

Land Commission (Dissolution) Act 1971

1971 CHAPTER 18

An Act to abolish betterment levy and dissolve the Land Commission; and for purposes connected therewith.

[8th April 1971]

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:—

Abolition of betterment levy and dissolution of Land Commission.

1.—(1) Betterment levy shall not be charged in respect of any act or event occurring after 22nd July 1970.

(2) On such day as the Secretary of State may by order made by statutory instrument appoint (in this Act referred to as the appointed day) the Land Commission shall cease to exist.

(3) There are hereby transferred to the Secretary of State, as from the appointed day, all functions conferred on the Land Commission by or under the Land Commission Act 1967 or any other enactment and all property, rights and liabilities to which the Land Commission is entitled or subject immediately before the appointed day; and accordingly as from that day any enactment passed or instrument made before that day shall have effect, except in relation to anything done before the appointed day, as if for any reference to the Land Commission there were substituted a reference to the Secretary of State.

1967 c. 1.

(4) There shall be made in the Land Commission Act 1967 the amendments and repeals specified in Parts I and II of Schedule 1 to this Act; and as from the appointed day that Act as so amended, and construed in accordance with subsection (3) of this section, shall have effect subject to the further repeals specified in Part III of that Schedule and to the other provisions of this Act.

(5) A certificate signed by or on behalf of the Secretary of State that any instrument purporting to be made or issued by or on behalf of the Land Commission was so made or issued shall be conclusive evidence of that fact; and any document purporting to be such a certificate shall be deemed to be such a certificate unless the contrary is shown.

Winding-up of Land Acquisition and Management Fund. 1967 c. 1.

2.—(1) On the appointed day the Land Acquisition and Management Fund established under section 2 of the Land Commission Act 1967 shall be wound up, and—

(*a*) any balance standing to its credit shall be paid into the Consolidated Fund; and

(*b*) any liability of the Land Commission in respect of sums advanced to the Commission out of the National Loans Fund shall be extinguished.

(2) All sums received by the Secretary of State in the exercise of the functions transferred to him by section 1 of this Act shall be paid into the Consolidated Fund after deducting therefrom any sums required to be refunded under Part III of the Land Commission Act 1967; and any sums payable by him in the exercise of those functions shall be paid out of moneys provided by Parliament.

Disposal of land acquired under Land Commission Act 1967.

3.—(1) The Secretary of State (or, before the appointed day, the Land Commission) shall dispose of any land acquired under section 6 of the Land Commission Act 1967 at such time and on such terms as appear to the Secretary of State or Commission expedient in the public interest; and no further compulsory purchase order or agreement to acquire land shall be made in exercise of the powers conferred by that section (without prejudice, however, to any power to act on any such order or agreement made before the passing of this Act).

(2) If it appears to the Secretary of State (or, before the appointed day, to the Land Commission) that the disposal of any land in pursuance of the preceding subsection would be facilitated by the disposal, together with it, of other land which is contiguous or adjacent to it, the Secretary of State or Commission may acquire that other land by agreement.

Any expenses incurred under this subsection shall be defrayed out of moneys provided by Parliament.

(3) In this section "land" includes any interest in or right over land.

Power to compensate members of Land Commission for loss of office.

4. If it appears to the Secretary of State that a person who on the appointed day ceases to be a member of the Land Commission should receive compensation for loss of office, he may pay to him out of moneys provided by Parliament such sum as he may with the approval of the Minister for the Civil Service determine.

Power to repeal remaining provisions of Land Commission Act 1967. 1967 c. 1.

5.—(1) When it appears to the Secretary of State that the provisions of the Land Commission Act 1967 which are not repealed by this Act can have no further application he may by order made by statutory instrument repeal those provisions.

(2) An order under this section may make such amendments and repeals in any other enactment as appear to the Secretary of State appropriate in consequence of the repeal of the Land Commission Act 1967.

(3) A draft of any statutory instrument to be made under this section shall be laid before Parliament.

Consequential amendments and repeals.

6.—(1) The enactments mentioned in Schedule 2 to this Act shall have effect subject to the amendments specified in that Schedule.

(2) The enactments mentioned in Part I of Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Part; and the enactments mentioned in Part II of that Schedule are hereby repealed, as from the appointed day, to the extent specified in the third column of that Part.

Short title, interpretation and extent. 1957 c. 20.

7.—(1) This Act may be cited as the Land Commission (Dissolution) Act 1971.

(2) In this Act " the appointed day " has the meaning assigned to it by section 1(2) of this Act.

(3) This Act, except in so far as it repeals section 1(5) of the Land Commission Act 1967 and the words inserted by that section in the House of Commons Disqualification Act 1957 does not extend to Northern Ireland.

SCHEDULES

Section 1(4).

SCHEDULE 1

1967 c. 1.

AMENDMENTS AND REPEALS IN LAND COMMISSION ACT 1967

PART I

AMENDMENTS

1. The words "and before 23rd July 1970" shall be inserted after the words "after the first appointed day" in the following sections:—

27(1)
27(3)
37(1)
37(2)
40(1)
41(1).

2. In paragraph 44 of Schedule 4 the following shall be inserted after sub-paragraph (1)(*a*):—

"(*aa*) in the payment of any consideration for a disposition made after 22nd July 1970 which, if made before 23rd July 1970, would have constituted a chargeable act or event falling within Case E, or".

3. In paragraph 32 of Schedule 5 there shall be added—

(*a*) at the end of sub-paragraph (1)(*b*) the words "or would, if made before 23rd July 1970, have constituted a chargeable act or event and is notified to the Commission"; and

(*b*) at the end of sub-paragraph (2) the words "but where the preceding sub-paragraph applies in relation to an assignment made after 22nd July 1970, paragraph 25 of this Schedule shall apply as if levy had remained chargeable in respect of acts or events occurring after that date, and notwithstanding that the assignment is not a disposition falling within paragraph 23(*b*) of this Schedule".

PART II

REPEALS TAKING EFFECT ON PASSING OF ACT

Section 6.

In section 7, in subsection (1) the words "and to section 8 of this Act", and subsections (2) to (4).

Section 8.

Sections 17 to 22.

In section 26, in subsection (1) the definitions of "Crownhold disposition" and "the current development plan", and subsection (2).

Sections 38 and 39.

Section 60.

Sections 61 to 63. SCH. 1
Section 80.
Section 81(1).
Schedule 2.

PART III

REPEALS TAKING EFFECT ON APPOINTED DAY

Part I.

In section 12, subsections (2) and (3), and in subsection (5) the words " the Commission or " in the second place where they occur.

Section 13.

In section 16, in subsection (1) the words " and to directions under section 1 of this Act " ; subsections (2) to (4) ; and in subsection (5) the words from " but where " to the end.

Schedule 1.

SCHEDULE 2

Section 6(1).

AMENDMENTS OF OTHER ENACTMENTS

The Town and Country Planning Act 1968 1968 c. 72.

1.—(1) In subsection (1) of section 67 of the Town and Country Planning Act 1968 the words " (as defined in section 64(3) of the Land Commission Act 1967) " shall be omitted and after that subsection there shall be inserted the following :— 1967 c. 1.

" (1A) In subsection (1) above ' specified operation ' means any of the following, that is to say—

(*a*) any work of construction in the course of the erection of a building ;

(*b*) the digging of a trench which is to contain the foundations, or part of the foundations, of a building ;

(*c*) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph ;

(*d*) any operation in the course of laying out or constructing a road or part of a road ;

(*e*) any change in the use of any land, where that change constitutes material development.

(1B) In subsection (1A) above ' material development ' means any development other than—

(*a*) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply

SCH. 2

with any condition or limitation subject to which planning permission is so granted;

(*b*) development falling within any of paragraphs 1, 2, 3 and 5 to 8 of Schedule 3 to the principal Act, as read with Part III of that Schedule and with section 1(4) of the Town and Country Planning Act 1963; and

1963 c. 17.

(*c*) development of any class prescribed for the purposes of this subsection;

and in this subsection 'general development order' means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in England and Wales."

(2) Until the coming into force of the first regulations to be made for the purposes of subsection (1B) inserted by the preceding subparagraph regulations made for the purposes of section 99(2) of the Land Commission Act 1967 shall have effect as if made also for the purposes of subsection (1B).

1967 c. 1.

1968 c. 72.

2.—(1) For paragraph 9 of Schedule 3 to the Town and Country Planning Act 1968 there shall be substituted the following paragraph:—

"9. The supplementary provisions contained in Schedule 3A to this Act shall have effect for the purposes of paragraphs 6 to 8 above."

(2) After that Schedule there shall be inserted the Schedule set out in Appendix A to this Schedule.

1969 c. 30.

The Town and Country Planning (Scotland) Act 1969

3.—(1) In subsection (1) of section 68 of the Town and Country Planning (Scotland) Act 1969 the words "(as defined in section 64(3) of the Land Commission Act 1967)" shall be omitted and after that subsection there shall be inserted the following:—

"(1A) In subsection (1) above 'specified operation' means any of the following, that is to say—

(*a*) any work of construction in the course of the erection of a building;

(*b*) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

(*c*) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph;

(*d*) any operation in the course of laying out or constructing a road or part of a road;

(*e*) any change in the use of any land, where that change constitutes material development.

(1B) In subsection (1A)(*e*) above, 'material development' means any development other than— SCH. 2

(*a*) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted ;

(*b*) development falling within Part I, or within paragraph 1 or any of paragraphs 3 to 7 of Part II of Schedule 3 to the Act of 1947, as read with Part III of that Schedule, subsections (2) and (3) of section 108 of that Act and section 2(5) of the Town and Country Planning Act 1963 ; and 1963 c. 17.

(*c*) development of any class prescribed for the purposes of this subsection ;

and in this subsection 'general development order' means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in Scotland."

(2) Until the coming into force of the first regulations to be made for the purposes of subsection (1B) inserted by the preceding sub-paragraph regulations made for the purposes of section 99(2) of the Land Commission Act 1967 shall have effect as if made also for the purposes of subsection (1B). 1967 c. 1.

4.—(1) For paragraph 9 of Schedule 2 to the Town and Country Planning (Scotland) Act 1969 there shall be substituted the following paragraph:— 1969 c. 30.

"9. The supplementary provisions contained in Schedule 2A to this Act shall have effect for the purposes of paragraphs 6 to 8 above."

(2) After that Schedule there shall be inserted the Schedule set out in Appendix B to this Schedule.

The Transport (London) Act 1969 1969 c. 35.

5. In paragraph 12(2) of Schedule 5 to the Transport (London) Act 1969 for the words "section 64(3) of the Land Commission Act 1967" there shall be substituted the words "section 67(1) of the Town and Country Planning Act 1968". 1968 c. 72.

SCH. 2

APPENDIX A

NEW SCHEDULE INSERTED IN TOWN AND COUNTRY PLANNING ACT 1968

SCHEDULE 3A

SUPPLEMENTARY PROVISIONS AS TO GENERAL VESTING DECLARATIONS

1965 c. 56.

Exclusion of power of entry under Compulsory Purchase Act 1965

1. Section 11(1) of the Compulsory Purchase Act 1965 (power to enter upon land after service of notice to treat) shall not apply to land specified in a general vesting declaration under this Act.

Restriction on withdrawal of constructive notice to treat

1961 c. 33.

2. The power conferred by section 31 of the Land Compensation Act 1961 to withdraw a notice to treat shall not be exercisable in respect of a notice to treat which is deemed to be served under paragraphs 6 to 8 of Schedule 3 to this Act, at any time after the interest in respect of which the notice is deemed to be served is vested in an acquiring authority by virtue of paragraph 7 of that Schedule.

Objection to severance

3. Section 8(1) of the Compulsory Purchase Act 1965 shall not apply to land in respect of which a general vesting declaration is made under this Act.

4.—(1) If a general vesting declaration under this Act comprises part only of a house, building or factory, or of a park or garden belonging to a house, any person who is able to sell the whole of the house, building, factory, park or garden may by notice served on the acquiring authority (in this Schedule referred to as a notice of objection to severance) require them to purchase his interest in the whole.

(2) Except as provided by paragraph 12 of this Schedule, a notice of objection to severance served by any person shall not have effect if it is served more than twenty-eight days after the date on which the notice required by paragraph 4 of Schedule 3 to this Act is served on him.

5. Where a notice of objection to severance is served in respect of a person's interest in any land (in this Schedule referred to as land proposed to be severed) and is so served within the time allowed in accordance with paragraph 4(2) of this Schedule, then, notwithstanding anything in paragraph 7 of Schedule 3 to this Act,—

(*a*) that interest shall not vest in the acquiring authority, and

(*b*) if he is entitled to possession of that land, the acquiring authority shall not be entitled to enter upon or take possession of it,

until the notice has been disposed of in accordance with the following provisions of this Schedule.

6. Within three months after a person has served on an acquiring authority a notice of objection to severance, the authority shall either—

(*a*) serve notice on him withdrawing the notice to treat deemed to have been served on him in respect of his interest in the land proposed to be severed, or

(*b*) serve notice on him that the general vesting declaration shall have effect in relation to his interest in the land proposed to be severed, as if the whole of that land had been comprised in the declaration (and in the compulsory purchase order, if part only of that land was comprised in that order), or

(*c*) refer the notice of objection to severance to the Lands Tribunal and notify him that it has been so referred.

7. If the acquiring authority do not take action in accordance with the last preceding paragraph within the period allowed by that paragraph then at the end of that period they shall be deemed to have acted in accordance with sub-paragraph (*a*) of that paragraph.

8. Where in accordance with paragraph 6 or paragraph 7 of this Schedule the notice to treat deemed to have been served in respect of a person's interest in the land proposed to be severed is withdrawn, or is deemed to have been withdrawn,—

(*a*) that interest shall not vest in the acquiring authority by virtue of the general vesting declaration, and

(*b*) if he is entitled to possession of that land, the acquiring authority shall not be entitled by virtue of that declaration to enter upon or take possession of it.

9. Where an acquiring authority take action in accordance with sub-paragraph (*b*) of paragraph 6 of this Schedule, the general vesting declaration (and, where applicable, the compulsory purchase order) shall have effect as mentioned in that sub-paragraph, whether apart from this Schedule the acquiring authority could have been authorised to acquire the interest in question in the whole of the land proposed to be severed or not.

10. Where in accordance with paragraph 6(*c*) of this Schedule an acquiring authority refer a notice of objection to severance to the Lands Tribunal, and on that reference the Tribunal determines that the part of the land proposed to be severed which is comprised in the general vesting declaration can be taken—

(*a*) in the case of a house, building or factory, without material detriment, or

SCH. 2

(*b*) in the case of a park or garden, without seriously affecting the amenity or convenience of the house,

paragraph 5 of this Schedule shall thereupon cease to have effect in relation to that notice.

11.—(1) If on such a reference the Lands Tribunal does not make a determination in accordance with the last preceding paragraph, the Tribunal shall determine the area of that land (being the whole of it or a part of it which includes the part comprised in the general vesting declaration) which the acquiring authority ought to be required to take ; and the general vesting declaration shall have effect, in relation to the interest in that area of the person who served the notice of objection to severance, as if the whole of that area had been comprised in the general vesting declaration, whether apart from this Schedule the acquiring authority could have been authorised to acquire that interest in the whole of that area or not.

(2) Where the preceding sub-paragraph applies, and part of the area determined by the Lands Tribunal was not comprised in the compulsory purchase order, the general vesting declaration shall have effect as mentioned in that sub-paragraph as if the whole of that area had been comprised in the compulsory purchase order as well as in the declaration.

12.—(1) Where in accordance with paragraph 4(1) of this Schedule a person is entitled to serve a notice of objection to severance, and it is proved—

(*a*) that he never received the notice required by paragraph 4 of Schedule 3 to this Act to be served on him, or received that notice less than twenty-eight days before, or on or after, the date on which the period specified in the general vesting declaration expired, and

(*b*) that a notice of objection to severance served by him was served not more than twenty-eight days after the date on which he first had knowledge of the execution of the general vesting declaration,

that notice shall have effect notwithstanding that it is served after the time allowed in accordance with paragraph 4(2) of this Schedule has expired.

(2) Where in the circumstances specified in the preceding sub-paragraph, a person serves a notice of objection to severance after the end of the period specified in the general vesting declaration,—

(*a*) paragraphs 5 and 8 of this Schedule shall not have effect in relation to that notice ;

(*b*) paragraph 6 of this Schedule shall have effect in relation to that notice as if sub-paragraph (*a*) of that paragraph were omitted ;

(*c*) paragraph 7 of this Schedule shall have effect in relation to that notice with the substitution, for the words "sub-paragraph (*a*)", of the words "sub-paragraph (*b*)" ; and

(*d*) paragraph 10 of this Schedule shall not have effect in relation to that notice, but without prejudice to the making by the Tribunal of any such determination as is mentioned in that paragraph. SCH. 2

Compensation

13. Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority by virtue of paragraphs 6 to 8 of Schedule 3 to this Act, the acquiring authority shall be liable to pay the like compensation, and the like interest on the compensation agreed or awarded, as they would have been required to pay if they had taken possession of the land under section 11(1) of the Compulsory Purchase Act 1965. 1965 c. 56.

14. Section 22 of the Compulsory Purchase Act 1965 and Schedule 2 to that Act (absent and untraced owners) shall not apply to the compensation to be paid for any interest in land in respect of which a notice to treat is deemed to have been served by virtue of paragraphs 6 to 8 of Schedule 3 to this Act.

Rentcharges and tenancies

15.—(1) Where land specified in a general vesting declaration under this Act is, together with other land not so specified, charged with a rentcharge, such proportion of the rentcharge as may be apportioned under section 18 of the Compulsory Purchase Act 1965 to the first-mentioned land shall, subject to sub-paragraph (3) of this paragraph, be treated as having been extinguished by virtue of paragraphs 6 to 8 of Schedule 3 to this Act on the vesting of that land in an acquiring authority under those paragraphs.

(2) Where by virtue of the preceding sub-paragraph a portion of the rentcharge is treated as having been extinguished, the provisions of section 18 of the Compulsory Purchase Act 1965 shall have effect as if the extinguishment had taken place under that section.

(3) If, in the circumstances described in sub-paragraph (1) of this paragraph, the person entitled to the rentcharge and the owner of the land subject thereto enter into an agreement to that effect, the said section 18 shall have effect as if, at the time of the vesting of the land in the acquiring authority under paragraphs 6 to 8 of Schedule 3 to this Act, the person entitled to the rentcharge had released that land from the rentcharge on the condition mentioned in subsection (2) of that section; and in that case no part of the rentcharge shall be treated as having been extinguished as regards the remaining part of the land charged therewith.

(4) In this paragraph "rentcharge" has the same meaning as in section 18 of the Compulsory Purchase Act 1965.

16. Where land specified in a general vesting declaration under this Act is, together with other land not so specified, comprised in a tenancy for a term of years unexpired, section 19 of the Compulsory Purchase Act 1965 shall have effect in relation thereto as

SCH. 2

if for references to the time of the apportionment of rent therein mentioned there were substituted references to the time of the vesting of the tenancy in the acquiring authority.

17. Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority under paragraphs 6 to 8 of Schedule 3 to this Act, any person who, in consequence thereof, is relieved from any liability (whether in respect of a rentcharge, rent under a tenancy, mortgage interest or any other matter) and makes any payment as in satisfaction or in part satisfaction of that liability shall, if he shows that when he made the payment he did not know of the facts which constituted the cause of his being so relieved, or of one or more of those facts, be entitled to recover the sum paid as money had and received to his use by the person to whom it was paid.

Miscellaneous

18. Where, after land has become vested in an acquiring authority under paragraphs 6 to 8 of Schedule 3 to this Act, a person retains possession of any document relating to the title to the land, he shall be deemed to have given to the acquiring authority an acknowledgment in writing of the right of the authority to production of that document and to delivery of copies thereof and (except where he retains possession of the document as mortgagee or trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof; and section 64 of the Law of Property Act 1925 shall have effect accordingly, and on the basis that the acknowledgment and undertaking did not contain any such expression of contrary intention as is mentioned in that section.

1925 c. 20.

19.—(1) The time within which a question of disputed compensation arising out of an acquisition of an interest in land in respect of which a notice to treat is deemed to have been served by virtue of paragraphs 6 to 8 of Schedule 3 to this Act may be referred to the Lands Tribunal shall be six years from the date at which the person claiming compensation, or a person under whom he derives title, first knew, or could reasonably be expected to have known of the vesting of the interest by virtue of those paragraphs.

(2) This paragraph shall be construed as one with Part I of the Limitation Act 1939.

1939 c. 21.

20. In this Schedule " land " has the same meaning as in Schedule 3 to this Act.

APPENDIX B

Sch. 2

NEW SCHEDULE INSERTED IN TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

1969 c. 30.

SCHEDULE 2A

SUPPLEMENTARY PROVISIONS AS TO GENERAL VESTING DECLARATIONS

Exclusion of power of entry under the Acquisition Act 1947

1. Paragraph 3 of Schedule 2 to the Acquisition Act 1947 (power to enter upon land after service of notice to treat) shall not apply to land specified in a general vesting declaration under this Act.

Restriction on withdrawal of constructive notice to treat

2. The power conferred by section 39 of the Land Compensation (Scotland) Act 1963 to withdraw notice to treat shall not be exercisable, in respect of a notice to treat which is deemed to be served under paragraphs 6 to 8 of Schedule 2 to this Act, at any time after the interest in respect of which the notice is deemed to be served has vested in an acquiring authority by virtue of paragraph 7 of that Schedule.

1963 c. 51.

Objection to severance

3. Paragraph 4 of Schedule 2 to the Acquisition Act 1947 shall not apply to land in respect of which a general vesting declaration is made under this Act.

4.—(1) If a general vesting declaration under this Act comprises part only of a house, building or factory, or of a park or garden belonging to a house, any person who is able to sell the whole of the house, building, factory, park or garden may by notice served on the acquiring authority (in this Schedule referred to as a "notice of objection to severance") require them to purchase his interest in the whole.

(2) Except as provided by paragraph 13 of this Schedule, a notice of objection to severance served by any person shall not have effect if it is served more than twenty-eight days after the date on which the notice required by paragraph 4 of Schedule 2 to this Act is served on him.

5. Where a notice of objection to severance is served in respect of a person's interest in any land (in this Schedule referred to as "the land proposed to be severed"), and is so served within the time allowed in accordance with paragraph 4(2) of this Schedule, then, notwithstanding anything in paragraph 7 of Schedule 2 to this Act,—

(*a*) that interest shall not vest in the acquiring authority, and

SCH. 2

(*b*) if he is entitled to possession of that land, the acquiring authority shall not be entitled to enter upon or take possession of it,

until the notice has been disposed of in accordance with the following provisions of this Schedule.

6. Within three months after a person has served on an acquiring authority a notice of objection to severance, the acquiring authority shall either—

(*a*) serve notice on him withdrawing the notice to treat deemed to have been served on him in respect of his interest in the land proposed to be severed, or

(*b*) serve notice on him that the general vesting declaration shall have effect, in relation to his interest in the land proposed to be severed, as if the whole of that land had been comprised in the declaration (and in the compulsory purchase order, if part only of that land was comprised in that order), or

(*c*) refer the notice of objection to severance to the Lands Tribunal and notify him that it has been so referred.

7. If the acquiring authority do not take action in accordance with the last preceding paragraph within the period allowed by that paragraph, then at the end of that period they shall be deemed to have acted in accordance with sub-paragraph (*a*) of that paragraph.

8. Where in accordance with paragraph 6 or paragraph 7 of this Schedule the notice to treat deemed to have been served in respect of a person's interest in the land proposed to be severed is withdrawn, or is deemed to have been withdrawn,—

(*a*) that interest shall not vest in the acquiring authority by virtue of the general vesting declaration, and

(*b*) if he is entitled to possession of that land, the acquiring authority shall not be entitled by virtue of that declaration to enter upon or take possession of it.

9. Where an acquiring authority take action in accordance with sub-paragraph (*b*) of paragraph 6 of this Schedule, the general vesting declaration (and, where applicable, the compulsory purchase order) shall have effect as mentioned in that sub-paragraph, whether apart from this Schedule the acquiring authority could have been authorised to acquire the interest in question in the whole of the land proposed to be severed or not.

10. Where in accordance with paragraph 6(*c*) of this Schedule an acquiring authority refer a notice of objection to severance to the Lands Tribunal, and on that reference the Tribunal determines that the part of the land proposed to be severed which is comprised in the general vesting declaration can be taken—

(*a*) in the case of a house, building or factory, without material detriment, or

(*b*) in the case of a park or garden, without seriously affecting the amenity or convenience of the house,

paragraph 5 of this Schedule shall thereupon cease to have effect in relation to that notice.

11.—(1) If on such a reference the Lands Tribunal does not make a determination in accordance with the last preceding paragraph, the Tribunal shall determine the area of that land (being the whole of it or a part of it which includes the part comprised in the general vesting declaration) which the acquiring authority ought to be required to take; and the general vesting declaration shall have effect, in relation to the interest in that area of the person who served the notice of objection to severance, as if the whole of that area had been comprised in the general vesting declaration, whether apart from this Schedule the acquiring authority could have been authorised to acquire that interest in the whole of that area or not.

(2) Where the preceding sub-paragraph applies, and part of the area determined by the Lands Tribunal was not comprised in the compulsory purchase order, the general vesting declaration shall have effect as mentioned in the preceding sub-paragraph as if the whole of that area had been comprised in the compulsory purchase order as well as in the declaration.

12. Where by virtue of paragraph 6(*a*), 7, 9 or 11 of this Schedule a general vesting declaration is to have effect in relation to a different area of land than that originally comprised in the declaration, the acquiring authority shall alter accordingly the description of the land affected by the declaration.

13.—(1) Where in accordance with paragraph 4(1) of this Schedule a person is entitled to serve a notice of objection to severance, and it is proved—

(*a*) that he never received the notice required by paragraph 4 of Schedule 2 to this Act to be served on him, or received that notice less than twenty-eight days before, or on or after, the date on which the period specified in the general vesting declaration expired, and

(*b*) that a notice of objection to severance served by him was served not more than twenty-eight days after the date on which he first had knowledge of the execution of the general vesting declaration,

that notice shall have effect notwithstanding that it is served after the time allowed in accordance with paragraph 4(2) of this Schedule has expired.

(2) Where, in the circumstances specified in the preceding sub-paragraph, a person serves a notice of objection to severance after the end of the period specified in the general vesting declaration,—

(*a*) paragraphs 5 and 8 of this Schedule shall not have effect in relation to that notice;

SCH. 2

(*b*) paragraph 6 of this Schedule shall have effect in relation to that notice as if sub-paragraph (*a*) of that paragraph were omitted;

(*c*) paragraph 7 of this Schedule shall have effect in relation to that notice with the substitution, for the words "sub-paragraph (*a*)", of the words "sub-paragraph (*b*)"; and

(*d*) paragraph 10 of this Schedule shall not have effect in relation to that notice, but without prejudice to the making by the Tribunal of any such determination as is mentioned in that paragraph.

Compensation

14. Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority by virtue of paragraphs 6 to 8 of Schedule 2 to this Act, the acquiring authority shall be liable to pay the like compensation, and the like interest on the compensation agreed or awarded, as they would have been required to pay if they had taken possession of the land under paragraph 3 of Schedule 2 to the Acquisition Act 1947.

1845 c. 19.

15. Sections 56 to 60 and sections 63 to 66 of the Lands Clauses Consolidation (Scotland) Act 1845 (absent and untraced owners) and sections 117 to 119 of the said Act (interests omitted from purchase) shall not apply to the compensation to be paid for any interest in land in respect of which a notice to treat is deemed to have been served by virtue of paragraphs 6 to 8 of Schedule 2 to this Act.

Charges and tenancies

16.—(1) Where land specified in a general vesting declaration under this Act is, together with other land not so specified, charged with a charge, such proportion of the charge as may be apportioned under section 109 of the Lands Clauses Consolidation (Scotland) Act 1845, to the first mentioned land shall, subject to sub-paragraph (3) of this paragraph, be treated as having been extinguished by virtue of paragraphs 6 to 8 of Schedule 2 to this Act on the vesting of that land in the acquiring authority under those paragraphs.

(2) Where by virtue of the preceding sub-paragraph a portion of a charge is treated as having been extinguished, the provisions of sections 108 to 111 of the said Act of 1845 shall have effect as if the extinguishment had taken place under section 110 of that Act.

(3) If, in the circumstances described in sub-paragraph (1) of this paragraph, the person entitled to the charge and the owner of the land subject thereto enter into an agreement to that effect, the said sections 108 to 111, shall have effect as if, at the time of the vesting of the land in the acquiring authority under paragraphs 6 to 8 of Schedule 2 to this Act, the person entitled to the charge had released that land from the charge on the condition mentioned in section 109 of the said Act of 1845; and in that case no part of the

charge shall be treated as having been extinguished as regards the remaining part of the land charged therewith. SCH. 2

(4) In this paragraph " charge " means any such feu-duty, ground annual or rent or other payment or incumbrance as is mentioned in the words introductory to sections 107 to 111 of the said Act of 1845.

17. Where land specified in a general vesting declaration under this Act is, together with other land not so specified, comprised in a tenancy for a term of years unexpired, section 112 of the Lands Clauses Consolidation (Scotland) Act 1845, shall have effect in relation thereto as if for references to the time of the apportionment of rent therein mentioned there were substituted references to the time of the vesting of the tenancy in the acquiring authority. 1845 c. 19.

18. Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority under paragraphs 6 to 8 of Schedule 2 to this Act, any person who, in consequence thereof, is relieved from any liability (whether in respect of a feu-duty, ground annual, rent, interest on a heritable security or any other payment) and makes any payment as in satisfaction or part satisfaction of that liability shall, if he shows that when he made the payment he did not know of the facts which constituted the cause of his being so relieved, or of one or more of those facts, be entitled to recover the sum paid from the person to whom it was paid.

Miscellaneous

19. Where, after land has become vested in an acquiring authority under paragraphs 6 to 8 of Schedule 2 to this Act, a person retains possession of any document relating to the title to the land, he shall be deemed to have given to the acquiring authority an acknowledgment in writing of the right of the acquiring authority to production of that document and to delivery of copies thereof and (except where he retains possession of the document as heritable creditor or as trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof.

20.—(1) The time within which a question of disputed compensation, arising out of an acquisition of an interest in land in respect of which a notice to treat is deemed to have been served by virtue of paragraphs 6 to 8 of Schedule 2 to this Act, may be referred to the Lands Tribunal shall be six years from the date at which the person claiming compensation, or a person under whom he derives title, first knew, or could reasonably be expected to have known, of the vesting of the interest by virtue of those paragraphs.

(2) In reckoning the period of six years referred to in sub-paragraph (1) of this paragraph, no account shall be taken of any period during which the person claiming compensation or the person from whom he derives title was in minority or less age or was under legal disability.

SCH. 2

21. At the end of the period specified in a general vesting declaration, or if a notice of objection to severance is served under this Schedule, when that notice has been disposed of in accordance with the provisions of this Schedule, that declaration, if still being proceeded with or, as the case may be, that declaration as altered under paragraph 12 of this Schedule, shall be recorded in the General Register of Sasines, and on being so recorded shall have the same effect as a conveyance registered in accordance with section 80 of the Lands Clauses Consolidation (Scotland) Act 1845.

1845 c. 19.

22. In this Schedule " land " has the same meaning as in Schedule 2 to this Act.

Section 6(2).

SCHEDULE 3

OTHER ENACTMENTS REPEALED

PART I

REPEALS TAKING EFFECT ON PASSING OF ACT

Chapter	Short Title	Extent of Repeal
1968 c. 72.	The Town and Country Planning Act 1968.	In section 67(1) the words from " as defined " to " 1967 ". In Schedule 9, paragraph 67.
1969 c. 30.	The Town and Country Planning (Scotland) Act 1969.	In section 68(1) the words from " (as defined " to " 1967) ". In Schedule 9, paragraph 45.

PART II

REPEALS TAKING EFFECT ON APPOINTED DAY

Chapter	Short Title	Extent of Repeal
1957 c. 20.	The House of Commons Disqualification Act 1957.	In Part II of Schedule 1, the words " The Land Commission.".
1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 2, the words 'Land Commission'.