 c. 16 (4 & 5 Eliz. 2). and to section 54(2) of the London Government Act 1963, 1958 c. 70. 1963 c. 33.

shall not come into force until 1st January 1974.

(3) Section 18 of this Act, and Schedule 6 to this Act so far as it relates to sections 77 and 78 of the Agriculture Act 1947, 1947 c. 48. shall not come into force until such day as may be appointed by an order made by statutory instrument by the Minister and the Secretary of State acting jointly.

(4) Sections 5, 13 and 15 of this Act do not extend to Scotland, and sections 6, 7, 22 and 23 of, and Schedules 1, 2 and 5 to, this Act extend to Scotland only.

(5) Except for the following provisions, that is to say—

(a) sections 9, 10, 11, 16, 17(1), 26(1) and (2) and this section and Schedule 4 ; and

1921 c. 35.
1957 c. 20.
1967 c. 22.
1970 c. 40.

(b) section 26(3) and (4) and Schedule 6 so far as they relate to the Corn Sales Act 1921, to the House of Commons Disqualification Act 1957, to section 26 of the Agriculture Act 1967 and to sections 32, 33 and 50 of the Agriculture Act 1970,

this Act does not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 6.

MINOR AND CONSEQUENTIAL AMENDMENTS OF PART II OF SLAUGHTERHOUSES ACT 1954 (PROVISIONS RELATING TO SCOTLAND) 1954 c. 42.

In section 8 (provisions relating to local authority slaughterhouses), subsection (1) shall cease to have effect.

In section 10 (refusal and cancellation of registration), in subsection (3)(b) after the words "are not" (where they first occur) there shall be inserted the words ", and are not likely within a reasonable time to be", the words from "that any" to "specified" (where it last occurs) shall cease to have effect, and for the words "such premises" there shall be substituted the words "the premises specified in the registration"; in subsection (8) for the words "Secretary of State and any such appeal" there shall be substituted the words "sheriff, and any such appeal shall be disposed of in a summary manner, and"; and the following provisions shall also cease to have effect:—

subsections (1) and (2);

in subsection (3), paragraphs (a) and (c);

subsection (5);

in subsection (6) the words "to the Secretary of State".

Section 11 (compensation for closure of private slaughterhouses) shall cease to have effect.

In section 13 (power to enter premises), after subsection (5) there shall be inserted the following subsection:—

"(6) Nothing in this section shall authorise any person, except with the permission of the local authority under the Diseases of Animals Act 1950, to enter any premises which for the time being are, or are comprised in, an infected place within the meaning of that Act." 1950 c. 36.

In section 18 (savings), subsections (2) and (3) shall cease to have effect.

In section 19 (expenses) paragraph (b) shall cease to have effect.

SCHEDULE 2

Section 7

MINOR AND CONSEQUENTIAL AMENDMENTS OF SLAUGHTER OF ANIMALS (SCOTLAND) ACTS 1928 TO 1954

The Slaughter of Animals (Scotland) Act 1928

1928 c. 29.

In section 2 (licensing of slaughtermen), at the beginning there shall be inserted the following subsection:—

"(1A) No animal shall be slaughtered or stunned in a slaughterhouse or knacker's yard by any person except in accordance with a licence granted by a local authority and in force under this section:

Provided that this subsection shall not apply with respect to the slaughter, under the Diseases of Animals Act 1950, of an 1950 c. 36.

SCH. 2

animal by an officer of, or person employed by, the Minister of Agriculture, Fisheries and Food or the Secretary of State."

1954 c. 59.

In section 4, which as amended by the Slaughter of Animals (Amendment) Act 1954, enables constables and other authorised persons to enter slaughterhouses and knackers' yards for the purposes of ascertaining whether there is a contravention of the provisions of the Act or of any regulations under section 2 of the said Act of 1954)—

(a) the reference to the provisions of the Act shall be construed as including a reference to the provisions of any regulations made by virtue of section 1(1) of the Act (as substituted by section 7 of this Act); and

(b) at the end there shall be inserted the following subsection:—

1950 c. 36.

"(2) Nothing in this section shall authorise any person, except with the permission of the local authority under the Diseases of Animals Act 1950, to enter any premises which for the time being are, or are comprised in, an infected place within the meaning of that Act."

Sections 5, 6, 9 and 10 shall cease to have effect.

1953 c. 27.

The Slaughter of Animals (Pigs) Act 1953

In section 1 (which prescribes conditions for the slaughter of certain pigs elsewhere than in slaughterhouses or knackers' yards)—

(a) for the word "unless" and paragraphs (a) and (b) there shall be substituted the words "otherwise than instantaneously by means of a mechanically-operated instrument in proper repair unless by stunning, effected by means of a mechanically-operated instrument or an instrument for stunning by means of electricity, being in either case an instrument in proper repair, it is instantaneously rendered insensible to pain until death supervenes: ";

(b) for the word "pig", in both places where it occurs, there shall be substituted the word "swine".

In section 3 (interpretation), in subsection (1), the definition of "pig" shall be omitted, and subsection (2) shall cease to have effect.

The Slaughter of Animals (Amendment) Act 1954

In section 2 (regulations for securing humane conditions in slaughterhouses, etc.), in subsection (1), after the words "knackers' yards" where first occurring there shall be inserted the words "and for securing the proper management of such premises for those purposes"; and subsection (3), in subsection (5) the words from "and" onwards, and subsection (6) shall cease to have effect.

Schedule 1 shall cease to have effect.

SCHEDULE 3

Section 8

LICENSING OF BULLS

Determination of applications for licences on basis of certificates of suitability

1.—(1) Regulations under section 11 of the Improvement of Live 1931 c. 43. Stock (Licensing of Bulls) Act 1931 may require an application for a licence under that Act in respect of a bull to be accompanied by a certificate in the prescribed form containing—

- (a) the prescribed particulars as to the suitability of the bull for a licence under that Act ; and
- (b) such other particulars as may be prescribed,

being a certificate issued by a veterinary surgeon who is a member of a panel appointed for the purposes of this Schedule by the Royal College of Veterinary Surgeons and the British Veterinary Association acting jointly ; and the Minister may, if he thinks fit, decide whether or not to refuse to grant the licence on any of the grounds mentioned in section 2(2) of that Act on a consideration of the certificate and without himself causing the bull to be inspected.

(2) A veterinary surgeon who inspects a bull with a view to the issue of a certificate for the purposes of an application for a licence under the said Act of 1931 shall mark the bull with a prescribed mark in the prescribed manner.

(3) The Minister may refuse to grant a licence under the said Act of 1931 in respect of a bull—

- (a) if he is not satisfied that the bull has been marked in accordance with sub-paragraph (2) above on the occasion of its inspection by the veterinary surgeon who issued the certificate accompanying the application ; or
- (b) if it appears to him that, before that inspection, the bull had already been inspected for the purposes of an application under that Act by a different veterinary surgeon or been marked in accordance with that sub-paragraph.

(4) In this paragraph 'the Minister' and 'prescribed' have the same meaning as in the said Act of 1931 but no regulations shall be made prescribing a mark or manner of marking for the purposes of sub-paragraph (2) above except on the joint recommendation of the Royal College of Veterinary Surgeons and the British Veterinary Association.

Appeal referees

2. In section 5(2) of the said Act of 1931 (which provides for a panel of referees appointed on the recommendation of agricultural associations and cattle-breeding societies) for the words 'and cattle-breeding societies' there shall be substituted the words 'cattle-breeding societies and associations of veterinary surgeons'.

Power to suspend operation of Act

3.—(1) The relevant Minister may by order suspend the operation of the said Act of 1931 from such date as may be specified in the order until such later date as may be specified in that order or in a further order under this paragraph ; and

- (a) if the Act is so suspended—
- (i) any licence, permit, notice or regulations in force, or application pending, under that Act on the date of suspension shall lapse ;
 - (ii) the suspension shall not affect the taking or continuance of proceedings in respect of any offence committed, or liability for costs under section 6 of that Act incurred, before that date ;
- (b) if the suspension comes to an end the Act shall operate as if references in it to 'the appointed day' were references to such day after the ending of the suspension as the relevant Minister may by order appoint and as if the definition of that expression in section 13 of that Act were omitted.

(2) Any order under this paragraph shall be made by statutory instrument ; and any such order made otherwise than under subparagraph (1)(b) may be varied or revoked by a subsequent order and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) In this paragraph 'the relevant Minister' means—

- (a) in the case of an order applying only to England and Wales, the Minister ;
- (b) in the case of an order applying only to Scotland, the Secretary of State ;
- (c) in the case of an order applying to England, Wales and Scotland, the Minister and the Secretary of State acting jointly.

Section 9.

SCHEDULE 4

1967 c. 22.

SECTIONS 26(1) TO (6) AND 28(1) OF AGRICULTURE ACT 1967 AS AMENDED

1970 c. 40.

26.—(1) The appropriate Minister may in accordance with a scheme and subject to section 50 of the Agriculture Act 1970 make, out of money provided by Parliament, grants of amounts determined in such manner as may be provided by or under the scheme in connection with the carrying out of any of the following transactions approved by him in pursuance of the scheme, that is to say—

- (a) transactions for securing that agricultural land which is or forms part of an uncommercial unit, but which together with some other agricultural land could form an intermediate unit or commercial unit, shall be owned and occupied with that other land, and
- (b) transactions for securing that, where an intermediate unit or a commercial unit is not all in the same ownership, any part of it comes to be in the same ownership as the rest of that unit, or in the same ownership as some other part of that unit, but excluding transactions which bring into the same ownership and occupation two or more parts of the unit each of which could by itself form a commercial unit, and

- (bb) transactions for securing that, where the person occupying **SCH. 4** an intermediate unit or a commercial unit occupies any part or parts of it otherwise than as owner or as a tenant as defined in the **Agricultural Holdings Act 1948** (or, in **1948 c. 63.** Scotland, the **Agricultural Holdings (Scotland) Act 1949**), **1949 c. 75.** he comes to occupy that part or all those parts as owner or as such a tenant, and
- (c) transfers or exchanges of agricultural land (or estates or interests in agricultural land) for the purpose of giving more satisfactory boundaries to one or more agricultural units ;

and for the purposes of paragraph (a) above, such assumptions as the appropriate Minister may consider reasonable may be made as to the works and facilities which will be carried out or provided for the benefit of the unit to be formed.

Transactions within paragraphs (a), (b) and (bb) above are in this Part of this Act referred to as "amalgamations", and transactions within paragraph (c) are in this Part of this Act referred to as "boundary adjustments".

(2) A scheme under this section may restrict the amalgamations and boundary adjustments to which it applies in any way, and may in particular exclude amalgamations of land which has reverted from being in single ownership or occupation or, as respects transactions within subsection (1)(bb) of this section, cases where after the transaction has been effected the unit is not in single ownership.

(4) A scheme under this section may make different provision for different circumstances.

(6) Any approval in pursuance of a scheme under this section of an amalgamation or boundary adjustment—

- (a) may be given either before or, in any case where the appropriate Minister thinks fit, after the amalgamation or boundary adjustment has been carried out ;
- (b) may be given subject to such conditions as the appropriate Minister may specify, and in particular subject to any condition as to the time within which the amalgamation or boundary adjustment is to be carried out or as to the carrying out or provision within a specified period of specified works or facilities appearing to the appropriate Minister to be necessary as a consequence of the amalgamation or boundary adjustment ;
- (c) may be varied or withdrawn by the appropriate Minister with the written consent of the person on whose application the approval was given ;

and the appropriate Minister may, if he thinks fit, for the purposes of a claim for grant under section 29 of the **Agriculture Act 1970** **1970 c. 40.** issue a certificate with respect to any work or facility that he considers it to be necessary or desirable as a consequence of an amalgamation, or to be necessary as a consequence of a boundary adjustment, approved by that Minister in pursuance of the scheme.

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28.—(1) The appropriate Minister may with the approval of the Treasury make or guarantee loans to meet expenditure incurred in connection with an amalgamation or boundary adjustment approved by the appropriate Minister in pursuance of a scheme under section 26 of this Act, being—

- (a) the costs of the amalgamation or boundary adjustment consisting of surveyor's fees and legal costs, stamp duty on any conveyance, lease, tenancy agreement or mortgage or heritable security and any compensation for disturbance under section 34 of the Agricultural Holdings Act 1948 or section 35 of the Agricultural Holdings (Scotland) Act 1949, or
- (aa) expenditure incurred in the carrying out or provision of works or facilities which the appropriate Minister considers to be necessary or desirable as a consequence of the amalgamation, or to be necessary as a consequence of the boundary adjustment, or
- (b) any part of the purchase price of any land acquired as part of the amalgamation or as the case may be any part of the purchase price of land acquired, or of money given by way of equality of exchange, as part of the boundary adjustment,

or expenditure under all or any two of paragraphs (a), (aa) and (b) above.

1948 c. 63.

1949 c. 75.

Section 22.**SCHEDULE 5****AMENDMENTS RELATING TO ABOLITION OF AGRICULTURAL WAGES COMMITTEES IN SCOTLAND**

1949 c. 30.

The Agricultural Wages (Scotland) Act 1949

In section 1, in subsection (1), the words from "in relation" to "section" shall cease to have effect.

In section 1, subsection (2) shall cease to have effect.

Section 2 shall cease to have effect.

In section 3, in subsection (1), the words from "for each" to "Act" shall cease to have effect.

In section 5, in subsection (1), for the words "an agricultural wages committee are" there shall be substituted the words "the Secretary of State is"; the words "in their district" shall cease to have effect; for the words "committee shall grant" there shall be substituted the words "Secretary of State shall grant"; and for the words "committee think" there shall be substituted the words "Secretary of State thinks".

In section 5, in subsection (3), for the words "an agricultural wages committee have granted a permit" there shall be substituted the words "a permit has been granted (whether before or after the commencement of the Agriculture (Miscellaneous Provisions) Act 1972)"; and for the words "the committee" in both places where those words occur, there shall be substituted the words "the Secretary of State".

In section 5, in subsection (4), the words from “an agricultural” to “aforesaid and” shall cease to have effect; for the words “the committee”, in both places where those words occur, there shall be substituted the words “the Secretary of State”; and for the words “the worker to whom the permit relates” there shall be substituted the words “a worker to whom a permit has been granted (whether before or after the commencement of the said Act of 1972) under subsection (1) of this section”.

In section 5, after subsection (4) there shall be inserted the following subsections:—

“(4A) Notice of application for a permit under subsection (1) of this section, if made by an employer, shall be given by the Secretary of State to the worker to whom the application relates to enable him to make such representations as he thinks desirable.”

In section 5, in subsection (5), for the words “an agricultural wages committee” and “the agricultural wages committee” there shall be substituted in both cases the words “the Secretary of State”; for the words “the committee” wherever those words occur, there shall be substituted the words “the Secretary of State”; for the word “their” there shall be substituted the word “his”; and after the words “under this” there shall be inserted the words “or the last preceding”.

In section 5, in subsection (6), after the words “a worker” there shall be inserted the words “(whether before or after the commencement of the said Act of 1972)”.

In section 6, subsections (1) to (4) shall cease to have effect.

In section 6, in subsection (5) the words from “in a district” to “this Act” shall cease to have effect, and for the words “agricultural wages committee” there shall be substituted the words “Secretary of State”.

In section 6, subsection (8) shall cease to have effect

In section 7, in subsection (1), the words from “for each district” to “established under this Act” shall cease to have effect.

In section 7, in subsection (3), for the words “an agricultural wages committee are” there shall be substituted the words “the Secretary of State is”; the words “in their district” shall cease to have effect; for the words “the committee” there shall be substituted the words “the Secretary of State”; and the words from “subject” to “Act” where it first occurs shall cease to have effect.

Section 8 shall cease to have effect.

In section 9, in subsection (1), for the words from “and complaints” to “thereof” there shall be substituted the words “to the Secretary of State under section 5 or section 7 of this Act”.

In section 9, subsection (2) shall cease to have effect.

In section 12, in subsection (4)(a), the words from “or” to “work” shall cease to have effect.

In section 13, the words “and of agricultural wages committees” and “and each committee” shall cease to have effect.

In section 14, the words from “or” to “thereof” shall cease to have effect.

SCH. 5 In section 15, the words "or an agricultural wages committee" and "or committee, as the case may be," shall cease to have effect.

The second Schedule shall cease to have effect.

In the third Schedule, in paragraph 1, sub-paragraph (b) shall cease to have effect.

In the third Schedule, in paragraph 4, the words from "and serve" to the end of the paragraph shall cease to have effect.

In the third Schedule, in paragraph 5, for the words from "in the district" to "such a special area" there shall be substituted the words "or to any class of workers (as defined in the order) or to any area or to any such class in any area".

1968 c. 34.

The Agriculture (Miscellaneous Provisions) Act 1968

In section 46, subsection (3) shall cease to have effect.

Section 26(3)
and (4).

SCHEDULE 6

REPEALS

Chapter	Short title	Extent of repeal
11 & 12 Geo. 5. c. 35.	The Corn Sales Act 1921.	Section 1.
18 & 19 Geo. 5. c. 29.	The Slaughter of Animals (Scotland) Act 1928.	Sections 5, 6, 9 and 10.
4 & 5 Geo. 6. c. 50.	The Agriculture (Miscellaneous Provisions) Act 1941.	Section 11(2) and (7).
6 & 7 Geo. 6. c. 16.	The Agriculture (Miscellaneous Provisions) Act 1943.	In section 17, subsection (4) and, in subsection (6), the words "or subsection (4)".
7 & 8 Geo. 6. c. 28.	The Agriculture (Miscellaneous Provisions) Act 1944.	In section 6, subsections (1) to (3) and in subsection (4) the words "by virtue of the last foregoing subsection, or" and the words "or boar" in both places where they occur.
9 & 10 Geo. 6. c. 26.	The Emergency Laws (Transitional Provisions) Act 1946.	In Schedule 2, in the paragraph dealing with the amendments of the Improvement of Live Stock (Licensing of Bulls) Act 1931, the words "in its application to England and Wales".
9 & 10 Geo. 6. c. 73.	The Hill Farming Act 1946.	In section 3(6), all the words after "appropriate Minister" and before "for the doing", and the words "or committee". Section 33. In section 34, in subsection (1) all the words after "given by him" and before "shall, on producing", and in subsection (2) all the words after "authorised as aforesaid" and before "in the exercise".

Chapter	Short title	Extent of repeal
10 & 11 Geo. 6. c. 48.	The Agriculture Act 1947.	<p>Sections 71 and 72.</p> <p>In section 75 the words "partly in the area of one County Agricultural Executive Committee and partly in the area of another, or" and the words "committee or".</p> <p>Section 77.</p> <p>In section 78(1), the words from "and regulations" to "be prescribed".</p> <p>Section 104(5).</p> <p>In Schedule 9, paragraphs 7 to 12 and 21 and in paragraph 22(2) the words from "County" to "district committees and" and the words "committees and" in the second place where they occur.</p>
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act 1947.	<p>Schedule 10.</p> <p>In section 8(2)(a), the words from "and" onwards.</p>
11 & 12 Geo. 6 c. 45.	Agriculture (Scotland) Act 1948.	<p>Sections 68 and 69.</p> <p>Section 80(5).</p>
12 & 13 Geo. 6. c. 30.	The Agricultural Wages (Scotland) Act 1949.	<p>In Schedule 8, Part I with the exception of paragraph 11.</p> <p>In section 1, in subsection (1), the words from "in relation" to "section", and subsection (2).</p> <p>Section 2.</p> <p>In section 3, in subsection (1), the words from "for each" to "Act".</p> <p>In section 5, in subsection (1), the words "in their district", and in subsection (4), the words from "agricultural" to "aforesaid and".</p> <p>In section 6, subsections (1) to (4), in subsection (5), the words from "in a district" to "this Act", and subsection (8).</p> <p>In section 7, in subsection (1), the words from "for each district" to "established under this Act", and in subsection (3), the words "in their district", and the words from "subject" to "Act" where it first occurs.</p> <p>Section 8.</p> <p>Section 9(2).</p> <p>In section 12(4)(a), the words from "or" to "work".</p>

SCH. 6

Chapter	Short title	Extent of repeal
12 & 13 Geo. 6. c. 30— <i>cont.</i>	The Agricultural Wages (Scotland) Act 1949— <i>cont.</i>	In section 13, the words “ and of agricultural wages com- mittees ” and “ and each committee ”. In section 14, the words from “ or ” to “ thereof ”. In section 15, the words “ or an agricultural wages committee ” and “ or committee, as the case may be, ”. Schedule 2. In Schedule 3, paragraph 1(<i>b</i>), and in paragraph 4, the words from “ and serve ” onwards.
12 & 13 Geo. 6. c. 52.	The Slaughter of Animals (Scotland) Act 1949.	The whole Act.
12 & 13 Geo. 6. c. 55.	The Prevention of Damage by Pests Act 1949.	In section 4, subsections (3) and (5)(<i>a</i>).
14 & 15 Geo. 6. c. 18.	The Livestock Rearing Act 1951.	Sections 9 and 10.
1 & 2 Eliz. 2. c. 27.	The Slaughter of Animals (Pigs) Act 1953.	In section 3, in subsection (1), the definition of “ pig ”, and subsection (2).
2 & 3 Eliz. 2. c. 30.	The Protection of Birds Act 1954.	In section 10(4) the words from “ and those powers ” on- wards.
2 & 3 Eliz. 2. c. 42.	The Slaughterhouses Act 1954.	Section 8(1). In section 10, subsections (1) and (2); in subsection (3), paragraphs (<i>a</i>) and (<i>c</i>) and in paragraph (<i>b</i>) the words from “ that any ” to “ specified ” where last occurring and the word “ or ” at the end of the paragraph; subsection (5); and in subsection (6), the words “ to the Secretary of State ”. Section 11. In section 18, subsections (2) and (3). Section 19(<i>b</i>).
2 & 3 Eliz. 2. c. 59.	The Slaughter of Animals (Amendment) Act 1954.	In section 2, subsection (3); in subsection (5), the words from “ and ” onwards; and subsection (6). Schedule 1.
4 Eliz. 2. c. 16.	The Food and Drugs Act 1955.	Section 65 so far as it relates to slaughterhouses. Section 70(1). In section 73, in subsection (2) the words from “ and a copy ” onwards, and subsection (3). Sections 75 to 78.

Chapter	Short title	Extent of repeal
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	In Part IV of Schedule 1, the entries relating to the Agriculture Act 1947 and the Agriculture (Scotland) Act 1948.
6 & 7 Eliz. 2. c. 47.	The Agricultural Marketing Act 1958.	In section 22(6) the words from "and there may" to "sum so written off." Section 23. In sections 24(1) and 25 the words "on the recommendation of the appropriate Agricultural Marketing Facilities Committee" and in section 24(1), the proviso. In section 53(5) the words from "and Agricultural" to "for Scotland". In Schedule 3, paragraph 4 of Part II, paragraph 5 of Part V and paragraph 5 of Part VI.
6 & 7 Eliz. 2. c. 70.	The Slaughterhouses Act 1958.	In section 1, subsections (1), (3) and (4). Sections 2 to 4. In section 6, subsection (1), in subsection (2) the words "the foregoing subsection or under" and in subsection (3) paragraphs (a) to (f). In section 11 the words "this Act and" where they first occur and the words "to this Act and". Section 12(2). In section 13(2) the words "or in the First Schedule to". Schedule 1.
1963 c. 11.	The Agriculture (Miscellaneous Provisions) Act 1963.	In section 16(4), the words from "and, by virtue" to "boars". Section 17.
1963 c. 33.	The London Government Act 1963.	Section 54(2). Section 55(3).
1967 c. 22.	The Agriculture Act 1967.	In section 26, subsections (3) and (5), and in subsection (6)(a) the words "the expenditure has been incurred or". Section 63(1).
1968 c. 23.	The Rent Act 1968.	In Schedule 3, paragraph (f) of Case 14 except where the relevant date for the purposes of that Case was before the passing of this Act.
1968 c. 34.	The Agriculture (Miscellaneous Provisions) Act 1968.	Section 46(3).

SCH. 6

Chapter	Short title	Extent of repeal
1970 c. 40.	The Agriculture Act 1970.	Section 32(4)(b). Section 33(4). In section 50 the words "in respect of expenditure incurred" in both places where they occur. In Schedule 4 the entry relating to the London Government Act 1963.
1971 c. 28.	The Rent (Scotland) Act 1971.	In Schedule 3, paragraph (f) of Case 15 except where the relevant date for the purposes of that Case was before the passing of this Act.
1971 c. lxxvii.	The Manchester Corporation (General Powers) Act 1971.	In section 65, in subsection (3) the words "public abattoir", in subsection (4) the words "the abattoir or of", and subsection (6).



Industry Act 1972

1972 CHAPTER 63

An Act to authorise grants towards expenditure on the provision of assets for industry in certain regions in Great Britain, to authorise the provision of financial assistance for industry in those regions or elsewhere, and provisions about credits and grants for the building of ships and of offshore installations, to amend the Local Employment Act 1972 and to make temporary provision as to one of the areas to be treated as a development area under that Act; and for connected purposes. [9th August 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

REGIONAL DEVELOPMENT GRANTS

1.—(1) The Secretary of State may make a grant to a person towards approved capital expenditure incurred by that person, being expenditure of any description in column 1 of the Table below. Grants for buildings, machinery, plant and certain works.

(2) The amount of a grant under this section shall be the prescribed percentage of the expenditure in respect of which it is made.

PART I

(3) Subject to any order under section 3 of this Act, the prescribed percentage shall be that specified in column 2 of the Table below.

TABLE

Expenditure incurred in	Prescribed percentage
1. Providing a building as part of, or providing works on, qualifying premises in— (a) a development area (b) an intermediate area ... (c) in the case of a building or any works provided before 22nd March 1974, a derelict land clearance area.	If the qualifying premises are in a special development area: 22 per cent. If not: 20 per cent. 20 per cent. 20 per cent.
2. (1) Providing new machinery or plant for use in qualifying premises in a development area. (2) Providing mining works for use in a development area.	If the qualifying premises or mining works are in a special development area: 22 per cent. If not: 20 per cent.
3. Providing new machinery or plant for use in a development area in activities which are within Order XX of the Standard Industrial Classification (construction industry).	20 per cent.

(4) For the purposes of this section the Secretary of State may by order designate a development area or any part of it as a special development area, and, in exercising his powers under this subsection, the Secretary of State shall have regard to all the circumstances actual and expected, including the state of employment and unemployment, population changes, migration and the objectives of regional policies.

(5) An order under this section may describe a special development area by reference to employment exchange areas, that is to say areas for which an employment exchange has been established for the purposes of the Employment and Training Act 1948; and any reference in such an order to a named employment exchange area shall be construed as a reference to that area as it exists on the date on which the order comes into force.

(6) Subject to the provisions of paragraph 1 of Schedule 2 to this Act, grants may be made under this Part of this Act in respect of expenditure defrayed on or after 22nd March 1972,

and the power conferred by subsection (4) above shall include power to specify special development areas for the purpose of grant payable in accordance with this Part of this Act in respect of assets provided before the passing of this Act (and before the making of the order).

2.—(1) In this Part of this Act “qualifying premises” means Qualifying premises which are for the time being used wholly or mainly premises. for qualifying activities.

(2) For the purposes of this section “qualifying activities” means—

- (a) activities which are described in any of the minimum list headings in Orders II to XX (inclusive) in the Standard Industrial Classification (manufacturing, mining and construction), and
- (b) the processing of scrap and waste materials, and
- (c) scientific research relating to any other qualifying activity, and
- (d) the repair or maintenance of any machinery or plant designed for use in any manufacturing or mining process, or in the processing of scrap and waste materials, or in any activity described in heading 500 of the Standard Industrial Classification (construction of buildings, roads and bridges), and
- (e) repairs of the kinds described in heading 370 (ship-building and marine engineering), 383 (aerospace equipment manufacturing and repairing), 384 and 385 (locomotives, rolling stock and railway equipment) and 500 (buildings, roads and bridges) in the Standard Industrial Classification, whether or not also within paragraph (d) above, together with the maintenance of anything the repair of which is included in this paragraph, and
- (f) the training of staff for work in any other qualifying activity.

(3) The Standard Industrial Classification shall be used for the purposes of this section, and of any other provision of this Act, without taking account of the way in which that Classification is applied, whether or not in pursuance of any other Act of Parliament, for any other purpose, and without regard to any ancillary or associated activities, such as—

- (a) office work, including accountancy, audit, advertising and market research,
- (b) haulage,
- (c) sales and distribution.

PART I

(d) storage,

(e) production and distribution of energy and heating,

which, though not mentioned in a particular minimum list heading, may be classified for statistical purposes along with the activities which are so mentioned; and the reference in heading 499(2) of the Standard Industrial Classification to "all other manufacturing industries not elsewhere specified" shall be taken as a reference to all manufacturing activities not elsewhere specified without the remaining activities in the industry in question.

(4) Subject to paragraphs (d) and (e) of subsection (2) above, the repair or maintenance of any articles shall not be a qualifying activity, and in the case of the activities described in the said Classification, other than those mentioned in the said paragraph (e), this subsection applies whether or not repair or maintenance is mentioned in the Classification.

(5) The Secretary of State may give directions, which may be general directions or directions concerning a particular case, as respects the determination of—

- (a) any question as to the classification of an asset as between the following categories, that is, machinery or plant, buildings, works other than mining works, and mining works,
- (b) any question whether two or more different buildings or areas are, or are not, to be regarded as forming part of the same premises,
- (c) any question whether different parts of a building are, or are not, to be regarded as forming part of the same premises, and any question as to the apportionment of the expenditure incurred in providing a building between the parts of the building which are, and are not, qualifying premises, or
- (d) any question whether premises are being used, or used wholly or mainly, for any qualifying activities, or other specified activities.

(6) If, on a request by an applicant for grant, the applicant satisfies the Secretary of State that any land or building is near to and held together with premises which are being used for qualifying activities, he may direct that the land or building shall be treated as forming part of those premises.

(7) Where premises are partly in, and partly outside, an assisted area, they shall be regarded for the purposes of this Part of this Act as in an assisted area—

- (a) if the larger part of the premises is in an assisted area, or if the qualifying activities there carried on are mainly carried on in an assisted area, or

(b) if the Secretary of State so directs in any case or class of case, PART I

and corresponding provisions shall be applied as respects premises which are partly in one category of assisted area, and partly in another, and as respects mining works for use partly in a development area and partly elsewhere.

(8) For the purposes of this Part of this Act an asset is provided as part of, or on, or for use in, qualifying premises if in the opinion of the Secretary of State the premises are or will be qualifying premises when the asset is provided.

3.—(1) The Secretary of State may, with the consent of the Treasury, by order vary all or any of the percentages specified in the Table in section 1 of this Act. Variation of rates of grant and qualifying activities.

(2) The Secretary of State may, with the consent of the Treasury, by order—

(a) add to, exclude or vary all or any of the descriptions of qualifying activities in the last preceding section, or vary the description of activities in head 3 of the Table in section 1 of this Act, or

(b) amend the definition of the Standard Industrial Classification in this Part of this Act by the substitution for the reference to the edition of that publication there specified of a reference to any later edition thereof, or by providing for any such reference to include a reference to any specified list of amendments to the edition in question published by Her Majesty's Stationery Office.

4.—(1) In making a grant under this Part of this Act the Secretary of State may impose such conditions as he thinks fit. Conditions.

(2) The Secretary of State may in particular impose a condition for repayment of all or any part of a grant in any circumstances, and in particular—

(a) if the asset in respect of which the grant is paid is not used, or ceases to be used, in the way specified in the condition, or

(b) if the premises cease to be qualifying premises.

(3) Schedule 1 to this Act shall have effect for supplementing the provisions of this section about the imposition of conditions.

5.—(1) An application for grant under this Part of this Act shall be made within such time, and in such form or manner, and shall contain such particulars and be accompanied by such documents, as the Secretary of State may direct. Supplemental.

PART I

(2) A grant under this Part of this Act may be made at any time after the time when, in the opinion of the Secretary of State, the asset is provided, or the expenditure is defrayed, whichever is the earlier.

(3) Any power conferred by this Part of this Act to make orders includes power to vary or revoke any order previously made in the exercise of that power.

(4) An order under this Part of this Act may contain such incidental and supplemental provisions as appear to the Secretary of State to be appropriate, including, in the case of an order under section 3(2)(a) of this Act, amendments of subsections (2), (3) and (4) of section 2 of this Act.

(5) Any power conferred by this Part of this Act to make orders shall be exercisable by statutory instrument and, except where subsection (6) below applies to the order, the statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) The Secretary of State shall not make an order under this Part of this Act which varies all or any of the percentages specified in the Table in section 1 of this Act (whether or not it also provides for other matters) unless a draft of the order has been approved by a resolution of each House of Parliament.

Interpretation
of Part I.

6.—(1) For the purposes of this Part of this Act “building” includes part of a building, and a building may be provided by the adaptation of an existing one, or by the purchase of a new one, that is to say one not previously occupied, or, if previously occupied, then only by the purchaser, and only as part of arrangements made in contemplation of purchase.

(2) In this Part of this Act, unless the context otherwise requires—

“approved capital expenditure”, in relation to any grant, means expenditure appearing to the Secretary of State to be of a capital nature, and approved by him for the purposes of the grant,

“asset” includes any mining works, and any works other than mining works,

“assisted area” means a development area, an intermediate area or a derelict land clearance area,

“capital expenditure”, or expenditure of a “capital nature”, includes the capital element in expenditure consisting of instalments under a hire-purchase agreement or otherwise consisting of instalments of, or payments towards, the purchase price of, or cost of providing, the asset in question,

“derelict land clearance area” means an area for the time being specified as such by an order made or having effect under section 8(6) of the Local Employment Act 1972. PART I
1972 c. 5.

“expenditure”—

(a) in relation to an asset which is provided by being installed in a building or on a site, includes expenditure on or incidental to the installation of the asset.

(b) in relation to an asset provided by being manufactured or constructed by any person, includes such sum as appears to the Secretary of State to be properly attributable to its provision by that person in that manner, and the sum so attributed shall be treated as having been paid at such time as the Secretary of State may direct.

“hire-purchase agreement” has the same meaning as in the Hire-Purchase Act 1965 or, as the case may be, the Hire-Purchase (Scotland) Act 1965. 1965 c. 66.
1965 c. 67.

“machinery or plant” includes part of any machinery or plant, but does not include anything forming part of mining works, or a pipe-line, or any vehicle except—

(a) a vehicle constructed or adapted for the conveyance of a machine incorporated in or permanently attached to it, or

(b) a vehicle constructed or adapted for the conveyance or haulage of loads.

but a vehicle shall not be eligible for grant under this Part of this Act unless its use for the conveyance or haulage of loads is exclusively in or about private premises, including the site of building or civil engineering operations,

“mining works” means works, or part of any works, constructed for the carrying on of any process for or incidental to the searching for, or extracting or getting of, coal, oil, natural gas or other minerals, brine (but not water) or peat, but excluding any road, track, pipe or other works for conveying minerals, or brine or peat, from the site at which they have been extracted or got.

“new” in relation to machinery or plant, means unused,

“pipe-line” has the meaning given by section 65 of the Pipe-lines Act 1962, but excludes anything which, for the purpose of any provision of that Act, is excluded by section 60 or section 61 of that Act. 1962 c. 58.

PART I

- “qualifying premises” has the meaning given by section 2 of this Act,
- “scientific research” means any activity in the fields of natural or applied science for the extension of knowledge,
- “special development area” means any such part of a development area as is to be treated as a special development area by virtue of section 1(4) of this Act,
- “Standard Industrial Classification” means, subject to section 3 of this Act, the revised edition published by Her Majesty’s Stationery Office in 1968 of the publication of that name prepared by the Central Statistical Office,
- “works”, except in the expression ‘mining works’, includes part of any works, but does not include anything forming part of mining works or a pipe-line, or any machinery or plant, or anything forming part of, or of foundations for, machinery or plant.

(3) Where in the case of any minimum list heading in Orders III to XIX of the Standard Industrial Classification the title of the heading is not accompanied by a description of the industries or services included therein, the heading shall be construed as referring only to the manufacture of the goods specified in that title.

PART II

FINANCIAL ASSISTANCE FOR INDUSTRY

Selective financial assistance for industry in assisted areas.

7.—(1) For the purposes set out in the following provisions of this section the Secretary of State may, with the consent of the Treasury, provide financial assistance where, in his opinion—

- (a) the financial assistance is likely to provide, maintain or safeguard employment in any part of the assisted areas, and
- (b) the undertakings for which the assistance is provided are or will be wholly or mainly in the assisted areas.

(2) The purposes mentioned in subsection (1) of this section are—

- (a) to promote the development or modernisation of an industry,
- (b) to promote the efficiency of an industry,
- (c) to create, expand or sustain productive capacity in an industry, or in undertakings in an industry,

PART II

- (d) to promote the reconstruction, reorganisation or conversion of an industry or of undertakings in an industry,
- (e) to encourage the growth of, or the proper distribution of undertakings in, an industry,
- (f) to encourage arrangements for ensuring that any contraction of an industry proceeds in an orderly way.

(3) Subject to the following provisions of this section, financial assistance under this section may be given on any terms or conditions, and by any description of investment or lending or guarantee, or by making grants, and may, in particular, be—

- (a) investment by acquisition of loan or share capital in any company, including an acquisition effected by the Secretary of State through another company, being a company formed for the purpose of giving financial assistance under this Part of this Act,
- (b) investment by the acquisition of any undertaking or of any assets,
- (c) a loan, whether secured or unsecured, and whether or not carrying interest, or interest at a commercial rate,
- (d) any form of insurance or guarantee to meet any contingency, and in particular to meet default on payment of a loan, or of interest on a loan, or non-fulfilment of a contract.

(4) Financial assistance shall not be given under this section in the way described in subsection (3)(a) above unless the Secretary of State is satisfied that it cannot, or cannot appropriately, be so given in any other way, and the Secretary of State, in giving financial assistance in the way so described, shall not acquire any shares or stock in a company without the consent of that company.

(5) Where financial assistance is given under this section by acquiring shares or stock in a company, the Secretary of State shall dispose of the shares or stock as soon as, in his opinion, it is reasonably practicable to do so; and before making the disposal the Secretary of State shall consult the company.

(6) In this section “industry”, unless the context otherwise requires, includes any description of commercial activity, and references to an industry include references to any section of an industry.

(7) In this section “the assisted areas” means the development areas, the intermediate areas and Northern Ireland.

PART II
Selective
financial
assistance:
general
powers.

8.—(1) For the purposes set out in subsection (2) of the last preceding section the Secretary of State may, with the consent of the Treasury, provide financial assistance where, in his opinion—

- (a) the financial assistance is likely to benefit the economy of the United Kingdom, or of any part or area of the United Kingdom, and**
- (b) it is in the national interest that the financial assistance should be provided on the scale, and in the form and manner, proposed, and**
- (c) the financial assistance cannot, or cannot appropriately, be so provided otherwise than by the Secretary of State.**

(2) Financial assistance under this section may, subject to the following provisions of this section, be given in any of the ways set out in subsection (3) of the last preceding section.

(3) Financial assistance shall not be given under this section in the way described in subsection (3)(a) of the last preceding section unless the Secretary of State is satisfied that it cannot, or cannot appropriately, be so given in any other way, and the Secretary of State, in giving financial assistance in the way so described—

- (a) shall not acquire any shares or stock in a company without the consent of that company, and**
- (b) shall not acquire more than half, by nominal value, of the equity share capital of any company.**

(4) Where financial assistance is given under this section by acquiring shares or stock in a company the Secretary of State shall dispose of the shares or stock as soon as, in his opinion, it is reasonably practicable to do so; and before making the disposal the Secretary of State shall consult the company.

(5) The Secretary of State shall not, after 31st December 1977, make, or undertake to make, a payment by way of financial assistance under this section, but this subsection shall not prevent the making of a payment in pursuance of an undertaking given within the time allowed by this subsection.

(6) The aggregate of—

- (a) the sums paid by the Secretary of State under this section, plus**
- (b) the liabilities of the Secretary of State under any guarantees given by him under this section (exclusive of any liability in respect of interest on a principal sum so guaranteed),**

less any sum received by the Secretary of State by way of repayment of loans under this section, or repayment of principal

sums paid to meet a guarantee under this section, shall not at any time exceed the limit specified in subsection (7) below.

PART II

(7) The said limit shall be £150 million, but the Secretary of State may, on not more than four occasions, by order made with the consent of the Treasury increase or further increase that limit by a sum specified in the order, being a sum not exceeding £100 million.

An order under this subsection shall be contained in a statutory instrument, and such an order shall not be made unless a draft of the order has been approved by a resolution of the Commons House of Parliament.

(8) The sums which the Secretary of State pays or undertakes to pay by way of financial assistance under this section in respect of any one project shall not exceed £5 million, except so far as any excess over the said sum of £5 million has been authorised by a resolution of the Commons House of Parliament:

Provided that this subsection shall not apply where the Secretary of State is satisfied that the payment or undertaking is urgently needed at a time when it is impracticable to obtain the approval of the Commons House of Parliament; and in that case the Secretary of State shall lay a statement concerning the financial assistance before each House of Parliament.

9.—(1) The Secretary of State shall appoint a board, which shall be called the Industrial Development Advisory Board, to advise him with respect to the exercise of his functions under sections 7 and 8 of this Act. Industrial
Development
Advisory
Board.

(2) The Board shall consist of a chairman and not less than six nor more than twelve other members.

(3) The members of the Board shall include persons who appear to the Secretary of State to have wide experience of, and to have shown capacity in, industry, banking, accounting and finance.

(4) If the Board make a recommendation with respect to any matter at the request of the Secretary of State and the Secretary of State exercises his functions under sections 7 and 8 of this Act contrary to their recommendation, he shall, if the Board so request, lay a statement as to the matter before Parliament.

PART III

CREDITS AND GRANTS

FOR CONSTRUCTION OF SHIPS AND OFFSHORE INSTALLATIONS

10.—(1) Subject to the provisions of this section, the Secretary of State may, with the consent of the Treasury, guarantee the payment by any person who is an individual resident in, or a Construction
credits.

PART III

body corporate incorporated under the law of any part of, the United Kingdom, any of the Channel Islands or the Isle of Man of any sum payable by that person in respect of principal or interest under arrangements (whether by way of loan or otherwise) entered into by that person for the purpose of financing the construction to the order of that person in the United Kingdom of a ship or mobile offshore installation of the qualifying size, and its equipment to his order.

1967 c. 40.

(2) The aggregate of the liability at any time of the Secretary of State under guarantees given by him under this section and section 7 of the Shipbuilding Industry Act 1967 (which is superseded by this section) shall not exceed the limit specified in subsection (3) below less the amount of any sums which have been paid by the Secretary of State to meet a liability falling within subsection (1) of this section or the said section 7 and have not been repaid to him.

(3) The said limit shall be £1,000 million, but the Secretary of State may by order made with the consent of the Treasury increase or further increase that limit to any sum not exceeding £1,400 million.

(4) An order under this section shall be contained in a statutory instrument, and such an order shall not be made unless a draft of the order has been approved by a resolution of the Commons House of Parliament.

(5) The Secretary of State may make a loan to any person who is the creditor in respect of a sum the payment of which has been guaranteed by the Secretary of State under this section or section 7 of the Shipbuilding Industry Act 1967.

(6) The aggregate amount of loans outstanding under subsection (5) above shall not at any time exceed the aggregate of the liability of the Secretary of State at that time in respect of guarantees given under this section and section 7 of the Shipbuilding Industry Act 1967 less the amount of any sums which have been paid by the Secretary of State to meet a liability falling within subsection (1) of this section or the said section 7 and have not been repaid to him.

(7) A guarantee or loan under this section shall be given or made on such terms and conditions as may, with the approval of the Treasury, be specified in any relevant agreement.

(8) References in this section to the liabilities of the Secretary of State do not include any liability in respect of interest on any principal moneys the payment of which is the subject of any guarantee given under this section or section 7 of the Shipbuilding Industry Act 1967.

(9) In this section "construction" includes the completion of a partially constructed ship or installation. PART III

11.—(1) Subject to the provisions of this section, the Secretary of State may make a grant to any person who has entered into a contract to construct a ship or mobile offshore installation in the United Kingdom and to equip it, if in the opinion of the Secretary of State— Construction grants.

- (a) it has been constructed in the United Kingdom ;
- (b) its construction on the berth commenced before 1st January 1975 ;
- (c) it has been delivered on or after 1st January 1972 by the person who contracted to construct it to the person entitled to receive it under the contract ;
- (d) it is of the qualifying size.

(2) For the purpose of calculating the amount of grant under subsection (1) above in respect of a ship or installation, the interval between the commencement of construction on the berth and the date of delivery shall be divided, subject to subsection (4) below, into five equal periods, and the contract price shall be treated as if it had been payable in the following percentages on the following dates, namely—

- (a) on the date of commencement of construction on the berth, 10 per cent. ;
- (b) on the date on which the four successive periods respectively commence, the following percentages, namely—
 - (i) 15 per cent. ;
 - (ii) 20 per cent. ;
 - (iii) 25 per cent. ;
 - (iv) 20 per cent. ;
- (c) on the date of delivery, 10 per cent.

(3) Grant may be paid where any percentage of the contract price of a ship or installation falls to be treated under subsection (2) above as payable in 1972, 1973 or 1974, and the rate of grant shall be the following percentages of the sum so treated, namely—

- (a) if the relevant year is 1972, 10 per cent. ;
- (b) if the relevant year is 1973, 4 per cent. ;
- (c) if the relevant year is 1974, 3 per cent.

(4) In any case where the interval between the commencement of construction on the berth and the date of delivery is not a number of days which is a multiple of five, the reference to five equal periods in subsection (2) above shall be taken to

PART III

be a reference to five periods each consisting of a whole number of days determined by the Secretary of State, and of equal length so far as possible.

(5) In calculating the amount of grant the Secretary of State may deduct from the contract price any such amount as in his opinion is attributable to equipment for the ship or installation in respect of which he considers (for any reason) that grant ought not to be paid.

(6) The Secretary of State may make payments on account of grant under this section to a person who has entered into a contract to construct a ship or installation in the United Kingdom and to equip it, if construction on the berth has commenced and it appears to the Secretary of State that grant will ultimately be payable under this section in respect of it.

(7) The references in subsections (1) and (6) above to a person who has entered into a contract to construct a ship or installation include references to a person who has entered into a contract to complete a partially constructed ship or installation, but in relation to such a ship or installation the Secretary of State may determine the amount of the grant in such manner as is in his opinion appropriate in all the circumstances.

(8) The Secretary of State may make the payment of a grant subject to such conditions as he thinks fit, and may impose a condition for repayment of all or any part of a grant in any circumstances; and Schedule 1 to this Act shall have effect for supplementing this subsection.

(9) No grant shall be paid under this section—

(a) in respect of any ship which on its delivery forms part of Her Majesty's Navy in the right of Her Government in the United Kingdom or is held by any person on behalf of or for the benefit of Her Majesty in that right;

(b) to an undischarged bankrupt or his trustee, or to a company in respect of which a winding up order has been made or a resolution for winding up has been passed.

(10) An application for grant shall be made within such time and in such form or manner, and shall contain such particulars, and be accompanied by such documents, as the Secretary of State may direct.

(11) In this section, in relation to a ship or installation—

“ commencement of construction on the berth ” means commencement of construction on the berth or in any other place from which it is launched;

“contract price” means the price payable under the contract for its construction and equipment;

PART III

and any question as to what constitutes the commencement of construction on the berth or what is the contract price shall be determined by the Secretary of State.

12.—(1) In this Part of this Act—

Interpretation
of Part III.

“equipment”, in relation to a ship or installation, means the installation on or in it, or the provision for it, of fixed or movable equipment, or apparatus or furnishings of any kind;

“mobile offshore installation” means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation and can move by water from place to place without major dismantling or modification, whether or not it has its own motive power;

“ship” includes every description of vessel used in navigation.

(2) For the purposes of this Part of this Act—

- (a) a ship other than a tug is of the qualifying size if its gross tonnage, ascertained in accordance with regulations under section 1 of the Merchant Shipping Act 1965 c. 47. 1965, is not less than 100 tons;
- (b) a tug is of the qualifying size if it is of not less than 500 brake horsepower;
- (c) an installation is of the qualifying size if it weighs not less than 100 tons excluding fuel and water.

PART IV

Miscellaneous and Supplementary Provisions

13.—(1) For subsections (1) to (3) of section 1 of the Local Employment Act 1972 there shall be substituted the following subsections—

Amendments
of Local
Employment
Act 1972.
1972 c. 5.

“1.—(1) For the purposes of this Act, and of any other enactment referring to development areas or intermediate areas under this Act, the Secretary of State may by order specify any area of Great Britain as—

- (a) a development area, or
- (b) an intermediate area.

(2) In exercising his powers under this section the Secretary of State shall have regard to all the circumstances actual and expected, including the state of employment

PART IV

and unemployment, population changes, migration and the objectives of regional policies.”

(2) In the said section 1 subsections (5), (6) and (7) (additions to development areas and intermediate areas) shall cease to have effect, but any locality which at the passing of this Act is by virtue of those provisions included in a development area or intermediate area shall thereafter be deemed for all purposes to be part of that area as if included therein by an order under subsection (1) of the said section 1, but subject to any subsequent order under that subsection.

(3) In the said Act sections 3 and 4 (which are superseded by Parts I and II of this Act respectively) and section 15 (additional powers for safeguarding loans) shall cease to have effect.

(4) The provisions of section 2 of the said Act (which restrict the purposes for which the powers given by the said sections 3 and 4, and those given by sections 5 and 6 of that Act, may be exercised) shall cease to apply to the said sections 5 and 6.

(5) For subsections (1) and (2) of section 8 of the said Act (derelict land) there shall be substituted the following subsection:—

“ 8.—(1) Where in the case of any land in a development area or intermediate area it appears to the appropriate Minister—

- (a) that the land is derelict, neglected or unsightly, and
- (b) that steps should be taken for the purpose of enabling the land (in this section referred to as “ the derelict land ”) to be brought into use, or of improving its appearance,

the powers conferred by subsection (3) of this section shall be exercisable by the said Minister.”

(6) In section 11 of the said Act after subsection (1) there shall be inserted the following subsections:—

“ (1A) Each of the corporations shall have power, with the consent of the Secretary of State, to manage or develop land on behalf of any local authority or new town corporation (whether or not situated in a development area or intermediate area).

In this subsection “ new town corporation ” means a development corporation or the Commission for the New Towns.

(1B) The Secretary of State may give his consent under subsection (1A) above subject to such restrictions, exceptions and conditions as he may from time to time determine, and the Secretary of State may withdraw his consent at any time."

(7) At the end of section 11(4) of the said Act (power of English, Scottish and Welsh industrial estate corporations to provide advisory services) there shall be added the following words:

"The powers conferred by this subsection may be exercised as respects the building of factories or the development or management of industrial estates in any place outside Great Britain (as well as respects the part of Great Britain for which the corporation in question is responsible)".

(8) In subsection (5) of the said section 11 for the words "an undertaking is to be set up in a development area or intermediate area in circumstances which justify the giving of special assistance"

there shall be substituted the words

"an undertaking is to be, or has been, set up in a development area or intermediate area, and that there are circumstances which justify the giving of special assistance".

(9) At the end of section 17(1) of the said Act there shall be inserted the following proviso—

"Provided that accounts for the financial year beginning on 1st April 1973 or for any subsequent financial year need not deal with loans under section 4 or section 15 of this Act".

14.—(1) In the period—

- (a) beginning on 22nd March 1972 (the date of coming into operation of the Intermediate Areas and Derelict Land Clearance Areas Order 1972), and
- (b) ending on 14th April 1972 (the date of coming into operation of the Intermediate Areas and Derelict Land Clearance Areas (Amendment) Order 1972),

Winsford
Urban
District.
S.I. 1972
No. 421.
S.I. 1972
No. 585.

the Urban District of Winsford situated within the employment exchange area of Winsford shall be deemed for all purposes to have been part of a development area, and not part of any intermediate area.

(2) This section applies in particular for the purpose of grants made under the Local Employment Act 1972, grants made under 1972 c. 5.

PART IV
1967 c. 54. **Part I of this Act and payments of regional employment premiums made at the rates prescribed by section 26 of the Finance Act 1967.**

Interpretation.
1972 c. 5. **15. In this Act "development area" and "intermediate area" mean an area for the time being specified as a development area, or as the case may be as an intermediate area, by an order made or having effect under section 1 of the Local Employment Act 1972 as amended by this Act.**

Annual reports.
1967 c. 40. **16.—(1) For the financial year ending on 31st March 1973, and for each subsequent financial year the Secretary of State shall prepare a report on the discharge of his functions—**

- (a) under Parts I and II of this Act,
- (b) under Part III of this Act (including any functions in respect of guarantees given by him under section 7 of the Shipbuilding Industry Act 1967),
- (c) under the Local Employment Act 1972, and
- (d) under section 12(4) of the Town and Country Planning (Scotland) Act 1947 and section 67(1) of the Town and Country Planning Act 1971,

and shall lay the report before Parliament not later than six months after the end of the financial year to which it relates.

(2) The Secretary of State may discharge his duty under this section in any year by making a report on his functions under Part I, Part II or Part III of this Act, or under the other enactments mentioned in subsection (1) above, and one or more separate reports on the remaining functions.

(3) A report under this section relating to Part II or Part III of this Act shall contain a statement showing the total amount of the liabilities of the Secretary of State (exclusive of any liability in respect of interest on a principal sum) under guarantees given by him under Part II, or as the case may be, Part III of this Act, and in the latter case shall include liabilities under guarantees given under section 7 of the Shipbuilding Industry Act 1967.

Financial provisions.
17.—(1) There shall be paid out of money provided by Parliament any grants under this Act, any other sums paid by the Secretary of State under Part II or Part III of this Act, any administrative expenses incurred by the Secretary of State under any provision of this Act and any increase in sums payable out of money provided by Parliament under any Act other than this Act which is attributable to any provision of this Act.

(2) Any receipts of the Secretary of State under this Act shall be paid into the Consolidated Fund.

18.—(1) Part II and Part III of this Act, and so much of this Part as relates thereto, shall extend to Northern Ireland.

PART IV
Application to Northern Ireland.
1920 c. 67.

(2) Notwithstanding anything in the Government of Ireland Act 1920, the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of this Act, and nothing in this Act shall preclude provision being made for the granting of financial assistance to industry in Northern Ireland by any enactment of the Parliament of Northern Ireland.

(3) Except as provided by this section, this Act shall not extend to Northern Ireland.

19.—(1) This Act may be cited as the Industry Act 1972.

Short title, transitory provisions and repeals.

(2) The provisions of Schedule 2 and Schedule 3 to this Act shall have effect as respects the transitory matters there dealt with.

(3) The enactments mentioned in Schedule 4 to this Act are hereby repealed to the extent specified in column 3 of that Schedule, but subject to any provision at the end of any Part of that Schedule.

SCHEDULES

SCHEDULE 1

ENFORCEMENT OF CONDITIONS ATTACHED TO REGIONAL
DEVELOPMENT GRANTS AND GRANTS UNDER PART III

Sections 4 and
11.

1.—(1) The Secretary of State may by notice require any person who has received a grant under Part I or Part III of this Act, and any person acting on his behalf, to furnish to the Secretary of State such information, or to produce for examination on behalf of the Secretary of State such books, records or other documents, as may be specified in the notice for the purpose of enabling the Secretary of State to determine whether any condition subject to which the grant is made is satisfied or is being complied with, or whether the grant has become repayable in whole or in part in accordance with any such condition.

(2) A notice under this paragraph may require the information to which it relates to be furnished within such time as may be specified in the notice, and may require the documents to which it relates to be produced at such time and place as may be so specified:

Provided that the time specified in such a notice for furnishing any information or producing any document shall not be earlier than the end of the period of twenty-eight days beginning with the service of the notice.

(3) A notice under this paragraph may be served—

- (a) by delivering it to the person on whom it is to be served;
- (b) by delivering it at the usual or last known place of abode of that person;
- (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

2. Any person duly authorised in that behalf by the Secretary of State may for the purposes mentioned in paragraph 1 of this Schedule, on production (if so required) of written evidence of his authority, at all reasonable times enter and inspect any premises where any asset in respect of which a grant under Part I of this Act has been made is, or in accordance with any condition attached to the grant should be, and require any person appearing to him to have charge of those premises to produce or identify the asset for inspection.

3.—(1) Any person who in purported compliance with a notice under paragraph 1 of this Schedule knowingly or recklessly makes any statement or produces any document which is false in a material particular shall be guilty of an offence and liable on summary

conviction to a fine not exceeding £400, or on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or to both.

Sch. 1

(2) Any person who without reasonable excuse fails to comply with a notice under paragraph 1 of this Schedule shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.

(3) Any person who wilfully obstructs any person in the exercise of a right of entry under paragraph 2 of this Schedule, or without reasonable excuse fails to comply with a requirement under that paragraph, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

4.—(1) Any person who without reasonable excuse fails to comply with any condition subject to which a grant was made to him under Part I or Part III of this Act requiring him to inform the Secretary of State of any event whereby the grant becomes repayable in whole or in part shall be guilty of an offence and liable on conviction to a fine which on summary conviction shall not exceed £400.

(2) Notwithstanding anything in section 104 of the Magistrates' 1952 c. 55. Courts Act 1952 (time limit for proceedings), summary proceedings in England and Wales for an offence under this paragraph may be taken by the Secretary of State or the Director of Public Prosecutions at any time within twelve months from the date on which evidence sufficient in the opinion of the Secretary of State or the Director, as the case may be, to justify the proceedings comes to his knowledge:

Provided that proceedings shall not be so taken more than three years after the commission of the offence.

(3) Summary proceedings in Scotland for an offence under this paragraph shall not be commenced after the expiration of three years from the commission of the offence, but subject to the foregoing limitation and notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954, such proceedings may be 1954 c. 48. commenced at any time within twelve months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge or, where such evidence was reported to him by the Secretary of State, within twelve months after the date on which it came to the knowledge of the Secretary of State; and subsection (2) of the said section 23 shall apply for the purposes of this paragraph as it applies for the purposes of that section.

(4) Notwithstanding anything in section 34 of the Magistrates' 1964 c. 21 Courts Act (Northern Ireland) 1964 (time limit for proceedings) (N.I.) summary proceedings in Northern Ireland for an offence under this paragraph may be taken by the Secretary of State or the Director of Public Prosecutions for Northern Ireland at any time within twelve months from the date on which evidence sufficient in the opinion of the Secretary of State or the Director, as the case may be, to justify the proceedings comes to his knowledge:

Provided that proceedings shall not be so taken more than three years after the commission of the offence.

SCH. 1

(5) For the purposes of this paragraph, a certificate of the Secretary of State, the Director of Public Prosecutions, the Lord Advocate or the Director of Public Prosecutions for Northern Ireland, as the case may be, as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact.

5.—(1) Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) In this paragraph “director”, in relation to a body corporate established by or under any enactment for the purpose of carrying on under public ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Section 19.

SCHEDULE 2

REGIONAL DEVELOPMENT GRANTS: COMMENCEMENT AND
TRANSITIONAL PROVISIONS*Expenditure eligible for grant*

1.—(1) No grant shall be made for expenditure within Head 1 of the Table in section 1 of this Act if the construction of the building or the carrying out of the works was begun before 22nd March 1972.

(2) No grant shall be made for expenditure within any other Head of the said Table if in the opinion of the Secretary of State the asset was provided before 22nd March 1972.

(3) In the case of a building or any works begun before 22nd March 1974, but not provided before that date, grant under Head 1(c) of the said Table may be made by reference to such part of the expenditure defrayed in providing the building or works as, in the opinion of the Secretary of State, is properly attributable to the work carried out before 22nd March 1974.

(4) Sub-paragraphs (1) and (3) above apply in the case of a building whether or not the building is provided by the purchase of an existing one, but in applying them to the provision of a building by the adaptation of an existing one, account shall be taken of the work of adaptation, and not of the construction of the original building.

*Changes in rate of grant, or in assisted areas or in
qualifying premises*

2.—(1) This paragraph applies as respects any order under section 1(4) or section 3 of this Act, or any order under section 1 or section 8(6) of the Local Employment Act 1972 (designation of development areas, intermediate areas and derelict land clearance areas).

(2) Any such order may contain such transitional provisions as respects grant under Part I of this Act as appear to the Secretary

of State to be appropriate in connection with any change effected by the order in the areas which are assisted areas of any particular category, or in any prescribed percentage of grant, or in the descriptions of activities taken into account for any of the purposes of Part I of this Act.

SCH. 2

(3) Without prejudice to the generality of the preceding provisions of this paragraph, the transitional provisions contained in any such order may, in the case of a building or any works begun before, but completed after, any such change, be provisions making different provision for the parts of the expenditure respectively attributable to the work carried out before the change, and to the work carried out after the change.

Local Employment Act 1972

3.—(1) The repeal by this Act of subsections (1) and (2) of section 2 of the Local Employment Act 1972 shall not affect the operation of those subsections as respects any application under section 3 or section 4 of that Act whenever received, or as respects any application under section 5 or section 6 of that Act received on or before the date of the repeal. 1972 c. 5.

(2) The advisory committee established by section 2(3) of the said Act shall be dissolved on such date as the Secretary of State may direct.

(3) No grant shall be made under section 3 of the said Act (which is superseded by Part I of this Act) unless—

- (a) the construction of the building or the carrying out of the works was begun before 22nd March 1972, and the application for grant was received before 1st August 1973; or
- (b) the application for grant was received before 22nd March 1972; or
- (c) a contract was entered into before 22nd March 1972 in respect of all or any part of the expenditure on the asset for which the grant may be made.

(4) No assistance shall be given under section 4 of the said Act (which is superseded by Part II of this Act) unless the application for assistance was received before 1st August 1972.

(5) The repeal by this Act of the said sections 3 and 4, and of section 15 of the said Act, shall not affect any terms or conditions imposed under those sections, or liability for any offence committed (before the repeal or later) as respects financial assistance given under those sections, or as respects any such terms or conditions.

(6) Any reference in this paragraph to a provision of the Local Employment Act 1972 shall, unless the context otherwise requires, include a reference to any corresponding enactment re-enacted in that Act.

Interpretation

4. In determining for the purposes of any provision of this Schedule the date when the construction of a building or the carrying out of works was begun, no account shall be taken of any work on the clearance or preparation of the site.

Section 19.

SCHEDULE 3

SHIPBUILDING: TRANSITIONAL PROVISIONS

1. The repeals in Part II of Schedule 4 to this Act shall not affect—

- 1967 c. 40.
- (a) the vesting of any property, rights or liabilities in the Secretary of State under section 9(3) of the Shipbuilding Industry Act 1967 ;
- (b) the operation—
- (i) of subsections (2) and (7) and, subject to paragraphs 2 and 3 below, of subsection (8), of section 10 of that Act ;
- (ii) of the Shipbuilding Industry Board (Dissolution Provisions) Order 1971.
- S.I. 1971
No. 1939.

2. Any sums received by the Secretary of State by way of repayment of or interest on a loan under the Shipbuilding Industry Act 1967 shall be paid into the National Loans Fund, and the reference to subsection (5) of section 10 of that Act in subsection (8) of that section shall include a reference to this paragraph.

3. The said subsection (8) shall not require a statement of any guarantees given by the Secretary of State under section 7 of the Shipbuilding Industry Act 1967 for the financial year beginning on 1st April 1973 or for any subsequent financial year.

Section 19.

SCHEDULE 4

REPEALS

PART I

REPEALS IN THE LOCAL EMPLOYMENT ACT 1972 AND IN ENACTMENTS AMENDED BY SCHEDULE 3 TO THAT ACT

Chapter	Short Title	Extent of Repeal
2 & 3 Eliz. 2. c. 56.	The Landlord and Tenant Act 1954.	In section 60(1), in paragraph (a), the words from " or a locality " to " in a development area " and in paragraph (b) the words from " or a locality " to " in an intermediate area "
8 & 9 Eliz. 2. c. 18.	The Local Employment Act 1960.	In section 17(2), the words from " and any locality " to the end of the subsection.
1966 c. 34.	The Industrial Development Act 1966.	In paragraph 5(1) of Schedule 1 the words from " and any reference " to the end of paragraph 5(1).
1967 c. 54.	The Finance Act 1967.	In section 26(6)(a) the words from " and includes " to the end of the paragraph.
1969 c. 51.	The Development of Tourism Act 1969.	In section 11(3) the words from " and includes " to the end of the subsection.
1971 c. 76.	The Housing Act 1971.	In section 1(4), in the definition of " development area " the words from " and includes " to the

Chapter	Short Title	Extent of Repeal
1971 c. 76. —cont.	The Housing Act 1971. —cont.	end of the definition, and in the definition of “intermediate area” the words from “or treated” to the end of the definition.
1971 c. 78.	The Town and Country Planning Act 1971.	In section 67(7), in the definition of “development area” the words from “and any locality” to the end of the definition.
1972 c. 5.	The Local Employment Act 1972.	<p>In section 1, subsections (5), (6) and (7).</p> <p>In section 2, subsection (1), except as applied by section 60(1) of the Landlord and Tenant Act 1954, as amended by the said Act of 1972, and subsections (2) and (3).</p> <p>Sections 3 and 4.</p> <p>In section 5(1) the words from the beginning to “of this Act”.</p> <p>In section 6(2) the words “for the purpose mentioned in section 2(1) of this Act”.</p> <p>In section 8, in subsection (3) the words “for the purpose mentioned in subsection (1)(b) of this section”.</p> <p>Section 13(3).</p> <p>In section 14, in subsection (1), paragraph (a) so far as it relates to section 8 of the Act, in paragraph (b) the words “or the giving of assistance under section 4 of this Act” and the words “or assistance” and in paragraph (c) the words “or assistance”, and subsection (2).</p> <p>Section 15.</p> <p>Section 17(3) except as respects any report for the financial year ending on 31st March 1972 or earlier.</p> <p>In section 19 the words from “and, in” to the end of the section.</p> <p>In section 21(1), the definition of “the advisory committee”, in the definition of “development area” the words “subject to subsection (5) of section 1 of this Act” and in the definition of “intermediate area” the words “subject to subsection (7) of section 1 of this Act”.</p> <p>In Schedule 2, paragraphs 3(1), 6 and 7.</p>

The above repeals have effect subject to Schedule 2 to this Act.

SCH. 4

PART II
SHIPBUILDING

Chapter	Short Title	Extent of Repeal
1967 c. 40.	The Shipbuilding Industry Act 1967.	The whole Act.
1968 c. 13.	The National Loans Act 1968.	In Schedule 1, the entry relating to the Shipbuilding Industry Act 1967.
1968 c. 32.	The Industrial Expansion Act 1968.	Section 10.
1971 c. 46.	The Shipbuilding Industry Act 1971.	The whole Act.

The above repeals have effect subject to Schedule 3 to this Act.



Harbours Development (Scotland) Act 1972

1972 CHAPTER 64

An Act to enable the Secretary of State to develop, maintain and manage, or authorise other persons so to do, harbours in Scotland, made or maintained by him for any purpose, and for purposes connected therewith.
[9th August 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Notwithstanding the provisions of any other enactment, the Secretary of State shall, for any purpose, have power to develop, maintain and manage in such manner as he thinks fit, or authorise other persons so to develop, maintain and manage, harbours made or maintained by him by virtue of powers or duties vested in him by any Act or order, and to do all such things as may be necessary or expedient for that purpose. **Development of certain harbours.**

(2) The Secretary of State may acquire land by agreement or compulsorily for the purposes of developing under the foregoing subsection such harbours as aforesaid.

(3) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of land under this section as if the last foregoing subsection had been in force immediately before the commencement of that Act. **1947 c. 42**

(4) If it appears to the Secretary of State that it is expedient that any statutory provision of local application passed or made

before the commencement of this Act should be repealed, amended or adapted, having regard to any of the provisions of this section, he may by order made by statutory instrument repeal, amend or adapt that provision to such extent, or in such manner, as he considers appropriate; and any order under this subsection may include such transitional, incidental, supplementary and consequential provisions as the Secretary of State may consider necessary or expedient.

(5) In this section—

“harbour” means any harbour, whether natural or artificial, and any port or haven, and includes a dock and a wharf, pier and any similar structure.

Expenses
and receipts.

2. There shall be defrayed out of moneys provided by Parliament—

(a) expenses incurred by the Secretary of State in consequence of any provision of this Act, and

(b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act,

and any sums received by the Secretary of State in consequence of the provisions of this Act shall be paid into the Consolidated Fund.

Extent and
short title.

3.—(1) This Act extends to Scotland only.

(2) This Act may be cited as the Harbours Development (Scotland) Act 1972.

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