# Housing (Scotland) Act 1966

## 1966 CHAPTER 49

An Act to consolidate certain enactments relating to housing in Scotland, with the exception of certain provisions relating to financial matters.

[21st December 1966]

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 AS RESPECTS LOCAL AUTHORITIES

Local authorities for purposes of this Act.

**1.** For the purposes of this Act the local authority shall be—

(*a*) in the case of a burgh, the town council, and

(*b*) in the case of a county, the county council;

and the district of the local authority shall be the burgh or the county (excluding all burghs therein), as the case may be.

Power of local authority to appoint committee.

**2.** A local authority may appoint a committee, consisting of so many persons as they may think fit, for any purposes of this Act which in the opinion of the authority would be better regulated and managed by means of a committee:

Provided that a committee so appointed shall consist as to a majority of its members of members of the appointing authority, shall in no case be authorised to raise any money by rate or loan, and shall be subject to any regulations and restrictions which may be imposed by the appointing authority.

PART I

Local authority to discharge certain functions under Parts II and III in accordance with proposals approved by Secretary of State.
1954 c. 50.

**3.**—(1) It shall be the duty of every local authority to carry out their functions under Parts II and III of this Act, so far as those functions relate to dealing with houses within the district of the authority which appear to the authority to be unfit for human habitation and with any other houses within that district which are or in the opinion of the authority ought to be included in clearance areas, in accordance with proposals in that behalf submitted by them to the Secretary of State under section 1 of the Housing (Repairs and Rents) (Scotland) Act 1954 and approved by him before the commencement of this Act, subject to any amplifications or modifications made by subsequent proposals approved by the Secretary of State under this section.

(2) A local authority may at any time, and if directed by the Secretary of State shall within the period specified in the direction, submit further proposals for amplifying or modifying any proposals previously submitted by the authority under the said section 1 or this section and approved by the Secretary of State, and the Secretary of State may approve such further proposals with or without modifications.

(3) A copy of any proposals approved under this section shall be deposited at the offices of the local authority concerned, and a copy of any proposals so deposited under this subsection or under section 1(5) of the said Act of 1954 shall be open to inspection without charge during ordinary office hours.

Duty of local authority to inspect district.

**4.**—(1) It shall be the duty of every local authority to cause an inspection of their district to be made from time to time with a view to ascertaining whether any house therein is unfit for human habitation.

(2) It shall be the duty of every local authority to cause an inspection of their district to be made from time to time with a view to ascertaining whether there is any area in the district which ought to be declared to be an improvement area under Part IV of this Act.

## PART II

### PROVISIONS FOR SECURING THE REPAIR, MAINTENANCE AND SANITARY CONDITION OF HOUSES

*Definition of standard of fitness*

Determination of unfitness for human habitation.

**5.**—(1) In determining for any of the purposes of this Act whether a house is unfit for human habitation regard shall be had to its condition in respect of the following matters:—

(*a*) general state of repair;

(*b*) structural stability;

(*c*) freedom from dampness;

(*d*) natural lighting;

(*e*) air space;

(*f*) ventilation;

(*g*) adequacy and accessibility of water supply;

(*h*) adequacy and accessibility of sanitary and other conveniences;

(*i*) drainage;

(*j*) condition of paving and drainage of courts, yards or passages;

(*k*) facilities for storage, preparation and cooking of food and for the disposal of waste water;

and the house shall be determined to be unfit for human habitation if, and only if, it is so far defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

(2) Subsection (1) of this section shall be without prejudice to section 17 of this Act.

(3) Any reference in any enactment to section 184(2) of the Housing (Scotland) Act 1950 shall be construed as a reference to this section. 1950 c. 34.

*Obligations as to repair of houses*

Conditions to be implied on letting certain small houses.

**6.**—(1) This section shall apply—

(*a*) to a contract entered into before 31st July 1923 for letting for human habitation a house at a rent not exceeding sixteen pounds;

(*b*) to a contract entered into on or after 31st July 1923 for letting for human habitation a house at a rent not exceeding twenty-six pounds;

but shall not apply to a contract for the letting by a local authority of any house purchased or retained by the authority under section 20 or section 40 of this Act for use for housing purposes.

(2) In any contract to which this section applies there shall, notwithstanding any stipulation to the contrary, be implied a condition that the house is at the commencement of the tenancy, and an undertaking that the house will be kept by the landlord during the tenancy, in all respects reasonably fit for human habitation:

Provided that the condition and the undertaking aforesaid shall not be implied when a house is let for a period of not less than three years upon the terms that it will be put by the lessee into a condition in all respects reasonably fit for human habitation.

PART II

and the lease is not determinable at the option of either party before the expiration of three years.

(3) The landlord, or any person authorised by him in writing, may at reasonable times of the day, on giving twenty-four hours' notice in writing to the tenant or occupier, enter any premises in respect of which this section applies for the purpose of viewing the state and condition thereof.

(4) In this section—

(*a*) the expression " landlord " means any person who lets to a tenant for human habitation any house under any contract to which this section applies, and includes his successors in title ; and

(*b*) the expression " house " includes part of a house.

Application of s. 6 to houses occupied by agricultural workers otherwise than as tenants.

**7.**—(1) Notwithstanding any agreement to the contrary, where under any contract of employment of a workman employed in agriculture the provision of a house or part of a house for the occupation of the workman forms part of the remuneration of the workman, and the provisions of section 6 of this Act are inapplicable by reason only of the house or part of the house not being let to the workman, there shall be implied as part of the contract of employment the like condition and undertaking as would be implied under the said provisions if the house or part of the house were so let, and those provisions shall apply accordingly as if incorporated in this section, with the substitution of " employer " for " landlord " and such other modifications as may be necessary:

Provided that this section shall not affect the obligation of any person other than the employer to repair a house to which this section applies or any remedy for enforcing any such obligation.

(2) This section shall apply whether the contract of employment was entered into before or after the commencement of this Act.

Repairing obligations in short leases of houses.

**8.**—(1) In any lease of a house, being a lease to which this section applies, there shall be implied a provision that the lessor will—

(*a*) keep in repair the structure and exterior of the house (including drains, gutters and external pipes) ; and

(*b*) keep in repair and proper working order the installations in the house—

(i) for the supply of water, gas and electricity, and for sanitation (including basins, sinks, baths and sanitary conveniences but not, except as aforesaid, fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and

(ii) for space heating or heating water ;

and any provision that the lessee will repair the premises (including any that he will put in repair or deliver up in repair, or will paint, point or render the premises, or pay money in lieu of repairs by the lessee or on account of repairs by the lessor) shall be of no effect so far as it relates to any of the matters mentioned in paragraphs (*a*) and (*b*) of this subsection.

(2) The provision implied by this section (hereinafter referred to as " the implied repairs provision ") shall not be construed as requiring the lessor—

(*a*) to carry out any works or repairs for which the lessee is liable by virtue of his duty to use the premises in a proper manner, or would be so liable apart from any express undertaking on his part ;

(*b*) to rebuild or reinstate the premises in the case of destruction or damage by fire, or by tempest, flood or other inevitable accident ; or

(*c*) to keep in repair or maintain anything which the lessee is entitled to remove from the house ;

and subsection (1) of this section shall not avoid so much of any provision as imposes on the lessee any of the requirements mentioned in paragraph (*a*) or paragraph (*c*) of this subsection.

(3) In determining the standard of repair required by the implied repairs provision in relation to any house, regard shall be had to the age, character and prospective life of the house and the locality in which it is situated.

(4) In any lease in which the implied repairs provision is implied there shall also be implied a provision that the lessor, or any person authorised by him in writing, may at reasonable times of the day, on giving twenty-four hours' notice in writing to the occupier, enter the premises comprised in the lease for the purpose of viewing their condition and state of repair.

(5) In this section and in sections 9 and 10 of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

(*a*) " lease " includes a sublease, and " lessor " and " lessee ", in relation to a lease, include respectively any person for the time being holding the interest of lessor, and any person for the time being holding the interest of lessee, under the lease ;

(*b*) " lease of a house " means a lease whereby a building or part of a building is let wholly or mainly as a private dwelling and " house ", in relation to such a lease, means that building or part of a building.

PART II
Application of s. 8.

**9.**—(1) Subject to the provisions of this section, section 8 of this Act applies to any lease of a house granted on or after 3rd July 1962, being a lease for a period of less than seven years.

(2) For the purposes of this section a lease—

(*a*) shall be treated as a lease for a period of less than seven years if it is determinable at the option of the lessor before the expiration of seven years from the commencement of the period of the lease, and

(*b*) shall be treated as a lease for a period of seven years or more if it confers on the lessee an option for renewal for a period which, together with the original period, amounts to seven years or more, and it is not determinable as mentioned in paragraph (*a*) of this subsection.

(3) Where a lease (hereinafter referred to as " the new lease ") of a house is granted—

(*a*) to a person who, when or immediately before the new lease is granted, is or was the lessee of the house under another lease, or

(*b*) to a person who was the lessee of the house under another lease which terminated at some time before the new lease is granted and who, between the termination of that other lease and the grant of the new lease, was continuously in possession of the house or entitled to the rents or profits thereof,

section 8 of this Act shall not apply to the new lease unless the other lease, if granted on or after 3rd July 1962, was a lease to which the said section applies, or, if granted before the said date, would have been such a lease if it had been granted on or after that date.

(4) Section 8 of this Act shall not apply to any lease of a house which is a tenancy of an agricultural holding.

(5) In the application of this section to a lease for a period part of which falls before the date of the granting of the lease, that part shall be left out of account and the lease shall be treated as a lease for a period commencing with the date of the granting.

Restriction of contracting out.

**10.**—(1) The sheriff may, on the application of either party to a lease, by order made with the consent of the other party concerned, authorise the inclusion in the lease, or in any agreement collateral to the lease, of provisions excluding or modifying in relation to the lease the provisions of section 8 of this Act

with respect to the repairing obligations of the parties if it appears to him, having regard to the other terms and conditions of the lease and to all the circumstances of the case, that it is reasonable to do so, and any provision so authorised shall have effect accordingly.

(2) Subject to subsection (1) of this section, any provision, whether contained in a lease to which the said section 8 applies or in any agreement collateral to such a lease, shall be void so far as it purports to exclude or limit the obligations of the lessor or the immunities of the lessee under that section, or to provide for an irritancy of the lease or impose on the lessee any penalty, disability or obligation, in the event of his enforcing or relying upon those obligations or immunities.

*Unfit houses capable of repair at reasonable expense*

Power of local authority to secure repair of unfit house.

**11.**—(1) Where a local authority, on consideration of an official representation or a report by their sanitary inspector or other information in their possession, are satisfied that any house is in any respect unfit for human habitation but is capable at a reasonable expense of being rendered fit for human habitation, they shall serve upon the person having control of the house a notice—

(*a*) requiring him, within such reasonable time, not being less than twenty-one days, as may be specified in the notice, to execute the works specified in the notice, and

(*b*) stating that, in the opinion of the local authority, those works will render the house fit for human habitation.

(2) If a notice under subsection (1) of this section is not complied with, then, after the expiration of the time specified in the notice or, if an appeal has been made against the notice and the sheriff upon that appeal has confirmed the notice with or without variation, after the expiration of twenty-one days from the determination of the appeal or of such longer period as the sheriff in determining the appeal may fix, the local authority—

(*a*) may themselves do the work required to be done by the notice or by the notice as varied by the sheriff, as the case may be, and

(*b*) may in addition execute any further works which are found to be necessary for the purpose of rendering the house fit for human habitation but which could not reasonably have been ascertained to be required at the examination prior to the service of the notice.

Any question as to whether further works are necessary or could not have been reasonably ascertained as aforesaid shall be determined by the sheriff, whose decision shall be final.

PART II

(3) No action taken under this section or under section 12 of this Act shall prejudice or affect any other powers of the local authority or any remedy available to the tenant of a house against his landlord, either at common law or otherwise.

Recovery by local authority of expenses incurred under s. 11.

**12.**—(1) Any expenses incurred by a local authority under section 11(2) of this Act, together with interest from the date when a demand for the expenses is served until payment, may, subject as hereinafter provided, be recovered by the authority from the person having control of the house or, if he receives the rent of the house as trustee, tutor, curator, factor or agent for or of some other person, then either from him or from that other person, or in part from him and as to the remainder from that other person.

(2) The local authority may by order declare any such expenses to be payable by weekly, monthly, half-yearly or annual instalments within a period not exceeding thirty years with interest from the date of the service of the demand until the whole amount is paid, and any such instalments and interest, or any part thereof, may be recovered from any owner or occupier of the house, and, if recovered from an occupier, may be deducted by him from the rent of the house.

(3) Any interest payable under subsection (1) or subsection (2) of this section shall be at such rate as the Secretary of State may, with the approval of the Treasury, from time to time by order fix for the purposes of either or both of those subsections.

(4) The power to make orders conferred on the Secretary of State by subsection (3) of this section shall be, and shall be deemed always to have been, exercisable by statutory instrument.

Recovery by lessee of proportion of expenses incurred in rendering house fit for human habitation.

**13.**—(1) Where any person who incurs expenditure in complying with a notice under section 11(1) of this Act requiring the execution of works for rendering a house fit for human habitation, or in defraying expenses incurred by a local authority under subsection (2) of that section in carrying out such works, is a lessee of the house or the agent of such a lessee, the lessee may recover from the lessor under the lease such part (if any) of that expenditure as may, in default of agreement between the parties, be determined by the sheriff on the application of either of them to be just having regard—

(*a*) to the obligations of the lessor and the lessee under the lease with respect to the repair of the house;

(*b*) to the length of the unexpired term of the lease;

(*c*) to the rent payable under the lease; and

(*d*) to all other relevant circumstances:

Provided that no sum shall be recoverable under this subsection unless the lessee or his agent within seven days after the service of such notice as aforesaid gave written intimation to the lessor of the service of the notice and of the purport thereof.

(2) Where a person from whom any sum is recoverable under subsection (1) of this section is himself a lessee of the house, the provisions of that subsection shall apply as if any sum so recoverable from him were expenditure incurred as mentioned in that subsection.

(3) In this section "lease" includes a sublease and any tenancy, and the expressions "lessee" and "lessor" shall be construed accordingly.

*Unfit houses not capable of repair at reasonable expense*

Local authority may acquire and repair house found on appeal not to be capable of repair at reasonable expense.

**14.**—(1) Where any person has appealed to the sheriff against a notice under section 11(1) of this Act requiring the execution of works to a house, and the sheriff in allowing the appeal has found that the house cannot be rendered fit for human habitation at a reasonable expense, the local authority may purchase that house by agreement or may, subject to the provisions of this section, be authorised by the Secretary of State to purchase it compulsorily.

1947 c. 42.

(2) The provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of a house under subsection (1) of this section as if that subsection had been in force immediately before the commencement of that Act.

(3) A local authority shall not be authorised to purchase a house compulsorily under subsection (1) of this section unless a compulsory purchase order authorising the purchase is made and submitted in accordance with the said Act of 1947 by the authority to the Secretary of State within six months after the determination of the appeal; and if any person being an owner of, or the holder of a heritable security over, the house undertakes to carry out to the satisfaction of the Secretary of State, and within such period as the Secretary of State may fix, the works specified in the notice against which the appeal was brought, the Secretary of State shall not confirm the compulsory purchase order unless that person has failed to fulfil his undertaking.

(4) The compensation to be paid for any house purchased compulsorily under subsection (1) of this section shall be assessed by the Lands Tribunal in accordance with the Land Compensation (Scotland) Act 1963 subject, however, to the provisions of subsections (5) to (7) of this section.

1963 c. 51

PART II

(5) In the case of a compulsory acquisition in pursuance of a notice to treat served on or after 1st January 1955, such compensation shall not (except by virtue of paragraph 2 or paragraph 3 of Schedule 2 to the said Act of 1963) exceed the value, at the time when the valuation is made, of the site as a cleared site available for development in accordance with the requirements of the building regulations for the time being in force in the district.

(6) In the case of a compulsory acquisition in pursuance of a notice to treat served before 1st January 1955, such compensation shall be the value, at the time when the valuation is made, of the site as a cleared site available for development as aforesaid.

(7) The references in subsections (4) to (6) of this section—

(*a*) to compensation are references to compensation payable in respect of the purchase exclusive of any compensation for disturbance or for severance or for injurious affection;

(*b*) to a notice to treat include references to a notice to treat which, under any enactment, is deemed to have been served, and references to the service of such a notice and to the date of service shall be construed accordingly.

(8) If a local authority purchase a house compulsorily under subsection (1) of this section, they shall forthwith execute all such works as were specified in the notice against which the appeal was brought.

(9) In respect of any house purchased by a local authority under subsection (1) of this section, the authority shall have the like powers and duties as they have in respect of houses provided under Part VII of this Act.

Power of local authority to make closing and demolition orders.

**15.**—(1) Where a local authority, on consideration of an official representation or a report by their sanitary inspector or other information in their possession, are satisfied that any house is unfit for human habitation and incapable at a reasonable expense of being rendered so fit, and—

(*a*) the house forms only part of a building, and

(*b*) the building does not comprise only houses which are unfit for human habitation and incapable at a reasonable expense of being rendered so fit,

the local authority shall make an order (in this Act referred to as a " closing order ") prohibiting the use of the house for human

habitation as from such date as may be specified in the order, not being less than twenty-eight days from the date on which the order becomes operative. PART II

(2) Where a local authority, on consideration of an official representation or a report by their sanitary inspector or other information in their possession, are satisfied that any building comprises only a house which is, or houses which are, unfit for human habitation and incapable at a reasonable expense of being rendered so fit, they shall make an order (in this Act referred to as a " demolition order ") requiring—

(*a*) that the building shall be vacated within such period as may be specified in the order, not being less than twenty-eight days from the date on which the order becomes operative, and

(*b*) that the building shall be demolished within three months after the expiration of that period or, if the building is not vacated before the expiration of that period, within three months after the date on which it is vacated.

(3) If in the case of a house in respect of which a closing order has been made or a building in respect of which a demolition order has been made the local authority are satisfied, on an application made by any owner of the house or building, or any person appearing to the authority to have reasonable cause for making the application, that the house has, or, as the case may be, the house or houses comprised in the building have, been rendered fit for human habitation, they shall make an order determining the closing order or, as the case may be, the demolition order.

(4) Where a closing order or a demolition order has been made in respect of a house or building and not determined, any owner of the house or building, or any person holding a heritable security over it, may give to the local authority, within a period of twenty-one days from the date of service of the order or such longer period therefrom as the authority may, either during or after the expiry of the twenty-one days, determine to be appropriate, an undertaking in writing—

(*a*) that he will within a specified period carry out such works as will, in the opinion of the local authority, render the house or, as the case may be, all the houses in the building, fit for human habitation ; or

(*b*) in the case of a building in respect of which a demolition order has been made, that no house in the building will be used for human habitation (unless at any time all the houses therein are rendered fit for human

PART II

habitation and the local authority agree that they have been so rendered);

and if an undertaking is so given the local authority shall as soon as may be either—

(i) accept the undertaking and make in respect thereof an order (in this Part of this Act referred to as a "suspension order") suspending the closing order or, as the case may be, the demolition order, or

(ii) reject the undertaking and serve on the person who gave the undertaking notice that they have done so:

Provided that a suspension order made in respect of an undertaking such as is mentioned in paragraph (*b*) of this subsection shall cease to have effect on the expiration of one year from the date of its making unless renewed, at the discretion of the local authority, at the expiration of the said year; and this proviso shall apply to any suspension order so renewed as it applies to the original order with the substitution for the reference to the making of the order of a reference to the renewal thereof.

(5) A suspension order made or renewed by a local authority may be determined by them at any time by order if they have reasonable cause to believe that there has been a breach of the undertaking in respect of which it was made or renewed.

(6) Any period—

(*a*) between the service of the closing order or demolition order and the service of a suspension order or a notice of rejection under subsection (4) of this section, and

(*b*) while a suspension order is in force,

shall be left out of account in reckoning in relation to the closing order or demolition order in question the period of twenty-one days referred to in sections 26(1) and 27 of this Act.

(7) Any order made or notice issued under this section in respect of a house or building shall be served—

(*a*) upon the person having control of the house or, as the case may be, the house or houses comprised in the building;

(*b*) upon any other person who is an owner of the house or, as the case may be, any of those houses;

(*c*) upon any person holding a heritable security over the house or, as the case may be, any of those houses, unless it appears to the local authority, after exercising their powers under section 192(4) of this Act, that there is no such person; and

(*d*) where an application has been made in relation to the house, or, as the case may be, those houses, under subsection (3) of this section, by a person upon whom the order or notice is not required to be served apart from this paragraph, upon that person.

(8) In this section references to an owner of, and to any person holding a heritable security over, a building shall be construed as including respectively references to an owner of, and to any person holding a heritable security over, any part of the building.

(9) Section 21 of the Housing (Scotland) Act 1962 shall not be taken to have affected, and this section shall not affect, any order made, or proceedings begun, under section 9 of the Housing (Scotland) Act 1950 before 3rd July 1962. 1962 c. 28. 1950 c. 34.

Substitution of closing or demolition order for notice under s. 11(1) in certain cases.

**16.**—(1) Where a local authority have served a notice under section 11(1) of this Act requiring the execution of works for the purpose of rendering a house fit for human habitation, any person on whom such a notice was served or any other person who is an owner of the house may apply in writing to the authority to substitute for the notice so served an order under subsection (1) or subsection (2) of section 15 of this Act, and where the authority are satisfied that it is reasonable to do so having regard to—

(*a*) the estimated cost of the said works, and

(*b*) the financial circumstances of the person at whose expense the works would have been carried out, and

(*c*) the other circumstances of the case (including the need for housing accommodation in the area),

they shall make and serve an order under the said subsection (1) or subsection (2).

(2) A local authority shall not unreasonably refuse to substitute such an order as aforesaid for the notice so served, and if any question arises as to whether any such refusal has been unreasonable the question shall be determined by the sheriff.

Power to make closing orders with respect to underground rooms.

**17.**—(1) The provisions of section 15 of this Act with respect to the making of a closing order shall, subject to the necessary modifications, apply in relation to any underground room habitually used as a sleeping place which is for the purposes of this Part of this Act to be deemed to be a house unfit for human habitation, and accordingly a closing order may, subject to the provisions of the said section 15, be made under that section in respect of any such room.

(2) A room habitually used as a sleeping place, the surface of the floor of which is more than three feet below the surface

PART II

of the part of the street adjoining or nearest to the room, shall, for the purposes of this Part of this Act, be deemed to be a house unfit for human habitation if the room either—

(*a*) is not on an average at least seven feet in height from floor to ceiling, or

(*b*) does not comply with such regulations as the local authority may with the consent of the Secretary of State make for securing the proper ventilation and lighting of such rooms and the protection thereof against dampness, effluvia or exhalation.

(3) If a local authority, after being required to do so by the Secretary of State, fail to make regulations under subsection (2)(*b*) of this section, or fail to make such regulations under the said subsection (2)(*b*) as the Secretary of State approves, the Secretary of State may himself make regulations which shall have effect as if they had been made by the authority under the said subsection (2)(*b*) with the consent of the Secretary of State.

Provisions as to houses subject to building preservation orders, etc.

1947 c. 43.

**18.**—(1) Where apart from this section a local authority would be under a duty to make a demolition order under this Part of this Act with respect to a building—

(*a*) in relation to which a building preservation order made under section 27 of the Town and Country Planning (Scotland) Act 1947 is in force, or

(*b*) which is included in any list compiled or approved under section 28 of that Act,

they shall not make a demolition order but instead shall make a closing order or closing orders under this section in respect of the house or houses comprised in the building.

(2) Where a building to which a demolition order made under this Part of this Act by a local authority applies (whether or not that order has become operative) becomes—

(*a*) subject to a building preservation order made under the said section 27, or

(*b*) included in any list compiled or approved under the said section 28,

the local authority shall determine the demolition order and make a closing order or closing orders under this section in respect of the house or houses comprised in the building.

(3) The provisions of section 15 of this Act shall, subject to any necessary modifications, have effect in relation to a closing order made under this section as they have effect in relation to a closing order made under that section.

PART II
Powers of local authority in relation to building consisting wholly of closed houses.

**19.**—(1) Where a building consists wholly of houses with respect to which closing orders have become operative and none of those orders has been determined or is subject to a suspension order, then—

(*a*) the local authority may determine the closing orders and make a demolition order under section 15 of this Act in respect of the whole building, so however that subsections (4) to (6) of the said section 15 shall not apply to the order ; or

(*b*) the Secretary of State may, on the application of the local authority, make an order authorising them to acquire the land, and thereupon, subject to the provisions of this section, this Act shall apply as if the said land were land authorised to be acquired compulsorily by a compulsory purchase order under Part III of this Act.

(2) The compensation to be paid for land purchased compulsorily under this section shall be assessed by the Lands Tribunal in accordance with the Land Compensation (Scotland) Act 1963 subject, however, to the provisions of subsections (3) to (5) of this section. 1963 c. 51.

(3) In the case of a compulsory acquisition in pursuance of a notice to treat served on or after 1st January 1955, such compensation shall not (except by virtue of paragraph 2 or paragraph 3 of Schedule 2 to the said Act of 1963) exceed the value, at the time when the valuation is made, of the site as a cleared site available for development in accordance with the requirements of the building regulations for the time being in force in the district.

(4) In the case of a compulsory acquisition in pursuance of a notice to treat served before 1st January 1955, such compensation shall be the value, at the time when the valuation is made, of the site as a cleared site available for development as aforesaid.

(5) The references in subsections (2) to (4) of this section—

(*a*) to compensation are references to compensation payable in respect of the purchase exclusive of any compensation for disturbance or for severance or for injurious affection ;

(*b*) to a notice to treat include references to a notice to treat which, under any enactment, is deemed to have been served, and references to the service of such a notice and to the date of service shall be construed accordingly.

PART II

(6) Where a local authority acquire land by virtue of this section, the provisions of section 39 of this Act shall apply as if the land had been acquired in connection with a clearance area.

Local authority may acquire and repair house or building liable to closing or demolition order.

**20.**—(1) In any case where a local authority would, apart from this subsection—

(*a*) be required to make a closing order or a demolition order in respect of a house or building (whether in pursuance of subsection (1) or subsection (2) of section 15 of this Act or of an application made to them under section 16 of this Act), or

(*b*) be empowered under section 19(1) of this Act to determine closing orders in respect of two or more houses comprised in a building and to make a demolition order in respect of the whole building,

the local authority, if it appears to them that, having regard to the existing condition of the house or building and to the needs of the district with regard to the provision of further housing accommodation, the house or building must be continued in use as housing accommodation, may purchase the house or building instead of making such an order.

(2) Where a local authority determine to purchase a house or building under subsection (1) of this section, they shall serve notice of the determination on—

(*a*) every person on whom they would be required under section 15(7) of this Act to serve a closing order or a demolition order made in respect of the house or building, and

(*b*) the superior of the house or building;

and at any time after that notice has become operative the local authority may purchase the house or building by agreement or may be authorised by the Secretary of State to purchase it compulsorily.

1947 c. 42.

(3) The provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of a house or building under this section as if this section had been in force immediately before the commencement of that Act.

1963 c. 51.

(4) The compensation to be paid for any house or building purchased compulsorily under this section shall be assessed by the Lands Tribunal in accordance with the Land Compensation (Scotland) Act 1963 subject, however, to the provisions of subsections (5) to (7) of this section.

(5) In the case of a compulsory acquisition in pursuance of a notice to treat served on or after 1st January 1955, such compensation shall not exceed the value, at the time when the valuation is made, of the site as a cleared site available for development in accordance with the requirements of the building regulations for the time being in force in the district.

(6) In the case of a compulsory acquisition in pursuance of a notice to treat served before 1st January 1955, such compensation shall be the value, at the time when the valuation is made, of the site as a cleared site available for development as aforesaid.

(7) The references in subsections (4) to (6) of this section—

(*a*) to compensation are references to compensation payable in respect of the purchase exclusive of any compensation for disturbance or for severance or for injurious affection;

(*b*) to a notice to treat include references to a notice to treat which, under any enactment, is deemed to have been served, and references to the service of such a notice and to the date of service shall be construed accordingly.

(8) A local authority by whom a house or building is purchased under this section shall carry out such works as may in the opinion of the authority from time to time be required for rendering or keeping it capable of being continued in use as housing accommodation.

(9) In respect of any house purchased by a local authority under this section, the authority shall have the like powers and duties as they have in respect of houses provided under Part VII of this Act.

Penalty for use of premises in contravention of closing order or of undertaking.

**21.** If any person—

(*a*) knowing that a closing order made under section 15 or section 18 of this Act has become operative and applies to any premises, uses those premises or permits those premises to be used for human habitation unless he shall previously have obtained the consent of the local authority to the use of the premises for that purpose; or

(*b*) knowing that an undertaking has been accepted by the local authority under this Part of this Act that any premises shall not be used for human habitation, uses those premises for human habitation or permits them to be so used;

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further fine of five pounds for every day or part of a day on which he so uses them, or permits them to be so used, after conviction.

PART II
Procedure where demolition order made.

**22.**—(1) When a demolition order has become operative, the owner of the building to which it applies shall demolish the building within the time limited in that behalf by the order; and, if the building is not demolished within that time, the local authority may enter and demolish the building and sell the materials thereof.

(2) Any expenses incurred by a local authority under subsection (1) of this section, after giving credit for any amount realised by the sale of materials, may be recovered by them from the owner of the building, and any surplus in the hands of the authority shall be paid by them to the owner of the building.

(3) In the application of this section to a demolition order made in respect of a building comprising two or more parts separately owned—

(*a*) any reference to the owner of the building shall be construed as a reference to the owners of the several parts comprised in the building;

(*b*) without prejudice to the powers of the local authority under subsection (1) of this section, the duty imposed by that subsection on the owners of the several parts comprised in the building to demolish the building shall be regarded as a duty to arrange jointly for the demolition of the building; and

(*c*) subsection (2) of this section shall have effect subject to the proviso that any sum recoverable or payable by the local authority under that subsection shall be recoverable from or payable to the several owners in such proportions as the owners may agree or, failing agreement, as shall be determined by an arbiter nominated by the owners or, failing such nomination, nominated on the application of the authority or any of the owners by the sheriff.

Power of local authority to purchase site of demolished building where expenses of demolition cannot be recovered.

**23.**—(1) Where a local authority have demolished a building in exercise of the powers conferred on them by section 22 of this Act and the expenses thereby incurred by them cannot be recovered by reason of the fact that the owner of the building cannot be found, the authority may be authorised by the Secretary of State to purchase compulsorily the site of the building, including the area of any yard, garden or pertinent belonging to the building or usually enjoyed therewith.

1947 c. 42.

(2) The provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to a compulsory purchase of land under subsection (1) of this section as if that subsection had been in force immediately before the commencement of that Act.

(3) A local authority shall be entitled to deduct from the compensation payable on the compulsory purchase of the site of a building under this section the amount of the expenses referred to in subsection (1) of this section so far as not otherwise recovered.

(4) A local authority shall deal with any land purchased by them under this section by sale, letting or appropriation in accordance with the provisions of section 39 of this Act.

Power of local authority to cleanse from vermin house to which demolition order applies.

**24.**—(1) If it appears to the local authority that a house or building to which a demolition order applies requires to be cleansed from vermin, the authority may, at any time after the order is made, serve notice in writing on the owner or owners of the house or building that the authority intend to cleanse it before it is demolished.

(2) A local authority who have served a notice under subsection (1) of this section may, at any time after the order has become operative in relation to the house or building and it has been vacated, enter and carry out such work as they may think requisite for the purpose of destroying or removing vermin, and the demolition of the house or building shall not be begun or continued by any owner after service of the notice on him until the authority have served on him a further notice authorising him to proceed with the demolition:

Provided that an owner on whom a notice has been served under subsection (1) of this section may, at any time after the house or building has been vacated, serve notice in writing on the local authority requiring them to carry out the work within fourteen days from receipt of the notice served by him, and at the expiration of that period shall be at liberty to proceed with the demolition of the house or building whether the work has then been completed or not.

(3) Where a local authority serve a notice under subsection (1) of this section, section 22(1) of this Act shall have effect in relation to the house or building subject to the proviso that the authority shall not be entitled to take action thereunder until the expiration of three months from the date on which the owner or owners become entitled by virtue of subsection (2) of this section to proceed with the demolition.

Payments in respect of unfit but well-maintained houses.

**25.**—(1) If—

(*a*) a house has on or after 17th July 1957 been vacated in pursuance of a closing order or a demolition order, or purchased compulsorily under section 14(1) or section 20 of this Act in lieu of the making of a closing order or a demolition order in respect of the building in which it is comprised ; and

PART II

(*b*) any person has, within three months after the service of the closing order or demolition order, or of the notice of determination to purchase required by subsection (2) of the said section 20, or after the confirmation of a compulsory purchase order, made a representation to the local authority that the house has been well maintained and that the good maintenance of the house is attributable wholly or partly to work carried out by him or at his expense; and

(*c*) leaving out of account any defects in the house in respect of any such matters as are mentioned in paragraphs (*b*) to (*k*) of section 5(1) of this Act, the representation is correct;

the local authority shall make to that person in respect of that house the like payment as would have fallen to be so made under section 49 of this Act if the house had been a house to which that section applies and directions had been given by the Secretary of State for the making of a payment thereunder.

(2) If, on receiving a representation under subsection (1) of this section, the local authority consider that the condition specified in paragraph (*c*) of that subsection is not satisfied, they shall serve on the person by whom the representation was made notice that no payment falls to be made to him under that subsection.

(3) For the purposes of this section, a house comprised in a building which might have been the subject of a demolition order but which has, without the making of such an order, been vacated and demolished in pursuance of an undertaking for its demolition given to the local authority shall be deemed to have been vacated in pursuance of a demolition order made and served at the date when the undertaking was given.

*Appeals and date of operation of certain notices, etc.*

Appeals.

**26.**—(1) Subject to the provisions of subsections (2), (3) and (4) of section 190 of this Act, any person aggrieved by—

(*a*) a notice under this Part of this Act requiring the execution of works;

(*b*) a demand for the recovery of expenses incurred by a local authority in executing works;

(*c*) an order made by a local authority with respect to any such expenses;

(*d*) a closing order made under section 15 or section 18 of this Act or a refusal to determine such a closing order;

(*e*) a demolition order or a refusal to determine a demolition order;

(*f*) a notice of determination to purchase served under section 20(2) of this Act;

(*g*) a notice that no payment falls to be made under section 25(1) of this Act served under subsection (2) of that section;

may appeal to the sheriff by giving notice of appeal within twenty-one days after the date of the service of the notice, demand or order, or after the refusal, as the case may be; and no proceedings shall be taken by the local authority to enforce any notice, demand or order whilst an appeal against it is pending:

Provided that no appeal shall lie under paragraph (*d*) or paragraph (*e*) or paragraph (*f*) of this subsection at the instance of a person who is in occupation of the premises to which the order or notice relates under a lease or agreement the unexpired term of which does not exceed six months.

(2) Where the sheriff allows an appeal under paragraph (*a*) of subsection (1) of this section, he shall, if requested by the local authority so to do, include in his determination a finding whether the house in question can or cannot be rendered fit for human habitation at a reasonable expense.

(3) On an appeal under paragraph (*b*) or paragraph (*c*) of subsection (1) of this section no question shall be raised which might have been raised on an appeal against the original notice requiring the execution of the works.

(4) On an appeal under paragraph (*d*) or paragraph (*e*) of subsection (1) of this section the sheriff may consider any undertaking such as is specified in relation to a closing order or a demolition order, as the case may be, in section 15(4) of this Act (including that subsection as applied by section 18(3) of this Act) and, if he thinks it proper to do so having regard to the undertaking, may direct the local authority to make a suspension order under the said subsection (4).

Date of operation of notices, demands and orders subject to appeal.

**27.** Any notice, demand or order against which an appeal might be brought to the sheriff under section 26 of this Act shall, if no such appeal is brought, become operative on the expiration of twenty-one days after the date of the service of the notice, demand or order, as the case may be, and shall be final and conclusive as to any matters which could have been raised on such an appeal, and any such notice, demand or order against which an appeal is brought shall, if and so far as it is confirmed by the sheriff, become operative as from the date of the determination of the appeal.

PART II

*Charging orders*

Charging order in favour of owner executing works.

**28.**—(1) Where any owner has completed in respect of any house or building any works required to be executed by a notice of a local authority under this Part of this Act, he may apply to the authority for a charging order.

(2) An owner applying for a charging order under this section shall produce to the local authority—

(*a*) the certificate of their surveyor or engineer that the works have been executed to his satisfaction, and

(*b*) the accounts of and vouchers for the costs, charges and expenses of the works,

and the local authority, when satisfied—

(i) that the owner has duly executed the works, and

(ii) of the amount of such costs, charges and expenses, and of the expenses properly incurred in obtaining the charging order,

shall make an order providing and declaring that the house or building is thereby charged and burdened with an annuity to repay the amount.

(3) The annuity charged shall be a sum of six pounds for every one hundred pounds of the said amount and so in proportion for any less sum, and shall commence from the date of the order and be payable for a term of thirty years to the owner named in such order, his executors or assignees.

(4) Any person aggrieved by a charging order made under this section may appeal to the sheriff on giving notice of appeal within one month after notice of the order has been served on him.

Form, effect, etc., of charging order.

**29.**—(1) A charging order shall be in such form as may be prescribed and shall be recorded in the General Register of Sasines.

(2) Every annuity constituted a charge by a charging order duly recorded in the General Register of Sasines shall be a charge on the premises specified in the order, having priority over all existing and future estates, interests and incumbrances, with the exception of—

(*a*) feuduties, teinds, ground annuals, stipends and standard charges in lieu of stipends ; and

(*b*) any charges on the premises created or arising under any provision of the Public Health (Scotland) Act 1897, or any Act amending that Act, or under any provision in any local Act authorising a charge for recovery of expenses incurred by a local authority ; and

1897 c. 38.

(*c*) any charge created under any Act authorising advances of public money;

and where more annuities than one are charged under this Part of this Act on any premises such annuities shall, as between themselves, take order and preference according to the respective dates of the charging orders being recorded in the General Register of Sasines.

(3) A charging order duly recorded in the General Register of Sasines shall be conclusive evidence that all notices, acts and proceedings by this Part of this Act directed with reference to, or consequent on, the obtaining of such an order or the making of such a charge have been duly served, done and taken, and that the charge has been duly created, and that it is a valid charge on the premises declared to be subject thereto.

(4) Every annuity charged by any such charging order may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a feuduty.

(5) A charging order and all sums payable thereunder may be from time to time transferred in like manner as a bond and disposition in security and sums payable thereunder.

(6) Any owner of, or other person interested in, premises on which an annuity has been charged by any such charging order shall at any time be at liberty to redeem the annuity on payment to the person entitled to the annuity of such sums as may be agreed upon or, in default of agreement, determined by the Secretary of State.

Power of local authority to make charging order in favour of themselves.

**30.**—(1) Where a local authority have themselves incurred expenses—

(*a*) under section 11(2) of this Act, in the execution of works, or

(*b*) under section 22 of this Act, in the demolition of a building,

it shall be competent for them to make a charging order in favour of themselves in respect of such expenses, and the provisions of sections 28 and 29 of this Act shall, subject to any necessary modifications and to the provisions of subsection (2) of this section, apply to a charging order so made in like manner as they apply to a charging order made under the said section 28.

(2) A charging order made under subsection (1) of this section shall, in a case falling under paragraph (*b*) of that subsection, be made in relation to the site of the building demolished, including the area of any yard, garden or pertinent belonging to the building or usually enjoyed therewith.

PART II

*Supplemental*

Protection of superiors and owners.

**31.**—(1) If the superior of any lands and heritages gives notice to the local authority of his right of superiority, the authority shall give to him notice of any proceedings taken by them in pursuance of this Part of this Act in relation to the lands and heritages.

(2) Nothing in this Part of this Act shall prejudice or interfere with the rights or remedies of any owner for the breach, non-observance or non-performance of any contract or obligation entered into by a tenant or lessee with reference to any house in respect of which an order is made, or a notice requiring the execution of works is served, by a local authority under this Part of this Act; and if any owner is obliged to take possession of any house in order to comply with any such order or notice, the taking possession shall not affect his right to avail himself of any such breach, non-observance or non-performance which may have occurred before he so took possession.

Determination whether house can be rendered fit at reasonable expense.

**32.** In determining for the purposes of this Part of this Act whether a house can be rendered fit for human habitation at a reasonable expense, regard shall be had to the estimated cost of the works necessary to render it so fit and the value which it is estimated that the house will have when the works are completed.

Interpretation of Part II.

**33.**—(1) In this Part of this Act (except sections 6 to 10, 28, 29 and 31)—

(*a*) any reference to a house includes a reference to a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been on the same site or on a site in the immediate vicinity for a period of two years before action is taken under any of the provisions of this Part of this Act (except the sections aforesaid);

(*b*) any reference to a house, or to a building, includes a reference to premises occupied by agricultural workers notwithstanding that such premises are used for sleeping purposes only.

(2) For the purposes of this Part of this Act a crofter or a landholder shall be deemed to be the owner of any house on his croft or holding in respect of which he would, on the termination of his tenancy, be entitled to compensation under the Crofters (Scotland) Acts 1955 and 1961 or, as the case may be, the Small Landholders (Scotland) Acts 1886 to 1931, as for an improvement.

## PART III

## CLEARANCE

### *Clearance areas*

Power of local authority to pass clearance resolution declaring area to be clearance area.

**34.**—(1) Where a local authority, on consideration of an official representation or other information in their possession, are satisfied as respects any area in their district—

(*a*) that the houses in that area or the greater part of those houses are unfit for human habitation, or are by reason of their bad arrangement or the narrowness or bad arrangement of the streets injurious or dangerous to the health of the inhabitants of the area ; and

(*b*) that the most satisfactory method of dealing with the said conditions is the demolition of all the buildings in the area ;

the local authority shall cause that area to be defined on a map and shall pass a resolution (in this Act referred to as a " clearance resolution ") declaring the area so defined to be a clearance area, that is to say, an area all the buildings in which are to be demolished in accordance with the provisions hereinafter contained.

(2) A clearance area shall not include the site of a building unless at least part of the building consists—

(*a*) of houses which are unfit for human habitation or injurious or dangerous to health, or

(*b*) of other premises which are injurious or dangerous to health.

(3) Before passing a clearance resolution, a local authority shall satisfy themselves—

(*a*) that accommodation available for the persons who will be displaced by the demolition of buildings in the clearance area exists, or can be provided by the local authority in advance of the displacements which will from time to time become necessary as the demolition proceeds, and

(*b*) that the resources of the local authority are sufficient for the purpose of carrying the resolution into effect.

(4) A local authority shall, on passing a clearance resolution, forthwith transmit to the Secretary of State a copy thereof, together with a statement of the number of persons who, on a day specified in the statement, being a day within two months immediately preceding the date of the resolution, were ordinarily occupying the buildings comprised in the clearance area.

PART III *Functions of local authority in relation to clearance area*

Method of dealing with clearance area.

**35.**—(1) As soon as may be after a local authority have passed a clearance resolution, but subject always to the provisions of subsections (2) and (3) of this section, they shall proceed to secure the demolition of the buildings in the clearance area in one or other of the following ways, or partly in one of those ways and partly in the other of them, that is to say—

(*a*) by ordering the demolition of buildings in the area; or

(*b*) by purchasing land within the area and themselves undertaking, or otherwise securing, the demolition of the buildings.

(2) A local authority who have passed a clearance resolution shall, before taking any action under that resolution which will necessitate the displacement of any persons, undertake to carry out such rehousing operations, if any, within such period as the Secretary of State may consider to be reasonably necessary.

(3) A local authority who have passed a clearance resolution shall not under paragraph (*a*) of subsection (1) of this section order the demolition of any houses or other premises in the clearance area which are properly included in the area only on the ground that by reason of their bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets they are injurious or dangerous to the health of the inhabitants of the area.

Clearance orders.

**36.**—(1) Where as respects any area declared by them to be a clearance area a local authority determine to order any buildings within the area to be demolished, they shall make and submit to the Secretary of State, for confirmation by him, an order (in this Act referred to as a " clearance order ") ordering the demolition of each of those buildings.

(2) The provisions of Schedule 1 to this Act shall have effect with respect to the making, submission and confirmation of clearance orders, and the provisions of Schedule 2 to this Act shall have effect with respect to the validity and date of operation of such orders.

(3) When a clearance order has become operative, the owner of any building to which the order applies shall demolish that building before the expiration of three months from the date on which the building is required by the order to be vacated or, if it is not vacated until after that date, before the expiration of three months from the date on which it is vacated; and, if the building is not demolished before the expiration of that period, the local authority may enter and demolish the building and sell the materials thereof.

(4) Any expenses reasonably and necessarily incurred by a local authority under subsection (3) of this section, after giving credit for any amount realised by the sale of materials, may be recovered by them from the owner of the building, and any surplus in the hands of the authority shall be paid by them to the owner of the building:

Provided that, where the building belongs to more than one owner, any sum recoverable or payable by the local authority under this subsection shall be recoverable from or payable to the several owners in such proportions as the owners may agree or, failing agreement, as shall be determined by an arbiter nominated by the owners or, failing such nomination, nominated on the application of the authority or any of the owners by the sheriff.

(5) The provisions of section 24 of this Act relating to the cleansing of houses and buildings from vermin shall have effect in relation to a building to which a clearance order applies as they have effect in relation to a house or building to which a demolition order applies, with the substitution, for the reference to the date on which the demolition order is made, of a reference to the date on which the clearance order is made, and for the reference to section 22(1) of this Act, of a reference to subsection (3) of this section.

(6) In the provisions of this Part of this Act relating to buildings included in an area to which a clearance order applies references to a building shall include references to a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been on the same site or on a site in the immediate vicinity for a period of two years next before action is taken under those provisions.

Local authority may purchase land surrounded by or adjoining clearance area.

**37.** Where a local authority determine to purchase any land comprised in an area declared by them to be a clearance area, they may purchase also—

(*a*) any land which is surrounded by the clearance area and the acquisition of which is reasonably necessary for the purpose of securing an area of convenient shape and dimensions, and

(*b*) any adjoining land the acquisition of which is reasonably necessary for the satisfactory development or use of the clearance area.

Provisions regarding acquisition of land by local authority.

**38.**—(1) The powers of acquiring land comprised in or surrounded by or adjoining a clearance area conferred on a local authority by this Part of this Act shall not be restricted by the fact that buildings within that area have been demolished since the area was declared to be a clearance area.

PART III

(2) Where a local authority have determined to purchase under this Part of this Act land comprised in or surrounded by or adjoining a clearance area, they may purchase the land by agreement or they may be authorised to purchase the land compulsorily by a compulsory purchase order made and submitted to the Secretary of State and confirmed by him in accordance with the provisions of Schedule 3 to this Act.

(3) Subject to the provisions of this Part of this Act, any order authorising the compulsory purchase of land comprised in a clearance area shall be submitted to the Secretary of State within six months, and any order authorising the compulsory purchase of land surrounded by or adjoining a clearance area shall be submitted to the Secretary of State within twelve months, after the date of the clearance resolution or within such longer period as the Secretary of State may, in the circumstances of the particular case, allow.

(4) The provisions of Schedule 2 to this Act shall have effect with respect to the validity and date of operation of a compulsory purchase order made under this section.

Treatment of land acquired by local authority.

**39.**—(1) A local authority who have under this Part of this Act purchased any land comprised in or surrounded by or adjoining a clearance area shall, as soon as may be, cause every building thereon to be vacated and shall deal with the land in one or other of the following ways, or partly in one of those ways and partly in the other of them, that is to say—

(*a*) they shall, as soon as may be, demolish the buildings thereon and thereafter may sell or let the land subject to such restrictions and conditions, if any, as they think fit, or may, in accordance with the provisions of section 163 of the Local Government (Scotland) Act 1947, appropriate the land for any purpose for which they are authorised to acquire land ; or

1947 c. 43.

(*b*) they shall, as soon as may be, sell or let the land subject to a condition that the buildings thereon shall be demolished forthwith and subject to such restrictions and conditions, if any, as they think fit:

Provided that, instead of selling the land, the local authority may, where the owner of other land (being land which the authority have power to acquire) is willing to take the land in exchange for that other land, excamb it for that other land either with or without paying or receiving money for equality of exchange, and in relation to any such exchange the like provisions shall have effect as respects the land to be excambed by the authority as have effect by virtue of this subsection as respects land sold thereunder.

PART III

(2) For the purposes of this section, "sell" includes sell in consideration of a ground annual or other similar periodical payment.

Power of local authority to retain unfit houses for temporary occupation.

**40.**—(1) Notwithstanding anything in the foregoing provisions of this Part of this Act, a local authority by whom an area has been declared (whether before or after the commencement of this Act) to be a clearance area may postpone for such period as may be determined by the authority without undue postponement of the clearance of the area the demolition of any building on land purchased by or belonging to the authority within that area, being a building which is, or which contains, a house which in the opinion of the authority, having regard to its existing condition and to the needs of the district with regard to the provision of further housing accommodation, must be continued in use as housing accommodation for the time being; and where the demolition of such a building is so postponed, the authority shall carry out such works as may in their opinion from time to time be required for rendering or keeping such house capable of being continued in use as housing accommodation pending its demolition.

(2) Where the demolition of any building in a clearance area is postponed under subsection (1) of this section, the local authority may also postpone the taking of any proceedings under section 35(1) of this Act in respect of any other building within that area; and the provisions of section 38(3) of this Act as to the time within which compulsory purchase orders may be submitted shall not apply to the purchase of any land in the area, on which there is a building in respect of which proceedings have been postponed under this subsection, or to the purchase of any land surrounded by or adjoining the area.

(3) In respect of any house retained by a local authority under this section for use for housing purposes, the authority shall have the like powers and duties as they have in respect of houses provided under Part VII of this Act.

Provisions with respect to land belonging to local authority.

**41.**—(1) A local authority may include in a clearance area any land belonging to them which they might have included in such an area if it had not belonged to them; and where any land belonging to a local authority is included in a clearance area, or where any land belonging to a local authority is surrounded by or adjoins a clearance area and might have been purchased by the authority under section 37 of this Act had it not been previously acquired by them, the provisions of this Act shall apply in relation to any such land as if it had been purchased compulsorily by the authority as being land comprised in the clearance area or, as the case may be, as being land surrounded by or adjoining the clearance area.

PART III

(2) Subsection (1) of this section shall not apply in the case of any land belonging to a local authority being dwellings which were acquired by them under any such Act or order as is mentioned in section 168 of this Act and in such circumstances that the provisions of paragraph 1 of Schedule 5 to the Housing (Scotland) Act 1925 or of paragraph 1 of Schedule 12 to the Housing (Scotland) Act 1950 or of paragraph 1 of Schedule 8 to this Act took effect in relation thereto.

1925 c. 15.
1950 c. 34.

Arrangements where acquisition of land in clearance area found to be unnecessary.

**42.** Where a local authority have submitted to the Secretary of State an order for the compulsory purchase of land in a clearance area and the Secretary of State, on an application for an authorisation under this section being made to him by the owner of the land and the authority, is satisfied—

(*a*) that the said owner, with the concurrence of any person holding a heritable security over the land, agrees to the demolition of the buildings thereon, and

(*b*) that the local authority can secure the proper clearance of the area without acquiring the land,

the Secretary of State may—

(i) in a case where the order has not been confirmed, authorise the local authority to submit, forthwith and without any previous publication or service, a clearance order with respect to the buildings, and upon their so doing may modify the compulsory purchase order by excluding the land therefrom and confirm the clearance order without causing an inquiry to be held; or

(ii) in a case where the compulsory purchase order has been confirmed but the land has not become vested in the local authority, authorise them to discontinue proceedings for the purchase of the land on their being satisfied that such agreements have been or will be entered into by all necessary parties as may be requisite for securing that the buildings shall be demolished in like manner, and the land become subject to the like restrictions and conditions, as if the authority had dealt with the land in accordance with the provisions of section 39 of this Act.

Power of local authority to purchase cleared land which owner has failed to redevelop.

**43.**—(1) Where land has been cleared of buildings in accordance with a clearance order, the local authority may, at any time after the expiration of eighteen months from the date on which the clearance order became operative, by resolution determine to purchase any part of that land which, at the date of the passing of their resolution, has not been or is not in process of being used for building purposes or otherwise developed by the owner thereof.

(2) Where a local authority have determined to purchase land under this section, they may purchase the land by agreement or they may be authorised to purchase the land compulsorily by a compulsory purchase order made and submitted to the Secretary of State and confirmed by him in accordance with the provisions of Schedule 3 to this Act.

(3) The provisions of Schedule 2 to this Act shall have effect with respect to the validity and date of operation of a compulsory purchase order made under this section.

(4) A local authority shall deal with any land purchased by them under this section by sale, letting or appropriation in accordance with the provisions of section 39 of this Act.

*General provisions as to land affected by provisions of Part III*

Commons and open spaces.

**44.**—(1) Where an order under this Part of this Act authorises the acquisition of land forming part of a common or open space, the order, so far as it relates to the acquisition of such land, shall be subject to special parliamentary procedure except where the order provides for giving in exchange for such land other land, not being less in area, certified by the Secretary of State to be equally advantageous to the persons, if any, entitled to common or other rights and to the public.

(2) Before giving any such certificate the Secretary of State shall give public notice of the proposed exchange and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.

(3) Where any such order authorises such an exchange, the order shall provide for vesting the land given in exchange in the persons in whom the common or open space was vested, subject to the same rights, trusts and incidents as attached to the common or open space, and for discharging the part of the common or open space acquired from all rights, trusts and incidents to which it was previously subject.

(4) Any inquiry required by this Act in connection with any such order as is mentioned in subsection (1) of this section shall, if the Secretary of State so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act 1936; 1936 c. 52. and where any direction is so given—

(*a*) it shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945; 1945 c. 18.

(*b*) paragraph 5 of Schedule 3 to this Act shall have effect as if for references to a public local inquiry and to the person who held the inquiry there were substituted

PART III

respectively references to an inquiry by the said Commissioners and to those Commissioners.

(5) The publication of a notice in accordance with the provisions of paragraph 4 of Schedule 3 to this Act in connection with any such order as is mentioned in subsection (1) of this section shall be deemed to be a sufficient compliance with the requirements of the said Act of 1945 with respect to the giving of notice by advertisement.

Land in neighbourhood of royal palaces or parks.

**45.**—(1) Where any land proposed to be acquired under this Part of this Act is situated within the prescribed distance from any of the royal palaces or parks, the local authority shall communicate with the Minister of Public Building and Works, and the Secretary of State shall, before authorising the acquisition of the land or the raising of any loan for the purpose, take into consideration any recommendations he may have received from the Minister of Public Building and Works with reference to the proposal.

(2) For the purposes of this section "prescribed" means prescribed by regulations made by the Secretary of State by statutory instrument after consultation with the Minister of Public Building and Works.

Saving for sites of ancient monuments, etc.

**46.** Nothing in this Part of this Act shall authorise the acquisition for the purposes of this Act of any land which is the site of an ancient monument or other object of archaeological interest.

Compensation in respect of land acquired compulsorily. 1963 c. 51.

**47.**—(1) Where land is purchased compulsorily by a local authority under this Part of this Act, the compensation payable in respect thereof shall be assessed by the Lands Tribunal in accordance with the Land Compensation (Scotland) Act 1963, subject to the following provisions of this section.

(2) In the case of the compulsory acquisition of a house which is specified in the compulsory purchase order as unfit for human habitation, being an acquisition in pursuance of a notice to treat served on or after 1st January 1955, such compensation shall not (except by virtue of paragraph 2 or paragraph 3 of Schedule 2 to the said Act of 1963) exceed the value, at the time when the valuation is made, of the site of the house as a cleared site available for development in accordance with the requirements of the building regulations for the time being in force in the district.

(3) In the case of the compulsory acquisition of a house which is specified in the compulsory purchase order as unfit for

human habitation, being an acquisition in pursuance of a notice to treat served before 1st January 1955, such compensation shall be the value, at the time when the valuation is made, of the site as a cleared site available for development as aforesaid.

(4) The references in subsections (2) and (3) of this section—

(*a*) to compensation are references to compensation payable in respect of the purchase exclusive of any compensation for disturbance or for severance or for injurious affection;

(*b*) to a notice to treat include references to a notice to treat which, under any enactment, is deemed to have been served, and references to the service of such a notice and to the date of service shall be construed accordingly.

(5) Subsections (2) to (4) of this section shall not have effect in the case of a house or other premises properly included in a clearance area only on the ground that, by reason of their bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets, they are injurious or dangerous to the health of the inhabitants of the area.

(6) In the case of land purchased as aforesaid, other than land in respect of which the provisions of subsections (2) to (4) of this section have effect, the rules specified in Schedule 4 to this Act shall be observed.

Compensation in respect of certain premises required to be demolished.

**48.**—(1) Where in pursuance of a clearance order any premises (other than a house specified in the order as unfit for human habitation) are required by a local authority to be demolished by the owner, the authority shall pay to the owner by way of compensation in respect of the demolition a sum representing the difference between—

(*a*) the sum which would have been payable as compensation if the premises had been acquired by the local authority under a compulsory purchase order, and

(*b*) the sum which would have been so payable if the premises had been a house specified in a compulsory purchase order as unfit for human habitation.

(2) Subject to the provisions of subsection (1) of this section, the compensation payable under this section shall be assessed by the Lands Tribunal in accordance with the Land Compensation (Scotland) Act 1963, subject to the necessary modifications, as if it were compensation in respect of land compulsorily acquired by the local authority. 1963 c. 51.

PART III

Payments in respect of well-maintained houses.

**49.**—(1) Where as respects a house which either—

(*a*) is made the subject of a clearance order as being unfit for human habitation, or

(*b*) is made the subject of a compulsory purchase order under this Part of this Act as being so unfit,

the Secretary of State is satisfied, after causing the house to be inspected by one of his officers, that it has been well maintained, the Secretary of State may give directions for the making by the local authority of a payment under this section in respect of the house.

(2) A payment under this section shall be of an amount equal either—

(*a*) to the amount by which the aggregate expenditure which is shown to the satisfaction of the local authority to have been incurred in maintaining the house during the five years immediately before the date on which the order was made exceeds an amount equal to the rateable value of the house; or

(*b*) to the rateable value of the house multiplied by the appropriate multiplier;

whichever is the greater.

(3) In subsection (2) of this section—

(*a*) "rateable value" means the rateable value entered in the valuation roll last authenticated prior to the date on which the order was made;

(*b*) "the appropriate multiplier" means—

(i) if at the date on which the order was made the house is occupied by an owner thereof and has been owned and occupied by him or by a member of his family continuously during the three years immediately before that date, seven and one-fifth or such other multiplier as may from time to time be prescribed;

(ii) if at the said date the house is not so occupied, three and three-fifths or such other multiplier as may from time to time be prescribed.

In this subsection "prescribed" means prescribed by an order made by the Secretary of State by statutory instrument which shall be of no effect until it is approved by a resolution of each House of Parliament.

(4) A payment under this section shall be made—

(*a*) if the house is occupied by an owner thereof, to him; or

(*b*) if the house is not so occupied, to the person or persons liable to maintain and repair the house, and, if more

than one person is so liable, in such shares as the local authority think equitable in the circumstances:

Provided that, if any other person satisfies the local authority that the good maintenance of the house is attributable to a material extent to work carried out by him or at his expense, the authority may, if it appears to them to be equitable in the circumstances, make the payment, in whole or in part, to him.

Local authority may take possession of land to be acquired or appropriated.

**50.**—(1) Subject to section 176(4) of this Act, where a local authority are by an order made and confirmed under this Part of this Act authorised to purchase land compulsorily for the purposes of this Part of this Act, then, at any time after notice to treat has been served, the authority may, after giving to the owner and occupier of the land not less than tweny-eight days' notice, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with the provisions of sections 83 to 88 of the Lands Clauses Consolidation (Scotland) Act 1845, but subject to payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if the said provisions had been complied with.

1845 c. 19.

(2) Where a local authority have agreed to purchase, or have determined to appropriate, land for the purposes of this Part of this Act, subject to the interest of the person in possession thereof, and that interest is not greater than that of a tenant for a year or from year to year, then, at any time after such agreement has been made, or such appropriation takes effect, the authority may, after giving to the person so in possession not less than twenty-eight days' notice, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent, but subject to payment to the person so in possession of the like compensation, with such interest thereon as aforesaid, as if the authority had been authorised to purchase the land compulsorily and that person had in pursuance of such power been required to give up possession before the expiration of his term or interest in the land, but without the necessity of compliance with sections 83 to 88 of the Lands Clauses Consolidation (Scotland) Act 1845.

Extinction of rights of way, servitudes, etc.

**51.**—(1) A local authority may, with the approval of the Secretary of State, by order extinguish any public right of way over any land purchased by them under this Part of this Act or provide for the closing or diversion of any street in connection with the development of a clearance area.

(2) An order made by a local authority under subsection (1) of this section shall be published in the prescribed manner, and

PART III

if any objection thereto is made to the Secretary of State before the expiration of two months from the publication thereof, the Secretary of State shall not approve the order until he has caused a public local inquiry to be held into the matter.

(3) Where a local authority have resolved to purchase under this Part of this Act land over which a public right of way exists, it shall be lawful under the foregoing provisions of this section for the authority to make and for the Secretary of State to approve, in advance of the purchase, an order extinguishing that right as from the date on which the buildings on the land are vacated, or at the expiration of such period after that date as may be specified in the order or as the Secretary of State in approving the order may direct.

(4) Upon the completion by a local authority of the purchase by them of any land under this Part of this Act, all private rights of way and all rights of laying down, erecting, continuing or maintaining any apparatus on, under or over that land, and all other rights or servitudes in or relating to that land, shall be extinguished, and any such apparatus shall vest in the authority; and any person who suffers loss by the extinction or vesting of any such right or apparatus as aforesaid shall be entitled to be paid by the authority compensation to be determined by the Lands Tribunal in accordance with the Land Compensation (Scotland) Act 1963:

1963 c. 51.

Provided that this subsection shall not apply to any right vested in public undertakers of laying down, erecting, continuing or maintaining any apparatus or to any apparatus belonging to public undertakers, and shall have effect as respects other matters subject to any agreement which may be made between the local authority and the person in or to whom the right or apparatus in question is vested or belongs.

Provisions as to apparatus of public undertakers.

**52.**—(1) Where the removal or alteration of apparatus belonging to public undertakers on, under or over land purchased by a local authority under this Part of this Act or on, under or over a street running over or through or adjoining any such land is reasonably necessary for the purpose of enabling the authority to exercise any of the powers conferred upon them by this Part of this Act, the authority shall have power to execute works for the removal or alteration of the apparatus subject to and in accordance with the provisions of this section.

(2) A local authority who intend to remove or alter any apparatus under the powers conferred by subsection (1) of this section shall serve on the undertakers notice in writing of their intention, with particulars of the proposed works and of the manner in which they are to be executed and plans and sections

thereof, and shall not commence any works until the expiration of a period of twenty-eight days from the date of service of the notice, and the undertakers may within that period by notice in writing served on the authority— PART III

(*a*) object to the execution of the works or any of them on the ground that they are not necessary for the purpose aforesaid ; or

(*b*) state requirements to which in their opinion effect ought to be given as to the manner of, or the observance of conditions in, the execution of the works, as to the execution of other works for the protection of other apparatus belonging to the undertakers, or as to the execution of other works for the provision of substituted apparatus whether permanent or temporary ;

and—

(i) if objection is so made to any works and not withdrawn, the local authority shall not execute the works unless they are determined by arbitration to be so necessary ;

(ii) if any such requirement as aforesaid is so made and not withdrawn, the local authority shall give effect thereto unless it is determined by arbitration to be unreasonable.

(3) A local authority shall make to public undertakers reasonable compensation for any damage which is sustained by them by reason of the execution by the authority of any works under subsection (1) of this section and which is not made good by the provision of substituted apparatus.

Any question as to the right of undertakers to recover compensation under this subsection or as to the amount thereof shall be determined by arbitration.

(4) Where the removal or alteration of apparatus belonging to public undertakers or the execution of works for the provision of substituted apparatus whether permanent or temporary is reasonably necessary for the purposes of their undertaking by reason of the stopping up, diversion or alteration of the level or width of a street by a local authority under powers exercisable by virtue of this Act, such undertakers may, by notice in writing served on the authority, require them at the expense of the authority to remove or alter the apparatus or to execute the works, and where any such requirement is so made and not withdrawn, the authority shall give effect thereto unless they serve notice in writing on the undertakers of their objection to the requirement within twenty-eight days from the date of service of the notice upon them and the requirement is determined by arbitration to be unreasonable.

PART III

(5) At least seven days before commencing any works which they are authorised or required under the foregoing provisions of this section to execute, the local authority shall, except in case of emergency, serve on the undertakers notice in writing of their intention so to do, and the works shall be executed by the authority under the superintendence (at the expense of the authority) and to the reasonable satisfaction of the undertakers:

Provided that, if within seven days from the date of service on them of notice under this subsection the undertakers so elect, they shall themselves execute the works in accordance with the reasonable directions and to the reasonable satisfaction of the local authority, and the reasonable costs thereof shall be repaid to the undertakers by the authority.

(6) Any difference arising between public undertakers and a local authority under subsection (5) of this section and any matter which is by virtue of the foregoing provisions of this section to be determined by arbitration shall—

(*a*) in the case of a question arising under subsection (3) of this section be referred to and determined by the Lands Tribunal;

(*b*) in any other case be referred to and determined by an arbiter to be appointed, in default of agreement, by the Secretary of State.

(7) In this section references to the alteration of apparatus include references to diversion and to alterations of position or level.

*Supplemental*

Protection of superior of, and holder of heritable security over, subjects included in clearance order or compulsory purchase order.

**53.**—(1) Before submitting to the Secretary of State for confirmation—

(*a*) a clearance order, or

(*b*) a compulsory purchase order for the purposes of this Part of this Act,

a local authority shall require the owner of any subjects to which the order relates to furnish a written statement specifying the name and address of the superior of, and of any person holding a heritable security over, those subjects.

(2) A local authority to whom the name and address of any person has been furnished in pursuance of subsection (1) of this section by the owner of any subjects shall serve on that person the like notice as they are required to serve on the owner.

(3) If any person fails to give to a local authority any information required by them under subsection (1) of this section

or knowingly makes any misstatement with reference thereto, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five pounds.

Person opposing order may require Secretary of State to state reasons for deciding that building is unfit for human habitation.

**54.** Any person who objects to—

(*a*) a clearance order, or

(*b*) a compulsory purchase order made under this Part of this Act,

on the ground that a building included therein, being a building in which he is interested, is not unfit for human habitation, and who appears at the public local inquiry in support of his objection, shall, if the building is included in the order as confirmed as being unfit for human habitation, be entitled on making a request in writing to be furnished by the Secretary of State with a statement in writing of his reasons for deciding that the building is so unfit.

Expenses incurred in relation to orders by objectors and Secretary of State.

**55.**—(1) The Secretary of State may make such order as he thinks fit in favour of any person, being—

(*a*) an owner or lessee of any lands included in a clearance order or a compulsory purchase order made under this Part of this Act, or

(*b*) a superior of, or the holder of any heritable security over, any such lands,

for the allowance of the reasonable expenses properly incurred by such person in opposing the clearance order or compulsory purchase order.

(2) All expenses incurred by the Secretary of State in relation to any such clearance order or compulsory purchase order as aforesaid, to such amount as the Secretary of State thinks proper to direct, and all expenses of any person to such amount as may be allowed to him by the Secretary of State in exercise of the power conferred by subsection (1) of this section, shall be deemed to be expenses incurred by the local authority under this Act, and shall be paid to the Secretary of State and to that person respectively in such manner and at such times, and either in one sum or by instalments, as the Secretary of State may order ; and the Secretary of State may direct interest to be paid, at such rate not exceeding five pounds per cent per annum as he may determine, upon any sum for the time being due in respect of such expenses as aforesaid.

(3) Where any such order with respect to expenses is made by the Secretary of State in pursuance of this section, the Court of Session may, on the application of the Lord Advocate on

PART III

behalf of the Secretary of State, or on the application of any person interested, interpone their authority to the order and grant decree conform thereto upon which execution and diligence may proceed in common form.

(4) Nothing in the foregoing provisions of this section shall have effect in relation to any compulsory purchase of land for the purposes of Part VII of this Act.

*Demolition of obstructive buildings*

Local authority may by resolution require demolition of obstructive building.

**56.**—(1) A local authority may serve upon the owner or owners of a building which appears to the authority to be an obstructive building notice of the time (being some time not less than one month after the service of the notice) and place at which the question of demolishing the building will be considered by the authority.

(2) Where a local authority serve a notice under subsection (1) of this section on an owner of a building, they shall at the same time require him to furnish within two weeks thereafter a written statement specifying the name and address of the superior of whom such owner holds, and of any person holding a heritable security over the owner's interest in the building, and the authority shall as soon as may be after receipt of such statement serve on any person whose name is included therein notice of the time and place at which the question of demolishing the building will be considered.

(3) Any person on whom a notice is served in pursuance of the foregoing provisions of this section shall be entitled to be heard when the question of demolishing the building to which the notice relates is taken into consideration.

(4) If after so taking the matter into consideration the local authority are satisfied that the building is an obstructive building and that the building or any part thereof ought to be demolished, they may pass a resolution that the building or that part thereof shall be demolished and may, by such resolution, require that the building, or such part thereof as is required to be vacated for the purposes of the demolition, shall be vacated within two months from the date on which the resolution becomes operative, and, if they do so, shall serve a copy of the resolution upon the owner or owners of the building.

(5) If any person fails to give to the local authority any information required by them under subsection (2) of this section or knowingly makes any misstatement with reference thereto, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five pounds.

PART III

(6) In this section the expression "obstructive building" means a building which, by reason only of its contact with, or proximity to, other buildings, is injurious or dangerous to health.

(7) This section shall not apply to a building which is the property of public undertakers, unless it is used for the purposes of a dwelling, showroom or office, or which is the property of a local authority.

Effect of resolution for demolition of obstructive building.

**57.**—(1) If, before the expiration of the period within which a building in respect of which a resolution is passed by a local authority under section 56 of this Act is thereby required to be vacated, any owner or owners whose estate or interest, or whose combined estates or interests, in the building and the site thereof is or are such that the acquisition thereof by the local authority would enable the authority to carry out the demolition without having passed such a resolution as aforesaid, make to the authority an offer for the sale of that estate or interest, or of those estates or interests, to the authority at a price to be assessed, as if it were compensation for a compulsory purchase, by the Lands Tribunal in accordance with the Land Compensation (Scotland) Act 1963, subject to observance of the rules contained in Schedule 4 to this Act, the authority shall accept the offer and shall, as soon as possible after obtaining possession, carry out the demolition. 1963 c. 51.

(2) If no such offer as is mentioned in subsection (1) of this section is made before the expiration of the said period, the local authority shall, as soon as may be thereafter, carry out the demolition and shall have the like right to sell the materials rendered available thereby as if they had purchased the building.

(3) Where the demolition of a building is carried out under subsection (2) of this section, compensation shall be paid by the local authority to the owner or owners in respect of loss arising from the demolition, and that compensation shall, notwithstanding that no land is acquired compulsorily by the authority, be assessed by the Lands Tribunal in accordance with the said Act of 1963, subject to observance of the rules contained in Schedule 4 to this Act, except that paragraphs (2) to (6) of section 12 of the said Act of 1963 shall not apply and that paragraph (1) of the said section 12 shall have effect with the substitution, for the reference to acquisition, of a reference to demolition.

(4) Sections 26, 27 and 31 of this Act shall have effect in relation to a resolution passed under section 56 of this Act and to a building or part of a building to which such a resolution applies—

(*a*) as they have effect in relation to a demolition order and to a building to which such an order applies, and

PART III

(*b*) as if the references therein to a demolition order included references to such a resolution as aforesaid and the references therein to Part II of this Act included references to section 56 of this Act and this section.

## PART IV

## COMPULSORY IMPROVEMENT OF DWELLINGS TO PROVIDE STANDARD AMENITIES

### *Improvement areas*

Declaration of improvement area.

**58.**—(1) If a local authority are satisfied that any area in their district contains dwellings lacking one or more of the standard amenities and that, of the dwellings in that area which are so lacking, at least one half—

(*a*) are so constructed that it is practicable to improve them to the full standard or, in the case of an area every dwelling in which is comprised in a tenement, to one or other of the two standards (that is to say, the full standard and the reduced standard), and

(*b*) will, after they have been improved to the full standard or, as the case may be, to the reduced standard, be in such condition as to be fit for human habitation, and will be likely, subject to normal maintenance, to remain in that condition and available for use as dwellings for a period of not less than fifteen years,

the local authority may cause the area to be defined on a map and may pass a resolution declaring the area so defined to be an improvement area for the purposes of this Part of this Act.

(2) As soon as may be after the passing of a resolution under this section the local authority shall publish in one or more local newspapers circulating in the locality where the improvement area is situated a notice—

(*a*) stating that the area has been declared an improvement area, giving sufficient particulars to identify the limits of the area, and naming a place where a copy of the resolution and of the map defining the area may be seen at all reasonable hours, and

(*b*) setting out the effect of the provisions of this Part of this Act regarding the compulsory improvement of dwellings in an improvement area.

(3) After the declaration of an improvement area under this section it shall be the duty of the local authority to take such action under this Part of this Act as appears to them appropriate as respects the dwellings in the improvement area.

*Improvement of dwellings, other than dwellings comprised in tenements, in improvement areas*

PART IV

Preliminary notice of local authority's proposals for improvement of dwelling.

**59.**—(1) At any time after publication of a notice of the declaration of an improvement area as required by section 58(2) of this Act the local authority, if satisfied that a dwelling in the improvement area—

(*a*) is for the time being occupied by a tenant, and

(*b*) is without one or more of the standard amenities but is capable of improvement at reasonable expense to the full standard or, if not, is capable of improvement at reasonable expense to the reduced standard, and

(*c*) after being so improved will be in such condition as to be fit for human habitation, and will be likely, subject to normal maintenance, to remain in that condition and available for use as a dwelling for a period of not less than fifteen years,

may serve a notice (in this Part of this Act referred to as a "preliminary notice") on the person having control of the dwelling.

(2) The preliminary notice shall—

(*a*) specify the works which in the opinion of the local authority are required for the dwelling to be improved to the full standard or, as the case may be, to the reduced standard, and include an estimate of the cost of carrying out those works, and

(*b*) state the date (being a date not less than twenty-one days after service of the preliminary notice) and time and place at which the future use of the dwelling, the local authority's proposals for the carrying out of the works, any alternative proposals, and the views and interests of the tenant and any other matters may be discussed.

(3) The local authority shall, not less than twenty-one days before the date so stated in the preliminary notice, in addition to serving the notice on the person having control of the dwelling, serve a copy of the notice on the tenant of the dwelling and on every other person who is to the knowledge of the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling; and the person having control of the dwelling, and every owner or lessee of the dwelling, and every person holding a heritable security over the dwelling, shall be entitled to be heard when the authority's proposals are discussed in accordance with the notice.

(4) A preliminary notice shall not be served under this section in respect of a dwelling comprised in a tenement.

PART IV
Improvement notices.

**60.**—(1) After the service of a preliminary notice, the local authority shall take into consideration all representations made on or before the occasion when their proposals with respect to the dwelling are discussed in accordance with the preliminary notice and, in particular, any representations with respect to the nature of the works proposed by the authority for improving the dwelling.

(2) At any time after the occasion when the local authority's proposals are so discussed, but not more than two years (or such other period as may be prescribed) after the passing of the resolution declaring the area to be an improvement area, the authority may, if satisfied that the dwelling still falls within paragraphs (*a*), (*b*) and (*c*) of section 59(1) of this Act, serve a notice (in this Part of this Act referred to as an " improvement notice ") on the person having control of the dwelling.

(3) The improvement notice shall specify the works which in the opinion of the local authority are required to improve the dwelling to the full standard or, as the case may be, to the reduced standard.

(4) The works specified in the improvement notice may be different from the works specified in the preliminary notice but shall not require the improvement of a dwelling to the full standard or, as the case may be, to the reduced standard if the preliminary notice provided for the improvement of the dwelling to the other of the two standards.

(5) In addition to serving the improvement notice on the person having control of the dwelling, the local authority shall at the same time serve a copy of the notice on the tenant of the dwelling and on every other person who is to the knowledge of the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling.

(6) As soon as practicable after service of the improvement notice the local authority shall cause to be recorded in the General Register of Sasines a certificate in the prescribed form stating that the said notice has been served as aforesaid.

Immediate improvement notices.

**61.**—(1) If when an improvement notice is served under section 60 of this Act on the person having control of a dwelling the local authority have received from the person who is then the tenant occupying the dwelling his consent to the improvement of the dwelling to the standard provided in the preliminary notice, the authority shall in the improvement notice require the person having control of the dwelling to carry out the works specified in the improvement notice within twelve months (or such other period as may be prescribed) from the date when

the improvement notice becomes operative or such longer period as the authority by permission given in writing may from time to time allow.

(2) The tenant's consent must be in writing, signed by him, and shall be irrevocable.

(3) An improvement notice to which this section applies is referred to in this Part of this Act as an "immediate improvement notice".

Suspended improvement notices.

**62.**—(1) If in the case of an improvement notice served under section 60 of this Act the provisions of section 61 of this Act do not apply, the said notice shall be in the form required by this section and is referred to in this Part of this Act as a "suspended improvement notice".

(2) The suspended improvement notice shall refer to the provisions of this section and of sections 63 and 64 of this Act, and shall indicate that in the circumstances specified in this section and in section 65 of this Act the local authority propose to exercise the powers conferred on them by this Part of this Act with a view to requiring the person having control of the dwelling to carry out the works specified in the suspended improvement notice.

(3) If at any time after the service of the suspended improvement notice on the person having control of the dwelling—

(*a*) the local authority are satisfied that there has been a change in the occupation of the dwelling since the suspended improvement notice was so served, or

(*b*) the local authority have received from a person who at that time is occupying the dwelling as a tenant his consent to the improvement of the dwelling to the standard required in the suspended improvement notice,

and the local authority are satisfied that the dwelling—

(i) is still without one or more of the standard amenities but is capable of improvement at reasonable expense to the standard required in the suspended improvement notice, and

(ii) after being so improved will be in such condition as to be fit for human habitation, and will be likely, subject to normal maintenance, to remain in that condition and available for use as a dwelling for a period of not less than fifteen years,

the local authority shall serve on the person having control of the dwelling a copy of the suspended improvement notice

PART IV

together with a further notice (in this Part of this Act referred to as a " final improvement notice ") requiring the person having control of the dwelling to carry out the works specified in the suspended improvement notice within twelve months (or such other period as may be prescribed) from the date when the final improvement notice becomes operative or within such longer period as the authority may by permission given in writing from time to time allow.

The tenant's consent given for the purposes of this subsection must be in writing, signed by him, and shall be irrevocable.

(4) In addition to serving the final improvement notice on the person having control of the dwelling, the local authority shall at the same time serve a copy of the suspended improvement notice and of the final improvement notice on the occupier of the dwelling and on every other person who is to the knowledge of the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling.

(5) For the purposes of this section and of section 63 of this Act there is a change in the occupation of a dwelling when the person who was occupying the dwelling when the suspended improvement notice was served on the person having control of the dwelling ceases to occupy the dwelling, except that there is no change in the occupation of a dwelling occupied by a tenant if, on his ceasing to occupy the dwelling, it is occupied by a member of his family who was residing with him immediately before he ceased to occupy the dwelling.

Duty to report change in occupation of dwelling subject to suspended improvement notice.

**63.**—(1) If at any time after the service of a suspended improvement notice on the person having control of a dwelling, but before the service of a final improvement notice in respect of that dwelling, and before the expiration of a period of five years from the declaration of the area as an improvement area, there is a change in the occupation of the dwelling, it shall be the duty of the person who is for the time being the person having control of the dwelling to inform the local authority by notice in writing of that fact and of the time when it occurred.

(2) If the local authority have not received a notice required under subsection (1) of this section within six weeks from the time when the change in the occupation of the dwelling took place, any person who was a person having control of the dwelling when the change took place and who knowingly failed to comply with that requirement shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

1954 c. 48.

(3) Notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954 (time limit for proceedings)

proceedings for an offence under this section may be brought at any time within six months from the date when evidence of the offence came to the knowledge of the local authority or within three years from the commission of the offence, whichever is the earlier.

A certificate stating the date when evidence of an offence under this section came to the knowledge of the local authority, and purporting to be signed by an officer of the authority, shall be sufficient evidence of the facts stated in the certificate in any proceedings for an offence under this section.

(4) Where an offence under this section 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 purporting to act in any such capacity, 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.

Withdrawal of suspended improvement notice.

**64.**—(1) The local authority shall withdraw a suspended improvement notice—

(*a*) if at any time before service of the final improvement notice they consider that the dwelling no longer falls within paragraph (i), or no longer falls within paragraph (ii), of section 62(3) of this Act, or

(*b*) if they are satisfied that a tenant for the time being occupying the dwelling has become an owner of the dwelling, or that on the coming to an end of the tenancy of a person who was occupying the dwelling, a member of his family who was residing with him immediately before the end of the tenancy has become an owner of the dwelling.

(2) The withdrawal of the suspended improvement notice shall be effected by serving notice of the withdrawal on the person having control of the dwelling, and the local authority shall serve a copy of the withdrawal notice on the occupier of the dwelling (if different from the person having control of the dwelling) and on every other person who is to the knowledge of the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling.

(3) As soon as practicable after service of the withdrawal notice the local authority shall cause to be recorded in the General Register of Sasines a certificate in the prescribed form stating that the said notice has been served as aforesaid.

PART IV
Suspended improvement notices: effect after 5 years.

**65.**—(1) No obligation to serve a final improvement notice shall arise under section 62 of this Act after the date when the period of five years from the declaration of the area as an improvement area expires, but in the period of six months (or such other period as may be prescribed) from that date the local authority may, subject to this section, proceed under the said section 62 to serve a final improvement notice irrespective of whether or not either of the conditions set out in paragraph (*a*) and paragraph (*b*) of subsection (3) of that section is fulfilled; and if, when that further period from the said date expires, there is any suspended improvement notice in connection with which no final improvement notice has been served, that suspended improvement notice shall cease to have effect.

(2) If neither of the said conditions is fulfilled, the local authority shall afford to the person, if any, who is occupying the dwelling as a tenant a reasonable opportunity of making an application in writing to the authority before the time when they serve the final improvement notice with a request to the authority to provide the tenant with suitable alternative accommodation; and if the tenant duly makes the application and the authority proceed to serve a final improvement notice, it shall be the duty of the authority to offer, or arrange for some other authority or person to offer, suitable alternative accommodation to the tenant, so as to afford to the tenant a reasonable opportunity of taking up that alternative accommodation.

(3) Within six weeks of service of a copy of the final improvement notice on the tenant in accordance with section 62(4) of this Act, the tenant may appeal to the sheriff on the ground that the local authority have not complied with their obligations under subsection (2) of this section, and on the appeal the sheriff shall, if satisfied that the authority have not complied with those obligations, order that the final improvement notice shall not become operative unless, within twelve months (or such other period as may be prescribed) from the hearing of the appeal, the authority satisfy the sheriff that they have complied with those obligations.

(4) If the local authority have not so satisfied the sheriff, they shall at the end of the said period from the hearing of the appeal withdraw the final improvement notice.

(5) The withdrawal of the final improvement notice under subsection (4) of this section shall be effected by serving notice of the withdrawal on the person having control of the dwelling, and the local authority shall serve a copy of the withdrawal notice on the occupier of the dwelling and on every person who is to the knowledge of the authority an owner or lessee of

the dwelling or a person holding a heritable security over the dwelling. PART IV

(6) As soon as practicable after service of the withdrawal notice the local authority shall cause to be recorded in the General Register of Sasines a certificate in the prescribed form stating that the said notice has been served as aforesaid.

(7) If an appeal is brought under subsection (3) of this section it shall be the duty of the local authority, when served with notice of the appeal, to inform the person having control of the dwelling, and every other person who is to the knowledge of the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling, of the bringing of the appeal and to draw their attention to the provisions of subsections (3) to (5) of this section and the effect which they may have on the final improvement notice.

*Improvement of dwellings comprised in tenements in improvement areas*

Immediate improvement notices in respect of dwellings in tenements in improvement areas.

**66.**—(1) At any time within two years (or such other period as may be prescribed) after the passing by a local authority of a resolution declaring an area in their district to be an improvement area the authority may, if they are satisfied that any of the dwellings comprised in a tenement in that area—

(*a*) is without one or more of the standard amenities but is capable of improvement at reasonable expense to the full standard or, if not, is capable of improvement at reasonable expense to the reduced standard, and

(*b*) after being so improved will be in such condition as to be fit for human habitation, and will be likely, subject to normal maintenance, to remain in that condition and available for use as a dwelling for a period of not less than fifteen years,

serve a notice (in this Part of this Act referred to as an " immediate improvement notice ") on the person having control of the dwelling.

(2) The immediate improvement notice shall specify the works which in the opinion of the local authority are required to improve the dwelling to the full standard or, as the case may be, to the reduced standard and the period, being twelve months (or such other period as may be prescribed) from the date when the immediate improvement notice becomes operative or such longer period as the authority by permission given in writing may from time to time allow, within which the works are to be carried out.

PART IV

(3) In addition to serving the immediate improvement notice on the person having control of the dwelling, the local authority shall at the same time serve a copy of the notice on every other person who is to the knowledge of the authority an owner of the dwelling and on the tenant (if any) of the dwelling.

(4) If at any time after the service of the immediate improvement notice the local authority consider that the dwelling no longer falls within paragraph (*a*), or no longer falls within paragraph (*b*), of subsection (1) of this section, they shall withdraw the said notice.

(5) The withdrawal of the immediate improvement notice shall be effected by serving notice of the withdrawal on the person having control of the dwelling, and the local authority shall at the same time serve a copy of the withdrawal notice on every other person who is to the knowledge of the authority an owner of the dwelling and on the tenant (if any) of the dwelling.

(6) As soon as practicable after service of an immediate improvement notice or a withdrawal notice under this section the local authority shall cause to be recorded in the General Register of Sasines a certificate in the prescribed form stating that such notice has been served as aforesaid.

Local authority may acquire dwellings, etc., in tenements in improvement areas.

**67.**—(1) Subject to the provisions of this section, at any time after the passing by a local authority of a resolution declaring an area in their district to be an improvement area the authority may, if they are satisfied that any of the dwellings comprised in a tenement in that area falls within paragraph (*a*) and paragraph (*b*) of section 66(1) of this Act, and whether or not they have served an immediate improvement notice in respect of the dwelling under that section, acquire—

(*a*) the dwelling, if in the opinion of the local authority it is unlikely that it will be improved to the full or, as the case may be, to the reduced standard unless it is acquired by them;

(*b*) any other part of the tenement in which the dwelling is comprised, if—

(i) the local authority, in satisfying themselves that the dwelling falls within paragraph (*a*) of the said section 66(1), have formed the opinion that it is capable of improvement at reasonable expense to the full or, as the case may be, to the reduced standard only if the said part is used or made available, wholly or partly, for the purposes of such improvement, and

(ii) in the opinion of the authority it is unlikely that the said part will be used or made available as aforesaid unless it is acquired by them.

In this subsection the references to a part of a tenement include references to any yard, garden, outhouses, pertinents or rights pertaining to any estate or interest in the tenement or any part thereof or usually enjoyed along with that estate or interest.

(2) The provisions of sections 143 to 145 of this Act shall apply in relation to the acquisition of land under subsection (1) of this section and to land acquired under that subsection as if such acquisition were for the purposes of Part VII of this Act:

Provided that a compulsory purchase order shall not be made by a local authority by virtue of section 143 of this Act as applied by this subsection after the expiry of two years (or such other period as may be prescribed) from the passing by the authority of the resolution declaring the area in which the land proposed to be acquired is situated to be an improvement area.

(3) Where a local authority acquire a dwelling under subsection (1)(*a*) of this section, they shall execute, or secure the execution of, such works on that dwelling as are necessary to improve the dwelling to the full or, as the case may be, to the reduced standard; and a local authority shall secure that, so far as is necessary, any subjects acquired by them under subsection (1)(*b*) of this section are used or made available for the improvement of the dwelling in connection with the improvement of which they were acquired.

*Improvement of dwellings outside improvement areas*

Dwellings outside improvement areas.

**68.**—(1) A tenant occupying a dwelling which is not in an improvement area and which is without one or more of the standard amenities may make representations in writing to the local authority with a view to the exercise by the authority of their powers under this section.

(2) The local authority shall notify the person having control of the dwelling of any representations so made.

(3) If on taking the representations into consideration the local authority are satisfied—

(*a*) that the person making the representations is a tenant who is occupying the dwelling, and

(*b*) that the dwelling is capable of improvement at reasonable expense to the full standard or, if not, is capable of improvement at reasonable expense to the reduced standard, and

PART IV

(*c*) that, having regard to all the circumstances, the dwelling ought to be improved to the full standard or, as the case may be, to the reduced standard, and that it is unlikely that it will be so improved unless the authority exercise their powers under this section, and

(*d*) that the dwelling after being so improved will be in such condition as to be fit for human habitation, and will be likely, subject to normal maintenance, to remain in that condition and available for use as a dwelling for a period of not less than fifteen years,

the local authority may serve a preliminary notice (that is to say, a notice containing the particulars to be contained in a preliminary notice in terms of paragraphs (*a*) and (*b*) of section 59(2) of this Act) on the person having control of the dwelling.

(4) In addition to serving the preliminary notice on the person having control of the dwelling, the local authority shall serve a copy of the notice on the tenant of the dwelling and on every other person who is to the knowledge of the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling; and the person having control of the dwelling, and every owner or lessee of the dwelling, and every person holding a heritable security over the dwelling, shall be entitled to be heard when the authority's proposals are discussed in accordance with the notice.

(5) If the local authority decide not to serve a preliminary notice under subsection (3) of this section they shall notify the tenant of the dwelling of their decision and, if the tenant so requests, shall give him a written statement setting out their reasons for making their decision.

(6) After the service of the preliminary notice, the local authority shall take into consideration all representations made on or before the occasion when their proposals with respect to the dwelling are discussed in accordance with the preliminary notice and, in particular, any representations with respect to the nature of the works proposed by the authority for improving the dwelling; and at any time after the occasion when the authority's proposals are so discussed, but not more than two years (or such other period as may be prescribed) after the date when the representations made under subsection (1) of this section were received by them, the authority may, if satisfied that the dwelling still falls within paragraphs (*b*), (*c*) and (*d*) of subsection (3) of this section, serve a notice (in this Part of this Act referred to as an " immediate improvement notice ") on the person having control of the dwelling.

(7) The immediate improvement notice shall specify the works which in the opinion of the local authority are required

to improve the dwelling to the full standard or, as the case may be, to the reduced standard, and shall require the person having control of the dwelling to carry out the works so specified within twelve months (or such other period as may be prescribed) from the date when the improvement notice becomes operative or such longer period as the authority by permission given in writing may from time to time allow:

Provided that where the immediate improvement notice requires the improvement of the dwelling to the reduced standard, it may, at the discretion of the local authority, require the works specified therein to be carried out within a period of less than twelve months from the said date.

(8) The works specified in the immediate improvement notice may be different from the works specified in the preliminary notice, and the improvement notice may require the improvement of the dwelling to the full standard or, as the case may be, to the reduced standard notwithstanding that the preliminary notice provided for the improvement of the dwelling to the other of the two standards.

(9) In addition to serving the immediate improvement notice on the person having control of the dwelling, the local authority shall at the same time serve a copy of the notice on the tenant of the dwelling and on every other person who is to the knowledge of the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling.

(10) As soon as practicable after service of the immediate improvement notice the local authority shall cause to be recorded in the General Register of Sasines a certificate in the prescribed form stating that the said notice has been served as aforesaid.

(11) The power of serving a preliminary notice under this section, and of taking any further steps authorised under this Part of this Act, may be exercised by the local authority notwithstanding that the tenant who made representations under this section quits the dwelling and notwithstanding that after the tenant has made those representations the authority pass a resolution declaring an area which comprises the dwelling to be an improvement area.

*Acceptance of undertakings*

Acceptance of undertakings to carry out works.

**69.**—(1) The local authority may at any time before an improvement notice has been served under this Part of this Act in respect of a dwelling which is without one or more of the standard amenities accept from the person having control of the dwelling, or from any other person having an estate or interest in the dwelling, an undertaking in writing to improve the dwelling to the full standard or, if in the opinion of the

PART IV

authority it is not capable of improvement at reasonable expense to the full standard, to the reduced standard.

(2) The undertaking shall specify the works agreed to be carried out and the period within which they are to be carried out.

(3) If the local authority have accepted an undertaking under this section as respects a dwelling, they shall not serve an improvement notice under this Part of this Act as respects that dwelling—

(*a*) unless any of the works specified in that undertaking are not carried out within the period so specified, or within such longer period as the local authority may by permission in writing have allowed, or

(*b*) unless the local authority are satisfied that, owing to a change of circumstances since the undertaking was accepted by them, the undertaking is unlikely to be fulfilled.

(4) An improvement notice as respects a dwelling in relation to which the local authority have accepted an undertaking under this section may, notwithstanding the limitation in section 60(2) or section 66(1) or section 68(6) of this Act, be served at any time within two years (or such other period as may be prescribed) from the end of the period specified in the undertaking or, if the authority have allowed a longer period, from the end of that longer period.

(5) Before accepting an undertaking under this section, the local authority shall satisfy themselves that the person giving the undertaking has a right to carry out the works specified in the undertaking as against all other persons interested in the dwelling, except so far as, under subsection (1) or subsection (2) of section 82 of this Act, he may be enabled to carry out those works without the requisite consent; and if the dwelling is for the time being occupied by a tenant there must be incorporated in the undertaking the tenant's written consent, signed by him, to the carrying out of the works specified in the undertaking.

(6) The local authority shall discharge an undertaking if at any time they consider that the dwelling no longer falls within paragraph (*b*), or no longer falls within paragraph (*c*), of section 59(1) of this Act (or the corresponding provision of section 68 of this Act), and may discharge an undertaking under this section in any other case.

(7) The discharge of the undertaking shall be effected by serving notice of the discharge on the person who gave the undertaking, and the local authority shall serve a copy of the notice on the occupier of the dwelling (if different from that person) and on every other person who is to the knowledge of

the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling. PART IV

Acceptance of undertaking to carry out works on dwelling in tenement where improvement notice already served.

**70.**—(1) Where an immediate improvement notice has been served under section 66 of this Act in respect of a dwelling comprised in a tenement, the person having control of the dwelling or any person on whom a copy of the said notice has been served under subsection (3) of the said section may give to the local authority, within a period of twenty-one days from the date of service of the notice or such longer period therefrom as the authority may, either during or after the expiry of the twenty-one days, determine to be appropriate, an undertaking in writing that he will within such period as may be specified in the undertaking carry out such works for the improvement of the dwelling as may be so specified, and if an undertaking is given as aforesaid the authority shall as soon as may be either—

(*a*) accept the undertaking and make an order (in this Part of this Act referred to as a " suspension order ") suspending the notice and any other immediate improvement notice which in the opinion of the local authority ought to be suspended in consequence of their acceptance of the undertaking ; or

(*b*) reject the undertaking and serve on the person who gave the undertaking notice that they have done so.

(2) A local authority shall not accept an undertaking given under this section if—

(*a*) the undertaking proposes improvement of the dwelling to the reduced standard and, in the opinion of the local authority, the dwelling is capable of improvement at reasonable expense to the full standard, or

(*b*) the fulfilment of the undertaking will render necessary the rehousing of any of the occupants of dwellings in the tenement, unless the local authority are satisfied that suitable alternative accommodation is available or can be provided for any occupant who will require to be rehoused.

(3) Before accepting an undertaking under this section, the local authority shall satisfy themselves that the person giving the undertaking has a right to carry out the works specified in the undertaking as against all other persons interested in the dwelling, except so far as, under subsection (1) or subsection (2) of section 82 of this Act, he may be enabled to carry out those works without the requisite consent.

(4) Where a local authority have accepted an undertaking under this section, then if within the period specified in the undertaking, or such longer period as the authority may by

PART IV

permission in writing have allowed, and before all the works so specified are carried out, the authority are satisfied that, owing to a change of circumstances since the undertaking was accepted by them, the undertaking is unlikely to be fulfilled, they shall revoke the relevant suspension order made by them under subsection (1)(*a*) of this section.

(5) The local authority shall discharge an undertaking if they consider that the dwelling no longer falls within paragraph (*a*), or no longer falls within paragraph (*b*), of section 66(1) of this Act, and may discharge an undertaking under this section in any other case; and where an undertaking is discharged under this subsection the authority shall withdraw the immediate improvement notice in connection with which the undertaking was given.

(6) The discharge of the undertaking and withdrawal of the related immediate improvement notice shall be effected by serving notice of the discharge and withdrawal on the person who gave the undertaking and on the person having control of the dwelling, and the local authority shall at the same time serve a copy of the last-mentioned notice on every other person who is to the knowledge of the authority an owner of the dwelling and on the tenant (if any) of the dwelling.

(7) As soon as practicable after the service of a notice under subsection (6) of this section the local authority shall cause to be recorded in the General Register of Sasines a certificate in the prescribed form stating that the said notice has been served as aforesaid.

*General provisions as to improvement notices and undertakings*

General provisions as to improvement notices.

**71.**—(1) Any improvement notice shall—

(*a*) where no appeal is brought against it under section 72 or section 73 of this Act, become operative on the expiration of six weeks from the date of the service of the improvement notice on the person having control of the dwelling;

(*b*) where an appeal is brought against it as aforesaid—

(i) if and so far as it is confirmed by the sheriff, become operative on the final determination of the appeal;

(ii) if, in the case of an immediate improvement notice served under section 66 of this Act, it is suspended by the sheriff under section 73(3) of this Act, become operative on the suspension ceasing to have effect in terms of the said section 73(3).

(2) For the purposes of subsection (1) of this section—

(*a*) any period after the service of an immediate improvement notice under section 66 of this Act and while an undertaking given under section 70 of this Act is under consideration, and any period while a suspension order under subsection (1)(*a*) of the said section 70 is in force, shall be left out of account in reckoning, in relation to the said improvement notice, the period of six weeks referred to in subsection (1)(*a*) of this section;

(*b*) the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as a decision confirming the improvement notice appealed against.

(3) An improvement notice shall, subject to the right of appeal conferred by sections 72 and 73 of this Act, be final and conclusive as to any matters which could be raised on any such appeal.

(4) Without prejudice to the provisions of this Part of this Act making it the duty of a local authority to withdraw an improvement notice in specified circumstances, the authority may, if they think fit, at any time withdraw any improvement notice, including a final improvement notice served in connection with a suspended improvement notice.

(5) The withdrawal of an improvement notice shall be effected by serving notice of the withdrawal on the person having control of the dwelling, and the local authority shall serve a copy of the withdrawal notice on the occupier of the dwelling (if different from the person having control of the dwelling) and on every person who is to the knowledge of the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling.

(6) As soon as practicable after service of a withdrawal notice under this section the local authority shall cause to be recorded in the General Register of Sasines a certificate in the prescribed form stating that the said notice has been served as aforesaid.

Appeals against improvement notices.

**72.**—(1) Within six weeks from the service on the person having control of any dwelling of an improvement notice, any such person or any other person having an estate or interest in the dwelling, other than a person whose only estate or interest is as a tenant occupying the dwelling, may appeal to the sheriff against the improvement notice.

(2) Any period after the service of an immediate improvement notice under section 66 of this Act and while an undertaking given under section 70 of this Act is under consideration, and any period while a suspension order under subsection

PART IV (1)(*a*) of the said section 70 is in force, shall be left out of account in reckoning, in relation to the said improvement notice, the period of six weeks referred to in subsection (1) of this section.

(3) The grounds of the appeal may be all or any of the following, that is to say—

(*a*) that it is not practicable to comply with the requirements of the improvement notice at reasonable expense, regard being had to the estimated cost of the works and the value which it is estimated that the dwelling will have when the works are completed ;

(*b*) that the local authority have refused unreasonably to approve the execution of alternative works, or that the works specified in the notice are otherwise unreasonable in character or extent ;

(*c*) that the dwelling is not, or is no longer, without one or more of the standard amenities, or that the dwelling after being improved would not be in such condition as to be fit for human habitation, and likely, subject to normal maintenance, to remain in that condition and available for use as living accommodation for a period of not less than fifteen years ;

(*d*) that some person other than the appellant will, as the holder of an estate or interest in the dwelling, derive a benefit from the execution of the works and that that other person ought to pay the whole or part of the cost of the execution of the works ;

(*e*) that the improvement notice is invalid on the ground that any requirement of this Act has not been complied with or on the ground of some informality, defect or error in or in connection with the improvement notice.

(4) In so far as an appeal under this section is based on the ground that the improvement notice is invalid, the sheriff shall confirm the improvement notice unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.

(5) No appeal shall be brought against a final improvement notice on any ground which is a ground on which an appeal was brought, or might have been brought, against the suspended improvement notice to which the final improvement notice relates, except so far as that ground depends on an alteration in the dwelling or the building of which the dwelling forms part, or on some other change in circumstances, which has taken place since the service of the suspended improvement notice.

(6) On any appeal under this section the sheriff may, subject to subsection (8) of this section, make such order either confirming or quashing or varying the improvement notice as he

thinks fit but not, in the case of an immediate improvement notice or a final improvement notice, so as to extend the period within which the works are to be carried out.

(7) On any appeal under this section the sheriff may, if he thinks fit, accept from an appellant or any other party to the proceedings an undertaking to carry out the works specified in the improvement notice, or any such works as might have been so specified if the sheriff had exercised his jurisdiction to vary the improvement notice; and any undertaking accepted by the sheriff shall have the same effect as if it had been given to and accepted by the local authority under this Part of this Act, and had not been given to the sheriff.

(8) Where in pursuance of subsection (7) of this section the sheriff accepts an undertaking to carry out works on a dwelling in respect of which an immediate improvement notice has been served under section 66 of this Act, he shall direct the local authority to make an order (in this Part of this Act referred to as a " suspension order ") suspending the immediate improvement notice appealed against and any other immediate improvement notice which in the opinion of the sheriff ought to be suspended in consequence of his acceptance of the undertaking; and for the purposes of this Part of this Act a suspension order made by a local authority in compliance with a direction of the sheriff given under this subsection shall be deemed to have been made by them under section 70(1)(*a*) of this Act.

(9) An improvement notice shall not be varied on an appeal under this section—

(*a*) so as to require the carrying out of works to improve a dwelling to the full standard if the works specified in the improvement notice appealed against were works to improve the dwelling to the reduced standard, or

(*b*) so as to require the carrying out of works to improve a dwelling to the reduced standard if the works specified in the improvement notice appealed against were works to improve the dwelling to the full standard.

(10) Where the grounds on which an appeal under this section is brought include the grounds specified in subsection (3)(*d*) of this section, the sheriff may on the hearing of the appeal make such order as he thinks fit with respect to the payment to be made by that other person to the appellant or, where the works are carried out by the local authority, to the authority.

(11) If an improvement notice is quashed on an appeal under this section the sheriff may, if he thinks fit, and subject to compliance by the local authority with such terms and conditions as the sheriff thinks fit to impose, extend the time within which, under section 60(2) or section 66(1) or section 68(6) of this Act, as the case may be, the authority may serve a further improvement notice in respect of the dwelling.

PART IV

(12) Where an improvement notice is quashed on an appeal under this section the local authority shall as soon as practicable thereafter cause to be recorded in the General Register of Sasines a notice stating that the improvement notice has been quashed as aforesaid.

Appeal against improvement notice under s. 66 by occupying tenant.

**73.**—(1) Notwithstanding the provisions of section 72(1) of this Act, a tenant occupying a dwelling in respect of which an immediate improvement notice has been served under section 66 of this Act may, within six weeks from the service of the improvement notice, appeal to the sheriff under this section against the improvement notice on the ground that the carrying out of the works specified in the improvement notice will cause unreasonable hardship to him or to any member of his family residing with him, regard being had to the age, health and any infirmity of the tenant or any such member.

(2) Any period after the service of an immediate improvement notice under section 66 of this Act and while an undertaking given under section 70 of this Act is under consideration, and any period while a suspension order under subsection (1)(*a*) of the said section 70 is in force, shall be left out of account in reckoning, in relation to the said improvement notice, the period of six weeks referred to in subsection (1) of this section.

(3) On any appeal under this section the sheriff may either confirm or suspend the immediate improvement notice as he thinks fit, and any such suspension shall cease to have effect when there is a change in the occupation of the dwelling.

(4) For the purposes of subsection (3) of this section there is a change in the occupation of a dwelling when the tenant who was occupying the dwelling when the immediate improvement notice was suspended by the sheriff ceases to occupy the dwelling, except that there is no change in the occupation of the dwelling if, on the tenant ceasing to occupy the dwelling, it is occupied by a member of his family who was residing with him immediately before he ceased to occupy the dwelling.

Duty of local authority to offer loans to meet expenses of improvement.

**74.**—(1) Any person who is liable to incur expenditure in complying with an immediate improvement notice or a final improvement notice served, or an undertaking accepted, under this Part of this Act, or who is liable to make a payment as directed by the sheriff under section 72(10) of this Act, may apply to the local authority for a loan.

(2) Subject to this section, if the local authority are satisfied that the applicant can reasonably be expected to meet obligations assumed by him in pursuance of this section in respect of a loan of the amount of the expenditure or payment to which the application relates, the authority shall offer to make

a loan of that amount to the applicant, the loan to be secured to the authority by a bond and disposition in security of the premises consisting of or comprising the dwelling, or by a bond and assignation in security of a lease of those premises, or by a bond and such other deed of security over the applicant's estate or interest in the said premises as may be agreed between the authority and the applicant.

(3) Subject to this section, if the local authority are not so satisfied, but consider that the applicant can reasonably be expected to meet obligations assumed by him in pursuance of this section in respect of a loan of a smaller amount, the authority may, if they think fit, offer to make a loan of that smaller amount to the applicant, the loan to be secured as mentioned in subsection (2) of this section.

(4) Any offer made by the local authority under this section shall contain a condition to the effect that, if a standard grant or an improvement grant becomes payable under section 19 of the House Purchase and Housing Act 1959 or section 111 of the Housing (Scotland) Act 1950 in respect of the expenditure or payment to which the application under this section relates, the authority shall not be required to lend a sum greater than the amount of the expenditure or payment to which the application relates after deduction of the amount of the standard grant or, as the case may be, of the improvement grant. 1959 c. 33. 1950 c. 34.

(5) The local authority shall not make an offer under the foregoing provisions of this section unless they are satisfied—

(*a*) that the applicant's estate or interest in the said premises amounts to ownership or a lease for a period which will not expire before the date for final repayment of the loan, and

(*b*) that, according to a valuation made on behalf of the local authority, the amount of the principal of the loan does not exceed the value which it is estimated the subjects comprised in the security will bear after improvement of the dwelling or dwellings to the full or, as the case may be, the reduced standard.

(6) The rate of interest payable on a loan under this section shall be such as the Secretary of State may direct either generally or in any particular case, and the Secretary of State may, if he thinks fit, give directions, either generally or in any particular case, as to the time within which a loan under this section, or any part of such a loan, is to be repaid.

(7) Subject to the foregoing provisions of this section, the loan offered by the local authority under this section shall be subject to such reasonable terms as the authority may specify in their offer.

PART IV
1950 c. 34.

(8) The local authority's offer may in particular include any such terms as are described in section 75(3)(*c*) of the Housing (Scotland) Act 1950 (repayment of principal and interest) and provision for the advance being made by instalments from time to time as the works of improvement progress.

(9) An application under this section must be made in writing within three months of the date when the improvement notice becomes operative or the undertaking is accepted or the payment is to be made as directed by the sheriff, as the case may be, or such longer period as the local authority by permission given in writing may allow.

(10) References in this section to the dwelling are references to the dwelling to which the improvement notice or undertaking relates or in respect of which the payment is to be made.

(11) Where a standard grant or an improvement grant is payable partly in respect of expenditure or a payment to which the application under this section relates, and partly in respect of other expenditure or another payment, the reference in subsection (4) of this section to a standard grant or an improvement grant shall be taken as a reference to the part of the standard grant or improvement grant which in the opinion of the local authority is attributable to the expenditure or payment to which the application under this section relates.

Enforcement of improvement notices and undertakings to carry out works.

**75.**—(1) If the works to be carried out in compliance with an immediate improvement notice or a final improvement notice (as read with the suspended improvement notice), or an undertaking accepted under this Part of this Act, have not been carried out in whole or in part within the period specified in the notice or undertaking, or within any further period which the local authority have by permission given in writing allowed, the authority may themselves do the work which has not been completed.

(2) If before the expiration of the period mentioned in subsection (1) of this section the person who is for the time being the person having control of the dwelling or who is bound by the undertaking notifies the local authority in writing that he does not intend or is unable to do the work in question, the authority may, if they think fit, do the work before the expiration of the said period.

(3) Not less than twenty-one days before beginning to do the work, the local authority shall serve notice of their intention on the occupier of the dwelling, on the person having control of the dwelling and on every other person who is to the knowledge of the authority an owner or lessee of the dwelling or a person holding a heritable security over the dwelling.

PART IV
Recovery of expenses incurred by local authority.

**76.**—(1) Sections 11(3) and 12 of this Act shall, subject to any necessary modifications, apply for the purpose of enabling a local authority to recover any expenses reasonably incurred by them under section 75 of this Act in carrying out works in pursuance of that section as they apply for the purpose of enabling a local authority to recover expenses incurred by them in executing works on an insanitary house, so, however, that the person from whom expenses incurred by a local authority in carrying out works in pursuance of the said section 75 may be recovered shall, in the case of works to which that section applied as being works as respects which an undertaking was accepted under this Part of this Act, be the person who gave the undertaking.

(2) Sections 26 and 27 of this Act shall apply in relation to a demand by a local authority for the recovery of expenses incurred by them in carrying out works in pursuance of section 75 of this Act and to an order made by a local authority with respect to any such expenses as they apply in relation to a demand for the recovery of expenses incurred by a local authority in executing works on an insanitary house and to an order made by a local authority with respect to any such expenses.

(3) This section shall not apply in relation to the recovery by a local authority of any expenses so far as such expenses are by any direction of the sheriff on appeal recoverable under an order of the sheriff.

Charging orders.

**77.**—(1) Where any person has completed, in respect of any dwelling, any works required to be executed by an improvement notice or any works as respects which an undertaking was accepted under this Part of this Act, he may apply to the local authority for a charging order, and subsections (2) to (4) of section 28, and section 29, of this Act shall, with any necessary modifications, apply in relation to any such application or order as they apply in relation to an application or order under the said section 28 and as if any reference in the said section 29 to Part II of this Act included a reference to this Part of this Act.

(2) Where under section 75 of this Act a local authority have themselves incurred expenses in the execution of works, it shall be competent for them to make a charging order in favour of themselves in respect of such expenses, and subsections (2) to (4) of section 28, and section 29, of this Act shall, with any necessary modifications, apply to a charging order so made in like manner as they apply to a charging order made under the said section 28 and as if any reference in the said section 29 to Part II of this Act included a reference to this Part of this Act.

PART IV

*Relations between lessors and lessees*

Adjustment of relations between lessors and lessees.

**78.**—(1) Where a person who incurs expenditure in complying with an improvement notice is a lessor of the dwelling to which the notice relates, he may apply to the sheriff for an increase of the rent payable under the lease (not being controlled rent), and the sheriff, after giving to the lessee and any sub-lessee an opportunity of being heard, and having regard to—

(*a*) the amount of the expenditure,

(*b*) any transfer of the burden of the expenditure from the lessor to any other person, and

(*c*) all the other circumstances,

may, if he thinks fit, make such an order for the variation of the lease by an increase of the rent payable under the lease as will in his opinion afford an appropriate return in respect of the expenditure.

(2) This section shall not authorise the sheriff to increase the rent payable to the landlord in respect of an agricultural holding, a croft or a holding.

1957 c. 25.

(3) In this section "controlled rent" means rent which is subject to a limit imposed by the Rent Act 1957 or any other enactment.

Increase in controlled rent in respect of improvement. 1920 c. 17.

**79.**—(1) In the case of an improvement effected in compliance with an immediate improvement notice or a final improvement notice or an undertaking accepted under this Part of this Act, section 2(1)(*a*) of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920 (increase for improvements) shall have effect subject to the provisions of this section.

1959 c. 33.

(2) If a standard grant under section 19 of the House Purchase and Housing Act 1959 in respect of the improvement, although obtainable, has not been obtained, the said section 2(1)(*a*) (under which the amount of the permitted increase in rent in respect of expenditure incurred by the landlord on the improvement of a dwellinghouse to which the said Act of 1920 applies is limited to an amount calculated at a rate per annum not exceeding twelve and one half per cent. of the amount so expended) shall apply as if for the reference therein to the amount expended on the improvement there were substituted a reference to that amount diminished by a sum equal to what the amount of the said standard grant would have been if it had been obtained.

(3) In any proceedings relating to the increase permitted by the said section 2(1)(*a*) in respect of the improvement it shall be assumed, until the contrary is proved, that a standard grant was obtainable in respect of the improvement.

PART IV

(4) The local authority shall, at the request in writing of the landlord or the tenant, give to him an estimate in writing of what the amount of the standard grant would have been if it had been obtained, and for the purposes of any such proceedings that estimate shall be sufficient evidence of what that amount would have been.

(5) In this section " landlord " and " tenant " have the same meanings respectively as in the said Act of 1920.

Adjustment of relations between lessors and lessees of agricultural holdings, etc. 1949 c. 75.

**80.**—(1) Section 8 of the Agricultural Holdings (Scotland) Act 1949 (increases of rent for improvements carried out by landlord) shall apply as if references in subsection (1) of that section to improvements carried out at the request of the tenant included references to improvements carried out in compliance with an immediate improvement notice or a final improvement notice or an undertaking accepted under this Part of this Act:

Provided that where the tenant has contributed to the cost incurred by the landlord in carrying out the improvement, the increase in rent provided for by the said section 8 shall be reduced proportionately.

(2) Any works carried out in compliance with an immediate improvement notice or a final improvement notice or an undertaking accepted under this Part of this Act shall be included among the improvements specified in paragraph 18 of Schedule 1 to the said Act of 1949 (tenant's right to compensation for erection, alteration or enlargement of buildings), but subject to the power conferred by section 79 of that Act to vary the said Schedule 1; and sections 51 and 52 of that Act (which make that right to compensation subject to certain conditions) shall not apply to any works carried out in compliance with such a notice or undertaking:

Provided that where a person other than the tenant claiming compensation has contributed to the cost of carrying out the works in compliance with any such notice or undertaking, compensation in respect of the works, as assessed under section 49 of the said Act of 1949, shall be reduced proportionately.

(3) Any works carried out in compliance with an immediate improvement notice or a final improvement notice or an undertaking accepted under this Part of this Act shall—

(*a*) if carried out on a croft, be permanent improvements on that croft and be deemed to be suitable to the croft for the purposes of section 14(1)(*a*) of the Crofters (Scotland) Act 1955 (crofter's right to compensation for improvements); 1955 c. 21.

PART IV

1886 c. 29.

(*b*) if carried out on a holding, be permanent improvements on that holding and be deemed to be suitable to the holding for the purposes of section 8(*a*) of the Crofters Holdings (Scotland) Act 1886 (landholder's right to compensation for improvements);

and accordingly, after paragraph 1 of Schedule 5 to the said Act of 1955, and after paragraph 1 of the Schedule to the said Act of 1886 (both of which Schedules relate to permanent improvements), there shall be inserted the following paragraph—

" 1A. Works carried out in compliance with an immediate improvement notice or a final improvement notice served, or an undertaking accepted, under Part IV of the Housing (Scotland) Act 1966 ".

*Right to serve purchase notice*

Right to serve purchase notice.

**81.**—(1) If the person having control of a dwelling is served with an immediate improvement notice or a final improvement notice under this Part of this Act, that person or, if any such notice was served on a person as being one who received the rent of the dwelling as trustee, tutor, curator, factor or agent for or of any other person, that other person may, by notice in writing served on the local authority at any time within six months from the date on which the improvement notice becomes operative, require the authority to purchase his interest in the dwelling in accordance with this section.

(2) On service of a notice under subsection (1) of this section the local authority shall be deemed to be authorised to acquire the interest of the said person in the dwelling compulsorily under the Lands Clauses Acts and to have served a notice to treat in respect of that interest on the date of the service of the notice under the said subsection.

1947 c. 42.

(3) Paragraphs 2 and 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (which contain provisions modifying the Lands Clauses Acts in relation to compulsory purchases under that Act) shall apply in relation to compulsory purchases under this section.

(4) Within twenty-one days of receipt of a notice served by any person under subsection (1) of this section the local authority shall notify every other person who is to their knowledge an owner or lessee of the dwelling or a person holding a heritable security over the dwelling, or who is the occupier of the dwelling.

*Supplemental*

PART IV

Provisions as to carrying out of works.

**82.**—(1) The person having control of any premises—

(*a*) which consist of or comprise a dwelling in an improvement area which is without all or any of the standard amenities, or

(*b*) which consist of or comprise a dwelling in respect of which representations have been made by the tenant under section 68(1) of this Act,

shall, as against any other person having an estate or interest in the premises, have the right to enter the premises in order to carry out any survey or examination required with a view to providing the dwelling with any of the standard amenities.

(2) After service of an immediate improvement notice or a final improvement notice in respect of any dwelling, the person having control of the dwelling shall have the right, as against any other person having an estate or interest in the dwelling, to take any reasonable steps for the purpose of complying with the improvement notice; and any person bound by an undertaking accepted under this Part of this Act shall have the right as against the occupier of the dwelling to which the undertaking relates to take any reasonable steps for the purpose of complying with the undertaking.

(3) Without prejudice to the provisions of subsection (2) of this section, the carrying out of works in pursuance of an improvement notice or an undertaking accepted under this Part of this Act shall not give rise to any liability on the part of a lessee to reinstate the dwelling at any time in the condition in which it was before the works were carried out, or to any liability for failure so to reinstate the dwelling.

Further powers and duties of local authority.

**83.**—(1) A local authority may by agreement with a person having control of a dwelling, or any other person having an estate or interest in a dwelling, execute at his expense any work which that person is required to carry out in the dwelling in pursuance of an improvement notice or of an undertaking accepted under this Part of this Act, and for that purpose the authority shall have all such rights as that person would have as against any other person having an estate or interest in the dwelling.

(2) Where under this Part of this Act a local authority are required to serve a copy of a notice on any person who is to their knowledge an owner or lessee of any dwelling or a person holding a heritable security over any dwelling, any person having an estate or interest in that dwelling who is not served with a copy of the notice shall, on application in writing to the authority, be entitled to obtain a copy of that notice.

PART IV
Exclusion of dwellings controlled by Crown or certain public authorities.

**84.**—(1) A preliminary notice or an improvement notice shall not be served in respect of any dwelling in which there is a Crown interest except with the consent of the appropriate authority and, where a preliminary notice or an improvement notice is served in respect of any dwelling with the consent of the appropriate authority, this Part of this Act shall apply to the dwelling as it applies to a dwelling in which there is no such interest.

(2) A preliminary notice or an improvement notice shall not be served in respect of any dwelling if the person having control of the dwelling is—

(*a*) a local authority;

(*b*) a development corporation;

(*c*) a housing association satisfying one of the conditions set out in paragraphs (*a*), (*b*) and (*c*) of section 25(2) of the Housing (Repairs and Rents) (Scotland) Act 1954 (exclusion of certain lettings from Rent Acts);

1954 c. 50.

(*d*) a housing trust within the meaning of section 39(1) of the said Act of 1954 which was in existence on 13th November 1953;

(*e*) the Scottish Special Housing Association;

(*f*) the Housing Corporation established under Part I of the Housing Act 1964;

1964 c. 56.

(*g*) an executive council constituted under section 32 of the National Health Service (Scotland) Act 1947;

1947 c. 27.

and if after such a notice is served any such body as is mentioned in paragraphs (*a*) to (*g*) above becomes the person having control of the dwelling, any such notice as respects the dwelling, and any undertaking accepted under this Part of this Act as respects the dwelling, shall cease to have effect.

(3) If, in consequence of the provisions of subsection (2) of this section, an improvement notice ceases to have effect, it shall be the duty of the body mentioned in paragraphs (*a*) to (*g*) of that subsection to notify the local authority and to furnish them with all information required by them for the purpose of recording in the General Register of Sasines a notice stating that the improvement notice has ceased to have effect, and the authority shall as soon as practicable after receiving such notification cause to be recorded in the General Register of Sasines a notice to the said effect.

(4) In this section " 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

PART IV

the purposes of a government department, and " the appropriate authority "—

(*a*) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners ;

(*b*) 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 ;

(*c*) in relation to 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.

(5) In this section " local authority " means a local authority, joint board or joint committee as respectively defined by the Local Government (Scotland) Act 1947. 1947 c. 43.

Exclusion of certain dwellings provided after 1944.

**85.** This Part of this Act shall not apply to a dwelling provided after the end of the year 1944, unless the dwelling was provided by the conversion, before the end of the year 1958, of a building erected before the end of the year 1944.

Definition of standard amenities and related expressions.

**86.**—(1) Subject to this section, in this Part of this Act " the standard amenities ", in relation to a dwelling, mean the following amenities provided for the exclusive use of the occupants of the dwelling, that is to say—

(*a*) a fixed bath or shower, which, subject to subsection (2) of this section, is to be in a bathroom ;

(*b*) a wash-hand basin ;

(*c*) a hot and cold water supply at a fixed bath or shower, which, if reasonably practicable, is to be in a bathroom ;

(*d*) a hot and cold water supply at a wash-hand basin ;

(*e*) a hot and cold water supply at a sink ;

(*f*) a water closet ; and

(*g*) satisfactory facilities for storing food.

(2) The fixed bath or shower mentioned in paragraph (*a*) of subsection (1) of this section may, if it is not reasonably practicable for it to be provided in a bathroom, but it is reasonably practicable for it to be provided with a hot and cold water supply, be in a part of the dwelling which is not a bathroom or bedroom.

(3) The water closet mentioned in paragraph (*f*) of subsection (1) of this section must, if reasonably practicable, be in, and readily accessible from, the dwelling or, if that is not reasonably

PART IV

practicable, in such a position in the curtilage of the dwelling, or where the dwelling is part of a larger building, in that building, as to be readily accessible from the dwelling.

(4) In relation to a dwelling which is without one or more of the standard amenities, references in this Part of this Act to the improvement of the dwelling to the full standard are references to the carrying out of works to provide the dwelling with those of the standard amenities which it does not have.

(5) In relation to a dwelling which is without one or more of the standard amenities listed in paragraphs (*e*), (*f*) and (*g*) of subsection (1) of this section, references in this Part of this Act to the improvement of the dwelling to the reduced standard are references to the carrying out of works to provide the dwelling with those of the said standard amenities listed in paragraphs (*e*), (*f*) and (*g*) of subsection (1) of this section which it does not have.

(6) In determining for the purposes of this Part of this Act whether a dwelling is capable of improvement at reasonable expense to the full standard, or to the reduced standard, regard shall be had to the estimated cost of the works which would be required to provide the dwelling with amenities to the full standard or to the reduced standard, as the case may be, and to the value which it is estimated that the dwelling (or the building of which the dwelling forms part) would have if those works were carried out.

1959 c. 33.

(7) An order under section 19 of the House Purchase and Housing Act 1959 varying the standard amenities for the purposes of that Act may also vary the provisions of this section and may contain such transitional and other supplemental provisions, including transitional provisions to take account of the provisions of this Part of this Act, as may appear to the Secretary of State to be expedient.

Interpretation of Part IV.

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

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling;

"flat" means a separate set of premises, whether or not on the same floor, constructed for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally;

1924 c. 27.

"heritable security" has the same meaning as in the Conveyancing (Scotland) Act 1924 except that it includes a security constituted by *ex facie* absolute disposition or assignation;

"improvement area" means an improvement area under section 58 of this Act;

"improvement notice" means an immediate improvement notice, a suspended improvement notice or a final improvement notice;

"lease" includes a sublease or any tenancy, and any agreement for a lease, sublease or tenancy, and "lessor" and "lessee" shall be construed accordingly;

"tenement" means a building which as constructed contained, and which contains, two or more flats.

(2) In this Part of this Act, unless the context otherwise requires, "tenant"—

(*a*) includes a subtenant and a tenant (as defined in section 12(1)(*g*) of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920) who retains possession by virtue of the Rent Acts and not as being entitled to a tenancy, but does not include a tenant holding under a lease granted for a period of more than twenty-one years at a rent of less than two-thirds of the net annual value for rating purposes of the leased premises, or a heritable creditor in possession; and 1920 c. 17.

(*b*) includes, in relation to a dwelling, a person employed in agriculture (as defined in section 17 of the Agricultural Wages (Scotland) Act 1949) who occupies or resides in the dwelling as part of the terms of his employment, 1949 c. 30.

and "tenancy" shall be construed accordingly.

References in this Part of this Act to a tenant occupying a dwelling include, in the case of a tenant within paragraph (*b*) of this definition, a tenant residing in the dwelling, and "occupation" and "occupied" and related expressions shall be construed accordingly; and in relation to a dwelling occupied by such a tenant "the person having control" of the dwelling means, in this Part of this Act, the employer or other person by whose authority the tenant occupies the dwelling.

(3) In relation to any dwelling or other premises, references in this Part of this Act to the local authority shall be construed as references to the local authority in whose district the premises are situated.

(4) Section 5 of this Act shall apply for the determination for the purposes of this Part of this Act of any question whether any dwelling—

(*a*) is fit or unfit for human habitation, or

(*b*) will be likely, subject to normal maintenance, to remain fit for human habitation and available for use as a dwelling for a period of not less than fifteen years,

and in determining the question under paragraph (*b*) of this subsection the term "normal maintenance" shall include only

PART IV

such repairs as are reasonable having regard to the prospective life of the dwelling.

## PART V

### ABATEMENT OF OVERCROWDING

Duty of local authority to inspect district and to make reports and proposals as to overcrowding.

**88.**—(1) If at any time or times it appears to a local authority that occasion has arisen therefor, or if the Secretary of State so directs, it shall be the duty of the authority to cause an inspection of their district, or of any part thereof, to be made with a view to ascertaining what houses therein are overcrowded, and to prepare and submit to the Secretary of State a report showing in such detail as he may direct the result of the inspection and the additional housing accommodation required in order to put an end to overcrowding in their district or in that part, and, unless they satisfy the Secretary of State that the additional accommodation required will be otherwise provided, to prepare and submit to him proposals for the provision thereof.

(2) Where the Secretary of State gives a direction under subsection (1) of this section, he may fix dates before which the performance of the said duties is to be completed.

(3) Any proposals under this section for the provision of additional housing accommodation shall be accompanied by a statement of the steps which the local authority propose to take to secure that the rehousing of families living under the worst conditions as regards overcrowding, or otherwise living under unsatisfactory housing conditions, is provided for first.

Definition of overcrowding.

**89.**—(1) A house shall be deemed for the purposes of this Act (except Part VI thereof) to be overcrowded at any time when the number of persons sleeping in the house either—

(*a*) is such that any two of those persons, being persons ten years old or more of opposite sexes and not being persons living together as husband and wife, must sleep in the same room; or

(*b*) is, in relation to the number and floor area of the rooms of which the house consists, in excess of the permitted number of persons as defined in Schedule 5 to this Act.

(2) In computing for the purposes of this section the number of persons sleeping in a house, no account shall be taken of a child under one year old, and a child who has attained one year and is under ten years old shall be reckoned as one half of a unit.

PART V
Offences in relation to overcrowding.

**90.**—(1) Subject to the provisions of this Part of this Act, if after the appointed day the occupier of a house causes or permits it to be overcrowded, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty shillings.

(2) The occupier of an overcrowded house shall not, unless he has failed to accept an offer of suitable alternative accommodation or to secure the removal of any person living in the house who is not a member of his family and whose removal is reasonably practicable, be guilty of an offence under this section in respect of the overcrowding of the house if—

(*a*) the house was overcrowded on the appointed day, or became overcrowded on a subsequent day by reason of a child attaining one of the ages referred to in section 89 of this Act; and

(*b*) all the persons sleeping in the house are either—

(i) persons who were living there on the appointed day or on such subsequent day, as the case may be, and have continuously thereafter lived there; or

(ii) children of any of those persons born thereafter:

Provided that, where the occupier of the house is an owner thereof who acquired his title prior to 2nd August 1935, the provision with regard to failure to accept an offer of suitable alternative accommodation shall not apply if acceptance of the offer would cause such occupier serious hardship in connection with the disposal of the house.

(3) The occupier of a house shall not be guilty of an offence under this section in respect of any overcrowding thereof which is occasioned by the residence therein for a period not exceeding sixteen days of a person to whom lodging is afforded by the occupier otherwise than for gain.

Power of Secretary of State to increase permitted number of persons temporarily to meet exceptional conditions.

**91.**—(1) Where, on the representation of a local authority and after consultation with the Scottish Housing Advisory Committee, the Secretary of State is satisfied that houses consisting of few rooms, or comprising rooms of exceptional floor area, constitute so large a proportion of the housing accommodation in the district of the authority, or in any part thereof, that the application of the provisions of Schedule 5 to this Act throughout the district, or that part thereof, immediately after the appointed day would be impracticable, he may by order direct that, in relation to those houses or to such of them as are of a specified class, the said provisions shall, during such period not exceeding three years from the coming

PART V

into operation of the order as may be specified therein and any extension of that period which the Secretary of State, upon application by the authority, may allow, have effect subject to such modifications for increasing the permitted number of persons as may be specified therein, and the order may specify different modifications in relation to different classes of houses.

(2) After consultation with the local authority and the said Committee, the Secretary of State may by order revoke any such order as aforesaid or vary the provisions of any such order either as respects the modifications specified therein or as respects the houses to which the modifications apply or as respects both.

(3) The power to make orders conferred on the Secretary of State by this section shall be, and shall be deemed always to have been, exercisable by statutory instrument.

Power of local authority to authorise temporary use of house by persons in excess of permitted number.

**92.**—(1) Where it appears to a local authority, having regard to the existence of exceptional circumstances, to be expedient so to do, they may, on the application of the occupier or intending occupier of a house in their district, grant him a licence authorising him to permit such number of persons in excess of the permitted number as may be specified in the licence to sleep in the house.

(2) A licence granted under this section shall be in the prescribed form and may be granted either unconditionally or subject to any conditions specified therein.

(3) A licence granted under this section shall, unless previously revoked, continue in force for such period (not exceeding twelve months) as may be specified therein, but may be revoked by the local authority at their discretion by means of a notice in writing served upon the occupier and specifying a period (not being less than one month from the date of the service of the notice) at the expiration of which the licence is to cease to be in force.

(4) A copy of any licence granted under this section, and of any notice served thereunder, shall be served on the landlord, if any, of the house to which it relates within seven days after the issue of the licence or the service of the notice on the occupier, as the case may be.

(5) The occupier of a house shall not be guilty of an offence under section 90 of this Act by reason of anything done by him under the authority of, and in accordance with any conditions specified in, a licence in force under this section.

PART V

Provision for seasonal influx of holiday visitors.

**93.**—(1) With a view to making provision for any seasonal influx of holiday visitors into their district, it shall be lawful for a local authority, with the approval of the Secretary of State, to pass a resolution authorising, subject to such conditions as may be specified therein, the occupiers of houses generally or of houses of any specified class in the authority's district, or in any specified part thereof, to permit during any period for which the resolution is in force such number of persons in excess of the permitted number to sleep in the said houses as may be specified in the resolution.

(2) A resolution under subsection (1) of this section shall remain in force during the year in which it is passed for such period or periods not exceeding sixteen weeks in the aggregate as may be specified in the resolution.

(3) The occupier of a house shall not be guilty of an offence under section 90 of this Act by reason of anything done by him in accordance with any resolution under subsection (1) of this section.

Information with respect to the permitted number and certification of number and floor areas of rooms.

**94.**—(1) The landlord of a house shall not, after the appointed day, let or agree to let it to any person unless he has furnished to that person a written statement in the prescribed form of the permitted number of persons in relation to the house and has obtained from that person a written acknowledgment in the prescribed form, which acknowledgment the landlord shall be bound to exhibit to the local authority on demand by them; and any person who contravenes or fails to comply with this subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding two pounds.

(2) It shall be the duty of the local authority, as soon as may be after they have ascertained the floor area of the rooms of a house, to inform the landlord and the occupier thereof in writing of the permitted number of persons in relation to the house, and on application by the landlord or the occupier of any house to give him the like information in relation thereto.

(3) A statement furnished to the occupier of a house in pursuance of subsection (1) of this section shall be deemed to be a sufficient and correct statement if it agrees with information given under subsection (2) of this section.

(4) The Secretary of State shall prescribe the manner in which the floor area of a room is to be ascertained for the purposes of Schedule 5 to this Act, and the regulations may provide for the exclusion from computation, or for the bringing into computation at a reduced figure, of floor space in any part of a room which is of less than a specified height.

(5) A certificate of the local authority stating the number and floor areas of the rooms in a house, and that the floor areas

PART V

thereof have been ascertained in the prescribed manner, shall, for the purposes of any legal proceedings, be evidence of the facts stated therein.

Recovery of possession of overcrowded house.

**95.**—(1) Where a house is overcrowded in such circumstances as to render the occupier thereof guilty of an offence—

(*a*) nothing in the Rent Acts shall prevent the landlord from obtaining possession of the house;

(*b*) it shall be lawful for the local authority, after giving to the landlord written notice of their intention so to do, to take any such steps for the termination of the occupier's tenancy or for his removal or ejection from the house as the landlord could take.

(2) Where, before the appointed day, any house is overcrowded and has been overcrowded for at least six months—

(*a*) nothing in the Rent Acts shall prevent the making of an order for the recovery of possession of the house or for the removal or ejection of the occupier, if the court is satisfied that it is reasonable to make such an order and that suitable alternative accommodation has been offered to and is available for the occupier;

(*b*) it shall be lawful for the local authority to take any such steps for the termination of the occupier's tenancy or for his removal or ejection from the house as the landlord could take, so, however, that no order for the removal or ejection of the occupier of a house to which the Rent Acts do not apply shall be made on the application of the authority unless the court is satisfied as mentioned in paragraph (*a*) of this subsection.

(3) Where an existing controlled tenancy of a dwelling comes to an end by virtue of this section, section 11(2) of the Rent Act 1957 shall not apply to the first tenancy created thereafter of the dwelling or any part thereof.

1957 c. 25.

In this subsection "existing controlled tenancy" has the same meaning as in section 11 of the Rent Act 1965, and subject as aforesaid expressions used in this subsection and in the said Act of 1957 have the same meanings in this subsection as in that Act.

1965 c. 75.

Enforcement of Part V.

**96.**—(1) It shall be the duty of the local authority to enforce the foregoing provisions of this Part of this Act as respects houses in their district.

(2) For the purpose of enabling them to discharge their duties under the foregoing provisions of this Part of this Act, the local authority may serve notice on the occupier of a house requiring him to furnish them within fourteen days with a statement in writing of the number, ages and sexes of the

persons sleeping in the house, and if the occupier makes default in complying with the requirement, or furnishes a statement which to his knowledge is false in any material particular, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty shillings.

Power of local authority to publish information as to rights and duties as respects overcrowding.

**97.** A local authority shall have power to publish information for the assistance of landlords and occupiers of houses as to their rights and duties under the provisions of this Part of this Act relating to overcrowding, and as to the enforcement thereof.

Duty of medical officers to furnish particulars of overcrowding.

**98.**—(1) It shall be the duty of the medical officer of health for any district to furnish annually to the Secretary of State and to the local authority, in accordance with regulations to be made by the Secretary of State by statutory instrument, particulars with respect to the condition of the district in relation to overcrowding and in particular with respect to any cases in which houses in respect of which the authority have taken steps for putting an end to overcrowding have again become overcrowded.

(2) Before furnishing particulars under subsection (1) of this section, the medical officer of health shall consult with, or obtain a report from, the sanitary inspector of the local authority.

Interpretation of Part V.

**99.** In this Part of this Act, and in Schedule 5 to this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

"appointed day" means, in relation to any locality for which a day has been appointed under section 86 of the Housing (Scotland) Act 1935 or section 59 of the Housing (Scotland) Act 1950 by the Department of Health for Scotland or the Secretary of State, that day, and in relation to any other locality means such day as the Secretary of State may appoint by order made by statutory instrument, and the Secretary of State may appoint different days for different localities, so, however, that he shall not appoint a day for any locality until he is satisfied that the greater part of the additional housing accommodation shown by the report made under section 1(1) of the said Act of 1935 to be required in the locality has been provided; 1935 c. 41. 1950 c. 34.

"house" means any premises used or intended to be used as a separate dwelling, not being premises which are entered in the valuation roll last authenticated at a rateable value exceeding forty-five pounds;

"landlord" means, in relation to any house, the person from whom the occupier derives his right to occupy it;

PART V

" room " does not include any room of a type not normally used in the locality either as a living room or as a bedroom ;

" suitable alternative accommodation " means, in relation to the occupier of a house, a house in which the occupier and his family can live without causing it to be overcrowded, being a house which the local authority certify to be suitable to the needs of the occupier and his family as respects security of tenure and proximity to place of work and to be suitable in relation to his means.

## PART VI

## HOUSES IN MULTIPLE OCCUPATION

*Registration of houses in multiple occupation*

Local authority may make scheme for registration of houses in multiple occupation.

**100.**—(1) A local authority may make and submit to the Secretary of State for confirmation by him a scheme authorising the authority to compile and maintain a register for their district—

(*a*) of houses which, or a part of which, are let in lodgings, or which are occupied by members of more than one family ; and

(*b*) of buildings which comprise separate dwellings, two or more of which lack either or both of the following, that is to say, a sanitary convenience accessible only to those living in the dwelling and personal washing facilities so accessible ;

and the Secretary of State may, if he thinks fit, confirm the scheme with or without modifications.

(2) A scheme under this section need not be for the whole of a local authority's district and need not be for every description of house or building falling within paragraphs (*a*) and (*b*) of subsection (1) of this section, and any such scheme—

(*a*) may prescribe the particulars to be inserted in the register ;

(*b*) may make it the duty of persons prescribed by the scheme to notify the local authority of the fact that a house or building appears to be registrable, and to give to the authority all or any of the particulars prescribed by the scheme as regards the house or building ; and

(*c*) may make it the duty of persons prescribed by the scheme to notify the local authority of any change which makes it necessary to alter the particulars inserted in the register as regards any house or building.

(3) A scheme under this section may make a contravention of, or failure to comply with, any provision in the scheme an offence under the scheme, and a person guilty of an offence under the scheme shall be liable on summary conviction to a fine not exceeding ten pounds.

(4) A scheme under this section may vary or revoke a previous scheme thereunder; and a local authority may at any time, with the consent of the Secretary of State, revoke a scheme by an order, notice of which shall be published by them in one or more newspapers circulating in their district.

(5) A scheme under this section shall not come into force until it has been confirmed and, subject to that, shall come into force on such date as may be fixed by the scheme or, if no date is so fixed, at the expiration of one month after it is confirmed.

Further provisions regarding scheme.

**101.**—(1) At least one month before a scheme under section 100 of this Act is submitted to the Secretary of State for confirmation by him, notice of their intention to submit the scheme shall be given by the local authority in one or more newspapers circulating in their district.

(2) As soon as any such scheme is confirmed by the Secretary of State, the local authority shall publish in one or more newspapers circulating in their district a notice—

(*a*) stating the fact of such a scheme having been confirmed;

(*b*) describing any steps which will have to be taken under the scheme by those concerned with registrable houses and buildings (other than steps which have only to be taken after a notice from the local authority); and

(*c*) naming a place where a copy of the scheme may be seen at all reasonable hours.

(3) A copy of any such scheme confirmed by the Secretary of State shall be printed and deposited at the offices of the local authority by whom it was made and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall on application be furnished to any person on payment of such sum, not exceeding one shilling for every copy, as the authority may determine.

(4) The production of a printed copy of a scheme purporting to be made by a local authority under section 100 of this Act upon which is indorsed a certificate purporting to be signed by the clerk to the authority stating—

(*a*) that the scheme was made by the authority,

(*b*) that the copy is a true copy of the scheme, and

PART VI

(*c*) that on a specified date the scheme was confirmed by the Secretary of State,

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate in pursuance of this section.

Local authority may require information for purposes of registration.

**102.**—(1) Without prejudice to the provisions of subsections (4) and (5) of section 192 of this Act, a local authority may, for the purpose of ascertaining whether a house or building is registrable under a scheme made in pursuance of section 100 of this Act and of ascertaining the particulars to be entered in the register as regards the house or building, require any person who has an estate or interest in, or who lives in, the house or building to state in writing any information in his possession which the authority may reasonably require for that purpose.

(2) If any person fails to give to a local authority any information required by them under subsection (1) of this section or knowingly makes any misstatement with reference thereto, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ten pounds.

*Management code*

Power of Secretary of State to make regulations prescribing management code for houses in multiple occupation.

**103.**—(1) With a view to providing a code for the management of houses which may be applied under section 104 of this Act, the Secretary of State may by regulations contained in a statutory instrument make provision for the purpose of ensuring that the person managing a house which, or a part of which, is let in lodgings or which is occupied by members of more than one family observes proper standards of management.

(2) Without prejudice to the generality of subsection (1) of this section, regulations under this section may, in particular, require the person managing a house to which the regulations apply to ensure the repair, maintenance, cleansing and good order—

(*a*) of all means of water supply and drainage in the house;

(*b*) of kitchens, bathrooms and water closets used in common by persons living in the house;

(*c*) of sinks and wash-basins used in common by persons living in the house;

(*d*) of the roof and windows forming part of the house;

(*e*) of common staircases, corridors and passage ways;

(*f*) of outbuildings, yards and gardens used in common by persons living in the house;

and to make satisfactory arrangements for the disposal of refuse and litter from the house. PART VI

(3) Regulations under this section—

(*a*) may make different provision for different types of houses;

(*b*) may provide for keeping a register of the names and addresses of those who are managers of houses;

(*c*) may impose duties on persons who have an estate or interest in a house or any part of a house to which the regulations apply as to the giving of information to the local authority, and in particular may make it the duty of any person who acquires or ceases to hold an estate or interest in such a house to notify the authority;

(*d*) may impose duties on persons who live in a house to which the regulations apply for the purpose of ensuring that the person managing the house can effectively carry out the duties imposed on him by the regulations;

(*e*) may authorise the local authority to obtain information as to the number of individuals or households accommodated in a house to which the regulations apply;

(*f*) may make it the duty of the person managing a house to which the regulations apply to cause a copy of the order under section 104 of this Act applying the regulations to the house, and of the regulations, to be displayed in a suitable position in the house;

(*g*) may contain such other incidental and supplementary provisions as may appear to the Secretary of State to be expedient.

(4) If any person knowingly contravenes or without reasonable excuse fails to comply with any regulation under this section as applied under this Act in relation to any house he shall be guilty of an offence and shall be liable on summary conviction—

(*a*) where he has not previously been convicted of an offence under this section, to a fine not exceeding twenty pounds; and

(*b*) where he has previously been convicted of an offence under this section, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both.

(5) For the purposes of this Part of this Act and of any regulations made under this section, the person managing a

PART VI

house which, or a part of which, is let in lodgings or which is occupied by members of more than one family shall be defined as—

(*a*) the person who is an owner or a lessee of the house and who, directly or through a trustee, tutor, curator, factor or agent, receives rents or other payments from persons who are tenants of parts of the house, or who are lodgers; and

(*b*) where those rents or other payments are received through another person as his trustee, tutor, curator, factor or agent, that other person;

but the foregoing definition may be varied or replaced by regulations under this section.

Power of local authority to apply management code to individual house.

**104.**—(1) If it appears to a local authority that a house which, or a part of which, is let in lodgings or which is occupied by members of more than one family is in an unsatisfactory state in consequence of failure to maintain proper standards of management and, accordingly, that it is necessary that the regulations made under section 103 of this Act should apply to the house, the authority may by order direct that those regulations shall so apply; and so long as the order is in force the regulations shall apply in relation to the house accordingly.

(2) Not less than twenty-one days before making an order under this section, the local authority shall—

(*a*) serve on an owner of the house, and on every person who is to their knowledge a lessee of the house, notice of their intention to make the order, and

(*b*) post such a notice in some position in the house where it is accessible to those living in the house,

and shall afford to any person on whom a notice is so served an opportunity of making representations regarding their proposal to make the order.

(3) An order under this section shall come into force on the date on which it is made, and the local authority shall within seven days from the making of the order—

(*a*) serve a copy of the order on an owner of the house and on every person who is to their knowledge a lessee of the house, and

(*b*) post a copy of the order in some position in the house where it is accessible to those living in the house.

(4) A person on whom a copy of an order is served under subsection (3) of this section, and any other person who is a lessee of the house, may, within fourteen days from the latest date by which copies of the order are required to be served, appeal to the sheriff on the ground that the making of the order was unnecessary.

(5) On an appeal under subsection (4) of this section the sheriff shall take into account the state of the house at the time when the local authority under subsection (2) of this section served notice of their intention to make the order, as well as at the time of the making of the order, and shall disregard any improvement in the state of the house between those times unless the sheriff is satisfied that effective steps have been taken to ensure that the house will in future be kept in a satisfactory state; and, if the sheriff allows the appeal, he shall revoke the order, but without prejudice to its operation prior to the revocation and without prejudice to the making of a further order.

(6) The local authority may at any time on the application of a person having an estate or interest in the house revoke an order under this section, and if a local authority refuse an application under this subsection, or do not within forty-two days from the making of the application, or within such further period as the applicant may in writing allow, notify the applicant of their decision on the application, the applicant may appeal to the sheriff and the sheriff, if of opinion that there has been a substantial change in the circumstances since the making of the order, and that it is in other respects just to do so, may revoke the order.

(7) As soon as practicable after an order under this section has come into force the local authority shall cause the order to be recorded in the General Register of Sasines, and if any such order is revoked the authority shall as soon as practicable cause to be recorded in the General Register of Sasines a notice stating that the order has been revoked.

*Powers of local authority to secure execution of works on houses in multiple occupation*

Power to require doing of work to make good neglect of proper standards of management.

**105.**—(1) If in the opinion of the local authority the condition of a house to which regulations under section 103 of this Act for the time being apply is defective in consequence of neglect to comply with the requirements imposed by the regulations, or, in respect of a period falling wholly or partly before the regulations applied to the house, neglect to comply with standards corresponding to the requirements imposed by the regulations, the authority may serve on the person managing the house a notice specifying the works which in the opinion of the authority are required to make good the neglect, and requiring the person on whom the notice is served to execute those works.

(2) If it is not practicable after reasonable inquiry to ascertain the name or address of the person managing the house, the notice under this section may be served by addressing it to him

PART VI

by the description of "manager of the house" (naming the house to which it relates) and by delivering it to some person on the premises.

(3) A notice under this section shall require the execution of the works within such period, being not less than twenty-one days from the service of the notice, as may be specified in the notice, but that period may from time to time be extended by written permission of the local authority.

(4) Where the local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or a person holding a heritable security over the house of the fact that such a notice has been served.

Power to require execution of works of other descriptions.

**106.**—(1) If in the opinion of the local authority the condition of a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family, is so far defective with respect to any of the matters mentioned in subsection (2) of this section, having regard to the number of individuals or households, or both, accommodated for the time being on the premises, as not to be reasonably suitable for occupation by those individuals or households, the authority may serve a notice either—

(*a*) specifying the works which in the opinion of the local authority are required for rendering the premises reasonably suitable for such occupation as aforesaid; or

(*b*) specifying the works which in the opinion of the local authority are required for rendering the premises reasonably suitable for occupation by a number of individuals or households smaller than the number accommodated for the time being on the premises, and specifying also the number of individuals or households, or both, which in the opinion of the authority the premises could reasonably accommodate if those works were carried out;

and in either case requiring the person on whom the notice is served to execute the works specified in the notice.

(2) The matters referred to in subsection (1) of this section are—

natural and artificial lighting,

ventilation,

water supply,

personal washing facilities,

drainage and sanitary conveniences,

facilities for the storage, preparation and cooking of food, and for the disposal of waste water,

installations for space heating or for the use of space heating appliances.

(3) Any notice under this section shall be served either—

(*a*) on the person having control of the house, or

(*b*) on any person to whom the house is let, or on any person who, as the trustee, tutor, curator, factor or agent for or of a person to whom the house is let, receives rents or other payments from tenants of parts of the house or lodgers in the house.

(4) If the local authority are satisfied that after the service of a notice under this section in respect of any premises the number of individuals living on those premises has been reduced to a level which will make the work specified in the notice unnecessary, and that, either in consequence of their exercise of the powers conferred by sections 111 and 112 of this Act to limit the number of persons living on the premises or otherwise, that number will be maintained at or below that level, they may notify in writing the person on whom the notice was served of the withdrawal of the notice, but the withdrawal of the notice shall be without prejudice to the issue of a further notice.

(5) A notice under this section shall require the execution of the works within such period, being not less than twenty-one days from the service of the notice, as may be specified in the notice, but that period may from time to time be extended by written permission of the local authority.

(6) Where the local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or a person holding a heritable security over the house of the fact that such a notice has been served.

Power to require provision of means of escape from fire.

**107.**—(1) If it appears to a local authority that a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family, is not provided with such means of escape from fire as the authority consider necessary, the authority may, subject to this section, serve on any person on whom a notice may be served under section 106 of this Act a notice specifying the works which in the opinion of the authority are required to provide such means of escape, and requiring the person on whom the notice is served to execute those works.

(2) A local authority who are not the fire authority for the area in which the house is situated, or who have, under section 12 of the Fire Services Act 1947, delegated all their functions in respect of that area to another fire authority, shall, before serving a notice under this section, consult with the fire authority concerned.

1947 c. 41.

(3) A notice under this section shall require the execution of the works within such period, being not less than twenty-one days

PART VI

from the service of the notice, as may be specified in the notice, but that period may from time to time be extended by written permission of the local authority.

(4) Where the local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or a person holding a heritable security over the house of the fact that such a notice has been served.

(5) In this section "fire authority" means, in relation to any area, the authority for the time being constituted the fire authority for that area by the Fire Services Act 1947, except that in relation to an area the fire brigade for which is administered by such a joint committee as is mentioned in section 36(4)(*b*) of that Act, it means that joint committee.

1947 c. 41.

Appeal against notice requiring execution of works.

**108.**—(1) A person on whom a notice is served under section 105 or section 106 or section 107 of this Act, or any other person who is an owner or lessee of the house, or a person holding a heritable security over the house, to which the notice relates, may, within twenty-one days from the service of the notice, or within such longer period as the local authority may in writing allow, appeal to the sheriff on any of the following grounds which are appropriate in the circumstances of the particular case, that is to say—

(*a*) in the case of a notice under section 105 or section 106 of this Act, that the condition of the house did not justify the local authority (having regard, if the notice is under the said section 106, to the considerations set out in subsections (1) and (2) of that section) in requiring the execution of the works specified in the notice;

(*b*) in the case of a notice under section 107 of this Act, that the notice is not justified by the terms of that section;

(*c*) that there has been some informality, defect or error in, or in connection with, the notice;

(*d*) that the local authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;

(*e*) in the case of a notice under section 106 of this Act, being a notice of the kind described in subsection (1)(*b*) of that section, that the number of individuals or households, or both, specified in the notice is unreasonably low;

(*f*) that the time within which the works are to be executed is not reasonably sufficient for the purpose;

(*g*) that some person other than the appellant is wholly or in part responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate or interest in the premises derive a benefit from the execution of the works, and that that other person ought to pay the whole or any part of the expenses of executing the works.

(2) If and so far as an appeal under this section is based on the ground of some informality, defect or error in, or in connection with, the notice, the sheriff shall dismiss the appeal if he is satisfied that the informality, defect or error was not a material one.

(3) Where the grounds on which an appeal under this section is brought include the ground specified in subsection (1)(*g*) of this section, the appellant shall serve a copy of his notice of appeal on each other person referred to in that notice, and on the hearing of the appeal the sheriff may, if satisfied that any other person referred to in the notice of appeal has had proper notice of the appeal, make such order as he thinks fit with respect to the payment to be made by that other person to the appellant or, where the work is executed by the local authority, to the authority.

(4) If on an appeal under this section against a notice under section 106 of this Act the sheriff is satisfied that the number of persons living in the house has been reduced, and that adequate steps (whether by the exercise by the local authority of the powers conferred by sections 111 and 112 of this Act to limit the number of persons living in the house or otherwise) have been taken to prevent that number being again increased, the sheriff may, if he thinks fit, revoke the notice or vary the list of works specified in the notice.

Carrying out of works by local authority.

**109.**—(1) If a notice is served under section 105 or section 106 or section 107 of this Act and—

(*a*) where no appeal is brought under section 108 of this Act against the notice, the works specified in the notice are not completed within the period so specified, with any extension duly permitted by the local authority;

(*b*) where an appeal is so brought, the works specified in the notice (in so far as it is confirmed on appeal) are not completed within twenty-eight days from the final determination of the appeal, or such longer period as the sheriff in determining the appeal may fix;

the local authority may themselves do the work required to be done by the notice, with any variation made by the sheriff.

(2) Notwithstanding subsection (1) of this section, if the person on whom any such notice was served notifies the local authority

PART VI

in writing that he is not able to do the work in question, the authority may, if they think fit, themselves do the work forthwith.

(3) Sections 11(3) and 12 of this Act shall, subject to any necessary modifications, apply for the purpose of enabling a local authority to recover any expenses reasonably incurred by them under this section in carrying out works in pursuance thereof as they apply for the purpose of enabling a local authority to recover expenses incurred by them in executing works on an insanitary house, so, however, that—

(*a*) the person from whom expenses incurred by a local authority in carrying out works in pursuance of this section may be recovered shall be the person on whom the notice was served, and

(*b*) if that person was only properly served with the notice as trustee, tutor, curator, factor or agent for or of some other person, then the expenses may be recovered either from him or from that other person, or in part from him and as to the remainder from that other person.

(4) Sections 26 and 27 of this Act shall apply in relation to a demand by a local authority for the recovery of expenses incurred by them in carrying out works in pursuance of this section and to an order made by a local authority with respect to any such expenses as they apply in relation to a demand for the recovery of expenses incurred by a local authority in executing works on an insanitary house and to an order made by a local authority with respect to any such expenses.

(5) Where a local authority have incurred expenses in carrying out works in pursuance of this section, it shall be competent for them to make a charging order in favour of themselves in respect of such expenses, and subsections (2) to (4) of section 28, and section 29, of this Act shall, with any necessary modifications, apply to a charging order so made in like manner as they apply to a charging order made under the said section 28 and as if any reference in the said section 29 to Part II of this Act included a reference to the provisions of this Part of this Act (other than those relating to control orders).

(6) If a local authority apply to the sheriff and satisfy him—

(*a*) that any expenses reasonably incurred by them in carrying out works in pursuance of this section (with the interest accrued due thereon) have not been, and are unlikely to be, recovered, and

(*b*) that some person is profiting by the execution of the works in respect of which the expenses were incurred to obtain rents or other payments which would not have been obtainable if those works had not been executed.

the sheriff, if satisfied that that person has had proper notice of the application, may order him to make such payment or payments to the local authority as may appear to the sheriff to be just.

Penalty for failure to execute works.

**110.**—(1) Subject to this section, if a person on whom a notice has been served under section 105 or section 106 or section 107 of this Act wilfully fails to comply with the notice, he shall be guilty of an offence and shall be liable on summary conviction—

(*a*) in the case of a first offence, to a fine not exceeding one hundred pounds;

(*b*) in the case of a second or subsequent offence, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both.

(2) For the purposes of this section—

(*a*) where no appeal is brought under section 108 of this Act against any such notice, the notice is not complied with if the works specified in the notice are not completed within the period so specified, with any extension duly permitted by the local authority; and

(*b*) where an appeal is so brought, the notice (in so far as it is confirmed on appeal) is not complied with if the works specified in the notice are not completed within twenty-eight days from the final determination of the appeal, or such longer period as the sheriff in determining the appeal may fix.

(3) If the local authority on being notified under section 109(2) of this Act by the person on whom any such notice requiring the execution of works was served that he is not able to do the work in question, serve notice that they propose to do the work and relieve the person served with the notice from liability under this section, no liability shall arise under this section in respect of the notice requiring the execution of works.

(4) Subsection (1) of this section shall be without prejudice to the exercise by the local authority of their powers of carrying out works under section 109 of this Act.

*Overcrowding*

Local authority may give directions to prevent or reduce overcrowding in houses in multiple occupation.

**111.**—(1) A local authority may, for the purpose of preventing the occurrence of, or remedying, a state of affairs calling for the service of a notice or a further notice under section 106 of this Act, fix as a limit for any house what is in their opinion the highest number of individuals who should, having regard to the considerations set out in subsections (1) and (2) of that section, live in the house in its existing condition, and give a direction applying that limit to the house.

PART VI

References in this section to a house include references to part of a house, and the local authority shall have regard to the desirability of applying separate limits where different parts of a house are, or are likely to be, occupied by different persons.

(2) The powers conferred by this section shall be exercisable whether or not a notice has been given under section 106 of this Act, and where a local authority have served a notice under subsection (1)(*b*) of the said section 106 specifying the number of individuals or households, or both, which in the opinion of the authority any premises could reasonably accommodate if the works specified in the notice were carried out, the authority may adopt that number of individuals, or a number of individuals determined by reference to that number of households, in fixing a limit under subsection (1) of this section as respects those premises.

(3) The powers conferred by subsection (1) of this section may be exercised as regards any premises notwithstanding the existence of any previous direction under that subsection laying down a higher maximum.

(4) A direction under subsection (1) of this section shall have effect so as to make it the duty of the occupier for the time being of the house—

(*a*) not to permit any individual to take up residence in the house so as to increase the number of individuals living in the house to a number above the limit specified in the direction, and

(*b*) where the number of individuals living in the house is for the time being above the limit so specified and any individual ceases to reside in the house, not to permit any other individual to take up residence in the house.

In this subsection the reference to the occupier for the time being of a house shall include a reference to any person who is for the time being entitled or authorised to permit individuals to take up residence in the house or any part thereof.

(5) If any person knowingly fails to comply with the requirements imposed on him by subsection (4) of this section he shall be guilty of an offence and shall be liable on summary conviction—

(*a*) where he has not previously been convicted of an offence under this section, to a fine not exceeding twenty pounds; and

(*b*) where he has previously been convicted of an offence under this section, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both.

**112.**—(1) A local authority shall, not less than seven days before giving a direction under section 111 of this Act—

(*a*) serve on an owner of the house, and on every person who is to their knowledge a lessee of the house, notice of their intention to give the direction, and

(*b*) post such a notice in some position in the house where it is accessible to those living in the house,

and shall afford to any person on whom a notice is so served an opportunity of making representations regarding their proposal to give the direction.

(2) The local authority shall within seven days from the giving of any such direction—

(*a*) serve a copy of the direction on an owner of the house and on every person who is to their knowledge a lessee of the house, and

(*b*) post a copy of the direction in some position in the house where it is accessible to those living in the house.

(3) At any time after giving such a direction the local authority may, having regard to any works which have been executed in the house or any other change of circumstances, and on the application of any person having an estate or interest in the house, revoke that direction, or vary it so as to allow more people to be accommodated in the house.

(4) If the local authority refuse an application under subsection (3) of this section or do not within forty-two days from the making of such an application, or within such further period as the applicant may in writing allow, notify the applicant of their decision on the application, the applicant may appeal to the sheriff, and on the appeal the sheriff shall have power to revoke the direction or to vary it in any manner in which it might have been varied by the authority.

(5) The local authority may from time to time serve on the occupier of a house or part of a house in respect of which a direction under section 111 of this Act is in force a notice requiring him to furnish them within seven days with a statement in writing giving all or any of the following particulars, that is to say—

(*a*) the number of individuals who are, on a date specified in the notice, living in the house or part of the house, as the case may be;

(*b*) the number of families or households to which those individuals belong;

PART VI

(*c*) the names, ages and sex of those individuals and the names of the heads of each of those families or households;

(*d*) the rooms used by those individuals and families or households respectively;

and if the occupier makes default in complying with the requirements or furnishes a statement which to his knowledge is false in any material particular, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds.

*Provisions supplemental to sections 100 to 112*

Application of sections 103 to 106 to certain buildings comprising separate dwellings.

**113.**—(1) Sections 103 to 106 of this Act shall apply—

(*a*) to a building which is not a house but comprises separate dwellings, two or more of which lack either or both of the following, that is to say, a sanitary convenience accessible only to those living in the dwelling and personal washing facilities so accessible; and

(*b*) to a building which is not a house but comprises separate dwellings, two or more of which are wholly or partly let in lodgings or occupied by members of more than one family;

(being in either case a building all the dwellings in which are owned by the same person) as if references in those sections to a house which, or a part of which, is let in lodgings or which is occupied by members of more than one family included references to any such building:

Provided that—

(i) a notice shall not, by virtue of this section, be served under section 106(1)(*b*) of this Act in respect of such a building;

(ii) a direction shall not, by virtue of this section, be given under section 111 of this Act in relation to such a building.

(2) If a local authority make an order under section 104 of this Act, as applied by subsection (1) of this section, in respect of any building at a time when another order under the said section 104 is in force as respects one of the dwellings in the building, they shall revoke the last-mentioned order.

(3) References to a house in sections 108, 109, 117 and 119 of this Act shall include references to a building to which this section applies.

PART VI

Management code to be available for dwellings in certain tenements.

**114.**—(1) If on 13th November 1963—

(*a*) all the dwellings in any tenement are owned by the same person, and

(*b*) all or any of those dwellings are without one or more of the standard amenities,

sections 103 to 105 of this Act shall apply to the tenement as if references in those sections to a house which, or a part of which, is let in lodgings or which is occupied by members of more than one family included references to the tenement.

(2) If a local authority make an order under section 104 of this Act, as applied by subsection (1) of this section, in respect of any tenement at a time when another order under the said section 104 is in force as respects one of the dwellings in the tenement, they shall revoke the last-mentioned order.

(3) References to a house in section 108 of this Act (so far as relating to appeals against notices under section 105 of this Act) and in sections 109, 117 and 119 of this Act shall include references to a tenement to which this section applies.

(4) Expressions in this section to which meanings are given in Part IV of this Act shall have the same meanings in this section.

Warrant to authorise entry.

**115.**—(1) Where it is shown to the satisfaction of the sheriff, or of a justice of the peace or magistrate, on sworn information in writing, that admission to premises specified in the information is reasonably required by a person employed by, or acting on the instructions of, a local authority for the purpose—

(*a*) of survey and examination to determine whether any powers under the foregoing provisions of this Part of this Act should be exercised in respect of the premises, or

(*b*) of ascertaining whether there has been a contravention of any regulations or direction made or given under the foregoing provisions of this Part of this Act,

then, subject to this section, the sheriff, justice or magistrate may by warrant under his hand authorise that person to enter on the premises for the purposes mentioned in paragraphs (*a*) and (*b*) above, or for such of those purposes as may be specified in the warrant.

(2) A sheriff, justice or magistrate shall not grant a warrant under this section unless he is satisfied—

(*a*) that admission to the premises has been refused and, except where the purpose specified in the information—

(i) is the survey and examination of premises to determine whether there has been a failure to comply

PART VI

with a notice under section 105 or section 106 or section 107 of this Act, or

(ii) is to ascertain whether there has been a contravention of any regulations or direction made or given under the foregoing provisions of this Part of this Act,

that admission was sought after not less than twenty-four hours' notice of the intended entry had been given to the occupier; or

(*b*) that an application for admission to the premises would defeat the object of the entry.

(3) Every warrant granted under this section shall continue in force until the purpose for which the entry is required has been satisfied.

(4) Any person who, in the exercise of a right of entry under this section, enters any premises which are unoccupied, or any premises the occupier of which is temporarily absent, shall leave the premises as effectually secured against trespassers as he found them.

(5) Any power of entry conferred by this section—

(*a*) shall include power to enter, if need be, by force, and

(*b*) may be exercised by the person on whom it is conferred either alone or together with any other persons.

Application to sheriff where consent unreasonably withheld.

**116.** If on an application made by any person required by a notice under the foregoing provisions of this Part of this Act to execute any works it appears to the sheriff that any other person having an estate or interest in the premises has unreasonably refused to give any consent required to enable the works to be executed, the sheriff may give the necessary consent in place of that other person.

Protection of superiors and owners.

**117.**—(1) If the superior or owner of any lands and heritages gives notice to the local authority of his estate in those lands and heritages, the authority shall give to him notice of any proceedings taken by them in pursuance of the foregoing provisions of this Part of this Act in relation to those lands and heritages or any part thereof.

(2) Nothing in the foregoing provisions of this Part of this Act shall prejudice or interfere with the rights or remedies of any owner for the breach, non-observance or non-performance of any agreement or stipulation entered into by a lessee with reference to any house in respect of which a notice requiring the execution of works is served by a local authority under the foregoing provisions of this Part of this Act, or as respects

which regulations made under section 103 of this Act are for the time being in force; and if any owner is obliged to take possession of a house in order to comply with any such notice, the taking possession shall not affect his right to avail himself of any such breach, non-observance or non-performance which has occurred before he so took possession.

Offences by bodies corporate.

**118.**—(1) Where an offence punishable under the foregoing provisions of this Part of 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 purporting to act in any such capacity, 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.

(2) Where a person is convicted of an offence by virtue of subsection (1) of this section and the body corporate in question is under the foregoing provisions of this Part of this Act liable, as having been previously convicted of an offence, to a higher penalty than if it had not been previously convicted of any offence, that person shall be liable under the foregoing provisions of this Part of this Act to the same penalties as the body corporate, including the imprisonment to which it would be liable if a natural person:

Provided that he shall not be so liable if he shows that at the time of the first-mentioned offence he did not know of the body corporate's conviction for the earlier offence and that at the time of the earlier conviction he was not acting or purporting to act as a director, manager, secretary or other similar officer of the body corporate.

Statutory tenant to be regarded as lessee, etc.

**119.** In the foregoing provisions of this Part of this Act—

(*a*) references to a lessee of a house and to a person to whom a house is let include references to any person who retains possession of the house by virtue of the Rent Acts and not as being entitled to any tenancy; and

(*b*) references to a person having an estate or interest in a house include references to any person who retains possession of the house as mentioned in paragraph (*a*) of this section.

*Control orders*

Making of control order.

**120.**—(1) A local authority may make an order under this section (in this Part of this Act referred to as a " control order ") as respects a house in their district which, or a part of which, is

PART VI

let in lodgings, or which is occupied by members of more than one family—

(*a*) if an order under section 104 of this Act is in force as respects the house, or a notice has been served or direction given as respects the house under section 105 or section 106 or section 111 of this Act, or

(*b*) if it appears to the local authority that the state or condition of the house is such as to call for the taking of any such action as may be taken under any of those sections,

and if it appears to the local authority that the living conditions in the house are such that it is necessary to make the control order in order to protect the safety, welfare or health of persons living in the house.

(2) A local authority may exclude from the provisions of a control order any part of the house which, when the control order comes into force, is occupied by a person who has an estate or interest in the whole of the house, and, except where the context otherwise requires, references in this section and in the following provisions of this Part of this Act to the house do not include references to any part of the house so excluded from the provisions of the control order.

(3) A control order shall come into force when it is made, and as soon as practicable after making a control order the local authority shall, in exercise of the powers conferred in the following provisions of this Part of this Act, and having regard to the duties imposed on them by the said provisions, enter on the premises and take all such immediate steps as appear to them to be required to protect the safety, welfare or health of persons living in the house.

(4) As soon as practicable after making a control order the local authority shall—

(*a*) post a copy of the control order, together with a notice as described in subsection (5) of this section, in some position in the house where it is accessible to those living in the house ; and

(*b*) serve a copy of the control order, together with such a notice, on every person who, to the knowledge of the local authority—

(i) was, immediately before the coming into force of the control order, a person managing the house or a person having control of the house, or

(ii) is an owner or lessee of the house or a person holding a heritable security over the house.

(5) The notice referred to in subsection (4) of this section shall set out the effect of the control order in general terms, referring to the rights of appeal against control orders conferred by this Part of this Act and stating the principal grounds on which the local authority consider it necessary to make a control order.

(6) As soon as practicable after making a control order the local authority shall cause the control order to be recorded in the General Register of Sasines.

General effect of control order.

**121.**—(1) While a control order is in force the local authority shall, subject to the provisions of section 122 of this Act relating to persons who are occupying parts of the house, have the right to possession of the premises and the right to do, and to authorise others to do, in relation to the premises anything which any person having an estate or interest in the premises would, but for the making of the control order, be entitled to do, without incurring any liability to any such person except as expressly provided by this Part of this Act.

(2) Subject to subsection (3) of this section, the local authority may, notwithstanding that they do not, under this section, have an interest amounting to an estate in the premises, create an interest in the premises which, as near as may be, has the incidents of a lease and, subject to the provisions of section 122(4) of this Act and to any other express provision of this Part of this Act, any enactment or rule of law relating to landlords and tenants or leases shall apply in relation to any interest created under this section as if the local authority were the owner of the premises.

(3) Subject to the provisions of sections 130(3) and 133(9) of this Act, the local authority shall not, in exercise of the powers conferred by this section, create any right in the nature of a lease or licence which is for a fixed term exceeding one month, or which is terminable by notice to quit (or an equivalent notice) of more than four weeks:

Provided that this subsection shall not apply to a right created with the consent in writing of the person or persons who would have power to create that right if the control order were not in force.

(4) On the coming into force of a control order any order under section 104 of this Act, and any notice or direction under section 105, section 106, section 107 or section 111 of this Act, shall cease to have effect as respects the house to which the control order applies, but without prejudice to any criminal liability incurred before the coming into force of the control order, or to the right of the local authority to recover any expenses incurred in carrying out any works.

PART VI

(5) References in this Act or in any other enactment to housing accommodation provided or managed by a local authority shall not include references to any house which is subject to a control order, but this subsection shall not be taken as restricting the powers of acquiring land by agreement or compulsorily conferred on local authorities by Part VII of this Act.

Effect of control order on persons occupying any part of house, etc.

**122.**—(1) In this section references to a person to whom this section applies are references to any person—

(*a*) who, at the time when a control order comes into force, is occupying any part of the house, and

(*b*) who at that time is not a person who has an estate or interest in the whole of the house.

(2) Section 121 of this Act shall not affect the rights or liabilities of a person to whom this section applies under any lease, licence or agreement, whether in writing or not, under which that person is occupying any part of the house at the time when the control order comes into force, and—

(*a*) any such lease, licence or agreement shall, while the control order is in force, have effect as if the local authority were substituted in the lease, licence or agreement for any party to the lease, licence or agreement who has an estate or interest in the house and who is not a person to whom this section applies; and

(*b*) any such lease shall continue to have effect as near as may be as a lease notwithstanding that the rights of the local authority, as substituted for the lessor, do not amount to an estate in the premises.

(3) Subject to the provisions of subsection (4) of this section and to any other express provision of this Part of this Act, any enactment or rule of law relating to landlords and tenants or leases shall apply in relation to any lease to which the local authority become a party under this section as if the authority were the owner of the premises.

1954 c. 50.

(4) Section 25 of the Housing (Repairs and Rents) (Scotland) Act 1954 (which excludes lettings by local authorities from the Rent Acts) shall not apply to any lease or agreement under which a person to whom this section applies is occupying any part of the house, and if immediately before the control order came into force any person to whom this section applies was occupying part of the house under a tenancy to which the Rent Acts applied (including a statutory tenancy), nothing in the provisions of this Part of this Act relating to control orders shall prevent the Rent Acts from continuing to apply after the coming into force of the control order.

(5) So much of any regulations made under section 103 of this Act as imposes duties on persons who live in a house to which the regulations apply shall apply also to persons who live in a house as respects which a control order is in force.

(6) Without prejudice to the rights conferred on the local authority by section 121 of this Act, the authority, and any person authorised in writing by them, shall have the right at all reasonable times, as against any person having an estate or interest in a house which is subject to a control order, to enter any part of the house—

(*a*) for the purpose of survey and examination, and

(*b*) for the purpose of carrying out any works.

(7) The rights conferred by subsection (6) of this section shall, so far as reasonably required for the purpose of survey and examination of a part of a house subject to a control order, or for the purpose of carrying out any works in that part of a house, be exercisable as respects the part of the house which, by virtue of section 120(2) of this Act, is not subject to the control order.

Effect of control order on furnished lettings.

**123.**—(1) Subject to this section, if on the date on which a control order comes into force there is any furniture in the house which a resident in the house has the right to use in consideration of periodical payments to the dispossessed proprietor (whether included in the rent payable by the resident or not), the right to possession of the furniture shall, on that date and as against all persons other than the resident, vest in the local authority and remain vested in the authority while the control order remains in force.

(2) The local authority may, on the application in writing of the person owning any furniture to which subsection (1) of this section applies, by notice served on that person not less than two weeks before the notice takes effect, renounce the right to possession of the furniture as conferred by that subsection.

(3) In respect of the period during which the local authority have the right to possession of any furniture in pursuance of subsection (1) of this section, the authority shall be liable to pay to the dispossessed proprietor compensation in respect of the use of any furniture the right to possession of which vests under that subsection at such rate as the parties may agree or as may be determined by the tribunal constituted under section 1 of the Rent of Furnished Houses Control (Scotland) Act 1943 for the area in which the house is situated.

1943 c. 44.

(4) If the local authority's right to possession of any furniture conferred by subsection (1) of this section is a right exercisable

PART VI

as against more than one person interested in the furniture, any such person may apply to the sheriff for an adjustment of the rights and liabilities of those persons as regards the furniture, and the sheriff may make an order for any such adjustment of rights and liabilities either unconditionally or subject to such terms and conditions (including terms or conditions with respect to the payment of money by any party to the proceedings to any other party to the proceedings by way of compensation, damages or otherwise) as he thinks just and equitable.

(5) Compensation due under this section—

(*a*) shall be payable by quarterly instalments, the first instalment being payable three months after the date when the control order comes into force;

(*b*) is to be considered as accruing due from day to day and shall be apportionable in respect of time accordingly.

(6) In this Part of this Act "dispossessed proprietor" means the person by whom the rents or other periodical payments to which a local authority become entitled on the coming into force of a control order would have been receivable but for the making of the control order, and the successors in title of that person; and in this section "furniture" includes fittings and other articles.

Functions of local authority when control order in force.

**124.**—(1) It shall be the duty of the local authority to exercise the powers conferred on them by a control order so as to maintain proper standards of management in the house and to take such action as is needed to remedy all the matters which they would have considered it necessary to remedy by the taking of action under any of the foregoing provisions of this Part of this Act (other than those relating to control orders) if they had not made a control order.

(2) The local authority may fit out, furnish and supply any house subject to a control order with such furniture, fittings and conveniences as appear to them to be required.

(3) It shall be the duty of the local authority to make reasonable provision for insurance of any premises subject to a control order, including any part of the premises which, by virtue of section 120(2) of this Act, is excluded from the provisions of the control order, against destruction or damage by fire or other cause, and premiums paid for the insurance of the premises shall, for the purposes of the following provisions of this Part of this Act, be treated as expenditure incurred by the local authority in respect of the premises.

(4) It shall be the duty of the local authority to keep full accounts of their income and expenditure in respect of a house

which is subject to a control order, and to afford to the dispossessed proprietor, or any other person having an estate or interest in the house, all reasonable facilities for inspecting, taking copies of and verifying those accounts. PART VI

(5) While a control order is in force the local authority shall afford to the dispossessed proprietor, or any other person having an estate or interest in the house, any reasonable facilities requested by him for inspecting and examining the house.

Periodical payments to dispossessed proprietor.

**125.**—(1) In respect of the period during which the control order is in force the local authority shall be liable to pay to the dispossessed proprietor compensation at an annual rate of an amount equal to one half of the gross annual value for rating purposes of the house as shown in the valuation roll on the date when the control order comes into force.

(2) Compensation due under this section—

(*a*) shall be payable by quarterly instalments, the first instalment being payable three months after the date when the control order comes into force;

(*b*) is to be considered as accruing due from day to day and shall be apportionable in respect of time accordingly.

(3) If at the time when compensation under this section accrues due the estate or interest of the dispossessed proprietor is subject to any heritable security or charge, the compensation shall be deemed to be comprised in that heritable security or charge.

(4) For the purposes of the references in this section to the gross annual value of a house—

(*a*) where after the date on which the control order comes into force the valuation roll is altered so as to vary the gross annual value of the house, or of the lands and heritages of which the house forms part, and the alteration has effect from a date not later than the date on which the control order comes into force, compensation shall be payable under this section as if the gross annual value of the house or lands and heritages shown in the valuation roll on the date when the control order came into force had been the amount of that value shown in the roll as altered; and

(*b*) if the house forms part only of any lands and heritages, such proportion of the gross annual value shown in the valuation roll for those lands and heritages as may be agreed in writing between the local authority and

PART VI

the person claiming the compensation shall be the gross annual value of the house;

and any dispute arising under paragraph (*b*) of this subsection shall be determined by the sheriff on the application of either party.

(5) If different persons are the dispossessed proprietors of different parts of any house, compensation payable under this section shall be apportioned between them in such manner as they may agree (or as may, in default of agreement, be determined by the sheriff on the application of any of such persons) according to the proportions of the gross annual value of the house properly attributable to the parts of the house in which they are respectively interested.

Scheme listing works involving capital expenditure.

**126.**—(1) After a control order has been made, the local authority shall prepare a scheme under this section and shall, not later than eight weeks after the date on which the control order comes into force, serve a copy of the scheme on every person who is to the knowledge of the authority—

(*a*) a dispossessed proprietor, or

(*b*) an owner or lessee of the house, or a person holding a heritable security over the house,

and on any other person on whom the local authority served a copy of the control order.

(2) The scheme shall give particulars of all works which in the opinion of the local authority—

(*a*) the local authority would have required to be carried out under the foregoing provisions of this Part of this Act (other than those relating to control orders), or under any other enactment relating to housing or public health, and

(*b*) constitute works involving capital expenditure.

(3) The scheme shall also—

(*a*) include an estimate of the cost of carrying out the works of which particulars are given in the scheme; and

(*b*) specify what is in the opinion of the local authority the highest number of individuals or households who should, having regard to the considerations set out in subsections (1) and (2) of section 106 of this Act, live in the house from time to time, having regard to its existing condition and to its future condition as the works progress which the authority carry out in the house; and

(*c*) include an estimate of the balances which will from time to time accrue to the local authority out of the net amount of the rent and other payments received by the authority from persons occupying the house after deducting—

(i) compensation payable by the authority under section 123 and section 125 of this Act, and

(ii) all expenditure, other than expenditure of which particulars are given under subsection (2) of this section, incurred by the authority in respect of the house while the control order is in force, together with the appropriate establishment charges.

(4) In this Part of this Act references to surpluses on revenue account as settled by the scheme are references to the amount included in the scheme by way of an estimate under subsection (3)(*c*) of this section, subject to any variation of the scheme made by the local authority under the following provisions of this section, or made by the sheriff on an appeal or an application under the following provisions of this Part of this Act.

(5) The local authority may at any time vary the scheme in such a way as to increase the amount of the surpluses on revenue account as settled by the scheme for all or any periods (including past periods).

(6) The provisions of this section shall not affect the powers conferred on a local authority by section 121 of this Act and, accordingly, a local authority shall have power to carry out any works in a house which is subject to a control order whether or not particulars of those works have been included in a scheme under this section.

Recovery by local authority of capital expenditure incurred in carrying out works included in scheme.

**127.**—(1) An account shall be kept by the local authority for the period during which a control order is in force showing—

(*a*) the surpluses on revenue account as settled by the scheme, and

(*b*) the expenditure incurred by the authority in carrying out works of which particulars were given in the scheme.

(2) Balances shall be struck in the account at half-yearly intervals so as to ascertain the amount of expenditure under subsection (1)(*b*) of this section which cannot be set off against the said surpluses on revenue account, and (except where the control order is revoked by the sheriff on an appeal against the control order and the account under this section is no

PART VI

longer needed) the final balance shall be struck at the date when the control order ceases to have effect.

(3) So far as, at the end of any half-yearly period, expenditure is not set off against the said surpluses on revenue account, the expenditure shall, for the purposes of this section, carry interest at the rate for the time being fixed for the purposes of section 12(1) of this Act until it is so set off or until a demand for such expenditure is served by the local authority under the said section 12(1), as applied by subsection (5) of this section.

So far as there is any sum out of the said surpluses on revenue account not required to meet any expenditure incurred by the local authority, it shall go to meet interest under this subsection.

(4) Except where the control order is revoked by the sheriff on an appeal against the control order under the following provisions of this Part of this Act, on and after the time when the control order ceases to have effect the expenditure reasonably incurred by the local authority in carrying out works of which particulars were given in the scheme, together with interest as provided in this section, shall, so far as not set off in accordance with this section against the surpluses on revenue account as settled by the scheme, be recoverable from the dispossessed proprietor.

(5) Sections 11(3) and 12 of this Act shall, subject to any necessary modifications, apply for the purpose of enabling the local authority to recover from the dispossessed proprietor any expenditure which, by virtue of subsection (4) of this section, is recoverable from him as they apply for the purpose of enabling a local authority to recover expenses incurred by them in executing works on an insanitary house.

(6) Sections 26 and 27 of this Act shall apply in relation to a demand by the local authority for the recovery of any such expenditure and to an order made by the local authority with respect to any such expenditure as they apply in relation to a demand for the recovery of expenses incurred by a local authority in executing works on an insanitary house and to an order made by a local authority with respect to any such expenses.

(7) It shall be competent for the local authority to make a charging order in favour of themselves in respect of any such expenditure, and subsections (2) to (4) of section 28, and section 29, of this Act shall, with any necessary modifications, apply to a charging order so made in like manner as they apply to a charging order made under the said section 28 and as if any reference in the said section 29 to Part II of this Act included a reference to the provisions of this Part of this Act relating to control orders.

Section 120(2) of this Act shall not apply so as to restrict the effect of any charging order made by virtue of this subsection to the part of the house to which a control order is applied.

(8) For the purposes of this section references to the provisions of a scheme include references to those provisions as varied under this Part of this Act and if, when the control order ceases to have effect, proceedings under the following provisions of this Part of this Act are pending which may result in a variation of the scheme, those proceedings may be continued until finally determined; and if any expenditure which, by virtue of subsection (4) of this section, is recoverable from the dispossessed proprietor is recovered from him before the final determination of those proceedings, the local authority shall be liable to account for any money so recovered which, having regard to the decision in the proceedings as finally determined, they ought not to have recovered.

Power of sheriff to modify or determine lease.

**128.**—(1) Either the lessor or the lessee under any lease of premises which consist of or comprise a house which is subject to a control order, other than a lease to which section 122(2) of this Act applies, may apply to the sheriff for an order under this section.

(2) On any such application, the sheriff may make an order for the determination of the lease, or for its variation, and, in either case, either unconditionally or subject to such terms and conditions (including terms or conditions with respect to the payment of money by any party to the proceedings to any other party to the proceedings by way of compensation, damages or otherwise) as the sheriff may think just and equitable to impose, regard being had to the respective rights, obligations and liabilities of the parties under the lease and to the other circumstances of the case.

(3) If on any such application the sheriff is satisfied—

(*a*) that if the lease is determined and the control order is revoked the lessor will be in a position, and intends, to take all such action to remedy the condition of the house as the local authority consider would have to be taken in pursuance of the powers conferred on them by the foregoing provisions of this Part of this Act (other than those relating to control orders); and

(*b*) that the local authority intend, if the lease is determined, to revoke the control order;

the sheriff shall exercise the jurisdiction conferred by this section so as to determine the lease.

PART VI

*Appeals, etc.*

Appeal against control order.

**129.**—(1) At any time after the making of a control order, but not later than the expiry of a period of six weeks from the date on which a copy of the relevant scheme is served in accordance with section 126(1) of this Act, any person having an estate or interest in the house, or, subject to subsection (2) of this section, any other person, may appeal to the sheriff against the control order.

(2) The sheriff may, before entertaining an appeal by a person who had not, when he brought the appeal, an estate or interest in the house, require the appellant to satisfy the sheriff that he may be prejudiced by the making of the control order.

(3) The grounds of an appeal under this section may be all or any of the following, that is to say—

(*a*) that (whether or not the local authority have made an order or issued a notice or direction under any of the provisions of this Act mentioned in section 120(1)(*a*) thereof) the state or condition of the house was not such as to call for the taking of any such action as may be taken under any of those provisions;

(*b*) that it was not necessary to make the control order in order to protect the safety, welfare or health of persons living in the house;

(*c*) where part of the house was occupied by the dispossessed proprietor when the control order came into force, that it was practicable and reasonable for the local authority to exercise their powers under section 120(2) of this Act so as to exclude from the provisions of the control order a part of the house (or a greater part of the house than has been excluded);

(*d*) that the control order is invalid on the ground that any requirement of this Act has not been complied with or on the ground of some informality, defect or error in or in connection with the control order.

(4) In so far as an appeal under this section is based on the ground that the control order is invalid, the sheriff shall confirm the control order unless satisfied that the interests of the appellant have been substantially prejudiced by the facts relied on by him.

(5) A control order shall, subject to the right of appeal conferred by this section, be final and conclusive as to any matter which could have been raised on any such appeal.

(6) Where a control order is revoked on an appeal under this section the local authority shall as soon as practicable thereafter cause to be recorded in the General Register of Sasines a notice stating that the control order has been revoked as aforesaid.

Provisions where control order revoked on appeal.

**130.**—(1) This section shall have effect if a control order is revoked by the sheriff on an appeal against the control order.

(2) If the local authority are in the course of carrying out any works in the house which, if a control order were not in force, the authority would have power to require some other person to carry out under the foregoing provisions of this Part of this Act (other than those relating to control orders), or under any other enactment relating to housing or public health, and on the hearing of the appeal the sheriff is satisfied that the carrying out of the works could not be postponed until after the determination of the appeal because the works were urgently required for the sake of the safety, welfare or health of persons living in the house, or of other persons, the sheriff may suspend the revocation of the control order until the works have been completed.

(3) The sheriff may authorise the local authority to create under section 121(2) of this Act interests which expire, or which the dispossessed proprietor can terminate, within six months from the time when the control order ceases to have effect, being interests which, notwithstanding subsection (3) of the said section 121, are for a fixed term exceeding one month, or are terminable by notice to quit (or an equivalent notice) of more than four weeks.

(4) The sheriff shall take into consideration whether the state or condition of the house is such that any action ought to be taken by the local authority under the foregoing provisions of this Part of this Act (other than those relating to control orders) and shall take all or any of the following steps accordingly, that is to say—

(*a*) approve the making of an order under section 104 of this Act;

(*b*) approve the giving of a notice under section 105 or section 106 or section 107 of this Act; or

(*c*) approve the giving of a direction under section 111 of this Act;

and no appeal against any order or notice so approved shall lie under section 104(4) or section 108 of this Act.

(5) In respect of the period from the coming into force of the control order until its revocation by the sheriff, the local authority shall, subject to this section, be liable to pay to the

PART VI

dispossessed proprietor the balances which from time to time accrued to the authority out of the net amount of the rent and other payments received by the authority while the control order was in force from persons occupying the house after deducting—

(*a*) compensation payable by the local authority under section 123 and section 125 of this Act, and

(*b*) all expenditure, other than capital expenditure, incurred by the local authority in respect of the house while the control order was in force, together with the appropriate establishment charges.

(6) If the sheriff is satisfied that the balances which the local authority are, under subsection (5) of this section, liable to pay to the dispossessed proprietor are unduly low for any reason within the control of the authority, having regard to the desirability of observing the standards of management contained in regulations made under section 103 of this Act and to the other standards which the authority ought to observe as to the number of persons living in the house and the rents which they ought to charge, the sheriff shall direct that, for the purposes of the authority's liability to the dispossessed proprietor under this section, the balances under subsection (5) of this section shall be deemed to be such greater sums as the sheriff may direct:

Provided that the sheriff shall not under this subsection give a direction which will afford to the dispossessed proprietor a sum greater than what he may, in the opinion of the sheriff, have lost by the making of the control order.

(7) If different persons are dispossessed proprietors in relation to different parts of the house, sums payable under this section by the local authority shall be apportioned between them in the manner provided by section 125(5) of this Act.

(8) For the purpose of enabling the local authority to recover capital expenditure incurred by them in carrying out works in the house in the period before the control order is revoked, the authority may on the hearing of the appeal apply to the sheriff for approval of those works on the ground that they were works which, if a control order had not been in force, the authority could have required some other person to carry out under the foregoing provisions of this Part of this Act (other than those relating to control orders), or under any other enactment relating to housing or public health, and that the carrying out of the works could not be postponed until after the determination of the appeal because the works were urgently required for the sake of the safety, welfare or health of the persons living in the house, or other persons.

(9) Any expenditure reasonably incurred by the local authority in carrying out works approved under subsection (8) of this section—

(*a*) may be deducted by the local authority out of the balances which the authority are, under subsection (5) of this section, liable to pay to the dispossessed proprietor;

(*b*) so far as not so deducted, shall be recoverable from the dispossessed proprietor.

(10) Any expenditure recoverable by the local authority from the dispossessed proprietor by virtue of subsection (9)(*b*) of this section shall carry interest at the rate for the time being fixed for the purposes of section 12(1) of this Act from the date when the control order is revoked; and subsections (5) to (7) of section 127 of this Act shall, with any necessary modifications, apply for the purpose of enabling the authority to recover any such expenditure as if they were incorporated in this section.

Appeal against scheme.

**131.**—(1) Within six weeks from the date on which a copy of the relevant scheme is served in accordance with section 126(1) of this Act, any person having an estate or interest in the house may appeal to the sheriff against the scheme on all or any of the following grounds, that is to say—

(*a*) that having regard to the condition of the house and to the other circumstances, any of the works of which particulars are given in the scheme (whether already carried out or not) are unreasonable in character or extent, or are unnecessary;

(*b*) that any of the works do not involve expenditure which ought to be regarded as capital expenditure;

(*c*) that the number of individuals or households living in the house, as specified by the local authority in the scheme, is unreasonably low;

(*d*) that the estimate of the surpluses on revenue account in the scheme is unduly low on account of some assumptions, whether as to rents charged by the local authority or otherwise, made by the authority in arriving at the estimate as to matters which are within the control of the authority.

(2) On an appeal under this section the sheriff may, as he thinks fit, confirm or vary the scheme.

(3) If an appeal has been brought against the control order and the sheriff decides on the appeal to revoke the control order, the sheriff shall not proceed with any appeal against the scheme relating to that control order.

PART VI

(4) Proceedings on an appeal against a scheme shall, so far as practicable, be combined with proceedings on any appeal against the control order to which the scheme relates.

Application for variation of scheme.

**132.**—(1) Without prejudice to the right of appeal against a scheme conferred by section 131 of this Act, either the local authority or any person having an estate or interest in the house to which the scheme relates may at any time apply to the sheriff for a review of the estimate of the surpluses on revenue account in the scheme.

(2) On an application under this section the sheriff may, as he thinks fit, confirm or vary the scheme, but the sheriff shall not on such an application vary the scheme so as to affect the provisions thereof relating to the works.

(3) On an application under this section the surpluses on revenue account as settled by the scheme may be varied for all or any periods including past periods, and the sheriff shall take into consideration whether in the period since the control order came into force the actual balances mentioned in section 126(3)(*c*) of this Act have exceeded, or been less than, the surpluses on revenue account as settled by the scheme as for the time being in force, and shall also take into consideration whether there has been any change in circumstances such that the number of persons or households who should live in the house, or the net amount of the rents and other payments receivable by the local authority from persons occupying the house, ought to be greater or less than was originally estimated.

*Expiration and revocation of control order*

Expiration of control order, and earlier revocation by local authority or sheriff.

**133.**—(1) A control order shall cease to have effect on the expiry of a period of five years beginning with the date on which it came into force.

(2) The local authority may at any earlier time, either on an application under this section or on their own initiative, by order revoke a control order.

(3) Not less than twenty-one days before the local authority revoke a control order they shall serve notice of their intention to revoke the control order on the persons occupying any part of the house, and on every person who is to the knowledge of the authority an owner or lessee of the house or a person holding a heritable security over the house.

(4) If any person applies to the local authority requesting the authority to revoke a control order, and giving the grounds on which the application is made, the authority shall, if they refuse the application, inform the applicant of their decision and of

their reasons for rejecting the grounds advanced by the applicant; and if the authority refuse the application or do not, within forty-two days from the making of the application or within such further period as the applicant may in writing allow, inform the applicant of their decision on the application, the applicant may appeal to the sheriff, and the sheriff may revoke the control order:

Provided that, if an appeal has been brought under this subsection, then, except with the leave of the sheriff, another appeal shall not be so brought, whether by the same or a different appellant, in respect of the same control order until the expiry of a period of six months beginning with the final determination of the first-mentioned appeal.

(5) If on an appeal under subsection (4) of this section the local authority represent to the sheriff that revocation of the control order would unreasonably delay completion of any works of which particulars were given in the relevant scheme under this Part of this Act and which the authority have begun to carry out, the sheriff shall take the representations into account and may, if he thinks fit, revoke the control order as from the time when the works are completed.

(6) If an appellant under subsection (4) of this section has an estate or interest in the house which, apart from the rights conferred on the local authority by the provisions of this Part of this Act relating to control orders, and apart from the rights of persons occupying any part of the house, would give him the right to possession of the house, and that estate or interest was, when the control order came into force, subject to a lease for a term of years which has subsequently expired, then, if that person satisfies the sheriff that he is in a position and intends, if the control order is revoked, to demolish or reconstruct the house or to carry out substantial work of construction on the site of the house, the sheriff shall revoke the control order.

(7) Where in a case falling under subsection (6) of this section the sheriff is not satisfied as therein mentioned, but would be so satisfied if the date of revocation of the control order were a date later than the date of the hearing of the appeal, the sheriff shall, if the appellant so requires, make an order for the revocation of the control order on that later date.

(8) Where the sheriff on an appeal under subsection (4) of this section decides to revoke a control order in respect of a house from the dispossessed proprietor of which any amount will be recoverable by virtue of this Part of this Act, the sheriff may make it a condition of the revocation of the control order

PART VI

that the appellant first pays off to the local authority that amount, or such part of that amount as the sheriff may specify.

(9) Where the sheriff on an appeal under subsection (4) of this section revokes a control order he may authorise the local authority to create under section 121(2) of this Act interests which expire, or which the dispossessed proprietor can terminate, within six months from the time when the control order ceases to have effect, being interests which, notwithstanding subsection (3) of the said section 121, are for a fixed term exceeding one month, or are terminable by notice to quit (or an equivalent notice) of more than four weeks.

(10) Where—

(*a*) the local authority propose to revoke a control order on their own initiative, and apply to the sheriff under this subsection, or

(*b*) the sheriff on an appeal under subsection (4) of this section revokes a control order,

the sheriff may take all or any of the following steps, to take effect on the revocation of the control order, that is to say—

(i) approve the making of an order under section 104 of this Act;

(ii) approve the giving of a notice under section 105 or section 106 or section 107 of this Act; or

(iii) approve the giving of a direction under section 111 of this Act;

and no appeal against any order or notice so approved shall lie under section 104(4) or section 108 of this Act.

(11) Where a control order is revoked by the local authority under subsection (2), or by the sheriff on an appeal under subsection (4), of this section, the local authority shall as soon as practicable thereafter cause to be recorded in the General Register of Sasines the revocation order made by them or, as the case may be, a notice stating that the control order has been revoked by the sheriff as aforesaid.

*Effect of cessation of control order*

Effect of cessation of control order.

**134.** Schedule 6 to this Act (which sets out the consequences of a control order ceasing to have effect) shall have effect for the purposes of this Part of this Act.

*Restriction on recovery of possession after making of compulsory purchase order* PART VI

Restriction on recovery of possession after making of compulsory purchase order. 1947 c. 42.

**135.**—(1) The provisions of this section shall apply where—

(*a*) a local authority have made an order under Part I of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, as applied to the acquisition of land under this Act (other than section 20 thereof), authorising the compulsory acquisition of a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family; and

(*b*) any premises forming part of that house are at a time in the relevant period occupied by a person (in this section referred to as "the former lessee") who was the lessee of those premises when the order was made or became the lessee thereof after the order was made, but who is no longer the lessee thereof.

In this section "the relevant period" means the period of twelve months beginning with the making of the said order or, if at a time before the expiration of the said period of twelve months the Secretary of State notifies the local authority that he declines to confirm the order, or the order is quashed by a court, the period beginning with the making of the order and ending with that time.

(2) Subject to this section, in proceedings in any court of competent jurisdiction instituted during the relevant period to enforce against the former lessee the right to recover possession of the premises the court may if it thinks fit—

(*a*) suspend the execution of any decree of removing or warrant of ejection or other like order made in the proceedings for such period, not exceeding the period of twelve months beginning with the making of the said compulsory purchase order, and subject to such conditions, if any, as the court thinks fit; and

(*b*) from time to time vary the period of suspension (but not so as to enlarge that period beyond the end of the said period of twelve months), or terminate it, and vary the terms of the said decree, warrant or other like order in other respects.

(3) If at any time the Secretary of State notifies the local authority that he declines to confirm the said compulsory purchase order, or that order is quashed by a court, or, whether before or after that order has been submitted to the Secretary of State for confirmation, the authority decide not to proceed with it, it shall be the duty of the authority to notify the person entitled to the benefit of the decree of removing or warrant of ejection or other like order, and that person shall be entitled,

PART VI

on applying to the court, to obtain an order terminating the period of suspension, but subject to the exercise of such discretion in fixing the date on which possession is to be given as the court might exercise apart from this subsection if it were then making such a decree, warrant or other like order for the first time.

(4) Subsections (2) and (3) of this section shall not apply where the person entitled to possession of the premises is the local authority.

*Interpretation*

Interpretation of Part VI.

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

"dispossessed proprietor" has the meaning given by section 123(6) of this Act;

"establishment charges" means, in relation to any expenditure incurred by a local authority, the proper addition to be made to that expenditure to take account of overhead expenditure incurred by the authority, and to allow for a proper return on capital;

1924 c. 27.

"heritable security" has the same meaning as in the Conveyancing (Scotland) Act 1924 except that it includes a security constituted by *ex facie* absolute disposition or assignation;

"lease" includes a sublease or any tenancy, and any agreement for a lease, sublease or tenancy, and references to a lessor or to a lessee or to a person to whom a house is let shall be construed accordingly;

"licence" means any right or permission relating to land but not amounting to an estate or interest therein;

"person managing a house" has the meaning given by section 103(5) of this Act;

1920 c. 17.

"statutory tenant" means a tenant (as defined in section 12(1)(*g*) of the Increase of Rent and Mortgage Interest (Restrictions) Act 1920) who retains possession by virtue of the Rent Acts, and not as being entitled to a tenancy, and "statutory tenancy" shall be construed accordingly;

"surpluses on revenue account as settled by the scheme" has the meaning given by section 126(4) of this Act.

(2) References in this Part of this Act to the net amount of rents or other payments received by a local authority from persons occupying a house are references to the amount of the rent and other payments received by the authority from those persons under leases or licences, or in respect of furniture to which section 123(1) of this Act applies, after deducting income tax paid or borne by the authority in respect of those rents and other payments.

(3) References in this Part of this Act to expenditure incurred in respect of a house subject to a control order include, in a case where the local authority—

(*a*) require persons living in a house to vacate their accommodation for any period while the local authority are carrying out works in the house, and

(*b*) defray all or any part of the expenses incurred by or on behalf of those persons removing from and returning to the house, or provide housing accommodation for those persons for any part of that period,

references to the sums so defrayed by the local authority, and to the net cost to the authority of so providing housing accommodation.

(4) For the purposes of this Part of this Act the withdrawal of an appeal shall be deemed the final determination thereof having the like effect as a decision dismissing the appeal.

## PART VII

## PROVISION OF HOUSING ACCOMMODATION

### *General powers and duties of local authorities*

Duty of local authority to review housing conditions and to frame proposals.

**137.** It shall be the duty of every local authority to consider the housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation and for that purpose to review the information which has been brought to their notice, either as a result of the inspections and surveys carried out under section 4(1) of this Act or otherwise, and as often as occasion arises, or within three months after notice has been given to them by the Secretary of State, to prepare and submit to the Secretary of State proposals for the provision of new houses, distinguishing those houses which the authority propose to provide for the purpose of rendering accommodation available for persons to be displaced by, or in consequence of, action taken by the authorities under Part II or Part III of this Act or under section 138(1)(*d*) thereof.

Mode of provision of housing accommodation.

**138.**—(1) A local authority may provide housing accommodation—

(*a*) by the erection of houses on any land acquired or appropriated by them;

(*b*) by the conversion of any buildings into houses;

(*c*) by acquiring houses;

(*d*) by altering, enlarging, repairing or improving any houses or other buildings which have, or a right or interest in which has, been acquired by the local authority.

PART VII

Any such powers as aforesaid may, for supplying the needs of the district, be exercised outside the district of the local authority.

(2) The local authority may alter, enlarge, repair or improve any house so erected, converted or acquired.

(3) For the purposes of this Part of this Act the provision of housing accommodation includes the provision of a cottage with a garden of not more than one acre.

Power of local authority to provide shops, etc., in connection with housing accommodation.

**139.**—(1) The power of a local authority under this Part of this Act to provide housing accommodation shall include power (either by themselves or jointly with any other person) to provide and maintain, with the consent of the Secretary of State, in connection with any such housing accommodation, any building adapted for use as a shop, any recreation grounds, or other buildings or land which in the opinion of the Secretary of State will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided.

(2) The Secretary of State may, in giving his consent to the provision of any building or land under this section, by order apply, with any necessary modifications, to that building or land any statutory provisions which would have been applicable thereto if the building or land had been provided under any enactment giving any local authority powers for the purpose.

Power of local authority to provide furniture, etc.

**140.**—(1) A local authority—

(*a*) may fit out, furnish and supply any house erected, converted or acquired by them under section 138 of this Act with all requisite furniture, fittings and conveniences;

(*b*) shall have power, and shall be deemed always to have had power, to sell, or to supply under a hire-purchase agreement, furniture to the occupants of houses provided by the local authority and, for that purpose, to buy furniture.

(2) In this section "hire-purchase agreement" means a hire-purchase or conditional sale agreement as defined by section 1 of the Hire-Purchase (Scotland) Act 1965.

1965 c. 67.

Power of local authority to provide board and laundry facilities.

**141.**—(1) The power of a local authority under this Part of this Act to provide housing accommodation shall include power to provide, in connection with the provision of such accommodation for any persons, such facilities for obtaining meals and such laundry facilities and services as accord with the needs of those persons.

(2) A local authority may make such reasonable charges for meals provided by them by virtue of this section, and such reasonable charges to persons availing themselves of laundry facilities or services so provided, as the authority may determine.

(3) This section shall not authorise the grant of a certificate under the Licensing (Scotland) Acts 1959 and 1962 for the sale of exciseable liquor in connection with the provision under this section of facilities for obtaining meals.

Power of local authority to acquire land for, or in connection with, provision of housing accommodation.

**142.** A local authority shall have power under this Part of this Act—

(*a*) to acquire any land as a site for the erection of houses;

(*b*) to acquire land proposed to be used for any purpose authorised by section 139 or section 141 of this Act;

(*c*) to acquire—

(i) houses, and

(ii) buildings other than houses, being buildings which may be made suitable as houses,

together with any lands occupied with the houses or buildings, or any right or interest in houses or in such buildings as are mentioned in sub-paragraph (ii) of this paragraph;

(*d*) to acquire land for the purposes of—

(i) selling or leasing the land under the powers conferred by this Act, with a view to the erection thereon of houses by persons other than the local authority;

(ii) selling or leasing, under the powers conferred by this Act, any part of the land acquired, with a view to the use thereof for purposes which in the opinion of the local authority are necessary or desirable for, or incidental to, the development of the land as a building estate;

(iii) carrying out thereon works for the purpose of, or connected with, the alteration, enlargement, repair or improvement of an adjoining house;

(iv) selling or leasing the land under the powers conferred by this Act, with a view to the carrying out on the land by a person other than the local authority of such works as are mentioned in sub-paragraph (iii) of this paragraph:

Provided that nothing in paragraph (*c*) of this section shall authorise a local authority to acquire otherwise than by agreement any house or other building which is situated on land used

PART VII

for agriculture, and which is required in connection with that use of that land.

Procedure for acquiring land.
1947 c. 43.

**143.**—(1) Land for the purposes of this Part of this Act may be acquired by a local authority by agreement under section 156 of the Local Government (Scotland) Act 1947 (notwithstanding anything in section 173 of that Act), and section 158 of that Act shall apply accordingly.

1947 c. 42.

(2) A local authority may be authorised by the Secretary of State to purchase land compulsorily for the purposes of this Part of this Act, and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.

(3) A local authority may acquire land by agreement, or may be authorised by the Secretary of State to purchase land compulsorily, for the purposes of this Part of this Act, notwithstanding that the land is not immediately required for those purposes.

1963 c. 51.

(4) Where land is purchased compulsorily by a local authority for the purposes of this Part of this Act, the compensation payable in respect thereof shall be assessed by the Lands Tribunal in accordance with the Land Compensation (Scotland) Act 1963, subject to observance of the rules contained in Schedule 4 to this Act.

Local authority may take possession of land to be acquired by agreement or appropriated for purposes of Part VII.

**144.** Where a local authority have agreed to purchase, or have determined to appropriate, land for the purposes of this Part of this Act, subject to the interest of the person in possession thereof, and that interest is not greater than that of a tenant for a year or from year to year, then, at any time after such agreement has been made, or such appropriation takes effect, the authority may, after giving to the person so in possession not less than fourteen days' notice, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent, but subject to payment to the person so in possession of the like compensation, and interest on the compensation awarded, as if the authority had been authorised to purchase the land compulsorily and that person had in pursuance of such power been required to give up possession before the expiration of his term or interest in the land, but without the necessity of compliance with sections 83 to 88 of the Lands Clauses Consolidation (Scotland) Act 1845.

1845 c. 19.

PART VII
Powers of dealing with land acquired or appropriated for purposes of Part VII.

**145.**—(1) Where a local authority have acquired or appropriated any land for the purposes of this Part of this Act, then, without prejudice to any of their other powers under this Act, the authority may—

(*a*) lay out and construct public streets or roads and open spaces on the land;

(*b*) subject to subsection (5) of this section, sell or lease the land or part thereof to any person under the condition that that person will erect thereon in accordance with plans approved by the local authority, and maintain, such number of houses of such types as may be specified by the authority, and when necessary will lay out and construct public streets or roads and open spaces on the land, or will use the land for purposes which, in the opinion of the authority, are necessary or desirable for, or incidental to, the development of the land as a building estate in accordance with plans approved by the authority;

(*c*) subject to subsection (5) of this section, sell or lease the land or excamb it for land better adapted for those purposes, either with or without paying or receiving any money for equality of exchange;

(*d*) subject to subsections (5) and (6) of this section, sell or lease any houses on the land or erected by them on the land, subject to such conditions, restrictions and stipulations as they may think fit to impose in regard to the use of the houses, and on any such sale they may agree to the price being paid by instalments or to payment of part of the price being secured by bond and disposition in security or otherwise upon the subjects sold.

(2) Where under subsection (1) of this section a local authority sell or lease land, they may contribute or agree to contribute towards the expenses of the development of the land and the laying out and construction of streets or roads thereon, subject to the condition that the streets or roads are dedicated to the public use.

(3) Where a local authority have acquired a building which may be made suitable as a house, or a right or interest in such a building, they shall forthwith proceed to secure that it is so made suitable either by themselves executing any necessary work or by selling or leasing it to some person subject to conditions for securing that he will so make it suitable.

(4) Where a local authority acquire any land for the purposes of section 142(*d*)(iv) of this Act they may, subject to subsection

PART VII

(5) of this section, sell or lease the land to any person for the purpose and under the condition that that person will carry out thereon, in accordance with plans approved by the authority, the works with a view to the carrying out of which the land was acquired.

(5) A local authority shall not, in the exercise of their powers under paragraph (*b*) or paragraph (*c*) or paragraph (*d*) of subsection (1) of this section, or under subsection (4) thereof, dispose of—

(*a*) land which consists or forms part of a common or open space or is held for use as allotments, or

(*b*) land which has been acquired (whether before or after the commencement of this Act) by the local authority in the exercise (directly or indirectly) of compulsory powers and has not subsequently been appropriated by the authority for any purposes other than that for which it was so acquired,

except with the consent of the Secretary of State.

1959 c. 70.

(6) Notwithstanding anything in section 27(1) of the Town and Country Planning (Scotland) Act 1959, a local authority shall not, in the exercise of their powers under paragraph (*d*) of subsection (1) of this section, sell or lease any house in respect of the provision of which an Exchequer contribution has (whether before or after the commencement of this Act) been paid under any of the enactments specified in Part I of Schedule 6 to the Housing (Scotland) Act 1950, except with the consent of the Secretary of State.

1950 c. 34.

1947 c. 43.

(7) Subject to the provisions of the Town and Country Planning (Scotland) Act 1959, section 168 of the Local Government (Scotland) Act 1947 (which makes provision as to price and other matters relating to the disposal of land by local authorities) shall apply to any disposal of land by a local authority in the exercise of their powers under paragraph (*b*) or paragraph (*c*) or paragraph (*d*) of subsection (1) of this section, or under subsection (4) thereof, as it applies to the like disposal of land by a local authority within the meaning of the said Act of 1947 in the exercise of any power under Part VIII of that Act:

Provided that the said section 168 shall not apply to the disposal of a house by a local authority, being a disposal in relation to which subsection (6) of this section has effect.

PART VII

(8) For the purposes of subsection (5) of this section, the consent of the Secretary of State may be given either generally to all local authorities, or to any class of local authorities, or may be given specifically in any particular case, and (whether given generally or otherwise) may be given either unconditionally or subject to such conditions as the Secretary of State may consider appropriate.

(9) For the purposes of this section land shall be taken to have been acquired by a local authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them compulsorily or was acquired by them by agreement at a time when they were authorised by or under any enactment to acquire the land compulsorily:

Provided that land shall not be taken to have been acquired by a local authority in the exercise (directly or indirectly) of compulsory powers if it was acquired by them (whether compulsorily or by agreement) in consequence of the service in pursuance of any enactment (including any enactment contained in this Act) of a notice requiring the authority to purchase the land.

Power of Secretary of State in certain cases to impose conditions on sale of local authority's houses, etc. 1950 c. 34.

**146.** If any house, building, land or dwelling in respect of which a local authority are required by section 137 of the Housing (Scotland) Act 1950 to keep a housing revenue account is sold by the authority with the consent of the Secretary of State, the Secretary of State may in giving consent impose such conditions as he thinks just.

Execution of works by local authority in connection with housing operations outside their district.

**147.** Where any housing operations under this Part of this Act are being carried out by a local authority outside their own district, that authority shall, subject to the approval of the Secretary of State, have power to execute any works which are necessary for the purposes, or are incidental to the carrying out, of the operations, subject to entering into an agreement with the local authority of the district in which the operations are being carried out as to the terms and conditions on which any such works are to be executed.

Adjustment of differences between local authorities as to carrying out of proposals for provision of housing accommodation.

**148.** Where the Secretary of State approves the proposals of a local authority in relation to the provision of houses, whether under this Act or under any other Act, in the district of another local authority, any difference arising between those authorities with respect to the carrying out of the proposals may be referred by either authority to the Secretary of State, and the Secretary of State's decision shall be final and binding on the authorities.

PART VII *Management, etc., of local authority's houses*

General management and inspection of local authority's houses.
1935 c. 41.

**149.**—(1) The general management, regulation and control of houses provided by a local authority under this Part of this Act, or in respect of which contributions are payable under section 35 of the Housing (Scotland) Act 1935, shall be vested in and exercised by the authority, and the authority may make such reasonable charges as they may determine for the tenancy or occupation of such houses.

(2) A house provided by a local authority under this Part of this Act shall be at all times open to inspection by the local authority of the district in which it is situated or by any officer duly authorised by them.

Byelaws for regulation of local authority's houses.

**150.**—(1) A local authority may make byelaws for the management, use and regulation of houses provided by them.

(2) Any fine for the breach of any such byelaws shall be paid to the credit of the fund out of which the expenses of this Part of this Act are defrayed.

Conditions to be observed in management of local authority's houses.
1950 c. 34.

**151.**—(1) A local authority shall, in relation to all houses in respect of which they are required by section 137 of the Housing (Scotland) Act 1950 to keep a housing revenue account, observe the requirements specified in the following provisions of this section.

(2) The local authority shall secure that in the selection of their tenants a reasonable preference is given to persons who are occupying insanitary houses or overcrowded houses, have large families, or are living under unsatisfactory housing conditions.

(3) Except in so far as the Secretary of State may otherwise sanction, the local authority shall secure, in accordance with any directions that may be given to them by the Secretary of State—

(*a*) that a number of houses equal to the number in respect of which the Secretary of State has undertaken to make a contribution under any of the following enactments, that is to say—

1923 c. 24. section 1(3) of the Housing, &c., Act 1923,

1930 c. 40. the Housing (Scotland) Act 1930,

1931 c. 39. the Housing (Rural Authorities) Act 1931,

1933 c. 16. section 1 of the Housing (Financial Provisions) (Scotland) Act 1933,

section 30 of the Housing (Scotland) Act 1935,

1938 c. 3. (2 & 3 Geo. 6). section 1 of the Housing (Financial Provisions) (Scotland) Act 1938,

are reserved for low wage earners or persons of a like economic condition;

(*b*) that a number of houses equal to the number in respect of which the Secretary of State has undertaken to make a contribution or to pay a subsidy under any of the following enactments, that is to say—

section 1 of the Housing (Agricultural Population) (Scotland) Act 1938, 1938 c. 38.

section 84 of the Housing (Scotland) Act 1950 as amended by section 2 of the Housing (Scotland) Act 1952, 1950 c. 34. 1952 c. 63.

section 85 of the Housing (Scotland) Act 1950,

section 2(2)(*c*) of the Housing and Town Development (Scotland) Act 1957, 1957 c. 38.

section 4 of the Housing (Scotland) Act 1962, 1962 c. 28.

are reserved for the agricultural population except in so far as the demand for housing accommodation in the district on the part of members of the agricultural population can be satisfied without such reservation; and

(*c*) that a number of houses equal to the number in respect of which the Secretary of State has undertaken to make a contribution to the local authority under section 35 of the Housing (Scotland) Act 1935 are reserved for such persons as are mentioned in section 3(1)(*a*) of the Housing (Rural Workers) Act 1926. 1935 c. 41. 1926 c. 56.

(4) The local authority may grant to any tenant such rebates from rent subject to such terms and conditions as they may think fit.

(5) The local authority shall from time to time review rents and make such changes either of rents generally or of particular rents and rebates as circumstances may require.

(6) The local authority shall make it a condition of every let that the tenant shall not assign, sublet or otherwise part with the possession of the premises or any part thereof, except with the consent in writing of the authority, and—

(*a*) in determining whether to give or withhold such consent, the local authority shall comply with any directions that may be given to them by the Secretary of State; and

(*b*) the local authority shall not in any case give such consent unless it is shown to their satisfaction that no payment other than a rent which is in their opinion a

PART VII

reasonable rent has been, or is to be, received by the tenant in consideration of the assignation, subletting or other transaction.

1926 c. 56.

(7) The conditions contained in section 3 of the Housing (Rural Workers) Act 1926 shall not have effect in relation to houses to which the requirements of this section apply.

*Housing associations*

Power of local authority to promote and assist housing associations.

**152.**—(1) A local authority may promote the formation or extension of, or, subject to the provisions of this Act, assist, a housing association whose objects include the erection, improvement or management of housing accommodation.

(2) A local authority, with the consent of and subject to any regulations or conditions which may be made or imposed by the Secretary of State, may, for the assistance of such an association—

(*a*) make grants or loans to the association,

(*b*) subscribe for any share or loan capital of the association,

(*c*) guarantee or join in guaranteeing the payment of the principal of and interest on any moneys borrowed by the association (including moneys borrowed by an issue of loan capital) or of interest on any share capital issued by the association,

on such terms and conditions as to rate of interest and repayment or otherwise and on such security as the local authority think fit.

The Secretary of State's power of making regulations under this subsection shall be exercisable by statutory instrument.

Power of local authority to make arrangements with housing association for provision of housing accommodation.

**153.**—(1) A local authority may, with the approval of the Secretary of State, make arrangements with a housing association for the purpose of enabling the association to provide any housing accommodation which the authority are empowered under this Part of this Act to provide.

(2) Arrangements made under this section shall include such terms with regard to such matters, including the types of houses to be provided and the rents at which the houses provided are to be let, as may appear to the local authority to be expedient in view of the needs of their district in relation to housing and as may be approved by the Secretary of State.

(3) If a housing association represent to the Secretary of State that they have submitted to a local authority proposals for arrangements under this section and that the authority have unreasonably refused to make arrangements in accordance with

the proposals, the Secretary of State may require the authority to furnish him with a report as to the matter stating the reasons for their refusal.

Power of Secretary of State to make arrangements with housing association for improvement of housing accommodation.

**154.** The Secretary of State may make arrangements with a housing association for—

(*a*) the provision of dwellings by the association by means of the conversion of houses or other buildings;

(*b*) the improvement of dwellings by the association:

Provided that before making arrangements under this section in respect of any housing accommodation the Secretary of State shall consult with the local authority in whose district the housing accommodation is, or will be, situated.

Power of local authority to make arrangements with housing association for improvement of housing accommodation.

**155.**—(1) A local authority may, with the approval of the Secretary of State, make arrangements with a housing association for—

(*a*) the provision of dwellings by the association by means of the conversion of houses or other buildings;

(*b*) the improvement of dwellings by the association.

(2) Arrangements made under this section shall include such terms with regard to such matters, including the rents at which the dwellings to be provided or improved in accordance with the arrangements are to be let, as may appear to the local authority to be expedient in view of the needs of their district in relation to housing and as may be approved by the Secretary of State.

(3) A dwelling which has been provided or improved in giving effect to arrangements made under this section shall not, by reason only of such provision or improvement, be deemed to be a new house within the meaning of any local Act notwithstanding anything contained in such Act.

(4) References in this section to the improvement of dwellings shall be construed as including references to the alteration or enlargement thereof and to the execution of works of repair thereto, not being works of ordinary repair, and as including also references to the execution of works of ordinary repair thereto so far, but so far only, as the execution thereof is incidental to or connected with the execution of works of improvement, alteration or enlargement or of works of repair not being works of ordinary repair, and the expression "improved" shall be construed accordingly.

Power of local authority to sell furniture to persons housed by housing association.

**156.**—(1) A local authority shall have power, and shall be deemed always to have had power, to sell, or to supply under a hire-purchase agreement, furniture to the occupants of houses provided by a housing association under arrangements made with the authority and, for that purpose, to buy furniture.

PART VII

(2) In this section "hire-purchase agreement" means a hire-purchase or conditional sale agreement as defined by section 1 of the Hire-Purchase (Scotland) Act 1965.

1965 c. 67.

Unification of conditions affecting housing association's houses.

**157.** Where the Secretary of State has undertaken to make in respect of any houses under the management of a housing association contributions under more than one enactment and the association are required to observe in the management of the houses varying special conditions or terms imposed by those enactments, the Secretary of State may, on the application of the association and after consultation with any local authority who are under obligation to make grants or contributions in respect of any of the houses, make a scheme specifying, as conditions to be observed in the management of all the houses in substitution for the conditions or terms imposed as aforesaid, such conditions as he thinks fit, and in specifying the conditions to be so observed the Secretary of State shall have regard to the provisions of this Part of this Act with respect to the conditions which a local authority are required to observe in relation to their houses.

Power of Secretary of State to recognise central association.

**158.**—(1) The Secretary of State may, if he thinks fit, recognise for the purposes of this section any central association or other body established for the purposes of promoting the formation and extension of housing associations and of giving them advice and assistance.

(2) The Secretary of State may make a grant in aid of the expenses of the said association or body of such amount as he may, with the approval of the Treasury, determine.

*Development corporations*

Provision and improvement of housing accommodation by development corporations.

**159.** A development corporation shall be deemed to be a housing association within the meaning of this Act (except section 154 thereof), and accordingly arrangements may be made—

(*a*) under section 153 of this Act for the provision by a development corporation of any housing accommodation which a local authority are empowered under this Part of this Act to provide;

(*b*) under section 155 of this Act for the improvement of housing accommodation by a development corporation.

## PART VIII

## GENERAL FINANCIAL PROVISIONS

*Payment of removal and other allowances to persons displaced*

Power of local authority to pay removal and other allowances to certain persons displaced.

**160.**—(1) A local authority may pay—

(*a*) to any person displaced from a house or building—

(i) which has been purchased by the local authority under section 14, section 20, Part III or Part VII of this Act, or which, or a part of which, has been acquired by the authority under section 67 thereof, or

(ii) to which a closing order made under section 15 or section 18 of this Act or a demolition order or a clearance order applies, or

(iii) in respect of which an undertaking that the house will not be used for human habitation has been accepted under section 15(4) of this Act from the owner by the local authority, or

(iv) which is to be demolished by the owner in accordance with an agreement made with the local authority under Part II of this Act,

such reasonable allowance as they think fit towards his expenses in removing; and

(*b*) to any person carrying on any trade or business in any such house or building as is referred to in paragraph (*a*) of this subsection such reasonable allowance (in addition to any allowance which they may pay to him under that paragraph) as they think fit towards the loss which, in their opinion, he will sustain by reason of the disturbance of his trade or business consequent on his having to quit the house or building.

(2) In estimating the loss sustained by any person as mentioned in subsection (1)(*b*) of this section, the local authority shall have regard to the period for which the premises occupied by that person might reasonably have been expected to be available for the purpose of his trade or business and the availability of other premises suitable for that purpose.

(3) The power conferred on a local authority by subsection (1) of this section to make allowances towards the expenses incurred in removing by persons displaced in consequence of the exercise by the authority of their powers shall include power to make allowances to persons so displaced temporarily in respect of expenses incurred by them in storage of furniture.

PART VIII

(4) Where, as a result of action taken by a local authority under Part III of this Act, the population of the locality is materially decreased, the authority may pay to any person carrying on a retail shop in the locality such reasonable allowance as they may think fit towards any loss which, in their opinion, he will thereby sustain, so, however, that in estimating any such loss they shall have regard to the probable future development of the locality.

*Payment of purchase money or compensation by one local authority to another*

Payment of purchase money or compensation by one local authority to another.

**161.**—(1) Any purchase money or compensation payable in pursuance of this Act by a local authority in respect of any lands, right or interest of another local authority which would, but for this section, be paid into bank in manner provided by the Lands Clauses Acts may, if the Secretary of State consents, instead of being paid into bank, be paid and applied as the Secretary of State determines.

(2) A determination of the Secretary of State under this section shall be final and conclusive.

*Borrowing by local authorities*

Power of local authority to borrow for purposes of certain provisions of Act.

**162.** Without prejudice to any power of borrowing conferred on them by any other enactment, a local authority may borrow money for the purposes of Part VII of this Act and of section 160 thereof.

Borrowing in connection with operations carried out by local authority outside their district.

**163.**—(1) Where housing operations under Part VII of this Act are being carried out by a local authority outside their own district, that authority shall have power to borrow money for the purpose of defraying any expenses (including, if the Treasury so approve, interest payable in respect of any period before the completion of the operations or a period of five years from the date of the borrowing, whichever period is the shorter, on money borrowed under this section) incurred by them in connection with any works necessary for the purposes, or incidental to the carrying out, of the operations.

(2) The local authority of any district in which operations are being carried out as aforesaid by the local authority of another district shall have power to borrow money for the purposes of any agreement entered into by them with that other authority under Part VII of this Act, and that in the same manner as if such works as aforesaid had been executed by them.

PART VIII

Power of local authority carrying out operations outside their district to lend money to other local authority concerned.

**164.** Where housing operations under Part VII of this Act are being carried out by a local authority outside their own district, that authority shall have power to advance to the local authority of the district in which the operations are being carried out such sums as may, by reason of any agreement made with the last-mentioned authority under the said Part VII, be required by the last-mentioned authority in connection with the construction by them of any works necessary for the purposes, or incidental to the carrying out, of the operations.

Power of local authority to issue local bonds.

**165.**—(1) Without prejudice to any other powers of borrowing, a local authority may borrow any sums for any of the purposes of this Act for which they have power to borrow by virtue of any enactment by the issue of bonds (in this Act referred to as "local bonds") in accordance with the provisions of this Act.

(2) The provisions set out in Schedule 7 to this Act shall have effect with respect to local bonds.

(3) Where, on an application made by two or more local authorities, the Secretary of State is satisfied that it is expedient that those authorities should have power to make a joint issue of local bonds, the Secretary of State may by order make such provision as appears to him necessary for the purpose, and any such order shall provide for the securing of the bonds issued upon the joint rates, property and revenues of the authorities.

The provisions of an order so made shall be binding and conclusive in respect of the matters to which the order relates.

(4) A local authority by whom any local bonds have been issued may borrow for the purpose of redeeming those bonds.

(5) Subject to the provisions of paragraph 6 of Schedule 7 to this Act and save as otherwise expressly provided, nothing in Part XII of the Local Government (Scotland) Act 1947 or section 2(2) of the Public Works Loans Act 1965 shall apply to or affect the power of a local authority to issue local bonds under this Act or apply to any local bond issued under this Act.

1947 c. 43.
1965 c. 63.

*Power of Secretary of State to acquire shares in certain housing societies*

Power of Secretary of State to acquire shares in certain housing societies.

**166.**—(1) The Secretary of State, with the approval of the Treasury, may acquire shares in any authorised society within the meaning of the Housing Act 1914.

(2) If, in the case of any such society as is mentioned in subsection (1) of this section, or in the case of any trust to which section 119 of the Housing (Scotland) Act 1925 applied—

1914 c. 31.
1925 c. 15.

(*a*) the society or trust is wound up, and

PART VIII

(*b*) the Secretary of State is at the commencement of the winding up the owner of all the shares therein,

the Secretary of State shall pay into the Exchequer any sum received by him on the winding up.

(3) If the sum paid into the Exchequer under subsection (2) of this section in respect of any such society or trust as aforesaid is less than the amount outstanding, as at the commencement of the winding up of the society or trust, of any advances made to the society or trust by any government department, the Secretary of State shall pay into the Exchequer a sum equal to the difference.

## PART IX

## GENERAL

### *The Scottish Housing Advisory Committee*

The Scottish Housing Advisory Committee.

**167.**—(1) The Secretary of State shall appoint a committee, to be called the Scottish Housing Advisory Committee, for the purpose of—

(*a*) advising the Secretary of State on any matter, relating to a temporary increase of the permitted number of persons in relation to overcrowding, as respects which he is required by section 91 of this Act to consult the Committee;

(*b*) advising the Secretary of State on any question which may be referred by him to the Committee with respect to any other matter arising in connection with the execution of the enactments relating to housing;

(*c*) considering the operation of the enactments relating to housing and making to the Secretary of State such representations as the Committee think desirable concerning the execution of those enactments.

(2) The Secretary of State may by order made by statutory instrument make provision with respect to the constitution and procedure of the Committee, and any such order shall secure the inclusion in the Committee of women as well as men, and the appointment of two sub-committees of the Committee for the purpose of dealing with matters relating to urban and rural housing respectively.

PART IX

(3) The Secretary of State may pay such expenses of the Committee as he may, with the approval of the Treasury, determine.

*Rehousing*

Rehousing obligations where land is acquired under statutory provisions.

**168.** Where under the powers given by any local Act or provisional order or order having the effect of an Act any land is acquired, whether compulsorily or by agreement, by any authority, company or person, or where any land is so acquired compulsorily under any general Act, the provisions set out in Schedule 8 to this Act shall apply with respect to the provision of housing accommodation:

Provided that the said Schedule shall not apply where land is acquired under, or by virtue of an order made under, any provision of this Act (other than section 175 thereof).

*Byelaws*

Byelaws with respect to houses in multiple occupation. 1897 c. 38.

**169.**—(1) The power of making and enforcing byelaws under section 72 of the Public Health (Scotland) Act 1897 with respect to houses or parts of houses which are let in lodgings or occupied by members of more than one family shall extend to the making and enforcing of byelaws imposing any duty (being a duty which may be imposed by the byelaws and which involves the execution of work) on the owner within the meaning of the said Act of the said house, in addition to or in substitution for any other person having an interest in the premises, and prescribing the circumstances and conditions in and subject to which any such duty is to be discharged.

(2) For the purpose of discharging any duty so imposed, the owner or other person may at all reasonable times enter upon any part of the premises, and section 185 of this Act shall apply as if for the reference to the provisions of Part II of this Act there were substituted a reference to the provisions of such byelaws, and as if the person on whom such duty is imposed were the owner, and any inmate of the premises were the occupier of a house.

(3) Where an owner or other person has failed to execute any works which he has been required to execute under the byelaws, the local authority may, after giving to him not less than twenty-one days' notice in writing, themselves execute the works and recover the costs and expenses, and for that purpose the provisions of Part II of this Act with respect to the enforcement of notices requiring the execution of works and the recovery of expenses by local authorities shall apply, with such modifications as may be necessary.

PART IX
Byelaws with respect to accommodation for agricultural workers.

**170.**—(1) A local authority shall make, with respect to bothies, chaumers and similar premises which are used for the accommodation of agricultural workers and are not part of a farmhouse, byelaws regarding any of the following matters, that is to say—

(*a*) the provision of a separate entrance in any case where the premises form part of other premises;

(*b*) the provision of ventilation and floor area;

(*c*) the provision of adequate heating and lighting;

(*d*) the prevention of and safety from fire;

(*e*) the provision of a ventilated larder and a fireplace or stove suitable for cooking food and sufficient cooking utensils;

(*f*) the provision of furnishing, including the provision of a separate bed and bedding for each worker;

(*g*) the provision of accommodation for personal clothing, and of facilities for personal ablution;

(*h*) the painting, whitewashing or other cleansing of the premises at regular intervals;

(*i*) intimation to the local authority by farmers of the number of workers employed by them who are accommodated in bothies or in chaumers or similar premises;

(*j*) such other matters as may from time to time be prescribed:

Provided that, if the local authority show to the satisfaction of the Secretary of State that it is unnecessary to make byelaws under this section, the Secretary of State may dispense with the making of such byelaws.

(2) Byelaws regarding the matters specified in paragraph (*e*) of subsection (1) of this section shall apply only to premises in which the occupants cook their meals.

(3) Byelaws made by a local authority under this section may be limited to particular parts of the authority's district.

(4) Where a local authority fail, within such period as the Secretary of State may allow, to make with respect to any of the matters specified in subsection (1) of this section byelaws which are in the opinion of the Secretary of State sufficient and satisfactory, the Secretary of State may himself make such byelaws which shall be of the like force and effect as if they had been made by the authority and confirmed.

PART IX
Byelaws with respect to accommodation for seasonal workers.

**171.**—(1) With a view to the provision of proper accommodation for seasonal workers a local authority shall make byelaws for the whole or any part of their district regarding the following matters, that is to say—

(*a*) intimation to the local authority of the intention to employ seasonal workers;

(*b*) the nature and extent of the accommodation to be provided for such workers, including due provision for—

(i) sleeping accommodation and separation of the sexes;

(ii) lighting, ventilation, cubic space, cleanliness and furnishing, including beds and bedding and cooking utensils;

(iii) storage of food, washing of clothes and drying of wet clothes;

(iv) water closets or privies for the separate use of the sexes; and

(v) a suitable supply of water;

(*c*) determining the persons responsible for the provision of the accommodation required by the byelaws, taking into account the terms of current contracts;

(*d*) inspection of the premises;

(*e*) exhibition on the premises of the byelaws;

(*f*) such other matters relating to the accommodation of seasonal workers (including determining the persons responsible for regulating the use by the workers of the accommodation) as may from time to time be prescribed:

Provided that, if the local authority show to the satisfaction of the Secretary of State that it is unnecessary to make byelaws under this section, the Secretary of State may dispense with the making of such byelaws.

(2) In cases of emergency, the Secretary of State may suspend, as respects the district of any local authority or any part thereof, the operation of any byelaw made under this section which affects agricultural interests.

(3) If in consequence of any byelaws made under this section a farmer or a fruit grower is required to provide accommodation involving the erection of additional buildings, he may require the landlord to erect such buildings on terms and conditions to be determined, failing agreement, by the Secretary of State.

(4) In this section the expression " seasonal workers " includes navvies, harvesters, potato-workers, fruit-pickers, herring-gutters, and such other workers engaged in work of a temporary nature as may from time to time be prescribed.

PART IX

(5) Where a local authority fail, within such period as the Secretary of State may allow, to make with respect to any of the matters specified in subsection (1) of this section byelaws which are in the opinion of the Secretary of State sufficient and satisfactory, the Secretary of State may himself make such byelaws which shall be of the like force and effect as if they had been made by the authority and confirmed.

Confirmation of byelaws. 1947 c. 43.

**172.** For the purposes of section 301 of the Local Government (Scotland) Act 1947 (which relates to the procedure and other matters connected with the making of byelaws) the Secretary of State shall be the person by whom byelaws made under this Act are to be confirmed.

Power of Secretary of State to revoke unreasonably restrictive byelaws.

**173.**—(1) If the Secretary of State is satisfied, by local inquiry or otherwise, that the erection of any buildings within any district is, or is likely to be, unreasonably impeded in consequence of any byelaws with respect to new streets in force therein, he may require the local authority to revoke such byelaws or to make such new byelaws as he may consider necessary for the removal of the impediment.

(2) If the local authority do not within three months after such requisition comply therewith, the Secretary of State may himself revoke the said byelaws, and make such new byelaws as he may consider necessary for the removal of the impediment, and such new byelaws shall have effect as if they had been duly made by the authority and confirmed.

*Relaxation of building regulations, etc., in connection with housing operations*

Relaxation of building regulations, etc., in connection with housing operations.

**174.**—(1) Where in pursuance of housing operations to which this section applies public streets or roads are laid out and constructed in accordance with plans and specifications approved by the Secretary of State, the provisions of any building regulations shall not, so far as they are inconsistent with the plans and specifications so approved, apply to those new streets or roads, and, notwithstanding the provisions of any other Act, any street or road laid out and constructed in accordance with those plans and specifications may be taken over and thereafter maintained by the authority responsible for the maintenance of public streets, roads or highways in the district.

(2) Where the Secretary of State has approved plans and specifications which in certain respects are inconsistent with the provisions of any building regulations in force in the district in

which the works are to be executed, any proposals for the laying out and construction of new streets or roads which do not form part of housing operations to which this section applies may, notwithstanding those provisions, be carried out if the local authority are, or, on appeal, the Secretary of State is, satisfied that they will involve departures from such provisions only to the like extent as in the case of the plans and specifications so approved.

(3) Where the Secretary of State is himself carrying out housing operations, it shall not be necessary for him to obtain the authority of the local authority or the dean of guild court for the laying out and construction of streets and roads as aforesaid.

(4) The housing operations to which this section applies are housing operations carried out—

(*a*) by a local authority or by local authorities jointly under this Act, or

(*b*) by a housing association, or

(*c*) by a county council for the provision of houses for persons in their employment or paid by them,

and approved by the Secretary of State, and housing operations carried out by the Secretary of State under this Act.

*Special provisions as to land*

Compulsory purchase of land by Scottish Special Housing Association.

**175.**—(1) Where the Scottish Special Housing Association (hereafter in this section referred to as "the Association") desire to acquire any land for—

(*a*) the provision of new houses by the Association in the circumstances specified in paragraph (*a*) or paragraph (*b*) or paragraph (*c*) of section 23(1) of the Housing and Town Development (Scotland) Act 1957, or 1957 c. 38.

(*b*) the provision of housing accommodation by the Association under a scheme submitted by them to the Secretary of State under section 18(1)(*b*) of the Housing (Scotland) Act 1962, 1962 c. 28.

and the Association have made an application to the local authority in whose district the land is situated requesting them to acquire the land under Part VII of this Act for the purpose of selling it or leasing it to the Association, then if the authority have power to acquire the land under the said Part VII and the Association are satisfied, after consultation with the authority, that the authority are unwilling to acquire the land for that purpose or that the footing on which they are willing to do so involves the sale or leasing of the land to the Association subject to conditions which are unacceptable to the Association, the Association may themselves acquire the land compulsorily.

PART IX

1964 c. 56.

(2) The Association may, at the request of the Housing Corporation made in accordance with section 4(1) of the Housing Act 1964, acquire land compulsorily for selling it or leasing it to a housing society.

(3) The power of the Association to acquire any land compulsorily under subsection (1) or subsection (2) of this section shall be exercisable in any particular case on their being authorised to do so by the Secretary of State, and in relation to the compulsory purchase the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply as if the Association were a local authority within the meaning of that Act, as if this Act had been in force immediately before the commencement of that Act, and as if in Part I of Schedule 1 to that Act (procedure for authorising compulsory purchases) references to an owner of any land comprised in the compulsory purchase order included references to the local authority in whose district the land is situated.

1947 c. 42.

(4) The Association may not dispose of any land acquired by them compulsorily under this section which is not required for the purposes for which it was acquired without the consent in writing of the Secretary of State.

(5) In the case of land which is situated partly in the district of one local authority and partly in the district of another, references in this section to the local authority in whose district the land is situated shall be construed as references to each of those local authorities.

Special procedure for completion of compulsory acquisition of land in certain circumstances.

**176.**—(1) If the Secretary of State is satisfied, in the case of a compulsory purchase order submitted to him by a local authority under this Act, that, as respects the whole or any part of the land to which the order relates—

(*a*) reasonable inquiry has been made and it is not practicable to ascertain the name or address of the owner of the land or that part thereof, or

(*b*) the land or that part thereof is owned by such number of persons that the obtaining of a separate title from each would cause undue delay, or

(*c*) any other special circumstances exist which, in his opinion, make it necessary or expedient that the power conferred on him by this section should be exercised,

he may include in the order as confirmed by him a direction that the provisions of Schedule 6 to the Town and Country Planning (Scotland) Act 1945 shall apply to the order, or, as the case may be, to the order so far as it relates to the part of the land in question:

1945 c. 33.

PART IX

Provided that no such direction shall be so included in a compulsory purchase order unless application in that behalf is included in the order as submitted to the Secretary of State.

(2) A compulsory purchase order which contains any direction under this section shall, as soon as may be after the order becomes operative, be recorded by the local authority in the General Register of Sasines.

(3) References in the said Schedule 6 to a purchase order providing for expedited completion, to the purchasing authority and to section 36(2) of the Town and Country Planning (Scotland) Act 1947 shall be construed, for the purposes of this section, as references respectively to a compulsory purchase order containing a direction under this section, to the local authority authorised to acquire land by that order and to subsection (2) of this section. 1947 c. 53.

(4) Paragraph 3 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (which provides for early entry on land), paragraph 4 of that Schedule (which makes special provision with respect to the sale of parts of houses and other premises), section 50(1) of this Act and paragraph 2(*d*) of Schedule 3 thereto shall not apply to any compulsory purchase order containing a direction under this section. 1947 c. 42.

(5) In relation to any compulsory purchase order containing a direction under this section, any words in any enactment 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 this section and paragraph 1 of Schedule 6 to the said Act of 1945, is to be deemed to have been served.

Duty of local authority to have regard to amenities of locality, etc.

**177.**—(1) A local authority, in preparing any proposals for the provision of houses or in taking any action under this Act, shall have regard to artistic quality in the lay-out, planning and treatment of the houses to be provided, the beauty of the landscape or countryside and the other amenities of the locality, and the desirability of preserving existing works of architectural, historic or artistic interest, and shall comply with such directions, if any, in that behalf as may be given to them by the Secretary of State.

(2) For their better advice in carrying out the requirements of subsection (1) of this section a local authority may, and if required by the Secretary of State shall, appoint a local advisory committee including representatives of architectural and other artistic interests; and the authority shall furnish to the Secretary of State a copy of any representation, recommendation or report made to them by the committee.

PART IX

Power of local authority to enforce obligations against owner for time being of land.

**178.** Where—

(*a*) a local authority have sold or excambed land acquired by them under this Act, and the purchaser of the land or the person taking the land in exchange has entered into an agreement with the authority concerning the land; or

(*b*) an owner of any land has entered into an agreement with the local authority concerning the land for the purposes of any of the provisions of this Act;

then, if the agreement has been recorded in the General Register of Sasines, it shall be enforceable at the instance of the local authority against persons deriving title from the person who entered into the agreement:

Provided that no such agreement shall at any time be enforceable against any party who has in bona fide onerously acquired right (whether completed by infeftment or not) to the land prior to the recording of the agreement as aforesaid or against any person deriving title from such party.

Disposal of land for erection of churches, etc.

**179.** Where a local authority, in the exercise of any power conferred on them by this Act, dispose of land 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.

*Official representations*

Official representations.

**180.**—(1) In this Act, "official representation" means, in the case of a local authority, a representation made to the authority by the medical officer of health for the district.

(2) The medical officer of health of a local authority shall make an official representation to the authority whenever he is of opinion that any house in the district of the authority is unfit for human habitation, or that any area in their district is an area which should be dealt with as a clearance area.

(3) If it is intimated in writing to the medical officer of health of any local authority—

(*a*) by any four or more local government electors of the district of the authority, or

(*b*) in the case of a county, by the district council of any district (within the meaning of the Local Government (Scotland) Act 1947) within the county, or

1947 c. 43.

(*c*) in the case of a small burgh within the meaning of the said Act of 1947, by the medical officer of health of the county,

that any house is unfit for human habitation, or that any area should be dealt with as a clearance area, it shall be the duty of the medical officer of health of the local authority forthwith to inspect that house or that area and to make a report to the authority, stating the facts of the case and whether, in his opinion, the house is unfit for human habitation or whether, in his opinion, the area should be dealt with as a clearance area; but the absence of any such complaint shall not excuse him from inspecting any house or area and making a representation thereon to the authority.

(4) Before making an official representation (other than such a representation for the purposes of section 11 or section 15 of this Act), the medical officer of health of a local authority shall consult with, or obtain a report from, the sanitary inspector of the authority.

(5) A local authority shall as soon as may be take into consideration any official representation which has been made to them.

(6) Every representation made in pursuance of this Act by a medical officer of health shall be in writing.

*Recovery of possession, entry etc.*

Recovery of possession of building or house subject to closing order, etc.

**181.**—(1) Where a closing order, a demolition order, a clearance order or a resolution passed under section 56 of this Act has become operative, the local authority shall serve on the occupier of any building or house or any part thereof to which the order or resolution relates a notice—

(*a*) stating the effect of the order or resolution, and

(*b*) specifying the date by which the order or resolution requires the building or house to be vacated, and

(*c*) requiring the occupier to remove from the building or house before the said date or before the expiration of twenty-eight days from the service of the notice, whichever may be the later.

(2) If at any time after the date on which a notice under subsection (1) of this section requires a building or house to be vacated any person is in occupation of the building or house or of any part thereof, the local authority or any owner of the building or house may make summary application for removal and ejection to the sheriff, and the sheriff may, after requiring service of such additional notice (if any) as he thinks fit, grant warrant for ejection whereby vacant possession of the building or house or of the part thereof shall be given to the authority or owner, as the case may be, within such period, not being less than two weeks nor more than four weeks, as the sheriff may determine.

PART IX

(3) Any expenses incurred by a local authority under this section in obtaining possession of any building or house or part thereof may be recovered by them from the owner of the building or house:

Provided that this subsection shall not have effect in the case of expenses incurred in obtaining possession of—

(*a*) premises included in a clearance order which are not specified therein as being unfit for human habitation; or

(*b*) premises to which a resolution passed under section 56 of this Act applies; or

(*c*) any other premises, unless the owner has failed to make within a reasonable time a summary application for removal and ejection to the sheriff or, having made such an application, has failed to take all steps necessary to have the application disposed of within a reasonable time.

(4) Any person who, knowing that a demolition order or a clearance order or a resolution passed under section 56 of this Act has become operative and applies to any building or house, enters into occupation of that building or house or of any part thereof after the date by which the order or resolution requires that building or house to be vacated, or permits any other person to enter into such occupation after that date, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds and to a further penalty of five pounds for every day, or part of a day, on which the occupation continues after conviction.

Recovery of possession of house to which Rent Acts apply.

**182.** Nothing in the Rent Acts shall be deemed to affect the provisions of this Act relating to obtaining possession of a house with respect to which a closing order, a demolition order or a clearance order has been made or to which a resolution passed under section 56 of this Act applies, or to prevent possession being obtained—

(*a*) of any house possession of which is required for the purpose of enabling a local authority to exercise their powers under any enactment relating to housing;

(*b*) of any house possession of which is required for the purpose of securing compliance with any byelaws made for the prevention of overcrowding;

(*c*) of any premises by any owner thereof in a case where an undertaking has been given under Part II of this Act that those premises shall not be used for human habitation.

PART IX

Power of entry for survey, etc.

**183.**—(1) Subject to the provisions of this section, any person authorised by a local authority or by the Secretary of State may at all reasonable times enter any house, premises or building—

(*a*) for the purpose of survey and examination, where it appears to the local authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Act should be exercised in respect of any house, premises or building;

(*b*) for the purpose of survey and examination, in the case of any house in respect of which a notice requiring the execution of works has been served or a closing order, a demolition order or a clearance order has been made;

(*c*) for the purpose of survey or valuation, in the case of houses, premises or buildings which the local authority are authorised to purchase compulsorily under this Act;

(*d*) for the purpose of survey and examination of any dwelling with a view to ascertaining whether the requirements of any improvement notice served, or undertaking accepted, under Part IV of this Act have been complied with;

(*e*) for the purpose of measuring the rooms of a house in order to ascertain for the purposes of Part V of this Act the number of persons permitted to use the house for sleeping;

(*f*) for the purpose of ascertaining whether there has been a contravention of any regulation or direction made or given under Part VI of this Act;

(*g*) for the purpose of ascertaining whether there has been an offence under section 110 of this Act.

(2) Any person so authorised shall, except where entry is only for the purpose mentioned in paragraph (*f*) or paragraph (*g*) of subsection (1) of this section, give twenty-four hours' notice of his intention to enter any house, premises or building to the occupier thereof and to the owner, if the owner is known.

(3) An authorisation under this section shall be in writing and shall state the particular purpose or purposes for which the entry is authorised.

Penalty for obstructing execution of Act.

**184.** If any person obstructs the medical officer of health or any officer of a local authority or any officer of the Secretary of State or any person authorised to enter houses, premises or

PART IX

buildings in pursuance of this Act in the performance of anything which such officer, authority or person is by this Act required or authorised to do, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds.

Penalty for preventing execution of works, etc.

**185.**—(1) If any person, after receiving notice of the intended action—

(*a*) being the occupier of any premises, prevents the owner or other person having control thereof, or his officers, agents, servants or workmen from carrying into effect with respect to those premises any of the provisions of Part II or Part IV of this Act, or any of the provisions of Part VI of this Act (other than section 115 and the provisions relating to control orders) ; or

(*b*) being the owner or occupier of any premises, or a person having control of any premises, prevents the medical officer of health, or any officers, agents, servants or workmen of such officer or of the local authority, from so doing ; or

(*c*) being the occupier of any part of a house subject to a control order under Part VI of this Act, prevents any officers, agents, servants or workmen of the local authority from carrying out any works in the house ;

the sheriff or any two justices of the peace sitting in open court or any magistrate having jurisdiction in the place on proof thereof may order that person to permit to be done on the premises all things requisite for carrying into effect such provisions with respect to the premises or, in a case falling under paragraph (*c*) of this subsection, everything which the local authority consider necessary.

(2) If any such person fails to comply with such an order, he shall be guilty of an offence and shall for each day during which the failure continues be liable on summary conviction to a fine not exceeding twenty pounds.

Penalty for damage to houses, etc.

**186.** Any person who wilfully or by culpable negligence damages or suffers to be damaged any house provided under this Act, or any of the fittings or appurtenances of any such house, including the drainage and water supply and any apparatus connected with the drainage or water supply, and the fence of any enclosure, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding forty shillings, without prejudice to any remedy for the recovery of the amount of the damage.

*Powers of sheriff for housing purposes* PART IX

Power of sheriff to determine lease in certain cases.

**187.**—(1) Where any premises in respect of which a closing order made under section 18 of this Act, a demolition order, a clearance order or a resolution passed under section 56 of this Act has become operative form the subject matter of a lease, and the action taken under the order or resolution has not had the effect of determining the lease, either the landlord or the tenant or any other person deriving right thereunder may apply to the sheriff within whose jurisdiction the premises are situated for an order determining the lease.

(2) On any such application the sheriff, after giving to any subtenant or other person whom he considers to be interested in the matter an opportunity of being heard, may, if he thinks fit, order that the lease shall be determined, either unconditionally or subject to such terms and conditions (including conditions with respect to the payment of money by any party to the proceedings to any other party thereto by way of compensation or damages or otherwise) as he may think it just and equitable to impose, regard being had to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case:

Provided that the sheriff shall not be entitled to order any payment to be made by the landlord to the tenant in respect of the lease of a house.

(3) In this section the expression " lease " includes a sublease and any tenancy or tacit relocation following on a lease.

Power of sheriff to authorise superior to execute works, etc.

**188.**—(1) If it appears to the sheriff, on the application of the superior of any lands and heritages, that default is being made in the execution of any works required to be executed on any premises thereon in respect of which a notice requiring the execution of works has been served in pursuance of this Act, or in respect of which a closing order has been made, or in the demolition of a building thereon in pursuance of this Act, and that the interests of the applicant will be prejudiced by such default, and that it is just to make the order, the sheriff may make an order empowering the applicant forthwith to enter on the lands and heritages and, within the time fixed by the order, to execute the works or to demolish the building, as the case may be.

(2) Before an order is made under this section notice of the application shall be given to the local authority.

PART IX

Power of sheriff to authorise conversion of house into several dwellings.

**189.**—(1) Where an application is made to the sheriff by the local authority or by the feuar or the lessee of a house, and—

(*a*) it is proved to the satisfaction of the sheriff that, owing to changes in the character of the neighbourhood in which the house is situated, the house cannot readily be let as a single dwelling but could readily be let if converted into two or more dwellings; or

1947 c. 53.

(*b*) planning permission has been granted under Part II of the Town and Country Planning (Scotland) Act 1947 for the use of the house as converted into two or more dwellings instead of as a single dwelling;

and it is proved to the satisfaction of the sheriff that the conditions or restrictions of the feu charter or feu contract or the provisions of the lease do not admit of such conversion, the sheriff, after giving any person entitled to any interest in the house or entitled to enforce such condition, restriction or provision an opportunity of being heard, may vary the conditions or restrictions of the feu charter or feu contract or the provisions of the lease so as to enable the house to be so converted, subject to such conditions and upon such terms as the sheriff may think just; and the decision of the sheriff shall be final.

(2) In this section the expression "sheriff" shall not include sheriff-substitute.

Procedure on applications and appeals to sheriff.

**190.**—(1) Any application to the sheriff under any of the following provisions of this Act, that is to say—

section 10,

section 13,

Part IV,

Part VI,

shall be conducted and disposed of in like manner as proceedings brought under the Small Debt (Scotland) Acts 1837 to 1889, and the determination of the sheriff on any such application shall be final and conclusive.

(2) The procedure on any appeal to the sheriff under this Act (including expenses) shall be such as the Court of Session may by act of sederunt determine.

(3) The sheriff may, before considering any appeal which may be made to him under this Act, require the appellant to deposit such sum to cover the expenses of the appeal as may be fixed by the act of sederunt made in pursuance of subsection (2) of this section.

PART IX

(4) On any appeal to the sheriff under this Act the sheriff may make such order in the matter as he thinks equitable, and any order so made shall be binding and conclusive on all parties, and, where the appeal is against any notice or order given or made by the local authority, the notice or order may be confirmed, varied or quashed, as the sheriff thinks just:

Provided that the sheriff may at any stage of the proceedings on appeal, and shall, if so directed by the Court of Session, state a case for the opinion of the Court on any question of law arising in the course of the appeal.

(5) Any notice or order as respects which an appeal to the sheriff is given under this Act (other than Part IV or Part VI thereof) shall not become operative until either the time within which an appeal can be made under this Act has elapsed without an appeal being made, or, in a case where an appeal is made, the appeal is determined or abandoned, and no work shall be done or proceedings taken under any such notice or order until it becomes operative.

*Orders, notices, etc.*

Authentication of orders, notices, etc., by local authority.

**191.**—(1) An order in writing made by a local authority under this Act shall be under their seal and authenticated by the signature of their clerk or, where the authority have not a seal, shall be authenticated by the signature of any two or more members of the authority and of their clerk.

(2) A notice, demand or other written document proceeding from a local authority under this Act shall be signed by their clerk.

Provisions relating to service of documents. 1947 c. 43.

**192.**—(1) Any notice required or authorised to be given in connection with the compulsory purchase of land under Part III of this Act may, notwithstanding anything in section 349 of the Local Government (Scotland) Act 1947, be served in accordance with the provisions of that section.

(2) Where under any enactment in Part IV or Part VI of this Act it is the duty of a local authority to serve any document on a person who is to the knowledge of the authority the person having control of any premises, or a person managing any premises, or a person having an estate or interest in any premises (whether or not restricted to persons who are owners or lessees or persons holding heritable securities or to any other class of those having an estate or interest in premises),

PART IX

it shall be the duty of the authority to take reasonable steps to identify the person or persons coming within the description in the enactment.

(3) Any person having an estate or interest in any premises may for the purposes of the enactments mentioned in subsection (2) of this section give notice to the local authority of his interest in the premises, and the authority shall enter the notice in their records.

(4) A local authority may, for the purpose of enabling them to serve—

(*a*) any order made by them under section 15 or section 18 of this Act, or

(*b*) any notice which they are by this Act authorised or required to serve,

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 own interest therein and the name and address of any other person known to him as having an interest therein whether as holder of a heritable security, lessee or otherwise.

(5) If any person, having been required by a local authority in pursuance of subsection (4) of this section to give to them any information, fails to give that information or knowingly makes any misstatement in respect thereof, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five pounds.

(6) Any order, notice or other document required or authorised to be served under this Act which is to be served on any person as being a person having control of any premises may, if it is not practicable after reasonable enquiry to ascertain the name or address of that person, be served by addressing it to him by the description of " person having control of " the premises (naming them) to which it relates and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

(7) Where under any enactment in Part II, Part IV or Part VI of this Act a document is to be served on the person having control of any premises, or on the person managing any premises, or on the owner of any premises, and more than one person comes within the description in the enactment, the document may be served on more than one of those persons.

*Default of local authority* PART IX

Power of Secretary of State in event of failure of local authority to exercise powers.

**193.**—(1) Subject to the provisions of this section, in any case where—

(*a*) a complaint has been made to the Secretary of State—

(i) as respects the district of any local authority, by any four or more local government electors of the district, or

(ii) as respects any county, by the district council of any district (within the meaning of the Local Government (Scotland) Act 1947) within the county, 1947 c. 43.

that the local authority have failed to exercise any of their powers under this Act in any case where those powers ought to have been exercised; or

(*b*) the Secretary of State is of opinion that an investigation should be made as to whether a local authority have failed as aforesaid;

the Secretary of State may cause a public local inquiry to be held, and if, after the inquiry has been held, he is satisfied that there has been such a failure on the part of the local authority, he may, after giving the authority an opportunity of making representations, make an order rendering exercisable by the Secretary of State such of the said powers of the authority as may be specified in the order.

(2) Where the Secretary of State, after having caused a public local inquiry to be held in pursuance of subsection (1) of this section, is satisfied that the local authority have failed to exercise any of their powers under Part VII of this Act to provide housing accommodation for persons who are members of the agricultural population in a case where those powers ought to have been exercised, the Secretary of State may, before making such an order as is mentioned in the said subsection (1), make an order declaring the authority to be in default and directing the authority to exercise for the purpose of remedying the default such of their said powers, and in such manner, and within such time or times, as may be specified in the order; and if the authority fail to comply with any requirement of the order within the time limited thereby for compliance with that requirement, the Secretary of State may make such an order as is mentioned in the said subsection (1).

Provisions as to exercise by Secretary of State of powers of local authority.

**194.**—(1) The provisions of this section shall have effect in any case where under section 193 of this Act the Secretary of State has by order rendered exercisable by himself any powers of a local authority.

(2) Any expenses incurred by the Secretary of State in exercising the said powers shall be paid in the first instance out of

PART IX

moneys provided by Parliament, but the amount of those expenses as certified by the Secretary of State shall on demand be paid by the local authority to the Secretary of State and shall be recoverable as a debt due to the Crown.

(3) The payment of any such expenses as aforesaid shall, so far as the expenses are of a capital nature, be a purpose for which a local authority may borrow money.

(4) The Secretary of State may by order vest in and transfer to the local authority any property, debts or liabilities acquired or incurred by him in exercising the powers of the authority, and that property and those debts and liabilities shall vest and attach accordingly.

Default powers of Secretary of State in relation to rents.
1947 c. 43.

**195.**—(1) Where after the holding of a local inquiry under section 356 of the Local Government (Scotland) Act 1947 (which provides for defaults of local authorities) the Secretary of State is satisfied that there has been a failure on the part of a local authority to do what is required of them by section 151(5) of this Act, he may make a rents scheme for all or any of the houses under the management of the authority, and, if he makes an order under subsection (2) of the said section 356 declaring the authority to be in default in respect of the failure (in this section referred to as a " default order "), he may include in the directions which, under that subsection, he may make in the default order a direction that the authority shall in managing the houses in question comply with the scheme so long as the direction is in force.

(2) If—

(*a*) by a default order, whether made before or after the commencement of this Act, the Secretary of State has declared a local authority to be in default in respect of a failure such as is mentioned in subsection (1) of this section and directed the authority to take within a specified time steps to remedy the default, but has not directed them to comply with a rents scheme, and

(*b*) the local authority fail to comply with any requirement of the default order within the time limited thereby for compliance with that requirement,

then, without prejudice to subsection (3) of the said section 356 (which relates to enforcement), the Secretary of State may make a rents scheme for all or any of the houses under the management of the authority and may by order (in this section referred to as a " supplementary order ") direct the authority in managing the houses to comply with the scheme so long as the direction is in force.

(3) In this section "rents scheme" in relation to any houses means a scheme making such provision as the Secretary of State, after consultation with the local authority concerned, thinks fit—

(*a*) for fixing the rents to be charged for those houses, subject to such variation as may be provided for in the scheme, and

(*b*) if the Secretary of State thinks fit, for granting, in such cases and subject to such conditions as may be specified in the scheme, rebates from those rents;

and a rents scheme may provide as aforesaid in relation to rents generally or to particular rents.

(4) Subsection (3) of the said section 356 shall have effect as if any reference therein to any requirement of a default order included a reference to any requirement of a rents scheme to which the local authority has been directed under this section (whether in a default order or in a supplementary order) to comply, so however that, in relation to any requirement of a rents scheme—

(*a*) any reference in the said subsection (3) to the time limited by the default order for compliance shall be construed as a reference to the time during which the direction to comply with the rents scheme is in force, and

(*b*) any reference to the functions in respect of which there has been default shall be construed as a reference to the duty to manage the houses in question in accordance with the rents scheme.

(5) While a direction to comply with a rents scheme made under this section in relation to any of the houses under the management of a local authority is in force the authority shall comply with the scheme and, subject to subsection (6) of this section, shall not, except so far as the Secretary of State may allow, exercise in relation to the rents in question their functions under subsections (4) or (5) of section 151 of this Act.

(6) If the scheme does not make provision for granting rebates from the rents to which it relates the local authority may exercise their functions under the said subsections (4) or (5) so far as relating to rebates, but only in accordance with a scheme made by them and approved by the Secretary of State.

(7) Section 372 of the Local Government (Scotland) Act 1947 (which relates to the revocation of, and other matters concerning, certain orders, including default orders) shall apply to a supplementary order as it applies to a default order, and the power conferred by that section to alter an order shall include power to alter a rents scheme to which an order relates. 1947 c. 43.

PART IX *General powers of Secretary of State*

Power to vary and revoke orders.

**196.**—(1) Any order made by the Secretary of State under this Act may be varied or revoked by a subsequent order made by the Secretary of State, but without prejudice to the validity of anything previously done under the order.

(2) The power to make orders conferred on the Secretary of State by subsection (1) of this section, so far as that power is exercised in relation to an order made under any provision of this Act, being a provision the power to make orders under which is expressed to be exercisable by statutory instrument, shall be, and shall be deemed always to have been, exercisable by statutory instrument.

(3) When an order under section 193 of this Act rendering any powers or duties of a local authority exercisable by the Secretary of State is revoked under subsection (1) of this section, the Secretary of State may, either by the revoking order or by a supplementary order, make such provision as appears to him desirable with respect to the transfer, vesting and discharge of any property, debts or liabilities acquired or incurred by the Secretary of State in exercising the powers and duties to which the order so revoked related.

Power to prescribe forms, etc.

**197.**—(1) Except as otherwise expressly provided in this Act, the Secretary of State may by statutory instrument make regulations prescribing—

(*a*) the form of any notice, advertisement, statement or other document which is required or authorised to be used under, or for the purposes of, this Act;

(*b*) any other thing which by this Act is required or authorised to be prescribed.

(2) The forms so prescribed or forms as near thereto as circumstances admit shall be used in all cases to which those forms are applicable.

Regulations: procedure.

**198.** Any statutory instrument made in the exercise of any power to make regulations conferred by this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Power to dispense with advertisements and notices.

**199.**—(1) The Secretary of State may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under this Act, if he is satisfied that there is reasonable cause for dispensing with the publication or service.

(2) Any such dispensation may be given by the Secretary of State either before or after the time at which the advertisement

is required to be published or the notice is required to be served, and either unconditionally or upon such conditions as to the publication of other advertisements or the service of other notices or otherwise as the Secretary of State thinks fit, due care being taken by the Secretary of State to prevent the interests of any person being prejudiced by the dispensation.

Local inquiries.

**200.**—(1) For the purposes of the execution of his powers and duties under this Act, the Secretary of State may cause such local inquiries to be held as he may think fit.

(2) Where under this Act the Secretary of State is required to cause a public local inquiry to be held, then, subject to the provisions of section 44(4) of this Act, the person to be appointed by the Secretary of State to hold the inquiry shall be selected from a panel set up by the Lord President of the Court of Session, the Lord Justice Clerk and the Chairman of the Scottish Branch of the Royal Institution of Chartered Surveyors, in consultation with the Secretary of State.

Power to obtain report on area.

**201.** If it appears to the Secretary of State that, owing to density of population or any other reason, it is expedient to inquire into the circumstances of any area with a view to determining whether any powers under this Act should be put into force in that area or not, the Secretary of State may require the local authority to make a report to him containing such particulars as to the population of the district and other matters as he may direct, and the authority shall comply with the requirement of the Secretary of State, and any expenses incurred by them in so doing shall be paid as expenses incurred in the execution of such Part of this Act as the Secretary of State may determine.

Arrangements between Secretary of State and other departments.

**202.** The Secretary of State may make arrangements with any other government department for the exercise or performance by that department of any of his powers and duties under this Act which in his opinion could more conveniently be so exercised or performed, and in such case that department and the officers thereof shall have the same powers and duties as are by this Act conferred on the Secretary of State and his officers.

*Miscellaneous*

Power of heir of entail to sell or feu land for housing purposes.

**203.** Without prejudice to any powers, whether statutory or otherwise, already enjoyed by an heir of entail in possession of an entailed estate in Scotland to sell or grant feus of any part of such estate, any such heir in possession may, notwithstanding

PART IX

any prohibition or limitation in any deed of entail or in any Act of Parliament, sell or feu any part or parts of such estate—

(*a*) to a local authority for any purpose for which a local authority may acquire land under this Act, or

(*b*) to a housing association for the purpose of the provision of houses,

without its being necessary to obtain the consent of the next heir, and without any restriction as to the extent of ground to be sold or feued, excepting, however, from the provisions of this section the subjects excepted in section 4 of the Entail (Scotland) Act 1914:

1914 c. 43.

Provided that—

(*a*) the price of land so sold shall, in accordance with the provisions of the Entail Acts, be invested for behoof of the heir of entail in possession and succeeding heirs of entail, and the feuduty shall be received for the same behoof; and

(*b*) it shall not be lawful for the heir of entail in possession to take any grassum or valuable consideration other than the feuduty for granting any such feu.

Fair wages.

**204.** It shall be the duty of every local authority by whom housing accomodation is provided under the enactments relating to housing, whether with or without financial assistance from the Government, to secure the insertion in all contracts relating to such provision of a fair wages clause, complying with the requirements of any resolution of the Commons House of Parliament for the time being in force with respect to contracts of government departments.

Crown rights.

**205.** Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, or authorise the use of or interference with any land (including tidal lands below high-water mark of ordinary spring tides) belonging to Her Majesty in right of the Crown or to any government department, without the consent of Her Majesty or the government department, as the case may be.

## PART X

### SUPPLEMENTAL

Powers of Act to be cumulative.

**206.** All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, law or custom, and such other powers may be exercised in the same manner as if this Act had not passed, and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not passed:

PART X

Provided that a local authority shall not, by reason of any local Act relating to a place within its jurisdiction, be exempted from the performance of any duty or obligation to which such authority are subject under any Part of this Act.

Financial provisions.

**207.**—(1) Except in so far as otherwise expressly provided in this Act there shall be paid out of money provided by Parliament—

(*a*) all sums payable and all expenses incurred by the Secretary of State under this Act; and

(*b*) any increase attributable to the provisions of this Act in the sums payable out of money so provided under any other enactment.

(2) Except in so far as otherwise expressly provided in this Act, there shall be paid into the Exchequer—

(*a*) any receipts of the Secretary of State under this Act; and

(*b*) any other sums falling to be so paid in consequence of any of the provisions of this Act.

Interpretation.

**208.**—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

" agricultural holding " means an agricultural holding within the meaning of the Agricultural Holdings (Scotland) Act 1949; 1949 c. 75.

" agricultural population " means—

(*a*) in relation to persons resident within a large burgh, persons who are engaged in agriculture, and includes the dependants of such persons; and

(*b*) in relation to persons resident outside a large burgh, persons who are, or in their latest occupation were, engaged in agriculture or in an industry mainly dependent on agriculture, and includes the dependants of such persons;

" agriculture " means the use of land for agricultural or pastoral purposes, or for the purpose of poultry farming or market gardening, or as an orchard or woodlands, or for the purpose of afforestation, and " agricultural worker " shall be construed accordingly;

" apparatus " means sewers, drains, culverts, water-courses, mains, pipes, valves, tubes, cables, wires, transformers and other apparatus laid down or used for or in connection with the carrying, conveying or supplying to any premises of a supply of water, water for hydraulic

PART X

power, gas or electricity, and standards and brackets carrying street lamps;

"building regulations" means any statutory enactments, byelaws, rules and regulations or other provisions under whatever authority made, relating to the construction of new buildings and the laying out of and construction of new streets or roads;

1947 c. 43.

"burgh" has the like meaning as in the Local Government (Scotland) Act 1947;

"clearance area" means a clearance area within the meaning of Part III of this Act;

"clearance order" has the meaning assigned to it by section 36(1) of this Act;

"clearance resolution" has the meaning assigned to it by section 34(1) of this Act;

"closing order" means a closing order made under section 15(1) of this Act;

"common" includes any town or village green;

"croft" and "crofter" have the like meanings respectively as in the Crofters (Scotland) Acts 1955 and 1961;

"demolition order" has the meaning assigned to it by section 15(2) of this Act;

"development corporation" means a corporation established by an order under section 2 of the New Towns Act 1946 by the Secretary of State;

1946 c. 68.

"district", in relation to a local authority, has the meaning assigned to it by section 1 of this Act;

"Exchequer contribution" means a contribution or a subsidy which the Secretary of State is required or authorised to make to a local authority out of moneys provided by Parliament under any of the enactments specified in Part I of Schedule 6 to the Housing (Scotland) Act 1950;

1950 c. 34.

"flat" (except in Part IV of this Act) means a separate and self-contained set of premises, whether or not on the same floor, constructed for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally;

"holding" has the like meaning as in the Small Landholders (Scotland) Acts 1886 to 1931;

"house" includes any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and, in particular, includes a flat, and includes also any yard, garden, out-houses and pertinents belonging to the house or usually enjoyed therewith;

PART X

" housing association " means any society, body of trustees or company established for the purpose of, or amongst whose objects or powers are included those of, constructing, improving or managing, or facilitating or encouraging the construction or improvement of, housing accommodation, being a society, body of trustees or company who do not trade for profit or whose constitution or rules prohibit the issue of any capital with interest or dividend exceeding the rate for the time being fixed by the Treasury, whether with or without differentiation as between share and loan capital ;

" land " includes any right over land ;

" Lands Tribunal " means the Lands Tribunal for Scotland ;

" landholder " has the like meaning as in the Small Landholders (Scotland) Acts 1886 to 1931 ;

" large burgh " has the like meaning as in the Local Government (Scotland) Act 1947 ; 1947 c. 43.

" local bonds " has the meaning assigned to it by section 165 of this Act ;

" official representation " has the meaning assigned to it by section 180(1) of this Act ;

" open space " means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground ;

" owner " includes any person who under the Lands Clauses Acts would be enabled to sell and convey land to the promoters of an undertaking ;

" prescribed " means prescribed by regulations made by the Secretary of State by statutory instrument ;

" public undertakers " means any corporation, company, body or person carrying on a railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking ;

" the Rent Acts " means the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 or any of those Acts ;

" sell " and " sale " include feu ;

" statutory small tenant " has the like meaning as in the Small Landholders (Scotland) Acts 1886 to 1931 ;

" street " includes any court, alley, passage, square or row of houses whether a thoroughfare or not ;

" superior " includes the creditor in a ground annual.

PART X

(2) For the purposes of this Act, and without prejudice to section 87(2) thereof—

(*a*) the person who for the time being is entitled to receive, or would, if the same were let, be entitled to receive, the rent of any premises, including a trustee, tutor, curator, factor or agent, shall be deemed to be the person having control of the premises; and

(*b*) a crofter or a landholder shall be deemed to be the person having control of any premises on his croft or holding in respect of which he would, on the termination of his tenancy, be entitled to compensation under the Crofters (Scotland) Acts 1955 and 1961, or, as the case may be, the Small Landholders (Scotland) Acts 1886 to 1931, as for an improvement.

(3) In this Act any reference to the demolition of a building shall be deemed to include a reference to such reconstruction of the building as the local authority may approve; and where a building is so reconstructed any reference to selling, letting or appropriating the land, the building on which has been or will be demolished, shall, unless the context otherwise requires, be construed as a reference to selling, letting or appropriating the land and the reconstructed building.

(4) Any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any subsequent enactment including, unless the context otherwise requires, this Act.

Construction of references to Lands Tribunal. 1949 c. 42. 1963 c. 51.

**209.**—(1) Any dispute which by this Act is directed to be determined by the Lands Tribunal shall, in the period before the coming into force of sections 1 to 4 of the Lands Tribunal Act 1949 in Scotland, be determined by an official arbiter appointed under section 2 of the Land Compensation (Scotland) Act 1963; and accordingly during the said period there shall be substituted for references in any provision of this Act (other than this section) to the Lands Tribunal references to an arbiter appointed as aforesaid.

(2) In relation to a dispute arising under section 52(3) of this Act, subsection (1) of this section shall have effect as if after the word "determined", in the second place where that word occurs, there were inserted the words "unless the local authority and the undertakers otherwise agree", and an official arbiter acting in such a dispute shall have the like powers in respect of procedure, costs and the statement of cases as he has under the said Act of 1963.

Construction of references to this Act, etc.

**210.**—(1) Without prejudice to the provisions of section 212 of this Act, in this Act the expression "under this Act", whether in relation to any land, houses or other property acquired, or to any contribution or to any housing or other operations, or in relation to any other matter or thing made,

effected, given, imposed or done, or right acquired, or obligation incurred, and any other expression describing any matter or thing by reference to this Act or to any enactment in this Act, shall, if and so far as the context permits, be construed as including a reference to any Act repealed by this Act or by the Housing (Scotland) Act 1950 or by the Housing (Scotland) Act 1925, or to the corresponding provision of any Act so repealed. 1950 c. 34. 1925 c. 15.

(2) The references to this Act mentioned below shall be construed as including references to the Housing (Scotland) Act 1950 (so far as not repealed by this Act) and to any enactment (so far as not so repealed) which is construed as one with the said Act of 1950.

The said references are—

the references in sections 2, 177(1), 178(*b*), 183(1)(*a*), 193(1), 196(1) and 197(1) of this Act;

the first reference in section 165(1) of this Act;

the second reference in section 184 of this Act.

(3) Any reference in this Act to the Land Compensation (Scotland) Act 1963 or to any provision thereof shall, in so far as the context permits, be construed as referring, in a case to which they continue to apply by virtue of section 48 of the said Act of 1963, to the enactments repealed by that Act or to the corresponding provision of any such enactment. 1963 c. 51.

(4) Nothing in this section or in section 211 or in section 212 of this Act, and nothing in Schedule 9 to this Act, shall be taken as affecting the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals. 1889 c. 63.

Consequential amendments.

**211.** The enactments mentioned in Schedule 9 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.

Repeals and savings.

**212.**—(1) Subject to the provisions of this section, the enactments specified in Schedule 10 to this Act are hereby repealed, in the case of the enactments mentioned in Part I of that Schedule as from the commencement of this Act, and in the case of the enactments mentioned in Part II of that Schedule as from the appointed day within the meaning of Part V of this Act, to the extent specified in relation thereto in the third column of that Schedule.

(2) Nothing in this Act shall affect any order, regulation, rule, byelaw, scheme, plan, agreement, arrangements or application made, charge effected, undertaking, notice, approval, certificate, direction or determination given, condition imposed, or

PART X

any other thing done, before the commencement of this Act, but any order, regulation, rule, byelaw, scheme, plan, agreement, arrangements, application, charge, undertaking, notice, approval, certificate, direction, determination, condition or thing made, effected, given, imposed or done, or having effect as if made, effected, given, imposed or done, under any enactment repealed by this Act shall, if in force at the commencement of this Act, continue in force and shall, so far as it could have been made, effected, given, imposed or done under this Act, have effect as if made, effected, given, imposed or done under the corresponding provision of this Act.

(3) Any person who at the commencement of this Act is holding office or acting or serving under or by virtue of any enactment repealed by this Act or by the Housing (Scotland) Act 1950 or by the Housing (Scotland) Act 1925 shall continue to hold his office or to act or serve as if he had been appointed under this Act.

1950 c. 34.
1925 c. 15.

(4) For the purpose of determining the punishment (by fine, imprisonment or both) which may be imposed on a person in respect of the commission by him of an offence against any provision of this Act, an offence committed by that person against the corresponding provision of any enactment repealed by this Act or by the Housing (Scotland) Act 1950 or by the Housing (Scotland) Act 1925 shall be deemed to have been committed against the first-mentioned provision.

(5) So much of any enactment or other document as refers expressly or by implication to any enactment repealed by this Act or by the Housing (Scotland) Act 1950 or by the Housing (Scotland) Act 1925 shall, in so far as the context permits and as may be necessary to preserve the effect of the first-mentioned enactment or other document, be construed as referring, or (as the case may require) as including a reference, to this Act or the corresponding enactment therein.

(6) The repeal by this Act of any provision of any Act shall not affect the application of that provision to any other provision of that Act which is not repealed by this Act.

Short title, commencement and extent.

**213.**—(1) This Act may be cited as the Housing (Scotland) Act 1966.

(2) This Act shall come into force on 1st April 1967.

(3) This Act shall extend to Scotland only.

# SCHEDULES

Section 36.

## SCHEDULE 1

### CLEARANCE ORDERS

1. A clearance order—

(*a*) shall be in the prescribed form ;

(*b*) shall describe by reference to a map the area to which it applies ;

(*c*) shall fix by reference to the date of its coming into operation the period, not being less than twenty-eight days from that date, within which the local authority require the buildings in the area to be vacated for the purposes of demolition, and for that purpose may fix different periods as respects different buildings.

2. The order shall show separately in the prescribed manner the houses which are unfit for human habitation.

3. Before submitting the order to the Secretary of State the local authority shall—

(*a*) publish in one or more newspapers circulating in their district a notice in the prescribed form stating that the order has been made, describing the area comprised therein and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours ; and

(*b*) serve on every owner, lessee and occupier (except tenants for a month or a less period than a month) of any building to which the order applies a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Secretary of State for confirmation, and specifying the time within which and the manner in which objections thereto can be made.

4. As soon as may be after the required notices have been given, the local authority shall submit the order to the Secretary of State for confirmation.

5.—(1) If no objection is duly made by any of the persons on whom notices are required to be served under paragraph 3 of this Schedule or by the superior of, or by any person holding a heritable security over, any building to which the order applies, or if all objections so made are withdrawn, the Secretary of State may, if he thinks fit, confirm the order with or without modification.

(2) In any other case the Secretary of State shall, before confirming the order, cause a public local inquiry to be held and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order, either with or without modification.

SCH. 1

6. An order as confirmed by the Secretary of State under this Schedule shall not apply to any building to which the order would not have applied if it had been confirmed without modification.

7. If the Secretary of State is of opinion that any building included in the order ought not to have been so included but should be included in a compulsory purchase order relating to the clearance area, he may modify the clearance order by excluding therefrom such building and may authorise the local authority to make and submit to him for confirmation in accordance with the provisions of Part III of this Act a compulsory purchase order with respect to such building.

Sections 36, 38, 43.

## SCHEDULE 2

### VALIDITY AND DATE OF OPERATION OF CERTAIN ORDERS UNDER PART III

1. As soon as may be after an order has been confirmed by the Secretary of State, the local authority shall publish in a newspaper circulating in their district a notice in the prescribed form stating that the order has been confirmed and naming a place where a copy of the order as confirmed and of the map referred to therein may be seen at all reasonable hours, and shall serve a like notice on every person who, having given notice to the Secretary of State of his objection to the order, appeared at the public local inquiry in support of his objection.

2.—(1) If any person aggrieved by an order desires to question its validity on the ground that it is not within the powers of this Act, or that any requirement of this Act has not been complied with, he may, within thirty days after the publication of the notice of confirmation, make an application for the purpose to the Court of Session, and where such application is duly made the Court—

(*a*) may by interim order suspend the operation of the order either generally or in so far as it affects any property of the applicant until the final determination of the proceedings ; and

(*b*) if satisfied, on the hearing of the application, that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may set aside the order either generally or in so far as it affects any property of the applicant, or do otherwise as shall appear to the Court to be just.

(2) An application to the Court of Session under this paragraph shall be made in the form and according to the procedure provided in that behalf by act of sederunt, so, however, that the application shall be dealt with in a summary manner.

SCH. 2

3. Subject to the provisions of paragraph 2 of this Schedule, an order shall not, either before or after its confirmation, be questioned by reduction or interdict or in any legal proceedings whatsoever, and shall become operative at the expiration of thirty days from the date on which notice of its confirmation is published in accordance with paragraph 1 of this Schedule.

4. As soon as may be after an order has become operative, the local authority shall serve a copy thereof on every person on whom a notice was served by them of their intention to submit the order to the Secretary of State for confirmation.

## SCHEDULE 3

Sections 38, 43, 44.

### COMPULSORY PURCHASE ORDERS MADE UNDER PART III

1. A compulsory purchase order—

(*a*) shall be in the prescribed form ;

(*b*) shall describe by reference to a map the land to which it applies ;

(*c*) shall incorporate subject to the modifications hereinafter mentioned and any necessary adaptations—

(i) the Lands Clauses Acts (except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845) ; 1845 c. 19.

(ii) section 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. 1845 c. 33. 1923 c. 20.

2. The modifications subject to which the Lands Clauses Acts shall be incorporated in the order are as follows :—

(*a*) the Lands Tribunal shall not take into account any building erected, or any improvement or alteration made, or any interest in land created, after the date of the publication of the compulsory purchase order if, in their opinion, the erection of the building or the making of the improvement or alteration or the creation of the interest in respect of which a claim is made was not reasonably necessary and was carried out with a view to obtaining or increasing compensation ;

(*b*) all notices required to be served by the local authority may, notwithstanding anything in section 18 of the Lands Clauses Consolidation (Scotland) Act 1845, be served in the manner specified in section 5(3) of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 in relation to notices required to be served under that Act ; 1947 c. 42.

SCH. 3
1845 c. 19.

(*c*) notwithstanding anything in section 90 of the Lands Clauses Consolidation (Scotland) Act 1845, the Lands Tribunal may determine that such part of any house, building or manufactory as is proposed to be taken by the local authority can be taken without material damage to the house, building or manufactory, and, if they so determine, may award compensation in respect of the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell and convey to the local authority that part of the house, building or manufactory.

3. The order shall show separately in the prescribed manner the houses in the clearance area which are unfit for human habitation and the land and buildings, if any, proposed to be purchased outside the area.

4. Before submitting the order to the Secretary of State the local authority shall—

(*a*) publish in one or more newspapers circulating within their district a notice in the prescribed form stating that the order has been made, describing the area comprised therein and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours ; and

(*b*) serve on every owner, lessee and occupier (except tenants for a month or a less period than a month) of any land or buildings to which the order applies a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Secretary of State for confirmation, and specifying the time within which and the manner in which objections thereto can be made.

5.—(1) If no objection is duly made by any of the persons on whom notices are required to be served under paragraph 4 of this Schedule or by the superior of, or any person holding a heritable security over, any land or buildings to which the order applies, or if all objections so made are withdrawn, the Secretary of State may, if he thinks fit, confirm the order with or without modification.

(2) In any other case, the Secretary of State shall, before confirming the order, cause a public local inquiry to be held, and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order either with or without modification:

Provided that the Secretary of State may require any person who has made an objection to state in writing the grounds thereof and may confirm the order without causing a public local inquiry to be held if the Secretary of State is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the Lands Tribunal in assessing the compensation.

6. The order as confirmed by the Secretary of State shall not authorise the local authority— SCH. 3

(*a*) to purchase compulsorily any land which the order would not have authorised them so to purchase if it had been confirmed without modification, or

(*b*) to purchase any building on less favourable terms with respect to compensation than the terms on which the order would have authorised them to purchase the building if the order had been confirmed without modification.

7. If the Secretary of State is of opinion that any land included by a local authority in a clearance area ought not to have been so included he shall on confirming the order so modify it as to exclude that land for all purposes from the clearance area.

8. In construing, for the purposes of this Schedule or any compulsory purchase order made under Part III of this Act, any enactment incorporated in the order, this Act, together with the order, shall be deemed to be the special Act and the local authority shall be deemed to be the promoters of the undertaking.

## SCHEDULE 4

Sections 47, 57 143.

### RULES AS TO ASSESSMENT OF COMPENSATION WHERE LAND PURCHASED COMPULSORILY IN CERTAIN CIRCUMSTANCES

1. If the Lands Tribunal are satisfied with respect to any premises that the rental thereof was enhanced by reason of their being used for illegal purposes, the compensation shall, so far as it is based on rental, be based on the rental which would have been obtainable if the premises were occupied for legal purposes.

2. If the Lands Tribunal are satisfied with respect to any premises that the rental thereof was higher than that generally obtained at the time for similar premises in the locality and that such enhanced rental was obtained by reason of the premises being overcrowded within the meaning of Part V of this Act, the compensation shall, so far as it is based on rental, be based on the rental so generally obtained.

3. The local authority may tender evidence as to the matters aforesaid notwithstanding that they have not taken any steps with a view to remedying the evils disclosed by the evidence.

4. The Lands Tribunal shall (except as provided in section 15(1) of the Land Compensation (Scotland) Act 1963) have regard to, and make an allowance in respect of, any increased value which, in their opinion, will be given to other premises of the same owner by the demolition by the local authority of any buildings. 1963 c. 51.

5. The Lands Tribunal shall embody in their award a statement showing separately whether compensation has been reduced by reference to the use of the premises for illegal purposes, to overcrowding, and to the considerations mentioned in paragraph 4 of this Schedule, and the amount (if any) by which compensation has been reduced by reference to each of those matters.

Sections 89, 91, 94, 99

## SCHEDULE 5

### NUMBER OF PERSONS PERMITTED TO USE A HOUSE FOR SLEEPING

For the purposes of Part V of this Act, the expression "the permitted number of persons" means, in relation to any house, either—

(*a*) the number specified in the second column of Table I in the annex hereto in relation to a house consisting of the number of rooms of which that house consists; or

(*b*) the aggregate for all the rooms in the house obtained by reckoning, for each room therein of the floor area specified in the first column of Table II in the annex hereto, the number specified in the second column of that Table in relation to that area;

whichever is the less:

Provided that in computing for the purposes of the said Table I the number of rooms in a house, no regard shall be had to any room having a floor area of less than 50 square feet.

### ANNEX

### TABLE I

Where a house consists of—

| | |
|---|---|
| (*a*) One room ... ... | 2. |
| (*b*) Two rooms ... ... | 3. |
| (*c*) Three rooms ... ... | 5. |
| (*d*) Four rooms ... ... | 7½. |
| (*e*) Five rooms or more ... | 10, with an additional 2 in respect of each room in excess of five. |

### TABLE II

Where the floor area of a room is—

| | |
|---|---|
| (*a*) 110 sq. ft. or more ... ... ... | 2. |
| (*b*) 90 sq. ft. or more, but less than 110 sq. ft. ... ... ... ... | 1½. |
| (*c*) 70 sq. ft. or more, but less than 90 sq. ft. ... ... ... ... | 1. |
| (*d*) 50 sq. ft. or more, but less than 70 sq. ft. ... ... ... ... | ½. |
| (*e*) Under 50 sq. ft. ... ... ... | Nil. |

Section 134.

## SCHEDULE 6

### CONSEQUENCES OF CESSATION OF CONTROL ORDER

*Transfer of landlord's interest in tenancies and agreements*

1.—(1) On and after the date on which the control order ceases to have effect any lease, licence or agreement in which the local authority were substituted for any other party by virtue of section 122 of this Act shall have effect as if for the authority there were substituted in the lease, licence or agreement the original party or his successor in title.

SCH. 6

(2) On and after the date on which the control order ceases to have effect any agreement in the nature of a lease or licence created by the local authority shall have effect as if the dispossessed proprietor were substituted in the agreement for the authority.

(3) If the dispossessed proprietor is a lessee, nothing in any superior lease shall impose any liability on the dispossessed proprietor or any superior lessee in respect of anything done in pursuance of the terms of an agreement in which the dispossessed proprietor is substituted for the local authority by virtue of this paragraph.

*Exclusion of s.* 11(2) *of Rent Act* 1957

1957 c. 25.

2. Paragraph 1 of this Schedule shall not be construed as creating for the purposes of section 11(2) of the Rent Act 1957 (release from control under Rent Acts) any tenancy coming into operation on the date when the control order ceases to have effect.

*Cases where leases have been modified while control order was in force*

3. If under section 128 of this Act the sheriff modifies or determines a lease, the sheriff may include in the order modifying or determining the lease provisions for modifying the effect of paragraph 1 of this Schedule in relation to the lease.

*Interpretation*

4. References in this Schedule to the control order ceasing to have effect are references to its ceasing to have effect whether on revocation or in any other circumstances.

## SCHEDULE 7

Section 165.

### PROVISIONS AS TO LOCAL BONDS

1. Local bonds shall—

(*a*) be secured upon all the rates, property and revenues of the local authority;

(*b*) bear interest at such rate as the local authority may determine at the time of the issue of the bonds;

(*c*) be issued in denominations of five, ten, twenty, fifty and one hundred pounds and multiples of hundred pounds;

(*d*) be issued for periods of not less than five years.

2. Local bonds shall be exempt from stamp duty under the Stamp Act 1891, and no duty shall be chargeable under section 8 of the Finance Act 1899, as amended by any subsequent enactment, in respect of the issue of any such bonds.

1891 c. 39.
1899 c. 9.

3. The provisions of section 115 of the Stamp Act 1891 (which relates to composition for stamp duty) shall, with the necessary adaptations, apply in the case of any local authority by whom local bonds are issued as if those bonds were stock or funded debt of the authority within the meaning of that section.

SCH. 7

4. A local authority shall, in the case of any person who is the registered holder of local bonds issued by that authority of a nominal amount not exceeding in the aggregate one hundred pounds, pay the interest on the bonds held by that person without deduction of income tax, but any such interest shall be accounted for and charged to income tax under Case III of Schedule D subject, however, to any provision of the enactments relating to income tax with respect to exemption or abatement.

5. Local bonds issued by a local authority shall be accepted by that authority at their nominal value in payment of the purchase price of any house erected by or on behalf of any local authority in pursuance of any operations under this Act.

6. The Secretary of State may, with the approval of the Treasury, by statutory instrument make regulations with respect to the issue (including terms of issue), transfer and redemption of local bonds and the security therefor, and any such regulations may apply, with or without modifications, any provisions of the Local Loans Act 1875 and the Acts amending that Act, and of Part XII of the Local Government (Scotland) Act 1947 relating to securities created by local authorities and section 2(2) of the Public Works Loans Act 1965, and of any Act relating to securities issued by any local or public body.

1875 c. 83.
1947 c. 43.
1965 c. 63.

Sections 41, 168.

## SCHEDULE 8

### PROVISIONS AS TO REHOUSING

1. If in the district of any local authority the undertakers have power to take under the enabling Act dwellings occupied by thirty or more persons, the undertakers shall not enter on any such dwellings in that district until the Secretary of State has either approved of a housing scheme under this Schedule or has decided that such a scheme is not necessary.

For the purpose of determining for the purposes of this Schedule the number of persons by whom any dwellings are occupied, any occupation on or after the fifteenth day of December next before the passing of the enabling Act, or, in the case of land acquired compulsorily under a general Act without the authority of an order, next before the date of the application to the Secretary of State under this Schedule for his approval of or decision with respect to a housing scheme, shall be taken into consideration.

2. The housing scheme shall make provision for the accommodation of such number of persons as is, in the opinion of the Secretary of State, taking into account all the circumstances, required, but that number shall not exceed the aggregate number of persons displaced ; and in calculating that number the Secretary of State shall take into consideration not only the persons who are occupying the dwellings which the undertakers have power to take, but also any persons who, in his opinion, have been displaced within the previous five years in view of the acquisition of land by the undertakers.

SCH. 8

3. Provision may be made by the housing scheme for giving undertakers who are a local authority, or who have not sufficient powers for the purpose, power for the purpose of the scheme to appropriate land or to acquire land, either by agreement or compulsorily under the authority of a provisional order, and for giving any local authority power to erect dwellings on land so appropriated or acquired by them, and to sell or dispose of any such dwellings, and to raise money for the purpose of the scheme as for the purposes of Part VII of this Act, and for regulating the application of any money arising from the sale or disposal of the dwellings; and any provisions so made shall have effect as if they had been enacted in an Act of Parliament.

4. The housing scheme shall provide that any lands acquired under the scheme shall, for a period of twenty-five years from the date of the scheme, be appropriated for the purpose of dwellings, except so far as the Secretary of State may dispense with that appropriation; and every such appropriation of lands shall be recorded as a real burden affecting such lands in the General Register of Sasines; and the Secretary of State may require the insertion in the scheme of any provisions with respect to the standards of the houses that are to be erected under the scheme, or any conditions to be complied with as to the mode in which the houses are to be erected.

5. If the Secretary of State does not hold a local inquiry with reference to a housing scheme he shall, before approving the scheme, send a copy of the draft scheme to every local authority, and shall consider any representation by any such authority made within the time fixed by him.

6. The Secretary of State may, as a condition of his approval of a housing scheme, require that the new dwellings under the scheme, or some part of them, shall be completed and fit for occupation before possession is taken of any dwellings under the enabling Act.

7. Before approving any housing scheme the Secretary of State may, if he thinks fit, require the undertakers to give such security as he considers proper for carrying the scheme into effect.

8. If the undertakers enter on any dwellings in contravention of the provisions of this Schedule or of any conditions of approval of the housing scheme made by the Secretary of State, they shall be liable to a penalty not exceeding five hundred pounds in respect of every such dwelling; and any such penalty shall be recoverable by the Secretary of State by action in the Court of Session and shall be carried to and form part of the Consolidated Fund.

9. If the undertakers fail to carry out any provision of the housing scheme, the Secretary of State may make such order as he thinks necessary or proper for the purpose of compelling them to carry out that provision, and any such order may be enforced by order of the Court of Session on the application of the Secretary of State.

SCH. 8

10. The Secretary of State may, on the application of the undertakers, modify any housing scheme which has been approved by him under this Schedule, and any modifications so made shall take effect as part of the scheme.

11. For the purposes of this Schedule—

the expression " dwelling " or " house " means any house or part of a house occupied as a separate dwelling ;

the expression " enabling Act " means any Act of Parliament or order under which the land is acquired ;

the expression " local authority " means the local authority for the purposes of this Act in whose district in any case any houses in respect of which the housing scheme is made are situated ;

the expression " 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.

Section 211.

## SCHEDULE 9

### CONSEQUENTIAL AMENDMENT OF ENACTMENTS

*The Housing (Scotland) Act* 1950

(14 Geo. 6. c. 34)

In sections 137 and 138, references to Part V of the Housing (Scotland) Act 1950 shall include references to Part VII of this Act.

*The Housing (Repairs and Rents) (Scotland) Act* 1954

(2 & 3 Eliz. 2. c. 50)

In section 39(2)—

(*a*) for the words from the beginning to " shall " there shall be substituted the words " Section 5 of the Housing (Scotland) Act 1966 shall " ;

(*b*) for the words " the said Act of 1950 " there shall be substituted the words " the said Act of 1966 ".

*The House Purchase and Housing Act* 1959

(7 & 8 Eliz. 2. c. 33)

In section 29(2), for the words from " and, in Scotland " to " shall " there shall be substituted the words " and, in Scotland, section 5 of the Housing (Scotland) Act 1966 shall ".

*The Land Compensation (Scotland) Act* 1963

(1963 c. 51)

1. In section 15(7)(*d*), for the reference to paragraph 5 of Schedule 4 to the Housing (Scotland) Act 1950 there shall be substituted a reference to paragraph 4 of Schedule 4 to this Act.

2. Without prejudice to the amendments effected by the following provisions of this Schedule, in Schedule 2 any reference to the Housing (Scotland) Act 1950 shall be construed as a reference to this Act. SCH. 9 1950 c. 34.

3. In Schedule 2, in sub-paragraph (2) of paragraph 1—

(*a*) for the reference to section 172 of the Act of 1950 there shall be substituted a reference to section 197 of this Act;

(*b*) for the reference to section 36(2) of the Act of 1950 there shall be substituted a reference to subsections (2) to (4) of section 47 of this Act;

(*c*) for the reference to section 40 of the Act of 1950 as read with section 20 of the Housing and Town Development (Scotland) Act 1957 there shall be substituted a reference to section 49 of this Act. 1957 c. 38.

4. In Schedule 2, in sub-paragraph (5) of paragraph 1, for the reference to section 24 of the Housing (Scotland) Act 1962 there shall be substituted a reference to section 5 of this Act. 1962 c. 28.

5. In Schedule 2, in sub-paragraph (3) of paragraph 2, for the reference to section 40 of the Act of 1950 there shall be substituted a reference to section 49 of this Act.

6. In Schedule 2, for paragraph 5 there shall be substituted the following paragraph—

"5.—(1) In this Schedule 'house' has the meaning assigned to it by section 208 of the Housing (Scotland) Act 1966.

(2) Any reference in this Schedule to the provisions of the Housing (Scotland) Act 1966 as to site value is a reference to the following provisions of that Act, that is to say, sections 14(4) to (7), 19(2) to (5) and 47(2) to (4) (which relate respectively to the compensation to be paid on the compulsory acquisition of houses subject to notices relating to the execution of works, of closed houses, and of houses unfit for human habitation)."

Section 212.

## SCHEDULE 10

### ENACTMENTS REPEALED

### PART I

*Enactments repealed as from the commencement of this Act*

| Session and Chapter | Short Title | Extent of Repeal |
|---|---|---|
| 14 Geo. 6. c. 34. | The Housing (Scotland) Act 1950. | Sections 2 to 4.<br>Sections 6 to 22.<br>Sections 24 to 73.<br>In section 74, the words " may in giving consent impose such conditions, and ".<br>Sections 79 to 82.<br>In section 83, the words from " and accordingly " to the end of the section.<br>In section 121, subsections (1) and (2).<br>Section 131.<br>In section 132, the words " V and " and the words " and section one hundred and thirty-one ".<br>Sections 133 and 134.<br>Section 136.<br>Sections 143 and 144.<br>Sections 146 to 166.<br>Sections 169 to 172.<br>Section 177.<br>Section 181.<br>Section 185.<br>In section 186, subsections (3) and (5).<br>In section 187(1), the words from " and in the case " to " Part IV of this Act ".<br>Schedules 1 to 3.<br>In Schedule 4, paragraphs 1, 2, 4, 5 and 6.<br>Schedule 5.<br>Schedules 11 and 12.<br>In Schedule 13, Part II. |
| 15 & 16 Geo. 6. and 1 Eliz. 2. c. 63. | The Housing (Scotland) Act 1952. | In section 2, subsection (2).<br>Section 8.<br>In section 9, subsection (5). |
| 2 & 3 Eliz. 2. c. 50. | The Housing (Repairs and Rents) (Scotland) Act 1954. | Sections 1 to 3.<br>Sections 6 to 8.<br>In section 11, subsections (2) and (3).<br>Section 13.<br>In section 14, subsection (3).<br>In section 15, subsection (2) and, in subsection (3), paragraph (*b*).<br>In section 41(1), the words " subsection (1) of section seven ".<br>In section 44(3), the words " subsection (6) of section six of this Act, and to ". |

SCH. 10

| Session and Chapter | Short Title | Extent of Repeal |
|---|---|---|
| 2 & 3 Eliz. 2. c. 73. | The Town and Country Planning (Scotland) Act 1954. | Section 39. |
| 5 & 6 Eliz. 2. c. 25. | The Rent Act 1957. | In section 11, subsection (6). |
| 5 & 6 Eliz. 2. c. 38. | The Housing and Town Development (Scotland) Act 1957. | Section 20.<br>Section 22.<br>In Schedule 1, paragraphs 1 and 7. |
| 7 & 8 Eliz. 2. c. 70. | The Town and Country Planning (Scotland) Act 1959. | In section 27, paragraph (*a*) of subsection (5). |
| 9 & 10 Eliz. 2. c. 65. | The Housing Act 1961. | Sections 12 to 19.<br>Sections 21 to 23.<br>Section 28. |
| 10 & 11 Eliz. 2. c. 28. | The Housing (Scotland) Act 1962. | In section 14, subsection (1).<br>Sections 21 to 31.<br>Section 33.<br>In section 34, subsections (2) and (3).<br>In section 35(1), the words " in the case of those in Part II, modifications relating to houses unfit for human habitation ".<br>In Schedule 4, paragraphs 1, 9 to 25, 27 to 30 and 35. |
| 1964 c. 56. | The Housing Act 1964. | Sections 13 to 19.<br>Sections 22 to 28.<br>Section 31.<br>Sections 33 and 34.<br>Section 36.<br>Sections 38 to 44.<br>Sections 58 and 59.<br>Sections 64 to 84.<br>Sections 86 to 91.<br>In section 99, subsections (1) to (3) and subsections (5) and (6).<br>Section 102.<br>Section 103, except subsection (1).<br>In section 107, paragraphs (*d*), (*e*) and (*f*).<br>Schedules 3 and 4. |
| 1965 c. 67. | The Hire-Purchase (Scotland) Act 1965. | In Schedule 5, the amendment of the Housing (Scotland) Act 1950. |

PART II

*Enactments repealed as from the appointed day*

| Session and Chapter | Short Title | Extent of Repeal |
|---|---|---|
| 3 Edw. 7. c. 33. | The Burgh Police (Scotland) Act 1903. | Sections 67 and 68. |
| 20 & 21 Geo. 5. c. 40. | The Housing (Scotland) Act 1930. | In section 7, in subsection (1), paragraph (iv), and subsection (3). |