# CHAPTER 38

## *Town and Country Planning Act, 1962*

### ARRANGEMENT OF SECTIONS

#### PART I

#### CENTRAL AND LOCAL ADMINISTRATION

Section.
1. The Minister.
2. Local planning authorities and committees.
3. Delegation of functions of local planning authorities.

#### PART II

#### DEVELOPMENT PLANS

4. Surveys of planning areas and preparation of development plans.
5. Approval of development plans.
6. Amendment of development plans.
7. Additional powers of Minister with respect to development plans.
8. Incorporation in development plans of orders and schemes relating to highways and new towns.
9. Modification of development plans in relation to land designated as subject to compulsory acquisition.
10. Supplementary provisions as to development plans.
11. Publication, and date of operation, of development plans.

#### PART III

#### PLANNING CONTROL

*Planning permission*

12. Meaning of " development " and " new development ".
13. Development requiring planning permission.
14. Development orders.
15. Publication of notices of applications for planning permission.
16. Notification of applications for planning permission to owners and agricultural tenants.
17. Determination by local planning authorities of applications for planning permission.
18. Conditional grant of planning permission.
19. Supplementary provisions as to applications for planning permission.
20. Permission to retain buildings or works or continue use of land.
21. Supplementary provisions as to effect of planning permission.

*Minister's powers in relation to planning applications and decisions*

22. Reference of planning applications to Minister.
23. Appeals against planning decisions.
24. Appeal in default of planning decision.
25. Review of planning decisions where compensation claimed.
26. Supplementary provisions as to review of planning decisions.

*Revocation or modification of planning permission*

27. Power to revoke or modify planning permission.

*Additional powers of control*

Section.
28. Orders requiring discontinuance of use or alteration or removal of buildings or works.
29. Tree preservation orders.
30. Building preservation orders.
31. Supplementary provisions as to building preservation orders.
32. Lists of buildings of special architectural or historic interest.
33. Effect of inclusion of building in a list under s. 32.
34. Control of advertisements.
35. Applications for planning permission not needed for advertisements complying with regulations.
36. Proper maintenance of waste land, etc.
37. Agreements regulating development or use of land.

*Special provisions as to industrial development*

38. Industrial development certificates.
39. Exemption of certain classes of development.
40. Provision for cases where industrial development certificate withheld.

*Special provisions as to local authorities and statutory undertakers*

41. Deemed planning permission.
42. Application of planning control to local planning authorities.

*Supplementary provisions*

43. Applications to determine whether planning permission required.
44. Appeal to independent tribunal.

PART IV

ENFORCEMENT OF PLANNING CONTROL

*Enforcement where planning permission required*

45. Power to serve enforcement notices.
46. Appeal to Minister against enforcement notice.
47. Penalties for non-compliance with enforcement notices.
48. Execution by local planning authority of work required by enforcement notice.
49. Supplementary provisions as to enforcement notices.
50. Effect of planning permission on enforcement notice.
51. Enforcement notice to have effect against subsequent development.

*Enforcement of control in respect of listed buildings*

52. Notice to enforce control under s. 33.
53. Appeal to Minister against notice under s. 52.
54. Execution by local planning authority of work required by notice under s. 52.
55. Supplementary provisions as to notices under s. 52.

*Enforcement of control under section* 36

56. Penalty for non-compliance with notice under s. 36.
57. Appeal to magistrates' court against notice under s. 36.
58. Further appeal to quarter sessions.

Section
59. Execution by local planning authority of work required by notice under s. 36.
60. Supplementary provisions as to notices under s. 36.

*Enforcement in other cases*

61. Enforcement of orders under s. 28.
62. Enforcement of tree and building preservation orders.
63. Enforcement of control of advertisements.

*Supplementary provisions*

64. Supplementary provisions as to appeals to Minister under Part IV.
65. Recovery of expenses of local planning authorities under Part IV.
66. Enforcement in relation to local planning authorities.

PART V

ACQUISITION AND APPROPRIATION OF LAND AND PROVISIONS RELATED THERETO

*Acquisition and appropriation of land*

67. Compulsory acquisition of designated land.
68. Compulsory acquisition of land for development.
69. Compulsory acquisition of building comprised in building preservation order.
70. Extinguishment of rights over land compulsorily acquired.
71. Acquisition of land by agreement.
72. Acquisition of land for purposes of exchange.
73. Appropriation of land for planning purposes.

*Expedited completion of compulsory acquisition*

74. Order providing for expedited completion.
75. General effect of order providing for expedited completion.
76. Special provisions as to certain tenancies.

*Powers exercisable in relation to land held for planning purposes, and other related powers*

77. Appropriation of land held for planning purposes.
78. Disposal of land held for planning purposes.
79. Development of land held for planning purposes.
80. Special provisions as to features and buildings of architectural or historic interest.
81. Power to override easements and other rights.
82. Use and development of consecrated land and burial grounds.
83. Use and development of land for open spaces.
84. Displacement of persons from land acquired or appropriated.
85. Constitution of joint body to hold land acquired for planning purposes.

*Supplementary provisions*

86. Modification of incorporated enactments for purposes of Part V.
87. Interpretation of Part V.

PART VI

COMPENSATION FOR PLANNING DECISIONS RESTRICTING NEW DEVELOPMENT

*Unexpended balance of established development value*

Section
88. Scope of Part VI.
89. Derivation of unexpended balance from claims under Part VI of Act of 1947.
90. Original unexpended balance of established development value.
91. Claim holdings, their areas and values.
92. Adjustment of claim holdings.
93. General provision for continuance of original unexpended balance.
94. Reduction or extinguishment of balance in consequence of compensation.
95. Reduction or extinguishment of balance on initiation of new development.
96. Reduction or extinguishment of balance on acquisition of land under compulsory powers.
97. Reduction or extinguishment of balance in consequence of severance or injurious affection.
98. Supplementary provisions as to deductions from original balance.
99. Provision of information relating to unexpended balance.

*Right to compensation*

100. General provision as to right to compensation.
101. Planning decisions not ranking for compensation.
102. No compensation if certain other development permitted.
103. Further exclusions from compensation.
104. Grant of planning permission treated as subject to notional condition.
105. Notice under s. 40 treated as planning decision.

*Measure of compensation*

106. General provisions as to amount of compensation.
107. Assessment of depreciation.

*Claims for, and payment of, compensation*

108. General provisions as to claims for compensation.
109. Effect on claims of direction under s. 25.
110. Determination of claims.
111. Payment of compensation.

*Subsequent recovery of compensation*

112. Apportionment and registration of compensation.
113. Recovery of compensation on subsequent development.
114. Amount recoverable, and provisions for payment or remission thereof.
115. Amount recovered not to be deducted from unexpended balance.

*Supplementary provisions*

116. Mortgages, rentcharges and settlements.
117. Calculation of value.

PART VII

COMPENSATION FOR OTHER PLANNING RESTRICTIONS

*Revocation or modification of planning permission*

Section
118. Compensation where planning permission revoked or modified.
119. Application of s. 118 to special cases of refusal or conditional grant of planning permission.
120. Registration and apportionment of compensation for depreciation.
121. Exchequer contribution towards compensation in certain cases.
122. Recovery, on subsequent development, of compensation under s. 118.

*Other restrictions*

123. Compensation for planning decisions restricting development other than new development.
124. Compensation in respect of orders under s. 28.
125. Compensation in respect of tree and building preservation orders.
126. Compensation for restrictions on advertising.

*Supplementary provisions*

127. General provisions as to compensation for depreciation under Part VII.
128. Determination of claims for compensation.

PART VIII

PROVISIONS ENABLING OWNER TO REQUIRE PURCHASE OF HIS INTEREST

*Interests affected by planning decisions or orders*

129. Purchase notice on refusal or conditional grant of planning permission.
130. Action by council on whom purchase notice is served.
131. Procedure on reference of purchase notice to Minister.
132. Action by Minister in relation to purchase notice.
133. Effect of Minister's action in relation to purchase notice.
134. Special provisions as to compensation where purchase notice served.
135. Purchase notice in respect of order revoking or modifying planning permission.
136. Purchase notice in respect of order requiring discontinuance of use or alteration or removal of buildings or works.
137. Purchase notices in other cases.

*Interests of owner-occupiers affected by planning proposals*

138. Scope of these provisions.
139. Notice requiring purchase of claimant's interest.
140. Objection to notice requiring purchase of claimant's interest.
141. Reference of objection to Lands Tribunal.
142. Effect of valid notice requiring purchase.
143. Compensation for acquisition in pursuance of notice requiring purchase.
144. Withdrawal of notice requiring purchase.
145. Effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire.

146. Death of claimant after service of notice requiring purchase.
147. "Appropriate authority" for purposes of these provisions.
148. "Appropriate enactment" for purposes of these provisions.
149. Meaning of "owner-occupier" and "resident owner-occupier".
150. General interpretation of these provisions.
151. Special provisions as to partnerships.

*Supplementary provisions*

152. No withdrawal of constructive notice to treat.

PART IX

HIGHWAYS

153. Stopping up and diversion of highways.
154. Procedure in relation to orders under s. 153.
155. Extinguishment of public rights of way over land held for planning purposes.
156. Compulsory acquisition of land in connection with highways.
157. Concurrent proceedings in connection with highways.
158. Provisions as to telegraphic lines.

PART X

STATUTORY UNDERTAKERS

*General provisions*

159. Planning permission to develop operational land.
160. Development requiring authorisation of government department.
161. Revocation or modification of permission to develop operational land.
162. Order requiring discontinuance of use etc. of operational land.
163. Acquisition of land of statutory undertakers.
164. Extinguishment of rights of way, and rights as to apparatus, of statutory undertakers.
165. Orders under s. 164.
166. Extension or modification of functions of statutory undertakers.
167. Procedure in relation to orders under s. 166.
168. Relief of statutory undertakers from obligations rendered impracticable.
169. Objections to orders under ss. 166 and 168.

*Compensation*

170. Right to compensation in respect of certain decisions and orders.
171. Measure of compensation to statutory undertakers.
172. Exclusion of s. 171 at option of statutory undertakers.
173. Procedure for assessing compensation where s. 171 applies.

*Supplementary provisions*

174. Special provisions as to display of advertisements on operational land.
175. Special provisions as to statutory undertakers who are local planning authorities.

PART XI

VALIDITY OF PLANNING INSTRUMENTS AND DECISIONS AND PROCEEDINGS RELATING THERETO

176. Validity of development plans and of certain orders, decisions and directions.
177. Validity of enforcement notices and similar notices.
178. Proceedings for questioning validity of development plans and of orders under ss. 153 and 168.
179. Proceedings for questioning validity of other orders, decisions and directions.
180. Appeals to High Court relating to enforcement notices and similar notices.
181. Appeals to High Court against decisions under s. 43.
182. Special provision as to decisions relating to statutory undertakers.
183. Special provisions as to orders subject to special parliamentary procedure.

PART XII

FINANCIAL PROVISIONS

184. Exchequer grants to local authorities.
185. Maximum amounts of grants.
186. Supplementary provisions as to Exchequer grants.
187. Loans to local authorities.
188. Contributions by Ministers towards compensation paid by local authorities.
189. Contributions by local authorities and statutory undertakers.
190. Recovery from acquiring authorities of sums paid by way of compensation.
191. Recovery from acquiring authorities of sums paid in respect of war-damaged land.
192. Sums recoverable from acquiring authorities reckonable for purposes of grant.
193. Expenses of government departments.
194. Repayment of sums issued out of Consolidated Fund in respect of certain payments.
195. General provision as to receipts of Minister.
196. Expenses of county councils.

PART XIII

APPLICATION OF ACT TO SPECIAL CASES

*Minerals*

197. Power to modify Act in relation to minerals.
198. Modification of Mines (Working Facilities and Support) Act, 1923.

*Crown land*

199. Exercise of powers in relation to Crown land.
200. Agreements relating to Crown land.
201. Supplementary provisions as to Crown and Duchy interests.

*London and Isles of Scilly*

Section
202. Application of Act to London.
203. Application of Act to Isles of Scilly.

*Other special cases*

204. National Coal Board.
205. Ecclesiastical property.
206. Settled land, and land of universities and colleges.

PART XIV

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

207. Default powers of Minister.
208. Recovery, on subsequent development, of payments in respect of war-damaged land.
209. Development charges.
210. Temporary provisions pending operation of development plans.
211. Rights of entry.
212. Supplementary provisions as to rights of entry.
213. Local inquiries.
214. Service of notices.
215. Power to require information as to interests in land.
216. Combined applications.
217. Regulations and orders.
218. Exercise of functions of Board of Trade.
219. Licensing planning areas.
220. Act not excluded by special enactments.
221. Interpretation.
222. Consequential amendments.
223. Savings, transitional provisions and repeals.
224. Saving for Interpretation Act, 1889, s. 38.
225. Commencement.
226. Short title and extent.

SCHEDULES:

First Schedule—Joint planning boards.

Second Schedule—Planning committees and joint advisory committees.

Third Schedule—Development not constituting new development.

Fourth Schedule—Further provisions with respect to orders providing for expedited completion.

Fifth Schedule—Adjustment of claim holdings.

Sixth Schedule—Calculation of value of previous development of land.

Seventh Schedule—Apportionment of unexpended balance of established development value.

Eighth Schedule—Provisions of Act referred to in sections 187, 196, 197, 203 to 205, 215 and 217.

Ninth Schedule—Provisions relating to London.

Tenth Schedule—Development charges.

Eleventh Schedule—Enactments excepted from s. 217 (5).

Twelfth Schedule—Enactments amended.

Thirteenth Schedule—Savings and transitional provisions relating to enactments previously repealed.

Fourteenth Schedule—Further savings and transitional provisions.

Fifteenth Schedule—Enactments repealed.

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An Act to consolidate certain enactments relating to town and country planning in England and Wales.

[19th July, 1962]

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

### CENTRAL AND LOCAL ADMINISTRATION

The Minister.

**1.** The Minister for the purposes of this Act shall be the Minister of Housing and Local Government, and the expression "the Minister" in this Act shall be construed accordingly.

Local planning authorities and committees.

**2.**—(1) Subject to the provisions of this section, the council of a county is the local planning authority for the county, and the council of a county borough is the local planning authority for the county borough.

(2) If it appears to the Minister that it is expedient that a joint board should be established as the local planning authority for the areas of any two or more such councils as are mentioned in the preceding subsection, or for any parts of those areas, he may by order constitute those areas or parts as a united district for the purposes of this Act, and constitute a joint board (in this Act referred to as a "joint planning board") as the local planning authority for that district:

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

(3) The provisions of the First Schedule to this Act shall have effect with respect to the constitution of joint planning boards; and the provisions of the Second Schedule to this Act shall have effect with respect to the establishment and functions of planning committees and joint advisory committees of local planning authorities.

PART I

(4) Where a joint planning board is constituted for a united district, references in this Act to the area of a local planning authority—

(*a*) in relation to the board, shall be construed as references to that district, and

(*b*) in relation to any local planning authority being the council of a county or county borough of which part (but not the whole) is included in that district, shall be construed as references to so much of the county or county borough as is not so included.

(5) Regulations under this Act may make such provision consequential upon or supplementary to the provisions of this section as appears to the Minister to be necessary or expedient.

(6) The preceding provisions of this section, and the provisions of the First and Second Schedules to this Act, shall have effect subject to the provisions of section eight of the National Parks and Access to the Countryside Act, 1949 (which relates to the administration of functions of local planning authorities in respect of National Parks).

Delegation of functions of local planning authorities.

**3.**—(1) The Minister may, after consultation with such local authorities or associations of local authorities as he considers appropriate, make regulations for authorising or requiring local planning authorities to delegate to the councils of county districts in their areas, with or without restrictions, any of their functions under the provisions of this Act specified in the next following subsection; and such regulations may be made so as to apply either generally to all local planning authorities (other than the councils of county boroughs) or to such of those authorities as may be specified in the regulations.

(2) The provisions referred to in the preceding subsection are Parts III and IV and section one hundred and eighty of this Act.

(3) In relation to a local planning authority being a joint planning board, subsection (1) of this section shall have effect as if the reference therein to the councils of county districts in their area included a reference to the councils of counties and county boroughs therein.

(4) Any regulations made for the purposes of this section may make provision—

(*a*) for requiring any council to whom functions are delegated in accordance with the regulations to perform those functions on behalf of the local planning authority;

(*b*) for transferring to any such council any liability of the local planning authority to pay compensation under Part VII, or under section one hundred and thirty-four or paragraph (*c*) of subsection (1) of section one hundred and seventy, of this Act in respect of anything

done by that council in the exercise of functions delegated to them in accordance with the regulations;

(*c*) for the transfer and compensation of any officers of a local planning authority or of any such council.

(5) The preceding provisions of this section shall have effect without prejudice to the provisions of subsection (3) of section eight of the National Parks and Access to the Countryside Act, 1949 (which provides for the delegation of functions to planning committees and sub-committees for National Parks).

(6) In relation to any functions under this Act delegated to a council by a local planning authority, any reference in the provisions specified in subsection (2) of this section, or in section two hundred and ten or subsection (4) of section two hundred and twenty-one of this Act, to the local planning authority shall (subject to the regulations and the terms of the delegation, and so far as the context does not otherwise require) be construed as including a reference to that council; and in relation to any compensation payable by a council, by virtue of the transfer under this section to that council of any liability of the local planning authority, any reference in this Act to the local planning authority shall be construed as a reference to that council.

## PART II

## DEVELOPMENT PLANS

Surveys of planning area and preparation of development plans.

**4.**—(1) Any local planning authority who have not submitted to the Minister a development plan for their area shall carry out a survey of their area and shall, within such period as the Minister may in any particular case allow, submit to the Minister a report of the survey together with a development plan for their area.

(2) Subject to the following provisions of this Part of this Act, in this Act "development plan" means a plan indicating the manner in which a local planning authority propose that land in their area should be used, whether by the carrying out thereon of development or otherwise, and the stages by which any such development should be carried out.

(3) Subject to the provisions of any regulations made under this Act for regulating the form and content of development plans, any such plan shall include such maps and such descriptive matter as may be necessary to illustrate the proposals in question with such degree of particularity as may be appropriate to different parts of the area; and any such plan may in particular—

(*a*) define the sites of proposed roads, public and other buildings and works, airfields, parks, pleasure grounds, nature reserves and other open spaces, or allocate areas of land for use for agricultural, residential, industrial or other purposes of any class specified in the plan;

(*b*) designate, as land subject to compulsory acquisition by a Minister, local authority or statutory undertakers,

PART II

any land allocated by the plan for the purposes of any of their functions (including any land which that Minister or authority or those undertakers are or could be authorised to acquire compulsorily under any enactment other than this Act);

(*c*) designate as land subject to compulsory acquisition by the appropriate local authority—

(i) any land comprised in an area defined by the plan as an area of comprehensive development (including any land therein which is allocated by the plan for any such purpose as is mentioned in paragraph (*b*) of this subsection) or any land contiguous or adjacent to any such area;

(ii) any other land which, in the opinion of the local planning authority, ought to be subject to compulsory acquisition for the purpose of securing its use in the manner proposed by the plan.

(4) For the purposes of this section, a development plan may define as an area of comprehensive development any area which, in the opinion of the local planning authority, should be developed or redeveloped as a whole for any one or more of the following purposes, that is to say—

(*a*) for the purposes of dealing satisfactorily with extensive war damage or conditions of bad lay-out or obsolete development, or

(*b*) for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the development or redevelopment of any other area, or

(*c*) for any other purpose specified in the plan;

and land may be included in any area so defined, and designated as subject to compulsory acquisition in accordance with the provisions of the last preceding subsection, whether or not provision is made by the plan for the development or redevelopment of that particular land.

(5) At any time before a development plan with respect to the whole of the area of a local planning authority has been approved by the Minister, that authority may, with the consent of the Minister, and shall, if so required by directions of the Minister, prepare and submit to him a development plan relating to part of that area; and the preceding provisions of this section shall apply in relation to any such plan as they apply in relation to a plan relating to the whole of the area of a local planning authority.

Approval of development plans.

**5.**—(1) Subject to the provisions of this section, the Minister may approve any development plan submitted to him under the last preceding section, either without modification or subject to such modifications as he considers expedient.

(2) The Minister shall not approve a development plan which designates any land as subject to compulsory acquisition if it appears to him that the acquisition is not likely to take place within ten years from the date on which the plan is approved.

(3) The Minister shall not, except with the consent of all persons interested, approve a development plan subject to a modification designating as subject to compulsory acquisition any land not so designated in the plan as submitted to him.

(4) Where a development plan as submitted to the Minister designates as subject to compulsory acquisition any such land as is mentioned in paragraph 9 of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946 (which relates to land of local authorities and statutory undertakers and inalienable land of the National Trust), then, if objection to the proposed designation is duly made by the local authority or statutory undertakers or the National Trust, as the case may be, and is not withdrawn, the land shall not be so designated except in pursuance of an order made by the Minister, and any such order shall be subject to special parliamentary procedure.

(5) In relation to agricultural land within the meaning of the Rating and Valuation (Apportionment) Act, 1928, subsection (2) of this section shall have effect as if for the words " ten years " there were substituted the words " seven years ".

Amendment of development plans.

**6.**—(1) At least once in every five years after the date on which a development plan for any area was approved by the Minister, the local planning authority shall carry out a fresh survey of that area, and submit to the Minister a report of the survey, together with proposals for any alterations or additions to the plan which appear to them to be required having regard thereto.

(2) Without prejudice to the provisions of the preceding subsection, any local planning authority may at any time, and shall if so required by directions of the Minister, submit to the Minister proposals for such alterations or additions to the development plan for their area or any part thereof as appear to them to be expedient, or as may be required by those directions, as the case may be.

(3) Subject to the next following subsection, where proposals for alterations or additions to a development plan are submitted to the Minister under this section, the Minister may amend that plan to such extent as he considers expedient having regard to those proposals and to any other material considerations; and any such amendment may in particular provide for securing that any land previously designated by the plan as subject to compulsory acquisition shall cease to be so designated, or that any land not previously so designated shall be so designated.

(4) Subsections (2) to (5) of the last preceding section shall apply in relation to the amendment of a development plan as

PART II

they apply in relation to the approval of such a plan, with the substitution—

(*a*) in subsection (2) of that section, for the reference to the date on which the plan is approved, of a reference to the date on which the amendment is effected, and

(*b*) in subsections (3) and (4) of that section, for the references to the plan as submitted to the Minister, of references to the proposals submitted to him under this section.

(5) Where in accordance with the provisions of subsection (5) of section four of this Act a development plan has been prepared for part of the area of a local planning authority, and has been approved by the Minister, then (without prejudice to the provisions of subsection (2) of this section) the periods of five years mentioned in subsection (1) of this section shall run from the date on which development plans in respect of the whole of the area have been approved by the Minister.

Additional powers of Minister with respect to development plans.

**7.**—(1) Where, by virtue of any of the preceding provisions of this Part of this Act, or of any directions of the Minister thereunder, any development plan, report or proposals for alterations or additions to a development plan are required to be submitted to the Minister, then—

(*a*) if within the period allowed in that behalf under those provisions or directions no such plan, report or proposals, or no such plan or proposals satisfactory to the Minister, have been so submitted, or

(*b*) if at any time the Minister is satisfied, after holding a local inquiry, that the local planning authority are not taking the steps necessary to enable them to submit such a plan, report or proposals within that period,

the Minister may, after carrying out any survey which appears to him to be expedient for the purpose, make such development plan, or, as the case may be, amend the development plan to such extent, as he considers expedient.

(2) Where, under the preceding subsection, the Minister has power to make or amend a development plan, he may, if he thinks fit, authorise the local planning authority for any neighbouring area, or any other local planning authority which appears to the Minister to have an interest in the proper planning of the area concerned, to submit such a plan to him for his approval, or, as the case may be, to submit to him proposals for the amendment of the plan, and to carry out any survey of the land which appears to him to be expedient for the purpose.

(3) The Minister may approve any plan submitted to him under the last preceding subsection, either without modification or subject to such modifications as he considers expedient, or, as the case may be, may amend any development plan, with respect to which proposals for amendment have been submitted

to him under that subsection, to such extent as he considers expedient having regard to those proposals and to any other material considerations.

(4) The preceding provisions of this Part of this Act shall, so far as applicable, apply to the making, approval or amendment of development plans under this section, and to plans so made, approved or amended, as they apply to the approval or amendment of development plans under those provisions, and to plans approved or amended thereunder.

(5) Where the Minister incurs expenses under this section in connection with the making or amendment of a plan with respect to the area, or any part of the area, of a local planning authority, so much of those expenses as may be certified by the Minister to have been incurred in the performance of functions of that authority shall on demand be repaid by that authority to the Minister.

(6) Where, under this section, a plan, or proposals for the amendment of a plan, are authorised to be submitted to the Minister by the local planning authority for any area other than the area in which the land is situated, any expenses reasonably incurred in that behalf by that authority, as certified by the Minister, shall be repaid to that authority by the local planning authority for the area in which the land is situated.

Incorporation in development plans of orders and schemes relating to highways and new towns.

**8.**—(1) Where the Minister of Transport—

(*a*) makes an order under section seven of the Highways Act, 1959, directing that a highway proposed to be constructed by him shall become a trunk road, or

(*b*) makes or confirms an order or scheme under section nine, section eleven or section thirteen of that Act,

any development plan approved or made under this Act which relates to land on which a highway is to be constructed or altered in accordance with that order or scheme shall have effect as if the provisions of that order or scheme were included in the plan.

(2) Where an order is made by the Minister under section one of the New Towns Act, 1946, designating an area as the site of a new town under that Act, any development plan approved or made under this Act which relates to land in that area shall have effect as if the provisions of that order were included in the plan.

(3) Nothing in this section shall be construed as prohibiting the inclusion in a development plan, as approved or made by the Minister or as for the time being amended, of provisions—

(*a*) defining the line of a highway proposed to be constructed or altered in accordance with any such order or scheme as is mentioned in subsection (1) of this section, or

PART II

(*b*) defining an area designated as the site of a new town by any such order as is mentioned in subsection (2) of this section, or

(*c*) defining land as likely to be made the subject of any such order or scheme as is mentioned in either of those subsections.

(4) Provision may be made by regulations under this Act for enabling any proceedings preliminary to the making of any such order as is mentioned in paragraph (*a*) of subsection (1) of this section, or in subsection (2) thereof, to be taken concurrently with proceedings required under this Act to be taken in connection with the approval or making of a development plan relating to land to which any such order applies, or in connection with any amendment of a development plan rendered necessary or desirable in consequence of any such order.

Modification of development plans in relation to land designated as subject to compulsory acquisition.

**9.**—(1) Where any land is designated by a development plan as subject to compulsory acquisition, and, at the end of the period of twelve years from the date on which the plan, or the amendment of the plan, by virtue of which the land was first so designated came into operation, any of that land has not been acquired by a Minister, local authority or statutory undertakers who could be authorised to acquire it compulsorily under the provisions of this Act, any owner of the land may, within the prescribed time and in the prescribed manner, serve on the local planning authority a notice requiring his interest in the land to be so acquired.

(2) Where a notice has been served under the preceding subsection, then, unless within the period of six months after the service of the notice either—

(*a*) notice to treat in respect of the interest to which the notice relates has been served by any such Minister, local authority or statutory undertakers as are mentioned in that subsection, or

(*b*) an offer has been made to the owner of the interest by any such Minister, local authority or statutory undertakers to acquire it on terms that the price payable for it shall be equal to (and shall be determined, in default of agreement, in like manner as) the compensation which would be payable in respect of that interest if it were acquired compulsorily,

the development plan shall have effect, after the end of that period, as if the land were not designated as subject to compulsory acquisition.

(3) The power conferred by section thirty-one of the Land Compensation Act, 1961, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is served as mentioned in paragraph (*a*) of the last preceding subsection.

PART II

(4) Where any land is designated by a development plan as subject to compulsory acquisition by the appropriate local authority (not being land comprised in an area defined by the plan as an area of comprehensive development) then if planning permission is granted for any development of the land so designated, or any part thereof, and that development is carried out in accordance with the permission so granted, the development plan shall have effect as if the land to which the permission relates were not designated as subject to compulsory acquisition:

Provided that, in the case of planning permission granted for a limited period, the provisions of this subsection shall cease to have effect in relation to the land at the end of the period for which the permission was granted.

(5) In relation to agricultural land within the meaning of the Rating and Valuation (Apportionment) Act, 1928, subsection (1) of this section shall have effect as if for the words "twelve years" there were substituted the words "eight years".

Supplementary provisions as to development plans.

**10.**—(1) A local planning authority, before preparing a development plan relating to any land in a county district, or proposals for alterations or additions to any such plan, shall consult with the council of that district, and shall, before submitting any such plan or proposals to the Minister, give to that council an opportunity to make representations with respect thereto and shall consider any representations so made.

(2) Provision may be made by regulations under this Act with respect to the form and content of development plans, and with respect to the procedure to be followed in connection with the preparation, submission, approval, making and amendment of such plans; and such regulations shall in particular make provision for securing—

(*a*) that notice shall be given by advertisement in the London Gazette, and in at least one newspaper circulating in the area concerned, of the submission to the Minister of any such plan, or of proposals for the amendment of any such plan, and of any proposal by the Minister to make or amend such a plan, and of the place or places where copies of the plan or proposals as so submitted, or of any such proposal of the Minister, may be inspected;

(*b*) that objections and representations duly made in accordance with the regulations shall be considered, and that such local inquiries or other hearings as may be prescribed shall be held, before such a plan is approved, made or amended by the Minister; and

(*c*) that copies of any such plan as approved or made by the Minister, including any amendments thereof, shall be available for inspection by the public, and that copies thereof (including reproductions, on such scale

PART II

as may be appropriate, of any relevant maps) shall be available for sale to the public at a reasonable cost.

(3) If, as the result of any objections or representations considered, or local inquiry or other hearing held, in connection with a development plan or proposals for amendment of such a plan submitted to or prepared by the Minister under this Part of this Act, the Minister is of opinion that the local planning authority, or any other authority or person, ought to be consulted before he decides whether to approve or make the plan, either with or without modifications, or to amend the plan, as the case may be, he shall consult that authority or person, but shall not be under any obligation to consult any other authority or person, or to afford any opportunity for further objections or representations, or to cause any further local inquiry or other hearing to be held.

(4) Subject to the preceding provisions of this section, the Minister may give directions to any local planning authority, or to local planning authorities generally,—

(*a*) for formulating the procedure for the carrying out of their functions under the preceding provisions of this Part of this Act;

(*b*) for requiring them to give him such information as he may require for the purpose of the exercise of any of his functions under those provisions.

(5) In the application of the Statutory Orders (Special Procedure) Act, 1945, to any order made in pursuance of subsection (4) of section five of this Act, any requirements imposed by regulations under this section with respect to the publication of notices and the consideration of objections in relation to the development plan shall be deemed, for the purposes of section two of that Act, to be requirements with respect to proceedings preliminary to the making of the order.

Publication, and date of operation, of development plans.

**11.**—(1) Immediately after a development plan has been approved or made or amended by the Minister under this Part of this Act, the local planning authority shall publish, in such manner as may be prescribed, a notice stating that the plan has been approved, made or amended, as the case may be, and naming a place where a copy of the plan, or of the plan as amended, may be seen at all reasonable hours, and shall serve a like notice—

(*a*) on any person who duly made an objection to, or representation with respect to, the proposed plan or amendment, and has sent to the local planning authority a request in writing to serve him with the notice required by this subsection, specifying an address for service, and

(*b*) on such other persons (if any) as may be required by general or special directions given by the Minister.

(2) Subject to the next following subsection, and to the provisions of Part XI of this Act as to the validity of development plans and of amendments of such plans, a development plan, or an amendment of a development plan, shall become operative on the date on which the notice required by the preceding subsection is first published.

(3) Where in accordance with subsection (4) of section five of this Act any land to which a development plan relates is designated as subject to compulsory acquisition in pursuance of an order which is subject to special parliamentary procedure, the last preceding subsection shall not apply to the plan in so far as it so designates that land.

## PART III

## PLANNING CONTROL

### *Planning permission*

Meaning of "development" and "new development".

**12.**—(1) In this Act, except where the context otherwise requires, "development", subject to the following provisions of this section, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land, that is to say:—

(*a*) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building and (in either case) are not works for making good war damage;

(*b*) the carrying out by a local highway authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;

(*c*) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

(*d*) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

(*e*) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

PART III

(*f*) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Minister under this section, the use thereof for any other purpose of the same class.

(3) For the avoidance of doubt it is hereby declared that for the purposes of this section—

(*a*) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used;

(*b*) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if either the superficial area of the deposit is thereby extended, or the height of the deposit is thereby extended and exceeds the level of the land adjoining the site.

(4) Without prejudice to any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

(5) In this Act "new development" means any development other than development of a class specified in Part I or Part II of the Third Schedule to this Act; and the provisions of Part III of that Schedule shall have effect for the purposes of Parts I and II thereof.

Development requiring planning permission.

**13.**—(1) Subject to the provisions of this section, planning permission is required for the carrying out of any development of land.

(2) Where on the first day of July, nineteen hundred and forty-eight (in this Act referred to as "the appointed day"), land was being used temporarily for a purpose other than the purpose for which it was normally used, planning permission is not required for the resumption of the use of the land for the last-mentioned purpose.

(3) Where on the appointed day land was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required in respect of the use of the land for that other purpose on similar occasions.

(4) Where land was unoccupied on the appointed day, but had before that day been occupied at some time on or after the seventh day of January, nineteen hundred and thirty-seven,

planning permission is not required in respect of the use of the land for the purpose for which it was last used before the appointed day.

(5) Where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

(6) In determining, for the purposes of subsections (2) and (4) of this section respectively, what were the purposes for which land was normally used or last used, no account shall be taken of any use of the land begun in contravention of previous planning control; and in determining, for the purposes of the last preceding subsection, what were the purposes for which land was normally used before the grant of planning permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part of this Act or in contravention of previous planning control.

(7) Notwithstanding anything in subsections (2) to (4) of this section, the use of land as a caravan site shall not, by virtue of any of those subsections, be treated as a use for which planning permission is not required, unless the land was so used on one occasion at least during the period of two years ending with the ninth day of March, nineteen hundred and sixty.

(8) Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is the normal use of that land, unless the last-mentioned use was begun in contravention of the provisions of this Part of this Act or in contravention of previous planning control.

(9) Where an enforcement notice has been served in respect of any development of land, planning permission is not required for the use of that land for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.

(10) For the purposes of this section a use of land shall be taken to have been begun in contravention of previous planning control if—

(*a*) it was begun in contravention of the provisions of Part III of the Act of 1947, or

(*b*) at the material time the land was subject to a resolution to prepare a planning scheme, and the use was begun otherwise than in accordance with permission granted in that behalf by or under the interim development order, or

PART III

(*c*) at the material time the land was subject to a planning scheme, and the use was begun otherwise than in conformity with the provisions of the scheme or of permission granted thereunder.

In this subsection " planning scheme " means a scheme under the Town and Country Planning Act, 1932, or any enactment repealed by that Act, and " interim development order " means an order made under subsection (1) of section ten of that Act.

Development orders.

**14.**—(1) The Minister shall by order (in this Act referred to as a " development order ") provide for the granting of planning permission.

(2) A development order may either—

(*a*) itself grant planning permission for development specified in the order, or for development of any class so specified, or

(*b*) in respect of development for which planning permission is not granted by the order itself, provide for the granting of planning permission by the local planning authority (or, in the cases hereinafter provided, by the Minister) on an application in that behalf made to the local planning authority in accordance with the provisions of the order.

(3) A development order may be made either as a general order applicable (subject to such exceptions as may be specified therein) to all land, or as a special order applicable only to such land as may be so specified.

(4) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.

(5) Without prejudice to the generality of the last preceding subsection,—

(*a*) where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the local planning authority to be obtained with respect to the design or external appearance of the buildings;

(*b*) where planning permission is granted by a development order for development of a specified class, the order may enable the Minister or the local planning authority to direct that the permission shall not apply either in relation to development in a particular area or in relation to any particular development.

(6) Any provision of a development order whereby permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision shall (without prejudice to the generality of references in this Act to limitations) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall

not be used for any one purpose in pursuance of that provision on more than that number of days in that period.

(7) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any enactment to which this subsection applies, or any regulations, orders or byelaws made at any time under any such enactment, shall not apply to any development specified in the order, or shall apply thereto subject to such modifications as may be so specified.

(8) The last preceding subsection applies—

(*a*) to any enactment passed before the sixth day of August, nineteen hundred and forty-seven (being the date of the passing of the Act of 1947), and

(*b*) to any enactment contained in the Highways Act, 1959, being an enactment which re-enacts (with or without modifications) any such enactment as is mentioned in the preceding paragraph.

Publication of notices of applications for planning permission.

**15.**—(1) An application for planning permission for development of any class to which this section applies—

(*a*) shall not be entertained by the local planning authority unless it is accompanied by a copy of a notice of the application, in such form as may be prescribed by a development order, and by such evidence as may be so prescribed that the notice has been published in a local newspaper circulating in the locality in which the land to which the application relates is situated; and

(*b*) shall not be determined by the local planning authority before the end of the period of twenty-one days beginning with the date appearing from the evidence accompanying the application to be the date on which the notice was published as mentioned in the preceding paragraph.

(2) Any such notice as is mentioned in paragraph (*a*) of the preceding subsection shall (in addition to any other matters required to be contained therein) name a place within the locality where a copy of the application, and of all plans and other documents submitted therewith, will be open to inspection by the public at all reasonable hours during such period (not being less than twenty-one days, beginning with the date of publication of the notice) as may be specified in the notice.

(3) Provision may be made by a development order for designating the classes of development to which this section applies, and this section shall apply accordingly to any class of development which is for the time being so designated.

PART III

Notification of applications for planning permission to owners and agricultural tenants.

**16.**—(1) Without prejudice to the last preceding section, a local planning authority shall not entertain any application for planning permission unless it is accompanied by one or other of the following certificates signed by or on behalf of the applicant, that is to say—

(*a*) a certificate stating that, in respect of every part of the land to which the application relates, the applicant is either the estate owner in respect of the fee simple or is entitled to a tenancy thereof;

(*b*) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, were owners of any of the land to which the application relates, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice;

(*c*) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding paragraphs, that he has given the requisite notice of the application to such one or more of the persons mentioned in the last preceding paragraph as are specified in the certificate (setting out their names, the addresses at which notice of the application was given to them respectively, and the date of the service of each such notice) and that he does not know the names and addresses of the remainder of those persons;

(*d*) a certificate stating that the applicant is unable to issue a certificate in accordance with paragraph (*a*) of this subsection, and that he does not know the names and addresses of any of the persons mentioned in paragraph (*b*) of this subsection.

(2) Any such certificate as is mentioned in paragraph (*c*) or paragraph (*d*) of the preceding subsection shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified in the certificate (being a date not earlier than the beginning of the period mentioned in paragraph (*b*) of the preceding subsection) been published in a local newspaper circulating in the locality in which the land in question is situated.

(3) In addition to any other matters required to be contained in a certificate issued for the purposes of this section, every such certificate shall contain one or other of the following statements, that is to say,—

(*a*) a statement that none of the land to which the application relates constitutes or forms part of an agricultural holding;

(*b*) a statement that the applicant has given the requisite notice of the application to every person (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, was a tenant of any agricultural holding any part of which was comprised in the land to which the application relates, and setting out the name of each such person, the address at which notice of the application was given to him, and the date of service of that notice.

(4) Where an application for planning permission is accompanied by such a certificate as is mentioned in paragraph (*b*), paragraph (*c*) or paragraph (*d*) of subsection (1) of this section, or by a certificate containing a statement in accordance with paragraph (*b*) of the last preceding subsection, the local planning authority shall not determine the application before the end of the period of twenty-one days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or the date of publication of a notice as therein mentioned, whichever is the later.

(5) If any person issues any certificate which purports to comply with the requirements of this section and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds.

(6) Any certificate issued for the purposes of this section shall be in such form as may be prescribed by a development order; and any reference in any provision of this section to the requisite notice, where a form of notice is prescribed by a development order for the purposes of that provision, is a reference to a notice in that form.

(7) In this and the next following section " owner ", in relation to any land, means a person who is for the time being the estate owner in respect of the fee simple thereof or is entitled to a tenancy thereof granted or extended for a term of years certain of which not less than ten years remain unexpired, and " agricultural holding " has the same meaning as in the Agricultural Holdings Act, 1948.

Determination by local planning authorities of applications for planning permission.

**17.**—(1) Subject to the provisions of sections fifteen and sixteen of this Act, and to the following provisions of this Part of this Act, where an application is made to a local planning authority for planning permission, that authority, in dealing with the application, shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations, and—

PART III

(*a*) may grant planning permission, either unconditionally or subject to such conditions as they think fit, or

(*b*) may refuse planning permission.

(2) In determining any application for planning permission for development of a class to which section fifteen of this Act applies, the local planning authority shall take into account any representations relating to that application which are received by them before the end of the period of twenty-one days beginning with the date appearing from the evidence accompanying the application to be the date on which notice of the application was published as mentioned in subsection (1) of that section.

(3) Where an application for planning permission is accompanied by such a certificate as is mentioned in paragraph (*b*), paragraph (*c*) or paragraph (*d*) of subsection (1) of the last preceding section, or by a certificate containing a statement in accordance with paragraph (*b*) of subsection (3) of that section, the local planning authority—

(*a*) in determining the application, shall take into account any representations relating thereto which are made to them, before the end of the period mentioned in subsection (4) of that section, by any person who satisfies them that he is an owner of any land to which the application relates or that he is the tenant of an agricultural holding any part of which is comprised in that land, and

(*b*) shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with the preceding paragraph.

(4) Before a local planning authority grant planning permission for the use of land as a caravan site, they shall, unless they are also the authority having power to issue a site licence for that land, consult the local authority having that power.

(5) In this section " site licence " means a licence under Part I of the Caravan Sites and Control of Development Act, 1960, authorising the use of land as a caravan site.

Conditional grant of planning permission.

**18.**—(1) Without prejudice to the generality of subsection (1) of the last preceding section, conditions may be imposed on the grant of planning permission thereunder—

(*a*) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission ;

(*b*) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.

(2) Any planning permission granted subject to such a condition as is mentioned in paragraph (*b*) of the preceding subsection is in this Act referred to as " planning permission granted for a limited period ".

(3) Where—

(*a*) planning permission is granted for development consisting of or including the carrying out of building or other operations, subject to a condition that the operations shall be commenced not later than a time specified in the condition, and

(*b*) any building or other operations are commenced after the time so specified,

the commencement and carrying out of those operations do not constitute development for which that permission was granted.

Supplementary provisions as to applications for planning permission.

**19.**—(1) Any application to a local planning authority for planning permission shall be made in such manner as may be prescribed by regulations under this Act, and shall include such particulars, and be verified by such evidence, as may be required by the regulations or by any directions given by the local planning authority thereunder.

(2) Subject to the provisions of subsections (2) to (4) of section seventeen of this Act, provision may be made by a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by local planning authorities, and in particular—

(*a*) for enabling the Minister (or, in the case of development falling within the next following subsection, the Minister of Transport) to give directions restricting the grant of planning permission by the local planning authority, during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;

(*b*) for authorising the local planning authority, in such cases and subject to such conditions as may be prescribed by the order, or by directions given by the Minister thereunder, to grant planning permission for development which does not accord with the provisions of the development plan;

(*c*) for requiring the local planning authority, before granting or refusing planning permission for any development, to consult with such authorities or persons as may be

PART III

prescribed by the order or by directions given by the Minister thereunder;

(*d*) for requiring the local planning authority to give to any applicant for planning permission, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;

(*e*) for requiring the local planning authority to give to the Minister, and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.

(3) The reference in paragraph (*a*) of the last preceding subsection to development falling within this subsection is a reference to any development affecting trunk roads, or affecting any road which—

(*a*) is comprised in the route of a special road to be provided by the Minister of Transport in accordance with a scheme under the provisions of Part II of the Highways Act, 1959, relating to special roads, and has not for the time being been transferred to him, or

(*b*) has been or is to be provided by that Minister in pursuance of an order under the provisions of Part II of that Act relating to trunk roads and special roads, and has not for the time being been transferred to any other highway authority.

(4) Every local planning authority shall keep, in such manner as may be prescribed by a development order, a register containing such information as may be so prescribed with respect to applications for planning permission made to that authority, including information as to the manner in which such applications have been dealt with.

(5) Every register kept under the last preceding subsection shall be available for inspection by the public at all reasonable hours.

Permission to retain buildings or works or continue use of land.

**20.**—(1) An application for planning permission may relate to buildings or works constructed or carried out, or a use of land instituted, before the date of the application, whether—

(*a*) the buildings or works were constructed or carried out, or the use instituted, without planning permission or in accordance with planning permission granted for a limited period, or

(*b*) the application is for permission to retain the buildings or works, or continue the use of the land, without complying with some condition subject to which a previous planning permission was granted.

(2) Any power to grant planning permission to develop land under this Act shall include power to grant planning permission for the retention on land of buildings or works constructed or carried out, or for the continuance of a use of land instituted, as mentioned in the preceding subsection; and references in this Act to planning permission to develop land or to carry out any development of land, and to applications for such permission, shall be construed accordingly:

Provided that this subsection shall not affect the construction of section fifteen, of subsection (2) of section seventeen or of Part VI of this Act.

(3) Any planning permission granted in accordance with the last preceding subsection may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or (in the case of buildings or works constructed or a use instituted in accordance with planning permission granted for a limited period) so as to take effect from the end of that period, as the case may be.

Supplementary provisions as to effect of planning permission.

**21.**—(1) Without prejudice to the provisions of this Part of this Act as to the revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein.

(2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

*Minister's powers in relation to planning applications and decisions*

Reference of planning applications to Minister.

**22.**—(1) The Minister may give directions requiring applications for planning permission to be referred to him instead of being dealt with by local planning authorities.

(2) A direction under this section—

(*a*) may be given either to a particular local planning authority or to local planning authorities generally, and

(*b*) may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section has effect shall be referred to the Minister accordingly.

(4) Subject to the next following subsection, where an application for planning permission is referred to the Minister under this section, the following provisions of this Act, that is to say, subsection (1) of section fifteen, section sixteen, subsections (1) to (3) of section seventeen and subsection (1) of section eighteen,

PART III

shall apply, with any necessary modifications, as they apply to an application for planning permission which falls to be determined by the local planning authority.

(5) Before determining an application referred to him under this section the Minister shall, if either the applicant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(6) The decision of the Minister on any application referred to him under this section shall be final.

Appeals against planning decisions.

**23.**—(1) Where an application is made to a local planning authority for planning permission to develop land, or for any approval of that authority required under a development order, and that permission or approval is refused by that authority or is granted by them subject to conditions, the applicant, if he is aggrieved by their decision, may by notice under this section appeal to the Minister.

(2) Any notice under this section shall be served within such time (not being less than twenty-eight days from the date of notification of the decision to which it relates) and in such manner as may be prescribed by a development order.

(3) The Minister shall not be required to entertain an appeal under this section in respect of an application for planning permission to develop land if it appears to him that planning permission for that development could not have been granted by the local planning authority, or could not have been granted by them otherwise than subject to the conditions imposed by them, having regard to the provisions of subsection (1) of section seventeen, of subsection (1) of section eighteen and of section thirty-eight of this Act, and of the development order, and to any directions given under that order.

(4) Where an appeal is brought under this section from a decision of a local planning authority, the Minister, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the local planning authority, whether the appeal relates to that part thereof or not, and may deal with the application as if it had been made to him in the first instance.

(5) Before determining an appeal under this section, the Minister shall, if either the applicant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(6) Subject to the last preceding subsection, the following provisions of this Act, that is to say, section sixteen, subsections (1) and (3) of section seventeen, and subsection (1) of section

eighteen, shall apply, with any necessary modifications, in relation to an appeal to the Minister under this section as they apply in relation to an application for planning permission which falls to be determined by the local planning authority.

(7) The decision of the Minister on any appeal under this section shall be final.

Appeal in default of planning decision.

**24.** Where an application is made to a local planning authority for planning permission, or for any approval of that authority required under a development order, then unless within such period as may be prescribed by the development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the local planning authority, the local planning authority either—

(*a*) give notice to the applicant of their decision on the application, or

(*b*) give notice to him that the application has been referred to the Minister in accordance with directions given under section twenty-two of this Act,

the provisions of the last preceding section shall apply in relation to the application as if the permission or approval to which it relates had been refused by the local planning authority, and as if notification of their decision had been received by the applicant at the end of the period prescribed by the development order, or at the end of the said extended period, as the case may be.

Review of planning decisions where compensation claimed.

**25.**—(1) The provisions of this and the next following section shall have effect where, in accordance with the provisions of Part VI of this Act, one or more claims for compensation in respect of a planning decision have been transmitted to the Minister, and the claim, or (if there is more than one) one or more of the claims, has not been withdrawn.

(2) If, in the case of a planning decision of the local planning authority, it appears to the Minister that, if the application for permission to develop the land in question had been referred to him for determination, he would have made a decision more favourable to the applicant, the Minister may give a direction substituting that decision for the decision of the local planning authority.

(3) If, in any case, it appears to the Minister that planning permission could properly be granted (either unconditionally or subject to certain conditions) for some development of the land in question other than the development to which the application for planning permission related, the Minister may give a direction that the provisions of this Act shall have effect in relation to that application and to the planning decision—

(*a*) as if the application had included an application for permission for that other development, and the decision

PART III

had included the grant of planning permission (unconditionally or subject to the said conditions, as the case may be) for that development, or

(*b*) as if the decision had been a decision of the Minister and had included an undertaking to grant planning permission (unconditionally or subject to the said conditions, as the case may be) for that development,

as may be specified in the direction.

(4) The reference in subsection (2) of this section to a decision more favourable to the applicant shall be construed—

(*a*) in relation to a refusal of permission, as a reference to a decision granting the permission, either unconditionally or subject to conditions, and either in respect of the whole of the land to which the application for permission related or in respect of part of that land, and

(*b*) in relation to a grant of permission subject to conditions, as a reference to a decision granting the permission applied for unconditionally or subject to less stringent conditions.

Supplementary provisions as to review of planning decisions.

**26.**—(1) Before giving a direction under the last preceding section, the Minister shall give notice in writing of his proposed direction to the local planning authority to whose decision that direction relates, and to any person who made, and has not since withdrawn, a claim for compensation in respect of that decision; and, if so required by the local planning authority or by any such person, shall afford to each of them an opportunity to appear before, and be heard by, a person appointed by the Minister for the purpose.

(2) In giving any direction under the last preceding section, the Minister shall have regard to the provisions of the development plan for the area in which the land in question is situated, in so far as those provisions are material to the development of that land, and shall also have regard to the local circumstances affecting the proposed development, including the use which prevails generally in the case of contiguous or adjacent land, and to any other material considerations.

(3) Where the Minister gives a direction under the last preceding section, he shall give notice of the direction to the local planning authority to whose decision the direction relates, and to every person (if any) who made, and has not since withdrawn, a claim for compensation in respect of that decision.

*Revocation or modification of planning permission* PART III

Power to revoke or modify planning permission.

**27.**—(1) If it appears to the local planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part of this Act, the authority, subject to the following provisions of this section, may by order revoke or modify the permission to such extent as (having regard to those matters) they consider expedient.

(2) An order under this section shall not take effect unless it is confirmed by the Minister; and the Minister may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where a local planning authority submit an order to the Minister for his confirmation under this section, the authority shall serve notice on the owner and on the occupier of the land affected and on any other person who in their opinion will be affected by the order; and if within such period as may be specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Minister, before confirming the order, shall afford to that person, and to the local planning authority, an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(4) The power conferred by this section to revoke or modify permission to develop land may be exercised—

(*a*) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;

(*b*) where the permission relates to a change of the use of any land, at any time before the change has taken place:

Provided that the revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

*Additional powers of control*

Orders requiring discontinuance of use or alteration or removal of buildings or works.

**28.**—(1) If it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity), regard being had to the development plan and to any other material considerations,—

(*a*) that any use of land should be discontinued, or that any conditions should be imposed on the continuance of a use of land, or

(*b*) that any buildings or works should be altered or removed,

PART III

the local planning authority may by order require the discontinuance of that use, or impose such conditions as may be specified in the order on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be.

(2) An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order; and the provisions of the last preceding section shall apply in relation to any planning permission granted by an order under this section as they apply in relation to planning permission granted by the local planning authority on an application made under this Part of this Act.

(3) The power conferred by the last preceding subsection shall include power, by an order under this section, to grant planning permission, subject to such conditions as may be specified in the order,—

(*a*) for the retention, on the land to which the order relates, of buildings or works constructed or carried out before the date on which the order was submitted to the Minister, or

(*b*) for the continuance of a use of that land instituted before that date;

and subsection (3) of section twenty of this Act shall apply to planning permission granted by virtue of this subsection as it applies to planning permission granted in accordance with subsection (2) of that section.

(4) An order under this section shall not take effect unless it is confirmed by the Minister, either without modification or subject to such modifications as he considers expedient.

(5) The power of the Minister under this section to confirm an order subject to modifications shall include power—

(*a*) to modify any provision of the order granting planning permission, as mentioned in subsection (2) or subsection (3) of this section;

(*b*) to include in the order any grant of planning permission which might have been included in the order as submitted to the Minister.

(6) Where a local planning authority submit an order to the Minister for his confirmation under this section, that authority shall serve notice on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within the period specified

in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Minister, before confirming the order, shall afford to that person and to the local planning authority an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(7) Where an order under this section has been confirmed by the Minister, the local planning authority shall serve a copy of the order on the owner and occupier of the land to which the order relates.

(8) Where the requirements of an order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the local planning authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.

Tree preservation orders.

**29.**—(1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order (in this Act referred to as a " tree preservation order ") with respect to such trees, groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order—

(*a*) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping or wilful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;

(*b*) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;

(*c*) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act falling within the next following subsection, subject to such adaptations and modifications as may be specified in the order.

(2) References in this Act to provisions thereof falling within this subsection are references to—

(*a*) the provisions of this Part of this Act relating to planning permission and to applications for planning permission, except sections fifteen and sixteen, subsections (2) to (5)

PART III

of section seventeen, subsection (1) of section nineteen and sections twenty-five and twenty-six of this Act, and

(*b*) such of the provisions of Part VIII of this Act as are therein stated to be provisions falling within this subsection.

(3) A tree preservation order shall not be made in relation to any land in respect of which a forestry dedication covenant is in force under the Forestry Act, 1947, or in respect of which advances have been made by the Forestry Commissioners under the Forestry Acts, 1919 to 1947.

(4) A tree preservation order shall not take effect until it is confirmed by the Minister, and the Minister may confirm any such order either without modification or subject to such modifications as he considers expedient.

(5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in connection with the submission and confirmation of such orders; and, subject to the next following subsection, such regulations shall, in particular, make provision for securing—

(*a*) that notice of the submission of any such order to the Minister shall be given to the owners and occupiers of land affected by the order;

(*b*) that objections and representations with respect to the proposed order duly made in accordance with the regulations shall be considered before the order is confirmed by the Minister; and

(*c*) that copies of the order, when confirmed by the Minister, shall be served on the owners and occupiers of the land to which it relates.

(6) If it appears to the Minister that any such order should take effect immediately, he may confirm the order provisionally without complying with the requirements of any such regulations with respect to the consideration of objections and representations; but any order so confirmed shall cease to have effect at the end of two months from the date on which it is so confirmed, unless within that period it has again been confirmed, with or without modifications, after compliance with those requirements.

(7) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, no such order shall apply to the cutting down, topping or lopping of trees which are dying or dead or have become dangerous, or the cutting down, topping or lopping of any trees in compliance with any obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.

PART III

(8) The preceding provisions of this section shall have effect subject to the provisions—

(*a*) of section thirteen of the Forestry Act, 1951 (which relates to licences under that Act to fell trees comprised in a tree preservation order), and

(*b*) of subsection (4) of section two of the Opencast Coal Act, 1958 (which relates to land comprised in an authorisation under that Act which is affected by a tree preservation order).

Building preservation orders.

**30.**—(1) Subject to the provisions of this and the next following section, if it appears to a local planning authority that it is expedient to make provision for the preservation of any building of special architectural or historic interest in their area, they may for that purpose make an order (in this Act referred to as a " building preservation order ") restricting the demolition, alteration or extension of the building.

(2) A building preservation order shall not be made in respect of—

(*a*) an ecclesiastical building which is for the time being used for ecclesiastical purposes, or

(*b*) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments, or

(*c*) a building for the time being included in a list of monuments published by the Minister of Works under any such enactment,

and a building preservation order shall not be made so as to affect the powers of the Minister of Works under any such enactment.

(3) A building preservation order shall not take effect until it is confirmed by the Minister, and the Minister may confirm any such order either without modification or subject to such modifications as he considers expedient.

(4) A local planning authority shall not make a building preservation order, and the Minister shall not confirm such an order, unless satisfied that the execution of the works specified in the order would seriously affect the character of the building.

(5) Provision may be made by a building preservation order—

(*a*) for requiring the consent of the local planning authority to be obtained for the execution of works of any description specified in the order, and

(*b*) for applying, in relation to such consent and to applications for such consent, any of the provisions of this Act falling within subsection (2) of the last preceding section, subject to such adaptations and modifications as may be specified in the order.

PART III

Supplementary provisions as to building preservation orders.

**31.**—(1) Provision may be made by regulations under this Act with respect to the form of building preservation orders, and the procedure to be followed in connection with the submission and confirmation of such orders; and, subject to the next following subsection, such regulations shall, in particular, make provision for securing—

(*a*) that notice of the submission of any such order to the Minister shall be given to the owner and any occupier of the building affected by the order;

(*b*) that objections and representations with respect to the proposed order duly made in accordance with the regulations shall be considered before the order is confirmed by the Minister; and

(*c*) that a copy of the order, when confirmed by the Minister, shall be served on the owner and any occupier of the building to which it relates.

(2) If it appears to the Minister that any such order should take effect immediately, he may confirm the order provisionally without complying with the requirements of any such regulations with respect to the consideration of objections and representations; but any order so confirmed shall cease to have effect at the end of two months from the date on which it is so confirmed, unless within that period it has again been confirmed, with or without modifications, after compliance with those requirements.

(3) Nothing in any building preservation order shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health or for the preservation of the building or of neighbouring property, so long as notice in writing of the proposed execution of the works is given, as soon as may be after the necessity for the works arises, to the authority by whom the order was made.

(4) The powers conferred on a local planning authority by the last preceding section to make a building preservation order may be exercised also by the council of the county district in which the building to which the order relates is situated; and references in this Act to local planning authorities shall, in relation to those powers, be construed as including references to the council of a county district.

Lists of buildings of special architectural or historic interest.

**32.**—(1) With a view to the guidance of local planning authorities in the performance of their functions under this Act in relation to buildings of special architectural or historic interest, the Minister shall compile lists of such buildings, or approve, with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list so compiled or approved.

(2) As soon as may be after any list has been compiled or approved under this section, or any amendments of such a list have been made, a copy of so much of the list as relates to any county borough or county district, or of so much of the amendments as relates thereto, as the case may be, certified by or on behalf of the Minister to be a true copy thereof, shall be deposited with the clerk of the council of that borough or district, and also, where that council is not the local planning authority, with the clerk of the local planning authority.

(3) Any such copy shall be registered in the register of local land charges, in such manner as may be prescribed by rules made for the purposes of this section under subsection (6) of section fifteen of the Land Charges Act, 1925, by the proper officer of the council of the county borough or county district.

(4) As soon as may be after the inclusion of any building in a list under this section, whether on the compilation or approval of the list or by the amendment thereof, or as soon as may be after any such list has been amended by the exclusion of any building therefrom, the Minister shall serve a notice on every owner and occupier of the building, stating that the building has been included in, or excluded from, the list, as the case may be.

(5) Before compiling or approving, with or without modifications, any list under this section, or amending any list thereunder, the Minister shall consult with such persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural and historic interest.

Effect of inclusion of building in a list under s. 32.

**33.**—(1) Subject to the provisions of this section, so long as a building, not being—

(*a*) a building to which a building preservation order applies, or

(*b*) a building of a description specified in subsection (2) of section thirty of this Act,

is included in a list compiled or approved under the last preceding section, no person shall execute, or cause or permit to be executed, any works for the demolition of the building, or for its alteration or extension in any manner which would seriously affect its character, unless at least two months before the works are executed notice in writing of the proposed works has been given to the local planning authority.

(2) Nothing in the preceding subsection shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health, or for the preservation of the building or of neighbouring property, so long as notice in writing thereof has been given to the local planning authority as soon as may be after the necessity for the works arises.

(3) Where a local planning authority receive notice of any proposed works under this section, they shall as soon as may

PART III

be send a copy of the notice to the Minister, and, except where the authority is the council of a county borough, to the council of the county district in which the building to which the notice relates is situated, and in either case to such other persons or bodies of persons as may be specified by directions of the Minister either generally or with respect to the building in question.

Control of advertisements.

**34.**—(1) Subject to the provisions of this section, provision shall be made by regulations under this Act for restricting or regulating the display of advertisements so far as appears to the Minister to be expedient in the interests of amenity or public safety.

(2) Without prejudice to the generality of the preceding subsection, any such regulations may provide—

(*a*) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed, and the manner in which they are to be affixed to the land;

(*b*) for requiring the consent of the local planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations;

(*c*) for applying, in relation to any such consent and to applications for such consent, any of the provisions of this Act falling within subsection (2) of section twenty-nine thereof, subject to such adaptations and modifications as may be specified in the regulations;

(*d*) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.

(3) Regulations made for the purposes of this section may make different provision with respect to different areas, and in particular may make special provision with respect to areas defined for the purposes of the regulations as areas of special control, being either rural areas or areas other than rural areas which appear to the Minister to require special protection on grounds of amenity; and, without prejudice to the generality of the preceding provisions of this subsection, the regulations may prohibit the display in any such area of all advertisements except advertisements of such classes (if any) as may be specified in the regulations.

(4) Areas of special control for the purposes of regulations under this section may be defined either by reference to provisions included in that behalf in development plans or by means of orders made or approved by the Minister in accordance with the provisions of the regulations.

(5) Where the Minister is authorised by the regulations to make or approve any such order as is mentioned in the last preceding subsection, the regulations shall provide for the publication of notice of the proposed order in such manner as may be prescribed by the regulations, for the consideration of objections duly made thereto, and for the holding of such inquiries or other hearings as may be so prescribed, before the order is made or approved.

(6) Regulations made under this section may be made so as to apply to advertisements which are being displayed on the date on which the regulations come into force, or to the use for the display of advertisements of any site which was being used for that purpose on that date; but any regulations made in accordance with this subsection shall provide for exempting therefrom—

(*a*) the continued display of any such advertisement, and

(*b*) the continued use for the display of advertisements of any such site,

during such period as may be prescribed in that behalf by the regulations, and different periods may be so prescribed for the purposes of different provisions of the regulations.

Application for planning permission not needed for advertisements complying with regulations.

**35.** Where the display of advertisements in accordance with regulations made under the last preceding section involves development of land, planning permission for that development shall be deemed to be granted by virtue of this section, and no application shall be necessary in that behalf under the preceding provisions of this Part of this Act.

Proper maintenance of waste land, etc.

**36.**—(1) If it appears to a local planning authority that the amenity of any part of their area, or of any adjoining area, is seriously injured by the condition of any garden, vacant site or other open land in their area, then, subject to any directions given by the Minister, the authority may serve on the owner and occupier of the land a notice requiring such steps for abating the injury as may be specified in the notice to be taken within such period as may be so specified.

(2) Subject to the provisions of Part IV of this Act, a notice under this section shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

Agreements regulating development or use of land.

**37.**—(1) A local planning authority may, with the approval of the Minister, enter into an agreement with any person interested in land in their area for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement;

PART III

and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the local planning authority to be necessary or expedient for the purposes of the agreement.

(2) An agreement made under this section with any person interested in land may be enforced by the local planning authority against persons deriving title under that person in respect of that land, as if the local planning authority were possessed of adjacent land and as if the agreement had been expressed to be made for the benefit of such land.

(3) Nothing in this section or in any agreement made thereunder shall be construed—

(*a*) as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by any Minister or authority under this Act so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Minister as to the provisions to be included in such a plan, or

(*b*) as requiring the exercise of any such powers otherwise than as mentioned in the preceding paragraph.

(4) The power of a local planning authority to make agreements under this section may be exercised also—

(*a*) in relation to land in a county district, by the council of that district;

(*b*) in relation to land in the area of a joint planning board, by the council of the county or county borough in which the land is situated,

and references in this section to a local planning authority shall be construed accordingly.

*Special provisions as to industrial development*

Industrial development certificates.

**38.**—(1) Subject to the provisions of this and the next following section, an application to the local planning authority for permission to develop land by—

(*a*) the erection thereon of an industrial building of one of the prescribed classes, or

(*b*) a change of use whereby premises, not being an industrial building of one of the prescribed classes, will become such an industrial building,

shall be of no effect unless a certificate (in this Act referred to as an "industrial development certificate") is issued under this section by the Board of Trade, certifying that the development in question can be carried out consistently with the proper distribution of industry, and a copy of the certificate is furnished to the local planning authority together with the application.

(2) In considering whether any development for which an industrial development certificate is applied for can be carried out consistently with the proper distribution of industry, the Board of Trade shall have particular regard to the need for providing appropriate employment in development districts.

(3) An industrial development certificate shall not be required for the extension of an industrial building if the extension, taken by itself, would not be an industrial building of one of the prescribed classes, but (subject to the provisions of the next following section) an industrial development certificate shall be required for the extension of any building if the extension, taken by itself, would be such an industrial building.

(4) The preceding provisions of this section shall have effect without prejudice to any provisions for restricting the granting of planning permission by local planning authorities which are included in a development order by virtue of section nineteen of this Act.

(5) Nothing in section twenty of this Act shall be construed as requiring an industrial development certificate on an application for permission for the retention on land of an industrial building or for the continuance of any use of land.

(6) In this and the next following section "the prescribed classes" means such classes of industrial buildings as may be prescribed by regulations made for the purposes of this section by the Board of Trade, "development district" has the meaning assigned to it by subsection (2) of section one of the Local Employment Act, 1960, and subsection (4) of that section (which provides for treating certain areas not forming part of a development district as forming part of such a district) shall apply as if this section were included among the provisions of that Act referred to in that subsection.

Exemption of certain classes of development.

**39.**—(1) Notwithstanding anything in the last preceding section, an industrial development certificate shall not be required if the industrial floor space to be created by the development in question, together with any other industrial floor space created or to be created by any related development, does not exceed five thousand square feet, excluding, where an industrial development certificate has been issued in respect of any related development, any floor space created or to be created by that development or by development carried out, or for which planning permission has been granted, before the issue of that certificate.

(2) Regulations made for the purposes of the last preceding section by the Board of Trade may direct that no industrial development certificate shall be required in respect of the erection, in any area prescribed by or under the regulations, of industrial buildings of any such class as may be so prescribed, or in respect of a change of use whereby premises in any such area, not being an industrial building of a class so prescribed, will become an industrial building of such a class.

PART III

(3) In this section " industrial floor space " means floor space comprised in an industrial building or industrial buildings of any of the prescribed classes, and " related development " means development relating to the same building or another building in the same group, being development which has been carried out on or after the first day of April, nineteen hundred and sixty, or for which planning permission has been granted since that date; and in this subsection " group " means a group of contiguous or adjacent buildings used as parts of a single undertaking, and any reference to development relating to a building is a reference to the erection, extension, alteration or re-erection of the building or to a change of use of the whole or part of the building.

Provision for cases where industrial development certificate withheld.

**40.**—(1) Where such an application as is mentioned in subsection (1) of section thirty-eight of this Act is, by virtue of that subsection, of no effect by reason that the requirements of that subsection are not fulfilled, the local planning authority shall consider whether, if those requirements had been fulfilled, they would nevertheless have refused the permission sought by the application, either in respect of the whole or in respect of part of the land to which the application relates; and if they are of the opinion that they would so have refused that permission, they shall serve on the applicant a notice in writing to that effect.

(2) Where a notice is served under the preceding subsection in respect of the whole or part of any land, it shall operate, for the purposes of sections twenty-five and twenty-six of this Act, as if the application for planning permission had been an effective application and the notice had been a planning decision of the local planning authority refusing that permission in respect of that land or that part thereof, as the case may be; and the provisions of those sections (if in those circumstances they would have been applicable) shall have effect accordingly.

*Special provisions as to local authorities and statutory undertakers*

Deemed planning permission.

**41.**—(1) Where the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority, or by statutory undertakers not being a local authority, that department may, on granting that authorisation, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the directions.

(2) The provisions of this Act (except Parts VI and XI thereof) shall apply in relation to any planning permission deemed to be granted by virtue of directions under this section as if it had been granted by the Minister on an application referred to him under section twenty-two of this Act.

PART III

(3) For the purposes of this section development shall be taken to be authorised by a government department if—

(*a*) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;

(*b*) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;

(*c*) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;

(*d*) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable; or

(*e*) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants,

and references in this section to the authorisation of a government department shall be construed accordingly.

Application of planning control to local planning authorities.

**42.**—(1) In relation to land of local planning authorities, and to the development by local authorities of land in respect of which they are the local planning authorities, the provisions of this Part of this Act, other than sections fifteen and sixteen, subsections (2) and (3) of section seventeen, and sections twenty-five and twenty-six thereof, shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

(2) Subject to the provisions of the last preceding section, any such regulations may in particular provide for securing—

(*a*) that any application by such an authority for planning permission to develop such land, or for any other consent required in relation to such land under this Part of this Act, shall be made to the Minister and not to the local planning authority;

(*b*) that any order or notice authorised to be made or served under this Part of this Act in relation to such land shall be made or served by the Minister and not by that authority.

(3) Sections fifteen and sixteen and subsections (2) and (3) of section seventeen of this Act shall apply, with the necessary modifications, in relation to applications made to the Minister in pursuance of regulations made for the purposes of subsection (1) of this section, as they apply in relation to applications for planning permission which fall to be determined by the local planning authority.

PART III

*Supplementary provisions*

Applications to determine whether planning permission required.

**43.**—(1) If any person who proposes to carry out any operations on land, or to make any change in the use of land, wishes to have it determined whether the carrying out of those operations, or the making of that change, would constitute or involve development of the land, and, if so, whether an application for planning permission in respect thereof is required under this Part of this Act, having regard to the provisions of the development order, he may, either as part of an application for planning permission, or without any such application, apply to the local planning authority to determine that question.

(2) The provisions of section fourteen, subsection (1) of section seventeen, subsections (2), (4) and (5) of section nineteen, and sections twenty-two to twenty-four of this Act shall, subject to any necessary modifications, apply in relation to any application under this section, and to the determination thereof, as they apply in relation to applications for planning permission and to the determination of such applications.

Appeal to independent tribunal.

**44.**—(1) Provision may be made by a development order for securing that, in the case of decisions of a local planning authority of such classes as may be prescribed by the order, being decisions relating to the design or external appearance of buildings or other similar matters, any appeal under section twenty-three of this Act shall lie to an independent tribunal constituted in accordance with the provisions of that order, instead of being an appeal to the Minister; and in relation to any such appeal the provisions of that section (except, in subsection (6) thereof, the references to section sixteen and to subsection (3) of section seventeen of this Act) and the provisions of section twenty-four of this Act shall apply, subject to such adaptations and modifications as may be specified in the order, as they apply in relation to appeals to the Minister under the said section twenty-three.

(2) Without prejudice to the generality of the powers conferred by section thirty-four of this Act, regulations made for the purposes of that section may provide that any appeal from the decision of the local planning authority, on an application for their consent under the regulations, shall lie to an independent tribunal constituted in accordance with the regulations, instead of being an appeal to the Minister.

(3) If any tribunal is constituted in accordance with the preceding provisions of this section, the Minister may pay to the chairman and members of the tribunal such remuneration, whether by way of salaries or by way of fees, and such reasonable allowances in respect of expenses properly incurred in the performance of their duties, as the Treasury may determine.

## PART IV

### ENFORCEMENT OF PLANNING CONTROL

*Enforcement where planning permission required*

Power to serve enforcement notices.

**45.**—(1) Where it appears to the local planning authority—

(*a*) that any development of land has been carried out without the grant of planning permission required in that behalf in accordance with Part III of this Act, or

(*b*) that any conditions or limitations subject to which planning permission was granted have not been complied with,

then, subject to any directions given by the Minister, and to the following provisions of this section, the local planning authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may, within the period specified in the next following subsection, serve a notice under this section (in this Act referred to as an "enforcement notice").

(2) The period for the service of an enforcement notice—

(*a*) where the notice relates to the carrying out of development, is the period of four years from the carrying out of that development, and

(*b*) where the notice relates to non-compliance with a condition or limitation, is the period of four years from the date of the alleged failure to comply with it.

(3) Where the local planning authority serve an enforcement notice, the notice—

(*a*) shall be served on the owner and occupier of the land to which it relates, and

(*b*) may, if the authority think fit, also be served on any other person having an interest in that land, being an interest which in their opinion is materially affected by the notice.

(4) An enforcement notice—

(*a*) shall specify the development which is alleged to have been carried out without the grant of planning permission as mentioned in paragraph (*a*) of subsection (1) of this section or, as the case may be, the matters in respect of which it is alleged that any such conditions or limitations as are mentioned in paragraph (*b*) of that subsection have not been complied with, and

PART IV

(*b*) may require such steps as may be specified in the notice to be taken, within such period as may be so specified, for the purpose of restoring the land to its condition before the development took place, or of securing compliance with the conditions or limitations, as the case may be, and in particular may, for that purpose, require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.

(5) Subject to the following provisions of this Part of this Act, an enforcement notice shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

Appeal to Minister against enforcement notice.

**46.**—(1) A person on whom an enforcement notice is served, or any other person having an interest in the land, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on any of the following grounds, that is to say—

(*a*) that planning permission ought to be granted for the development to which the enforcement notice relates;

(*b*) that planning permission has been granted for that development;

(*c*) that no planning permission was required in respect of that development, or, as the case may be, that the conditions or limitations subject to which planning permission for that development was granted have been complied with;

(*d*) that what is assumed in the enforcement notice to be development did not constitute or involve development;

(*e*) that the enforcement notice was not served on the owner or occupier of the land within the relevant period of four years specified in subsection (2) of the last preceding section;

(*f*) that the requirements of the enforcement notice exceed what is necessary for restoring the land to its condition before the development in question took place, or, as the case may be, for securing compliance with the conditions or limitations to which the enforcement notice relates;

(*g*) that the period specified in the enforcement notice as the period within which any steps required by that notice are to be taken falls short of what should reasonably be allowed.

(2) Any appeal under this section shall be made by notice in writing to the Minister, which shall indicate the grounds of the

appeal; and on any such appeal the Minister shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(3) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or withdrawal of the appeal.

(4) On an appeal under this section the Minister may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not a material one.

(5) On the determination of an appeal under this section the Minister shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the enforcement notice or for varying the terms of the enforcement notice in favour of the appellant.

Penalties for non-compliance with enforcement notices.

**47.**—(1) Subject to the provisions of this section, where an enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the land to which it relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(2) If a person against whom proceedings are brought under the preceding subsection has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.

(3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner,—

(*a*) the subsequent owner may be convicted of the offence, and

(*b*) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.

(4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable

PART IV

do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of a use of land) remain unfulfilled.

(5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.

(6) Any reference in this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith or such extended period as the local planning authority may allow for compliance with the notice.

(7) In this section "owner", in relation to any land, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let.

Execution by local planning authority of work required by enforcement notice.

**48.** If, within the period specified in an enforcement notice for compliance therewith, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, the local planning authority may enter upon the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf.

Supplementary provisions as to enforcement notices.

**49.**—(1) Any expenses incurred by the owner or occupier of any land for the purpose of complying with an enforcement notice served in respect of any development, and any sums paid by the owner of any land under the last preceding section in respect of expenses incurred by the local planning authority in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person by whom the development was carried out.

(2) Regulations made under this Act may provide that, in relation to any steps required to be taken by an enforcement notice, all or any of the enactments specified in the next following subsection shall apply, subject to such adaptations and modifications as may be specified in the regulations, including, in the case of the enactment specified in paragraph (*b*) of that subsection, adaptations and modifications for the purpose of affording to the owner of land to which an enforcement notice relates the right, as against all other persons interested in the land, to comply with the requirements of the enforcement notice.

(3) The said enactments are the following provisions of the Public Health Act, 1936, that is to say—

(*a*) section two hundred and seventy-six (which empowers local authorities to sell materials removed in executing works under that Act, subject to accounting for the proceeds of sale);

(*b*) section two hundred and eighty-nine (which confers power to require the occupier of any premises to permit works to be executed by the owner of the premises);

(*c*) section two hundred and ninety-two (which confers power on local authorities to include a sum in respect of establishment charges in their expenses in executing works); and

(*d*) section two hundred and ninety-four (which limits the liability of persons holding premises as agents or trustees in respect of the expenses recoverable under that Act).

(4) Any regulations made in accordance with subsection (2) of this section may provide for the charging on the land of any expenses recoverable by a local authority under the last preceding section.

Effect of planning permission on enforcement notice.

**50.**—(1) If, after the service of an enforcement notice, planning permission is granted for the retention on land of buildings or works, or for the continuance of a use of land, to which the enforcement notice relates, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for the demolition or alteration of those buildings or works, or the discontinuance of that use, as the case may be.

(2) If the planning permission granted as mentioned in the preceding subsection is granted so as to permit the retention of buildings or works, or the continuance of a use of land, without complying with some condition subject to which a previous planning permission was granted, the enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.

(3) The preceding provisions of this section shall be without prejudice to the liability of any person for an offence in respect

PART IV

of a failure to comply with the enforcement notice before the relevant provision of the enforcement notice ceased to have effect.

Enforcement notice to have effect against subsequent development.

**51.**—(1) Compliance with an enforcement notice, whether in respect of—

(*a*) the demolition or alteration of any buildings or works, or

(*b*) the discontinuance of any use of land,

or in respect of any other requirements contained in the enforcement notice, shall not discharge the enforcement notice.

(2) Without prejudice to the preceding subsection, any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III of this Act; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(3) Without prejudice to subsection (1) of this section, if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered; and, subject to the next following subsection, the provisions of section forty-eight of this Act, and of subsection (1) of section forty-nine of this Act, shall apply accordingly.

(4) Where, at any time after an enforcement notice takes effect,—

(*a*) any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with the notice, and

(*b*) the local planning authority propose, under section forty-eight of this Act, to take any steps required by the enforcement notice for the demolition or alteration of the buildings or works in consequence of the reinstatement or restoration,

the local planning authority shall, not less than twenty-eight days before taking any such steps, serve on the owner and occupier of the land a notice of their intention to do so.

(5) A person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been

demolished or altered in compliance with an enforcement notice shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and no person shall be liable under any of the provisions of subsections (1) to (4) of section forty-seven of this Act for failure to take any steps required to be taken by an enforcement notice by way of demolition or alteration of what has been so reinstated or restored.

*Enforcement of control in respect of listed buildings*

Notice to enforce control under s. 33.

**52.**—(1) Where any works have been carried out in contravention of the provisions of subsection (1) of section thirty-three of this Act, the local planning authority may serve on the owner and occupier of the building in question a notice under this section requiring such steps for restoring the building to its former state as may be specified in the notice to be taken within such period as may be so specified.

(2) Subject to the next following section, a notice under this section shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

(3) Without prejudice to the preceding provisions of this section, if any person contravenes the provisions of subsection (1) of section thirty-three of this Act, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Appeal to Minister against notice under s. 52.

**53.**—(1) A person on whom a notice under the last preceding section is served, or any other person having an interest in the building to which such a notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on any of the following grounds, that is to say—

(*a*) that the works to which the notice relates were not, or were not wholly, works in contravention of subsection (1) of section thirty-three of this Act;

(*b*) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works to which the notice relates were carried out;

(*c*) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed;

(*d*) that any of the steps required by the notice to be taken would not serve the purpose of restoring the character of the building to what it was before the works to which the notice relates were carried out, and that, if and so far as those works constituted the carrying out of development in contravention of Part III of this Act,

PART IV

planning permission ought to be granted for the retention of those works.

(2) Any appeal under this section shall be made by notice in writing to the Minister, which shall indicate the grounds of the appeal; and on any such appeal the Minister shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(3) Where an appeal is brought under this section, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.

(4) On an appeal under this section the Minister may correct any informality, defect or error in the notice to which the appeal relates if he is satisfied that the informality, defect or error is not a material one.

(5) On the determination of an appeal under this section the Minister shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

Execution by local planning authority of work required by notice under s. 52.

**54.** If, within the period specified in a notice under section fifty-two of this Act in accordance with subsection (1) of that section, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken have not been taken, the local planning authority may enter upon the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf.

Supplementary provisions as to notices under s. 52.

**55.**—(1) Any expenses incurred by the owner or occupier of a building for the purpose of complying with a notice under section fifty-two of this Act, and any sums paid by the owner of a building under the last preceding section in respect of expenses incurred by the local planning authority in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

(2) Subsections (2) and (3) of section forty-nine of this Act shall have effect in relation to notices under section fifty-two thereof, as if any reference therein to an enforcement notice were a reference to a notice under the said section fifty-two.

(3) Any regulations made by virtue of the last preceding subsection may provide for the charging on the land of any expenses recoverable by a local authority under the last preceding section.

*Enforcement of control under section 36* PART IV

Penalty for non-compliance with notice under s. 36.

**56.**—(1) The provisions of this section shall have effect where a notice has been served under section thirty-six of this Act, and the period within which the steps required by the notice are to be taken has expired.

(2) If at any time after the end of that period any of those steps have not been taken, and any person does anything which has the effect of continuing or aggravating the injury caused by the condition of the land to which the notice relates, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding twenty pounds.

Appeal to magistrates' court against notice under s. 36.

**57.**—(1) A person on whom a notice under section thirty-six of this Act is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice on any of the following grounds, that is to say—

(*a*) that the condition of the land to which the notice relates does not seriously injure the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;

(*b*) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III of this Act;

(*c*) that the land to which the notice relates does not constitute a garden, vacant site or other open land in the area of the local planning authority who served the notice;

(*d*) that the requirements of the notice exceed what is necessary for preventing the condition of the land from seriously injuring the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;

(*e*) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.

(2) Any appeal under this section shall be made to a magistrates' court acting for the petty sessions area in which the land in question is situated.

(3) Where an appeal is brought under this section, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.

PART IV

(4) On an appeal under this section the magistrates' court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not a material one.

(5) On the determination of an appeal under this section the magistrates' court shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.

Further appeal to quarter sessions.

**58.** Where an appeal has been brought under the last preceding section, an appeal against the decision of the magistrates' court thereon may be brought to a court of quarter sessions by the appellant or by the local planning authority.

Execution by local planning authority of work required by notice under s. 36.

**59.** If, within the period specified in a notice under section thirty-six of this Act in accordance with subsection (1) of that section, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken have not been taken, the local planning authority may enter upon the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in that behalf.

Supplementary provisions as to notices under s. 36.

**60.**—(1) Any expenses incurred by the owner or occupier of any land for the purpose of complying with a notice under section thirty-six of this Act, and any sums paid by the owner of any land under the last preceding section in respect of expenses incurred by the local planning authority in taking steps required to be taken by such a notice, shall be deemed to be incurred or paid for the use and at the request of the person who caused or permitted the land to come to be in the condition in which it was when the notice was served.

(2) Subsections (2) and (3) of section forty-nine of this Act shall have effect in relation to notices under section thirty-six thereof, as if any reference therein to an enforcement notice were a reference to a notice under the said section thirty-six.

(3) Any regulations made by virtue of the last preceding subsection may provide for the charging on the land of any expenses recoverable by a local authority under the last preceding section.

*Enforcement in other cases*

Enforcement of orders under s. 28.

**61.**—(1) Where, by virtue of an order under section twenty-eight of this Act, the use of land for any purpose is required to be discontinued, or any conditions are imposed on the continuance thereof, then if any person, without the grant of planning permission in that behalf, uses the land for that purpose,

or, as the case may be, uses the land for that purpose in contravention of those conditions, or causes or permits the land to be so used, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and if the use is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding twenty pounds for every day on which the use is so continued.

(2) If, within the period specified in that behalf in an order under section twenty-eight of this Act, any steps required by that order to be taken for the alteration or removal of any buildings or works have not been taken, the local planning authority may, and shall if so required by directions of the Minister, enter upon the land and take those steps; and section two hundred and seventy-six of the Public Health Act, 1936, shall apply in relation to any works executed by a local planning authority under this subsection as it applies in relation to works executed by a local authority under that Act.

Enforcement of tree and building preservation orders.

**62.**—(1) If any person contravenes the provisions of a tree preservation order, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding fifty pounds; and if, in the case of a continuing offence, the contravention is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued.

(2) The matters for which provision may be made by a building preservation order shall include provision for enabling the local planning authority, where any works of a description specified in the order have been executed in contravention of the order, to require the restoration of the building to its former state, and for that purpose for applying any of the provisions of this Part of this Act with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the order.

(3) Without prejudice to any provisions included in a building preservation order by virtue of the last preceding subsection, if any person, being the owner of a building in relation to which a building preservation order is in force, or a person on whom notice of such an order has been served by the authority by whom the order was made, executes, or causes or permits to be executed, any works in contravention of the order, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(4) Nothing in subsection (2) or subsection (3) of this section shall render unlawful the execution of any works which are urgently necessary in the interests of safety or health or for the

PART IV

preservation of the building in question or of neighbouring property, so long as notice in writing of the proposed execution of the works is given, as soon as may be after the necessity for the works arises, to the authority by whom the order was made.

Enforcement of control of advertisements.

**63.**—(1) The matters for which provision may be made by regulations under section thirty-four of this Act shall include provision for enabling the local planning authority to require the removal of any advertisement which is being displayed in contravention of the regulations, or the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations, and for that purpose for applying any of the provisions of this Part of this Act with respect to enforcement notices, subject to such adaptations and modifications as may be specified in the regulations.

(2) Without prejudice to any provisions included in regulations made under section thirty-four of this Act by virtue of the preceding subsection, if any person displays an advertisement in contravention of the provisions of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed by the regulations, not exceeding fifty pounds and, in the case of a continuing offence, forty shillings for each day during which the offence continues after conviction.

(3) For the purposes of the last preceding subsection, and without prejudice to the generality thereof, a person shall be deemed to display an advertisement if—

(*a*) the advertisement is displayed on land of which he is the owner or occupier, or

(*b*) the advertisement gives publicity to his goods, trade, business or other concerns:

Provided that a person shall not be guilty of an offence under the last preceding subsection by reason only that an advertisement is displayed on land of which he is the owner or occupier, or that his goods, trade, business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

*Supplementary provisions*

Supplementary provisions as to appeals to Minister under Part IV.

**64.**—(1) Subsection (5) of section two hundred and ninety of the Local Government Act, 1933 (which authorises a government department holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Minister on an appeal under this Part of this Act as if those proceedings were an inquiry held by the Minister under the said section two hundred and ninety.

(2) Where an appeal to the Minister against an enforcement notice, or against a notice under section fifty-two of this Act, is brought under this Part of this Act, the appellant shall be deemed to have made an application—

(*a*) in the case of an enforcement notice, for planning permission to retain on the land the buildings or works, or, as the case may be, to continue the use of the land, to which the notice relates, or

(*b*) in the case of a notice under section fifty-two of this Act, for planning permission for the development (if any) involved in the works to which the notice relates.

(3) Any application for planning permission deemed to have been made by virtue of the last preceding subsection shall be treated as having been referred to the Minister under section twenty-two of this Act, and the provisions of that section shall apply accordingly:

Provided that subsection (4) of that section shall apply as if the reference therein to sections fifteen and sixteen of this Act were omitted and the reference to subsections (1) to (3) of section seventeen of this Act were a reference only to subsection (1) of the said section seventeen.

(3) Where under this Part of this Act any person has appealed to the Minister or (in accordance with section fifty-seven of this Act) to a magistrates' court against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

Recovery of expenses of local planning authorities under Part IV.

**65.** Where by virtue of any of the preceding provisions of this Part of this Act any expenses are recoverable by a local planning authority, those expenses shall be recoverable as a simple contract debt in any court of competent jurisdiction.

Enforcement in relation to local planning authorities.

**66.**—(1) In relation to land of local planning authorities, and to the development by local authorities of land in respect of which they are the local planning authorities, the provisions of this Part of this Act shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

(2) Any such regulations may in particular provide that any notice authorised to be served under this Part of this Act in relation to such land shall be served by the Minister and not by the local planning authority.

## PART V

## ACQUISITION AND APPROPRIATION OF LAND AND PROVISIONS RELATED THERETO

### *Acquisition and appropriation of land*

Compulsory acquisition of designated land.

**67.**—(1) Where any land is designated by a development plan as subject to compulsory acquisition by a Minister or local authority or by statutory undertakers, that Minister or authority or those undertakers may be authorised to acquire that land compulsorily in accordance with the provisions of this section.

(2) The compulsory acquisition of land under this section may be authorised—

(*a*) in the case of land designated by a development plan as subject to acquisition by a Minister, by that Minister;

(*b*) in the case of land so designated as subject to acquisition by a local authority, by the Minister concerned with the functions in question;

(*c*) in the case of land so designated as subject to acquisition by statutory undertakers, by the Minister who is the appropriate Minister for the purposes of those undertakers.

(3) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply to the compulsory acquisition of land under this section, and accordingly shall have effect—

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

(*b*) as if any reference in that Act to a local authority (except the references thereto in subsection (2) of section one and in paragraph 9 of the First Schedule) included a reference to statutory undertakers; and

(*c*) as if references therein to the Minister of Transport, and to the enactments specified in paragraph (*b*) of subsection (1) of section one of that Act, included respectively references to any Minister and to the provisions of this section.

Compulsory acquisition of land for development.

**68.**—(1) Where any land is designated by a development plan as subject to compulsory acquisition by the appropriate local authority, then if the Minister is satisfied—

(*a*) in the case of land comprised in an area defined by the plan as an area of comprehensive development, or of land contiguous or adjacent to any such area, that the land is required in order to secure the development or redevelopment of that area or that it is expedient in the public interest that the land should be held together with land so required, or

(*b*) in any other case, that it is necessary that the land should be acquired under this section for the purpose of securing its use in the manner proposed by the plan,

he may authorise the council of the county borough or county district in which the land is situated to acquire the land compulsorily in accordance with the provisions of this section.

(2) Where under the preceding subsection the Minister has power to authorise the council of a county borough or county district to acquire any land compulsorily, he may, if after consultation with that council, and, in the case of land in a county, with the council of that county, he thinks it expedient to do so, authorise the land to be so acquired by any other local authority instead of that council.

(3) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply to the compulsory acquisition of land under this section, and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act.

Compulsory acquisition of building comprised in building preservation order.

**69.**—(1) Where a building preservation order is in force in respect of a building, and it appears to the Minister that reasonable steps are not being taken for properly preserving the building, the Minister may authorise the council of the county or county borough or county district in which the building is situated to acquire compulsorily under this section the building and any land comprising or contiguous or adjacent to it which appears to the Minister to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

(2) Where a building preservation order is in force in respect of a building, and it appears to the Minister of Works that reasonable steps are not being taken for properly preserving the building, that Minister may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required as mentioned in the preceding subsection.

(3) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply to the compulsory acquisition of land under this section, and accordingly shall have effect—

(*a*) as if this section had been in force immediately before the commencement of that Act, and

(*b*) as if references therein to the Minister of Transport and to the enactments specified in paragraph (*b*) of subsection (1) of section one of that Act included respectively references to the Minister of Works and to the provisions of this section.

PART V

(4) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the notice required to be served under paragraph 3 of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, apply to a magistrates' court acting for the petty sessions area within which the building to which the notice relates is situated for an order staying further proceedings on the compulsory purchase order; and, if the court is satisfied that reasonable steps are being taken for properly preserving the building, the court shall make an order accordingly.

(5) Any person aggrieved by the decision of a magistrates' court on an application under the last preceding subsection may appeal against that decision to a court of quarter sessions.

(6) Where a building is acquired under the provisions of subsection (1) of this section, the council of the county or county borough or county district by whom the building is acquired shall observe the provisions of the building preservation order relating to that building.

Extinguishment of rights over land compulsorily acquired.

**70.**—(1) Subject to the provisions of this section, upon the completion by the acquiring authority of a compulsory acquisition of land under this Part of this Act, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land shall be extinguished, and any such apparatus shall vest in the acquiring authority.

(2) The preceding subsection shall not apply to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking.

(3) In respect of any right or apparatus not falling within the last preceding subsection, subsection (1) of this section shall have effect subject—

(*a*) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) of this section shall not apply to any right or apparatus specified in the direction, and

(*b*) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.

(4) Any person who suffers loss by the extinguishment of a right or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.

(5) Any compensation payable under this section shall be determined in accordance with the Land Compensation Act, 1961.

PART V
Acquisition of land by agreement.

**71.**—(1) The council of any county, county borough or county district may acquire by agreement—

(*a*) any land (whether or not being land designated by a development plan as subject to compulsory acquisition) which they require for any purpose for which a local authority may be authorised to acquire land under section sixty-eight of this Act;

(*b*) any building in respect of which a building preservation order has been or could be made by the local planning authority, and any land comprising or contiguous or adjacent to it which appears to the Minister to be required for the purposes specified in subsection (1) of section sixty-nine of this Act.

(2) The powers conferred by the preceding subsection shall not be exercisable by a council except with the consent of the Minister, unless the land which is to be acquired either—

(*a*) is immediately required by the council for the purpose for which it is to be acquired, or

(*b*) if it is not so required, is land within the area of the council,

and shall not be exercisable except with the consent of the Minister in respect of corporate land.

(3) The Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845) shall be incorporated with this section; and in construing those Acts as so incorporated—

(*a*) this section shall be deemed to be the special Act, and

(*b*) references to the promoters of the undertaking shall be construed as references to the council authorised to acquire the land under this section.

Acquisition of land for purposes of exchange.

**72.** Without prejudice to the generality of the powers conferred by the preceding provisions of this Part of this Act, any power of a local authority to acquire land thereunder, whether compulsorily or by agreement, shall include power to acquire land required for giving in exchange—

(*a*) for land appropriated under the next following section, or

(*b*) for Green Belt land, within the meaning of the Green Belt (London and Home Counties) Act, 1938, appropriated in accordance with that Act for any purpose specified in a development plan.

PART V
Appropriation of land for planning purposes.

**73.**—(1) Any local authority may be authorised, by an order made by that authority and confirmed by the Minister, to appropriate for any purpose specified in a development plan (being a purpose for which that authority can be authorised to acquire land under any enactment) any land for the time being held by them for other purposes, being land which is or forms part of a common, open space or fuel or field garden allotment (including any such land which is specially regulated by any enactment, whether public general or local or private), other than land which is Green Belt land within the meaning of the Green Belt (London and Home Counties) Act, 1938.

(2) Paragraph 11 of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946 (which makes special provision with respect to compulsory purchase orders under that Act relating to land forming part of a common, open space or fuel or field garden allotment) shall apply to an order under this section authorising the appropriation of land as it applies to a compulsory purchase order under that Act.

(3) Section one hundred and sixty-three of the Local Government Act, 1933 (which contains general provisions as to the appropriation of land by local authorities) shall not apply to land which a local authority have power to appropriate under subsection (1) of this section.

(4) Where land appropriated under this section was acquired under an enactment incorporating the Lands Clauses Acts, any works executed on the land after the appropriation has been effected shall, for the purposes of section sixty-eight of the Lands Clauses Consolidation Act, 1845, be deemed to have been authorised by the enactment under which the land was acquired.

(5) On an appropriation of land by a local authority under this section, where—

(*a*) the authority is not an authority to whom Part II of the Act of 1959 applies, or

(*b*) the land was immediately before the appropriation held by the authority for the purposes of a grant-aided function within the meaning of the Act of 1959, or is appropriated by the authority for the purposes of such a function, or

(*c*) the land, immediately before it was appropriated, was corporate land,

there shall be made in the accounts of the local authority such adjustments as the Minister may direct.

(6) On an appropriation under this section which does not fall within the last preceding subsection, there shall be made such adjustment of accounts as is required by subsection (1) of section twenty-four of the Act of 1959.

*Expedited completion of compulsory acquisition* PART V

Order providing for expedited completion.

**74.**—(1) Where, for the purposes of an acquisition under section sixty-eight of this Act, a local authority submit to the Minister a compulsory purchase order, and—

(*a*) the order as submitted to the Minister includes an application for a direction under this section, and

(*b*) the Minister is satisfied that it is urgently necessary in the public interest to empower that authority to enter upon any land (being the whole or part of the land to which the order relates) and to secure its vesting in them before the expiry of the time which would be required for the service of notices to treat,

the Minister may include in the order as confirmed by him a direction that the provisions of this Part of this Act relating to expedited completion shall apply to the order so far as it relates to the first-mentioned land.

(2) A compulsory purchase order which contains such a direction shall be registered in the register of local land charges, in such manner as may be prescribed by rules made for the purposes of this section under subsection (6) of section fifteen of the Land Charges Act, 1925, by the proper officer of the council of each county borough or county district in which the land to which the direction relates or any part thereof is situated; and it shall be the duty of the local authority, as soon as may be after the order has become operative, to notify that fact to the proper officer of the council by whom it is required to be so registered, and to furnish him with all information relating to the order which is required for the purpose.

(3) Where a compulsory purchase order containing a direction under this section is made in respect of land which has sustained war damage, being damage which has not been made good before the date on which the order is registered under the last preceding subsection, the local authority, when they notify the fact that the order has become operative to the proper officer under the last preceding subsection, shall notify the War Damage Commission of that action having been taken.

General effect of order providing for expedited completion.

**75.**—(1) The provisions of this and the next following section and of the Fourth Schedule to this Act shall have effect in relation to a compulsory purchase order which includes such a direction as is mentioned in subsection (1) of the last preceding section.

(2) When the order becomes operative, the incorporated enactments shall apply as if, on the relevant date, a notice to treat had (except as provided by the next following section) been served on every person on whom under section eighteen of the

PART V

Lands Clauses Consolidation Act, 1845 (on the assumption that the acquiring authority required to take the whole of the relevant land and had knowledge of all the parties referred to in that section) the authority could have served such a notice.

(3) Subject to the next following subsection, the acquiring authority, at any time or from time to time after the order becomes operative, may execute, in respect of any area consisting of the whole or part of the relevant land, a declaration designating that area and stating—

(*a*) that they intend to enter upon the land in the designated area, and take possession thereof, at the end of such period as may be specified in the declaration (not being less than fourteen days) from the date on which the service of notices on occupiers required by subsection (5) of this section is completed, and

(*b*) that the land in the designated area is to vest in the acquiring authority at the end of that period.

(4) A declaration under the last preceding subsection shall not be executed before the end of the period of two months from the date of the first publication of the notice of confirmation of the order as required by the Acquisition of Land (Authorisation Procedure) Act, 1946:

Provided that the order may substitute a period longer than two months for the purposes of the operation of this subsection in relation to any land, or, if the order as submitted to the Minister so provided in respect of any land, may substitute a period shorter than two months for the purposes of the operation of this subsection in relation to that land.

(5) As soon as may be after executing a declaration under subsection (3) of this section, the acquiring authority shall serve—

(*a*) on every occupier of any of the land in the area designated by the declaration (other than land excepted from this paragraph by the next following section), and

(*b*) on every other person who has given information to the acquiring authority with respect to any land in that area, in pursuance of the invitation in that behalf required (in accordance with paragraph 2 of the Fourth Schedule to this Act) to be included in the notice of confirmation of the order,

a notice describing the designated area and stating the effect of the declaration.

(6) At the end of the period specified in such a declaration in accordance with paragraph (*a*) of subsection (3) of this section there shall vest in the acquiring authority the right to enter upon,

and take possession of, the land in the area designated by the declaration, or any of that land, without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, and the land in that area shall vest in the acquiring authority as if, at the end of that period,—

(*a*) the circumstances in which under that Act the promoters of an undertaking have powers to execute a deed poll (whether for vesting land or any interest in land in themselves or for extinguishing the whole or part of any rent-service, rentcharge, chief or other rent, or other payment or incumbrance) had arisen in respect of all the land in the designated area and in respect of all interests in that land, and

(*b*) the acquiring authority had duly exercised those powers accordingly:

Provided that, in relation to tenancies to which the next following section applies, this subsection shall have effect subject to the provisions of that section.

(7) In this section " the incorporated enactments " means the provisions of the Lands Clauses Acts and the Land Compensation Act, 1961, as modified by the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, and by the provisions of this and the next following section and the Fourth Schedule to this Act, and the " relevant land ", in relation to a compulsory purchase order, means the aggregate of the land in respect of which it is directed by the order, in accordance with subsection (1) of the last preceding section, that the provisions of this Part of this Act relating to expedited completion shall apply to the order; and in this and the next following section " the relevant date ", in relation to any land, means the date on which the compulsory purchase order in question is registered under subsection (2) of the last preceding section by the proper officer of the council of the county borough or county district in which that land is situated.

Special provisions as to certain tenancies.

**76.**—(1) The tenancies to which this section applies are minor tenancies and long tenancies which are about to expire.

(2) Notwithstanding anything in subsection (2) of the last preceding section, no notice to treat shall by virtue of that subsection be taken to have been served on any person in respect of a tenancy to which this section applies.

(3) Land in which there subsists a tenancy to which this section applies is excepted from paragraph (*a*) of sub-section (5) of the last preceding section, and the reference in that paragraph to land excepted from that paragraph by this section shall be construed accordingly.

PART V

(4) Where any land in an area designated by a declaration under subsection (3) of the last preceding section is land in which a minor tenancy is subsisting, then (without prejudice to any power, exercisable by virtue of the Lands Clauses Acts, to require a tenant to give up possession) the right of entry conferred by subsection (6) of that section shall not be exercisable in respect of that land, and the vesting of the land in the acquiring authority by virtue of that subsection shall be subject to the tenancy during its subsistence.

(5) Where any land in an area designated by a declaration under subsection (3) of the last preceding section is land in which a long tenancy which is about to expire is subsisting—

(*a*) the right of entry conferred by subsection (6) of the last preceding section shall not be exercisable in respect of that land unless the acquiring authority have served a notice to treat in respect of the tenancy and have thereafter served upon every occupier of any of the land in which the tenancy subsists a notice, stating that, at the end of such period as may be specified in that notice (not being less than fourteen days) from the date on which the notice is served, they intend to enter upon and take possession of such land as may be specified in that notice, and the period specified in the last-mentioned notice has expired, and

(*b*) the vesting of the land in the acquiring authority shall be subject to the tenancy until the end of the period specified in the last-mentioned notice, or the cesser of the tenancy, whichever first occurs.

(6) In this section "minor tenancy" means a tenancy for a year or from year to year or any lesser interest.

(7) In this section "long tenancy which is about to expire" means a tenancy granted for an interest greater than a minor tenancy, but having at the relevant date a period still to run which is not more than the specified period (that is to say, such period, longer than one year, as may for the purposes of this subsection be specified in the order in relation to the land in which the tenancy subsists); and in determining for the purposes of this subsection what period a tenancy still has to run at the relevant date it shall be assumed—

(*a*) that the tenant will exercise any option to renew the tenancy, and will not exercise any option to terminate the tenancy, then or thereafter available to him, and

(*b*) that the landlord will exercise any option to terminate the tenancy then or thereafter available to him.

*Powers exercisable in relation to land held for planning purposes, and other related powers* PART V

Appropriation of land held for planning purposes.

**77.**—(1) Where any land has been acquired or appropriated by a local authority for planning purposes and is for the time being held by the authority for the purposes for which it was so acquired or appropriated, the authority (subject to the following provisions of this section) may appropriate the land for any purpose for which they are or may be authorised in any capacity to acquire land by virtue of or under any enactment not contained in this Part of this Act.

(2) The consent of the Minister shall be requisite to any appropriation under this section—

(*a*) by an authority which is not an authority to whom Part II of the Act of 1959 applies, or

(*b*) of land which, immediately before the appropriation, is land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act, or

(*c*) of land which, immediately before the appropriation, is corporate land;

and any such consent may be given either in respect of a particular appropriation or in respect of appropriations of any class, and may be given either subject to or free from any conditions or limitations.

(3) For the purposes of subsection (2) of section twenty-three of the Act of 1959 (which makes provision as to the consent of Ministers to appropriations in certain cases) the power of appropriation conferred by subsection (1) of this section shall (except in respect of any exercise thereof in circumstances falling within the last preceding subsection) be deemed to be a power in relation to which subsection (1) of that section has effect.

(4) In relation to any appropriation under this section—

(*a*) subsection (2) of section one hundred and sixty-three of the Local Government Act, 1933 (which relates to the operation of section sixty-eight of the Lands Clauses Consolidation Act, 1845), and

(*b*) subsections (5) and (6) of section seventy-three of this Act,

shall have effect as they have effect in relation to appropriations under those sections respectively.

(5) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of the provisions of subsection (1) of section one hundred and sixty-three of the Local Government Act, 1933.

PART V
Disposal of land held for planning purposes.

**78.**—(1) Where any land has been acquired or appropriated by a local authority for planning purposes, and is for the time being held by the authority for the purposes for which it was so acquired or appropriated, the authority may dispose of the land to such person, in such manner and subject to such conditions as may appear to them to be expedient in order to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out thereon, whether by themselves or by any other person, or to secure the erection, construction or carrying out thereon of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.

(2) The consent of the Minister shall be requisite to any disposal under this section—

(*a*) by an authority which is not an authority to whom Part II of the Act of 1959 applies, or

(*b*) of land comprised in an area defined by a development plan as an area of comprehensive development, or of land contiguous or adjacent to any such area which is designated by the development plan as subject to compulsory acquisition by the appropriate local authority, or

(*c*) of land which, immediately before the disposal, is land which consists or forms part of a common, or formerly consisted or formed part of a common, and is held or managed by a local authority in accordance with a local Act, or

(*d*) of land which, immediately before the disposal, is corporate land;

and any such consent may be given either in respect of a particular disposal or in respect of disposals of any class, and may be given either subject to or free from any conditions or limitations.

(3) For the purposes of subsections (2) and (3) of section twenty-six of the Act of 1959 (which makes provision as to the consent of Ministers to disposals in certain cases), any disposal of land under this section shall be deemed to be a disposal which, apart from that section, could not be effected except with the consent of a Minister; and for the purposes of subsection (4) of that section (which relates to disposals for a price, consideration or rent less than the best reasonably obtainable) the power of disposal conferred by subsection (1) of this section shall (except in respect of any exercise thereof in circumstances falling within the last preceding subsection) be deemed to be a power in relation to which subsection (1) of that section has effect.

(4) Subject to the next following subsection, if it appears to the Minister that it is expedient as mentioned in subsection (1) of this section that a local authority should dispose of land under

this section to any person, and the authority have refused to dispose of it to him or are unable to reach agreement with him as to the manner in which, or the terms or conditions on or subject to which, it is to be disposed of to him, the Minister may, after consultation with the authority and that person, require the authority to offer to dispose of it to him, and give directions as to the manner of the disposal and as to all or any of the terms or conditions on or subject to which it is to be offered to him.

(5) A local authority shall not be required by any directions given under the last preceding subsection (except to such extent as may appear to the Minister to be requisite in any particular case for giving effect to subsection (7) of this section) to offer to dispose of land for a money consideration less than the best that can reasonably be obtained, having regard to the other terms and conditions on and subject to which the offer is to be made; and any difference as to what is the best consideration shall be referred to and determined by an arbitrator agreed between the Minister and the authority, or, in default of such agreement, shall be referred to and determined by the Lands Tribunal.

(6) In estimating the best consideration for the purposes of of the last preceding subsection, any amount which only a particular purchaser might be prepared to offer by reason of special needs of his shall be disregarded.

(7) In relation—

(*a*) to land comprised in an area defined by a development plan as an area of comprehensive development, and

(*b*) to land contiguous or adjacent to any such area which is designated by the development plan as subject to compulsory acquisition by the appropriate local authority,

the powers conferred by this section on a local authority, and on the Minister in respect of the giving of consent to disposals under this section, shall be so exercised as to secure, so far as may be practicable, to persons who were living or carrying on business or other activities on any such land which the authority have acquired as mentioned in subsection (1) of this section, who desire to obtain accommodation on such land, and who are willing to comply with any requirements of the authority as to the development and use of such land, an opportunity to obtain thereon accommodation suitable to their reasonable requirements, on terms settled with due regard to the price at which any such land has been acquired from them.

In this subsection " development " includes redevelopment.

(8) Subject to the provisions of section twenty-seven of the Act of 1959 (which enables capital money in certain cases to be applied without the consent or approval of a Minister which

PART V

would otherwise be required) and to the provisions of subsection (6) of section thirty of that Act in so far as it relates to the application of capital money received in respect of corporate land, section one hundred and sixty-six of the Local Government Act, 1933 (which relates to the application of capital money received from the disposal of land) shall have effect in relation to capital money received in respect of transactions under this section as it has effect in relation to capital money received in respect of such transactions as are mentioned in that section.

(9) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of sections one hundred and sixty-four and one hundred and sixty-five of the Local Government Act, 1933.

Development of land held for planning purposes.

**79.**—(1) The functions of a local authority shall include power for the authority, notwithstanding any limitation imposed by law on the capacity of the authority by virtue of its constitution, to erect, construct or carry out any building or work on any land to which this section applies, not being a building or work for the erection, construction or carrying out of which, whether by that local authority or by any other person, statutory power exists by virtue of, or could be conferred under, an alternative enactment.

(2) This section applies to any land which has been acquired or appropriated by a local authority for planning purposes and is for the time being held by the authority for the purposes for which it was so acquired or appropriated.

(3) The consent of the Minister shall be requisite to any exercise by a local authority of the power conferred on them by subsection (1) of this section; and any such consent may be given either in respect of a particular operation or in respect of operations of any class, and either subject to or free from any conditions or limitations.

(4) Where a local authority propose to carry out any operation which they would have power to carry out by virtue only of subsection (1) of this section, they shall notify the Minister of their proposal, and the Minister may direct such advertisement by the authority as appears to him to be requisite for the purposes of the last preceding subsection.

(5) The functions of a local authority shall include power for the authority, notwithstanding any such limitation as is mentioned in subsection (1) of this section, to repair, maintain and insure any buildings or works on land to which this section applies, and generally to deal therewith in a proper course of management.

(6) A local authority may, with the consent of the Minister, enter into arrangements with an authorised association for the carrying out by the association of any operation which, apart from the arrangements, the local authority would have power under this section to carry out, on such terms (including terms as to the making of payments or loans by the authority to the association) as may be specified in the arrangements:

Provided that nothing in this section shall be construed as authorising such an association to carry out any operation which they would not have power to carry out apart from this subsection.

(7) Nothing in this section shall be construed as authorising any act or omission on the part of a local authority which is actionable at the suit of any person on any grounds other than such a limitation as is mentioned in subsection (1) of this section.

(8) In this section "alternative enactment" means any enactment which is not contained in this Part of this Act or in section two, section five or section fourteen of the Local Employment Act, 1960, and "authorised association" means any society, company or body of persons approved by the Minister whose objects include the promotion, formation or management of garden cities, garden suburbs or garden villages, and the erection, improvement or management of buildings for the working classes and others, and which does not trade for profit or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being fixed by the Treasury.

Special provisions as to features and buildings of architectural or historic interest.

**80.**—(1) In the exercise of the powers of appropriation, disposal and development conferred by the provisions of sections seventy-seven and seventy-eight of this Act, and of subsection (1) of the last preceding section, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings; and the Minister shall not give his consent to the appropriation or disposal thereunder of any land comprising a listed building, or to the erection, construction or carrying out of any building or work on any such land, unless either—

(*a*) the consent is given subject to such conditions or limitations as in the opinion of the Minister will secure the preservation of the listed building, or

(*b*) the Minister, after giving the requisite notice of the application for his consent, is satisfied that the purpose which the local authority seek to achieve by the proposed exercise of their powers is one which ought in

PART V

the public interest to be carried out, and that the carrying out of that purpose, whether by the use of the land in question or otherwise, either—

(i) would be prevented by the preservation of the listed building, or

(ii) would be so affected by the preservation thereof that, notwithstanding the desirability of preserving the building, it is inexpedient to do so.

(2) For the purposes of paragraph (*b*) of the preceding subsection the requisite notice of an application for the consent of the Minister is a notice which—

(*a*) contains such particulars of the appropriation, disposal or operation for which his consent is sought as appear to him to be requisite, and

(*b*) not less than twenty-eight days before he gives his decision on the application, is published in the London Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land is situated.

(3) In this section "preservation", in relation to a building, means the preservation thereof either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character, "development" includes redevelopment, and "listed building" means a building included in any list compiled or approved under section thirty-two of this Act.

**Power to override easements and other rights.**

**81.**—(1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired or appropriated by a local authority for planning purposes, whether done by the local authority or by a person deriving title under them, is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this section applies, or involves a breach of a restriction as to the user of land arising by virtue of a contract:

Provided that nothing in this subsection shall authorise interference with any right of way or right of laying down, erecting, continuing or maintaining apparatus on, under or over land, being a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking.

(2) This section applies to the following interests and rights, that is to say, any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(3) In respect of any interference or breach in pursuance of subsection (1) of this section, compensation shall be payable under section sixty-three or section sixty-eight of the Lands Clauses Consolidation Act, 1845, to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with a purchase under that Act or the injury arises from the execution of works on land acquired under that Act.

(4) Where a person deriving title under the local authority by whom the land in question was acquired or appropriated is liable to pay compensation by virtue of the last preceding subsection, and fails to discharge that liability, the liability shall be enforceable against the local authority:

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

(5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in subsection (1) of this section.

Use and development of consecrated land and burial grounds.

**82.**—(1) Any consecrated land, whether or not including a building, which has been acquired by a Minister, a local authority or statutory undertakers under this Part of this Act, or which has been appropriated by a local authority for planning purposes, may, subject to the following provisions of this section,—

(*a*) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land, and

(*b*) in any other case, be used by any person in any manner in accordance with planning permission,

notwithstanding any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land:

Provided that this subsection does not apply to land which consists or forms part of a burial ground.

(2) Any use of consecrated land authorised by the preceding subsection, and the use of any land, not being consecrated land, acquired or appropriated as therein mentioned which at the time of acquisition or appropriation included a church or other building used or formerly used for religious worship or the site thereof, shall be subject to compliance with the prescribed requirements with respect to the removal and reinterment of any

PART V

human remains, and the disposal of monuments and fixtures and furnishings; and, in the case of consecrated land, shall be subject to such provisions as may be prescribed for prohibiting or restricting the use of the land, either absolutely or until the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part thereof, remains on the land.

(3) Any regulations made for the purposes of the last preceding subsection—

(*a*) shall contain such provisions as appear to the Minister to be requisite for securing that any use of land which is subject to compliance with the regulations shall, as nearly as may be, be subject to the like control as is imposed by law in the case of a similar use authorised by an enactment not contained in this Act or by a Measure, or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure;

(*b*) shall contain requirements relating to the disposal of any such land as is mentioned in the last preceding subsection such as appear to the Minister requisite for securing that the provisions of that subsection shall be complied with in relation to the use of the land; and

(*c*) may contain such incidental and consequential provisions (including provision as to the closing of registers) as appear to the Minister to be expedient for the purposes of the regulations.

(4) Any land consisting of a burial ground or part of a burial ground, which has been acquired or appropriated as mentioned in subsection (1) of this section, may—

(*a*) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land, and

(*b*) in any other case, be used by any person in any manner in accordance with planning permission,

notwithstanding anything in any enactment relating to burial grounds or any obligation or restriction imposed under ecclesiastical law or otherwise in respect of burial grounds:

Provided that this subsection shall not have effect in respect of any land which has been used for the burial of the dead until the prescribed requirements with respect to the removal and reinterment of human remains, and the disposal of monuments, in or upon the land have been complied with.

(5) Provision shall be made by any regulations made for the purposes of subsection (2) of this section and the proviso to the last preceding subsection—

(*a*) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments;

(*b*) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased, and the disposal of any monument commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal, not exceeding such amount as may be prescribed;

(*c*) for requiring compliance with such reasonable conditions (if any) as may be imposed, in the case of consecrated land, by the bishop of the diocese, with respect to the manner of removal, and the place and manner of reinterment of any human remains, and the disposal of any monuments, and with any directions given in any case by the Secretary of State with respect to the removal and reinterment of any human remains.

(6) Subject to the provisions of any such regulations, no faculty shall be required for the removal and reinterment in accordance with the regulations of any human remains, or for the removal or disposal of any monuments, and the provisions of section twenty-five of the Burial Act, 1857 (which prohibits the removal of human remains without the licence of the Secretary of State except in certain cases) shall not apply to a removal carried out in accordance with the regulations.

(7) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such obligation, restriction or enactment as is mentioned in subsection (1) or subsection (4) of this section.

(8) In this section "burial ground" includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment, and "monument" includes a tombstone or other memorial.

Use and development of land for open spaces.

**83.**—(1) Any land being, or forming part of, a common, open space or fuel or field garden allotment, which has been acquired by a Minister, a local authority or statutory undertakers under this Part of this Act, or which has been appropriated by a local authority for planning purposes, may—

PART V

(*a*) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land, and

(*b*) in any other case, be used by any person in any manner in accordance with planning permission,

notwithstanding anything in any enactment relating to land of that kind, or in any enactment by which the land is specially regulated.

(2) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than contravention of any such enactment as is mentioned in the preceding subsection.

Displacement of persons from land acquired or appropriated.

**84.**—(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, and the carrying out of redevelopment on the land will involve the displacement of persons residing in premises thereon, it shall be the duty of the authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacements from time to time becoming necessary as the redevelopment proceeds.

(2) Section one hundred and forty-four of the Housing Act, 1957 (which imposes obligations as to the provision of housing accommodation where land is acquired under statutory powers) shall not have effect in relation to an acquisition by a local authority under section sixty-eight of this Act.

(3) If the Minister certifies that possession of a house which has been acquired or appropriated by a local authority for planning purposes, and is for the time being held by the authority for the purposes for which it was acquired or appropriated, is immediately required for those purposes, nothing in the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, shall prevent the acquiring or appropriating authority from obtaining possession of the house.

(4) Where any land has been acquired by a Minister under this Part of this Act, or has been acquired or appropriated by a local authority for planning purposes, and that Minister or the local authority in question, as the case may be, requires possession of a building on the land, or of part of such a building, for the purposes for which the land was acquired or appropriated, then, whatever may be the value or rent of the building or part of a building, that Minister or authority may obtain possession thereof under the Small Tenements Recovery Act, 1838, at any

time after the tenancy of the occupier has expired or has been determined. PART V

(5) Where any land has been acquired by a Minister or a local authority under this Part of this Act, or has been appropriated by a local authority for planning purposes, that Minister or the local authority in question, as the case may be,—

(*a*) may pay to any person who is displaced in the carrying out of redevelopment on the land such reasonable allowance as he or they think fit towards his expenses in removing, and

(*b*) may pay to a person carrying on any business in a building from which he is so displaced such reasonable allowance as he or they think fit towards the loss which, in his or their opinion, that person will sustain by reason of the disturbance to his business consequent on his having to quit the building.

(6) In estimating loss for the purposes of paragraph (*b*) of the last preceding subsection, the Minister or local authority in question shall have regard to the period for which the premises occupied by the person referred to in that paragraph might reasonably have been expected to be available for the purpose of that person's business, and to the availability of other premises suitable for that purpose.

Constitution of joint body to hold land acquired for planning purposes

**85.**—(1) If it appears to the Minister, after consultation with the local authorities concerned, to be expedient that any land acquired by a local authority for planning purposes should be held by a joint body, consisting of representatives of that authority and of any other local authority, he may by order provide for the establishment of such a joint body and for the transfer to that body of the land so acquired.

(2) Any order under this section providing for the establishment of a joint body may make such provision as the Minister considers expedient with respect to the constitution and functions of that body, including provisions—

(*a*) for incorporating the joint body;

(*b*) for conferring on them, in relation to land transferred to them as mentioned in the preceding subsection, any of the powers conferred on local authorities by this Part of this Act in relation to land acquired and held by such authorities for the purposes of this Part of this Act;

(*c*) for determining the manner in which their expenses are to be defrayed.

(3) Regulations under this Act may make such provision consequential upon or supplementary to the provisions of this section as appears to the Minister to be necessary or expedient.

PART V *Supplementary provisions*

Modification of incorporated enactments for purposes of Part V.

**86.**—(1) Where any land is designated by a development plan as subject to compulsory acquisition, and a compulsory purchase order relating to that land is submitted to the confirming authority in accordance with Part I of the First Schedule to the Act of 1946, or, as the case may be, is made in draft by a Minister in accordance with Part II of that Schedule, the confirming authority or that Minister, as the case may be, may disregard for the purposes of that Schedule any objection to the order or draft which, in the opinion of that authority or Minister, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.

(2) Where a compulsory purchase order authorising the acquisition of any land under section sixty-eight of this Act is submitted to the Minister in accordance with Part I of the First Schedule to the Act of 1946, then if the Minister—

(*a*) is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised therein, but

(*b*) has not for the time being determined whether it ought to be confirmed so far as it relates to any other such land,

he may confirm the order so far as it relates to the land mentioned in paragraph (*a*) of this subsection, and give directions postponing consideration of the order, so far as it relates to any other land specified in the directions, until such time as may be so specified.

(3) Where the Minister gives directions under the last preceding subsection, the notices required by paragraph 6 of the First Schedule to the Act of 1946 to be published and served shall include a statement of the effect of the directions.

(4) Paragraph 9 of the First Schedule to the Act of 1946 (which makes special provision in relation to the compulsory acquisition of land of local authorities and statutory undertakers and inalienable land of the National Trust) shall not apply to land which is designated by a development plan as subject to compulsory acquisition.

(5) Regulations made under this Act may make provision for securing that any proceedings required by the First Schedule to the Act of 1946 to be taken for the purposes of the compulsory acquisition of any land under this Act may be taken concurrently with any proceedings required by or under this Act to be taken in connection with the approval, making or amendment of a development plan designating that land as subject to compulsory acquisition.

PART V

(6) In construing the Lands Clauses Acts as incorporated (by virtue of paragraph 1 of the Second Schedule to the Act of 1946) with any of the provisions of this Part of this Act—

(*a*) references to the execution of the works shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by section eighty-one of this Act;

(*b*) in relation to the erection, construction or carrying out of any buildings or works so authorised, references in section sixty-eight of the Lands Clauses Consolidation Act, 1845, to the promoters of the undertaking shall (notwithstanding anything in sub-paragraph (*b*) of paragraph 1 of the Second Schedule to the Act of 1946) be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out; and

(*c*) references to the execution of the works shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of a Minister or statutory undertakers on land acquired by that Minister or those undertakers, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

(7) In this section "the Act of 1946" means the Acquisition of Land (Authorisation Procedure) Act, 1946.

Interpretation of Part V.

**87.**—(1) In this Part of this Act any reference to the acquisition of land for planning purposes is a reference to the acquisition thereof under section sixty-eight or section seventy-one of this Act, and any reference to the appropriation of land for planning purposes is a reference to the appropriation thereof for purposes for which land can be acquired under those sections.

(2) In relation to a local authority or body corporate, nothing in sections eighty-one to eighty-three of this Act shall be construed as authorising any act or omission on their part in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the authority or body.

(3) Any power conferred by section eighty-two or section eighty-three of this Act to use land in a manner therein mentioned shall be construed as a power so to use the land, whether it involves the erection, construction or carrying out of any building or work, or the maintenance of any building or work, or not.

## PART VI

### COMPENSATION FOR PLANNING DECISIONS RESTRICTING NEW DEVELOPMENT

*Unexpended balance of established development value*

Scope of Part VI.

**88.**—(1) The provisions of this Part of this Act shall have effect for enabling compensation to be claimed in respect of planning decisions whereby permission for the carrying out of new development of land to which this section applies is refused or is granted subject to conditions.

(2) This section applies to any land in respect of which planning permission is refused or is granted subject to conditions, by a planning decision if, at the time of the planning decision, that land, or part of that land, has an unexpended balance of established development value.

(3) In accordance with the proviso to subsection (2) of section twenty of this Act, that subsection does not apply for the purposes of this Part of this Act.

(4) In this Part of this Act "interest" (where the reference is to an interest in land) means the fee simple or a tenancy of the land, and does not include any other interest therein; and any reference to the local planning authority, in relation to a planning decision made on behalf of that authority by another authority, by virtue of the delegation of any functions of the local planning authority to that other authority, shall be construed as a reference to that other authority.

Derivation of unexpended balance from claims under Part VI of Act of 1947.

**89.**—(1) In determining, for the purposes of this Part of this Act, whether land has an unexpended balance of established development value, regard shall be had to claims made, in pursuance of Part VI of the Act of 1947, for payments under the scheme provided for by section fifty-eight of that Act (that is to say, the scheme which, but for the provisions of section two of the Town and Country Planning Act, 1953, would have fallen to be made under the said section fifty-eight, providing for payments in respect of interests in land depreciated in value by virtue of the provisions of the Act of 1947).

(2) Where such a claim was made in respect of an interest in land, that claim shall for the purposes of this Part of this Act be taken to have been established in respect of that land under Part VI of the Act of 1947 if an amount was determined under the said Part VI as being the development value of the interest to which the claim related, and payment in respect of that interest would not have been excluded—

(*a*) by section sixty-three of the Act of 1947 (which excluded claims where the development value was small in proportion to the area, or to the restricted value, of the land), or

(*b*) by any of sections eighty-two to eighty-five of that Act (which related to certain land belonging to local authorities, development corporations and statutory undertakers, and to land held on charitable trusts), or

(*c*) by section eighty-four of that Act as applied by regulations under section ninety of that Act (which related to the National Coal Board).

(3) In this Part of this Act " established claim " means a claim which by virtue of the last preceding subsection is to be taken to have been established as therein mentioned, and references to the establishment of a claim shall be construed accordingly; and " the claim area ", in relation to an established claim, means the land in respect of which the claim is by virtue of that subsection to be taken to have been established.

(4) References in this Part of this Act to the benefit of an established claim—

(*a*) in relation to any time before the passing of the Town and Country Planning Act, 1953, whether before or after the making of the claim, or before or after the establishment thereof, shall be construed as references to the prospective right, under and subject to the provisions of the scheme referred to in subsection (1) of this section, to receive a payment in respect of the interest in land to which the claim related, and

(*b*) in relation to any time after the passing of the said Act of 1953, shall be construed as references to such prospective right to the satisfaction of the claim as subsisted by virtue of section two of that Act immediately before the first day of January, nineteen hundred and fifty-five (being the date of the commencement of the Act of 1954);

and references to part of the benefit of an established claim shall be construed accordingly.

(5) References in this Part of this Act to the amount of an established claim are references to the amount determined under Part VI of the Act of 1947 as being the development value of the interest in land to which the claim related.

(6) In this section any reference to Part VI of the Act of 1947 includes a reference to the provisions of the said Part VI as modified by the First Schedule to the Act of 1954.

Original unexpended balance of established development value.

**90.**—(1) In this Part of this Act " original unexpended balance of established development value ", in relation to any land, means the unexpended balance of established development value which that land had immediately after the time when, in accordance with section ninety-two of this Act, the adjustment of claim holdings is deemed to have been completed.

PART VI

(2) For the purposes of this Part of this Act land shall be taken to have had such a balance if, immediately after the time referred to in the preceding subsection,—

(*a*) there were subsisting one or more claim holdings whose area consisted of that land, or included that land together with other land, and

(*b*) there was not subsisting any claim holding whose area consisted of part only of that land, whether with or without other land.

(3) Where the last preceding subsection applies, there shall be attributed to the land referred to in that subsection—

(*a*) the value of any claim holding having an area consisting of that land, and

(*b*) such fraction of the value of any claim holding whose area included that land as attached to that land,

and the original unexpended balance of established development value of that land shall be taken to have been an amount equal to eight-sevenths of the amount or aggregate amount so attributed.

Claim holdings, their areas and values.

**91.**—(1) Subject to the provisions of this and the next following section, in this Part of this Act—

(*a*) "claim holding" means the benefit of an established claim, references to the area of a claim holding are references to the land which, in relation to the established claim constituting that holding, is the claim area, and references to the value of a claim holding are references to the amount of the established claim constituting that holding; and

(*b*) references to the fraction of the value of a claim holding which attached to a part of the area of the holding are references to so much of the amount of the established claim of which that holding represents the benefit or part of the benefit (in this section referred to as "the relevant established claim") as was properly attributable to that part of the area of the holding.

(2) In the case of a claim holding where—

(*a*) the area of the holding is the same as the claim area of the relevant established claim, but

(*b*) the value of the claim holding is, by virtue of the adjustment of claim holdings, less than the amount of the relevant established claim,

the amount of any such fraction as is referred to in paragraph (*b*) of the preceding subsection shall be treated as reduced proportionately.

(3) In the case of a claim holding where—

(*a*) the area of the holding consists of part only of the claim area of the relevant established claim, and

(*b*) the value of the holding is, by virtue of the adjustment of claim holdings, less or greater than so much of the amount of the relevant established claim as was properly attributable to the area of the holding,

the amount of any such fraction as is referred to in paragraph (*b*) of subsection (1) of this section shall be treated as reduced, or (as the case may be) increased, proportionately.

(4) For the purposes of this section, the part of the amount of the relevant established claim which was properly attributable to any land forming part of the claim area shall be taken to have been so much of the amount of that claim as might reasonably be expected to have been attributed to that land, if the authority determining that amount had been required to apportion it, in accordance with the same principles as applied to its determination, between that land and the residue of the claim area.

Adjustment of claim holdings.

**92.**—(1) The provisions of the Fifth Schedule to this Act shall have effect for the purposes of this Part of this Act; and any reference in this Part of this Act to the adjustment of claim holdings is a reference to the operation of those provisions.

(2) For the purposes of this Part of this Act the adjustment of claim holdings shall be deemed to have been completed on the first day of January, nineteen hundred and fifty-five.

General provision for continuance of original unexpended balance.

**93.** Where in accordance with section ninety of this Act land had an original unexpended balance of established development value, then, subject to the following provisions of this Part of this Act, that land shall be taken—

(*a*) to have continued to have that balance until the commencement of this Act, and

(*b*) to continue to have that balance at all times thereafter.

Reduction or extinguishment of balance in consequence of compensation.

**94.**—(1) Where at any time compensation becomes payable under this Part of this Act, or became payable under Part II of the Act of 1954, in respect of depreciation of the value of an interest in land by a planning decision, then, for the purpose of determining whether that land or any part thereof has or had an unexpended balance of established development value at any subsequent time, the amount of the compensation shall be deducted from the original unexpended balance of established development value of that land, and the original unexpended balance of that land or that part thereof shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

PART VI

(2) The preceding subsection shall have effect subject to the provisions of this Part of this Act relating to the recovery of compensation on subsequent development.

Reduction or extinguishment of balance on initiation of new development.

**95.**—(1) Where in accordance with section ninety of this Act land had an original unexpended balance of established development value, and at any time on or after the appointed day (whether before or after the commencement of this Act) any new development of that land is or was initiated, then (subject to the following provisions of this section) for the purpose of determining whether that land or any part thereof has or had an unexpended balance of established development value at any subsequent time,—

(*a*) if the development relates or related only to that land, the value of that development (ascertained, with reference to that subsequent time, in accordance with the provisions of the Sixth Schedule to this Act), or

(*b*) if the development relates or related to that land together with other land, so much of the value of that development (so ascertained) as is or was attributable to that land,

shall be deducted from the original unexpended balance of established development value of that land, and the original unexpended balance of that land or that part thereof shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

(2) The preceding subsection shall not apply to any land if, in respect of any interest therein, a payment has become or becomes payable under section fifty-nine of the Act of 1947 (which provided for payments in respect of certain war-damaged land).

(3) For the purposes of subsection (1) of this section no account shall be taken of any development initiated before the first day of January, nineteen hundred and fifty-five, if—

(*a*) a development charge under Part VII of the Act of 1947 was determined to be payable in respect thereof, or would have fallen to be so determined but for any exemption conferred by regulations under that Part of that Act, or by any provisions of Part VIII of that Act, or

(*b*) in a certificate issued under section fifty-eight of the Act of 1954 (which related to monopoly value of licensed premises) it was certified that a development charge could have been determined to be payable in respect of that development if the circumstances referred to in paragraphs (*a*) and (*b*) of subsection (1) of that section had not existed.

PART VI

Reduction or extinguishment of balance on acquisition of land under compulsory powers.

**96.**—(1) Where in the case of—

(*a*) a compulsory acquisition to which this section applies, or

(*b*) a sale of an interest in land by agreement in circumstances corresponding to such an acquisition,

any of the land in which the interest acquired or sold subsists or subsisted has or had an unexpended balance of established development value immediately before the relevant date (in this section referred to as " the relevant balance ") the following provisions of this section shall have effect for the purpose of determining whether that land or any part thereof has or had an unexpended balance of established development value at any subsequent time.

(2) This section applies—

(*a*) to every compulsory acquisition of an interest in land in pursuance of a notice to treat served on or after the thirtieth day of October, nineteen hundred and fifty-eight, whether before or after the commencement of this Act, and

(*b*) to every compulsory acquisition of an interest in land, in pursuance of a notice to treat served on or after the first day of January, nineteen hundred and fifty-five, but before the said thirtieth day of October, by an authority possessing compulsory purchase powers, being at that time a government department or local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919, or a person or body of persons to whom that Act applied as it applied to such a department or authority.

(3) Unless, immediately after the acquisition or sale, there is or was outstanding some interest (other than an excepted interest) in the land to which some person other than the acquiring authority is or was entitled, the original unexpended balance of established development of that land shall be treated as having been extinguished immediately before the subsequent time referred to in subsection (1) of this section.

(4) If, immediately after the acquisition or sale, there is or was such an outstanding interest (other than an excepted interest) as is mentioned in the last preceding subsection, there shall be deducted from the said original balance an amount equal to any part of the relevant balance which is or was not attributable to any such outstanding interest, and the original unexpended balance of established development value of the land or the part thereof in question shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

PART VI

(5) For the purposes of this section any question as to the portion of the relevant balance which is or was attributable to an interest in land—

(*a*) in relation to a compulsory acquisition to which this section applies, shall be determined in accordance with the provisions of the Seventh Schedule to this Act, and

(*b*) in relation to a sale of an interest in land by agreement in circumstances corresponding to such an acquisition, shall be determined in accordance with the provisions of that Schedule as those provisions would apply if the sale had been a compulsory acquisition in pursuance of a notice to treat served on the relevant date.

(6) Any reference in this or the next following section to a sale of an interest in land by agreement in circumstances corresponding to a compulsory acquisition to which this section applies is a reference to a sale thereof—

(*a*) to an authority possessing compulsory purchase powers, in pursuance of a contract made on or after the thirtieth day of October, nineteen hundred and fifty-eight, whether before or after the commencement of this Act, or

(*b*) to such an authority possessing compulsory purchase powers as is mentioned in paragraph (*b*) of subsection (2) of this section, in pursuance of a contract made on or after the first day of January, nineteen hundred and fifty-five, but before the said thirtieth day of October.

(7) In this section "the relevant date" means the date of service of the notice to treat or the date of the contract in pursuance of which the interest was sold, as the case may be, and "excepted interest" means the interest of any such person as is mentioned in section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845 (which relates to persons having no greater interest than as tenant for a year or from year to year).

Reduction or extinguishment of balance in consequence of severance or injurious affection.

**97.**—(1) Where in connection with—

(*a*) a compulsory acquisition to which the last preceding section applies, or

(*b*) a sale of an interest in land by agreement in circumstances corresponding to such an acquisition,

compensation is or was payable, or an amount is or was included in the purchase price, in respect of an interest in land other than the relevant land (in this section referred to as "the interest affected"), for damage sustained by reason that the relevant land is or was severed from other land held therewith, or that any

other land (whether held with the relevant land or not) is or was injuriously affected, then (subject to the following provisions of this section) for the purpose of determining whether that other land or any part thereof has or had an unexpended balance of established development value at any subsequent time, there shall be deducted from the original unexpended balance of established development value of that other land an amount calculated in accordance with the following provisions of this section, and the original unexpended balance of that land, or of the part thereof in question, as the case may be, shall be treated as having been reduced or extinguished accordingly immediately before that subsequent time.

(2) In the case of an acquisition or sale in pursuance of a notice to treat served, or contract made, on or after the thirtieth day of October, nineteen hundred and fifty-eight, the amount to be deducted, as mentioned in the preceding subsection, shall be the amount (if any) by which the compensation payable, or amount included in the purchase price, as therein mentioned exceeds or exceeded the compensation which would have been so payable, or the amount which would have been so included, if the extent of the damage sustained in respect of the other land in question had fallen to be ascertained on the assumption that planning permission would not be granted for any new development of that land, but would be granted for any development thereof other than new development.

(3) The following provisions of this section shall have effect with respect to any such acquisition or sale as is mentioned in subsection (1) of this section, being an acquisition or sale in pursuance of a notice to treat served, or contract made, before the thirtieth day of October, nineteen hundred and fifty-eight; and any such acquisition or sale is hereinafter referred to as an acquisition or sale to which this subsection applies.

(4) No such deduction as is mentioned in subsection (1) of this section shall be made in the case of an acquisition or sale to which the last preceding subsection applies unless—

(*a*) where it was a compulsory acquisition, an amount was paid by way of compensation as mentioned in the said subsection (1);

(*b*) the amount which was so paid, or, in the case of a sale by agreement, was included in the purchase price as mentioned in the said subsection (1) (hereafter in this section referred to as "the sum paid for severance or injurious affection") exceeded the loss of immediate value of the interest affected; and

PART VI

(*c*) where it was a sale by agreement, the other land in question was held with the relevant land.

(5) Subject to the last preceding subsection, the amount to be deducted as mentioned in subsection (1) of this section, in the case of an acquisition or sale to which subsection (3) of this section applies, shall be the amount by which the sum paid for severance or injurious affection exceeded the loss of immediate value of the interest affected.

(6) The following provisions of this subsection shall have effect, in the case of an acquisition or sale to which subsection (3) of this section applies, where so much (if any) of the sum paid for severance or injurious affection as was attributable to the loss of immediate value of the interest affected was less than the depreciation in restricted value of that interest, that is to say,—

(*a*) the amount of the difference shall be ascertained, and

(*b*) for the purpose of determining whether, at any time after the acquisition or sale, the land in which the interest affected subsisted or any part thereof had or has an unexpended balance of established development value (whether or not that land or any part thereof would apart from this subsection have had an original unexpended balance of established development value) a claim holding with an area consisting of that land and a value equal to seven-eights of the amount of the difference shall be deemed to have subsisted immediately after the time when the adjustment of claim holdings was completed.

(7) In this section—

" the loss of immediate value " means the amount (if any) by which the difference in the value of the interest affected, immediately before and immediately after the acquisition or sale, exceeded the loss of development value ;

" the loss of development value " means the amount (if any) by which the value of the interest affected immediately before the acquisition or sale, if calculated on the assumption that, until such time as the land in which that interest subsisted might reasonably be expected to become ripe for new development, no use whatever could be made of that land, would have exceeded the value of that interest immediately after the acquisition or sale if calculated on the like assumption ;

" the depreciation in restricted value " means the amount (if any) by which the value of the interest affected,

immediately after the acquisition or sale, would have been less than the value of that interest immediately before the acquisition or sale, if both values were calculated on the assumption that planning permission would not be granted for any new development of that land, but would be granted for any development thereof other than new development;

" the relevant land ", in relation to an acquisition or sale, means the land in which the interest acquired or sold subsisted.

Supplementary provisions as to deductions from original balance.

**98.**—(1) Where, immediately after the time when the adjustment of claim holdings was completed, any land taken as a whole had an original unexpended balance of established development value, and at any time thereafter (whether before or after the commencement of this Act) an act or event occurs or has occurred in relation to part of that land such that, in accordance with any of the preceding provisions of this Part of this Act, an amount is required to be deducted from the original unexpended balance of that part of that land for the purpose of determining whether it has or had an unexpended balance of established development value at any subsequent time, then (without prejudice to the operation of any of the preceding provisions of this Part of this Act with respect to any part of the land taken separately) the land taken as a whole shall be treated as not having (or as not having had) any such balance at that subsequent time.

(2) Where in accordance with any of the preceding provisions of this Part of this Act an amount is required to be deducted from the original unexpended balance of established development value of any land, there shall be attributed to the various parts of that land so much of that amount as might reasonably be expected to have been attributed thereto if the authority determining the amount had been required to apportion it between those parts in accordance with the same principles as applied to its determination.

(3) Where two or more acts or events occur or have occurred in relation to the same land (whether before or after the commencement of this Act) such that, in accordance with any of the preceding provisions of this Part of this Act, an amount is required to be deducted from the original unexpended balance of established development value of that land or any part thereof, those provisions shall apply cumulatively, and the requisite deduction from the original unexpended balance of established development value of that land shall be made by reference to each of those acts or events.

PART VI
Provision of information relating to unexpended balance.

**99.**—(1) Subject to the provisions of this section, the Minister shall, on application being made to him by any person, and may if he thinks fit without any such application, issue a certificate in the prescribed form with respect to any land stating whether any of that land had an original unexpended balance of established development value, and, if so,—

(*a*) giving a general statement of what was taken by the Central Land Board, for the purposes of Part VI of the Act of 1947, to be the state of that land on the appointed day, and

(*b*) specifying (subject to any outstanding claims under Part I or Part V of the Act of 1954) the amount of that original balance.

(2) Any such certificate issued with respect to any land may, if the Minister thinks fit, contain additional information with respect to acts or events in consequence of which, in accordance with any of the preceding provisions of this Part of this Act, an amount is required to be deducted from the original unexpended balance of established development value of any of that land.

(3) Where, at any time on or after the first day of January, nineteen hundred and fifty-five (whether before or after the commencement of this Act), a notice to treat has been served with a view to the compulsory acquisition of an interest in land by an authority possessing compulsory purchase powers, that authority may apply to the Minister for, and shall be entitled to the issue of, a certificate showing the unexpended balance of established development value (if any) of any of that land immediately before the service of that notice.

(4) Where the issue of a certificate under this section with respect to any land involves a new apportionment, or, in the case of a certificate under the last preceding subsection, involves the calculation of a deduction from the original unexpended balance of established development value by virtue of section ninety-five of this Act, then—

(*a*) except in the case of a certificate under the last preceding subsection, or of a certificate which the Minister proposes to issue without any application being made for it, the certificate shall not be issued otherwise than on the application of a person who is for the time being entitled to an interest in that land;

(*b*) before issuing the certificate, the Minister shall give notice in writing to any person entitled to an interest in land appearing to him to be an interest which will be substantially affected by the apportionment or calculation, giving particulars of the proposed apportionment or calculation, and stating that objections or

other representations with respect thereto may be made to the Minister within the period of thirty days from the date of the notice; and

(*c*) the certificate shall not be issued before the end of that period, and if within that period an objection to the proposed apportionment or calculation has been made by any person to whom notice has been given under the last preceding paragraph, or by any other person who establishes that he is entitled to an interest in land which is substantially affected by the apportionment or calculation, and that objection has not been withdrawn, the next following subsection shall have effect.

(5) Where by virtue of paragraph (*c*) of the last preceding subsection this subsection is to have effect, then—

(*a*) if within a further period of thirty days the person by whom any such objection was made requires the dispute to be referred to the Lands Tribunal, the dispute shall be so referred, and the certificate shall not be issued until either the Tribunal has decided the matter or the reference to the Tribunal has been withdrawn;

(*b*) the certificate may be issued before the end of the said further period if every such objection has been withdrawn;

(*c*) the certificate shall be issued at the end of that further period, notwithstanding that every such objection has not been withdrawn, if no requirement has within that period been made under paragraph (*a*) of this subsection.

(6) Where, on a reference to the Lands Tribunal under this section, it is shown that a new apportionment relates partly to the same matters as a previous apportionment, and is consistent with that previous apportionment in so far as it relates to those matters, the Tribunal shall not vary the new apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.

(7) A certificate under subsection (3) of this section shall be conclusive evidence of the unexpended balance shown therein; and a certificate under subsection (1) of this section shall be sufficient proof of any facts stated therein unless the contrary is shown.

(8) An application for a certificate under this section shall be made in such form and manner as may be prescribed, and shall be accompanied by sufficient particulars, including a map if necessary, to enable the land to be identified, and, where a new apportionment will be involved, particulars of the nature of the applicant's interest, and such information as to the nature of any

PART VI

other interest in the land, and as to the name and address of the person entitled to that other interest, as may be known to the applicant.

(9) On any application under subsection (1) of this section the applicant shall pay in the prescribed manner a fee of five shillings, and, if the application involves a new apportionment, the certificate shall not be issued until the applicant has paid in the prescribed manner a further fee of fifteen shillings.

(10) In this section "new apportionment" means an apportionment which relates wholly or partly to any matter to which no previous apportionment related.

*Right to compensation*

General provision as to right to compensation.

**100.** Subject to the provisions of this Part of this Act, a person shall be entitled to compensation under this Part of this Act in respect of a planning decision whereby planning permission for the carrying out of new development of land is refused, or is granted subject to conditions, if—

(*a*) at the time of the decision he is entitled to an interest in any land to which the decision relates which has an unexpended balance of established development value, and

(*b*) the value of that interest, or, in the case of an interest extending to other land, the value of that interest in so far as it subsists in such land as is referred to in the preceding paragraph, is depreciated by the decision.

Planning decisions not ranking for compensation.

**101.**—(1) Compensation under this Part of this Act shall not be payable—

(*a*) in respect of the refusal of planning permission for any development which consists of or includes the making of any material change in the use of any buildings or other land, or

(*b*) in respect of any decision made on an application in pursuance of regulations under section thirty-four of this Act for consent to the display of advertisements.

(2) Compensation under this Part of this Act shall not be payable in respect of the imposition, on the granting of planning permission to develop land, of any condition relating to—

(*a*) the number or disposition of buildings on any land;

(*b*) the dimensions, design, structure or external appearance of any building, or the materials to be used in its construction;

(*c*) the manner in which any land is to be laid out for the purposes of the development, including the provision of facilities for the parking, loading, unloading or fuelling of vehicles on the land;

(*d*) the use of any buildings or other land; or

(*e*) the location or design of any means of access to a highway, or the materials to be used in the construction of any such means of access,

or in respect of any condition subject to which permission is granted for the winning and working of minerals.

In this subsection "means of access to a highway" does not include a service road.

(3) Compensation under this Part of this Act shall not be payable in respect of the refusal of permission to develop land, if the reason or one of the reasons stated for the refusal is that development of the kind proposed would be premature by reference to either or both of the following matters, that is to say,—

(*a*) the order of priority (if any) indicated in the development plan for the area in which the land is situated for development in that area;

(*b*) any existing deficiency in the provision of water supplies or sewerage services, and the period within which any such deficiency may reasonably be expected to be made good:

Provided that this subsection shall not apply if the planning decision refusing the permission is made on an application made more than seven years after the date of a previous planning decision whereby permission to develop the same land was refused for the same reason, or for reasons which included the same reason.

(4) Compensation under this Part of this Act shall not be payable in respect of the refusal of permission to develop land, if the reason or one of the reasons stated for the refusal is that the land is unsuitable for the proposed development on account of its liability to flooding or to subsidence.

(5) In subsection (3) of this section, the reference to the development plan for the area in which the land is situated is a reference to the development plan for that area as approved by the Minister, or, if the plan so approved has been amended by the Minister, to that plan as so amended.

(6) For the purposes of this section, a planning decision whereby permission to develop land is granted subject to a condition prohibiting development on a specified part of that land shall be treated as a decision refusing the permission with respect to that part of the land.

PART VI

No compensation if certain other development permitted.

**102.**—(1) Compensation under this Part of this Act shall not be payable in respect of a planning decision whereby permission is refused for the development of land if, notwithstanding that refusal, there is available with respect to that land planning permission for development to which this section applies:

Provided that, where such permission is available with respect to part only of the land, this section shall have effect only in so far as the interest subsists in that part.

(2) Where a claim for compensation under this Part of this Act is made in respect of an interest in any land, planning permission for development to which this section applies shall be taken for the purposes of this section to be available with respect to that land or a part thereof if, immediately before the Minister gives notice of his findings in respect of that claim, there is in force with respect to that land, or that part thereof, a grant of, or an undertaking by the Minister to grant, planning permission for some such development, subject to no conditions other than such as are mentioned in subsection (2) of the last preceding section.

(3) This section applies to any development of a residential, commercial or industrial character, being development which consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination thereof.

Further exclusions from compensation.

**103.**—(1) Where an interest in any land has (whether before or after the commencement of this Act) been compulsorily acquired by, or sold to, an authority possessing compulsory purchase powers (not being statutory undertakers or the National Coal Board), that authority, and any person deriving title from that authority under a disposition made by that authority on or at any time after the appointed day, shall not be entitled to compensation under this Part of this Act in respect of a planning decision made after the service of the notice to treat, or after the making of the contract of sale, as the case may be, by reason that the value of that interest, or of any interest created (whether immediately or derivatively) out of that interest, is depreciated by the decision.

(2) The preceding subsection shall apply to land which has at any time on or after the appointed day (whether before or after the commencement of this Act) been appropriated by a local authority for a purpose for which the authority could have been authorised to acquire the land compulsorily, as it applies to land in which an interest has been acquired as mentioned in that subsection, with the substitution, for the reference to the service of the notice to treat, of a reference to the appropriation.

(3) Where at the relevant date any land was or is operational land of statutory undertakers, or land of the National Coal Board of a class specified in regulations made under section ninety of the Act of 1947 or under section two hundred and four of this Act, the statutory undertakers or the National Coal Board, as the case may be, and any person deriving title from those undertakers or that Board, shall not be entitled to compensation under this Part of this Act, in respect of a planning decision made after the relevant date, by reason that the value of any interest in that land is depreciated by that decision.

In this subsection " the relevant date ", in relation to land which was such operational land or land of the National Coal Board as is mentioned in this subsection on the first day of January, nineteen hundred and fifty-five, means that day, and, in relation to land which (whether before or after the commencement of this Act) became or becomes such operational land or land of the National Coal Board on a date subsequent to the said first day of January, means that subsequent date.

(4) A person shall not be entitled to compensation under this Part of this Act in respect of depreciation of the value of an interest in land by a planning decision if he is entitled to compensation by virtue of section one hundred and nineteen of this Act in respect of depreciation of the value of that interest by that decision.

Grant of planning permission treated as subject to notional condition.

**104.**—(1) The provisions of this section shall have effect where—

(*a*) on an application for planning permission for the carrying out of new development of land, a planning decision is made whereby the permission is granted, whether unconditionally or subject to conditions, and

(*b*) the Minister certifies that he is satisfied that particular buildings or works to which the application related were only included therein because the applicant had reason to believe that permission for the other development to which the application related (in this section referred to as " the principal development ") would not have been granted except subject to a condition requiring the erection or construction of those buildings or works.

(2) Where the preceding subsection applies, then for the purposes of this Part of this Act—

(*a*) the application shall be deemed to have included, in place of those buildings or works, such other development of the land on which the buildings or works were to be erected or constructed as might reasonably have been expected to have been included having regard to the principal development; and

PART VI

(*b*) the permission shall be deemed to have been granted for the principal development subject to a condition requiring the erection or construction of those buildings or works.

Notice under s. 40 treated as planning decision.

**105.** Where a notice under subsection (1) of section forty of this Act is served in respect of the whole or part of any land, the provisions of this Part of this Act shall have effect as if the application, in consequence of which the notice is served, had been an effective application for planning permission, and as if the notice had been a planning decision of the local planning authority refusing that permission in respect of that land or that part thereof, as the case may be.

*Measure of compensation*

General provisions as to amount of compensation.

**106.**—(1) Where a person is entitled to compensation under this Part of this Act in respect of depreciation by a planning decision of the value of an interest in land, the amount of the compensation, subject to the following provisions of this section, shall be whichever is the lesser of the following amounts, that is to say,—

(*a*) the amount by which the value of that interest (if it is an interest subsisting only in land to which this section applies), or (if it is an interest extending to other land) the amount by which the value of the interest in so far as it subsists in land to which this section applies, is depreciated by the decision; and

(*b*) the amount of the unexpended balance of established development value, immediately before the decision, of so much of the land in which the interest subsists as is land to which this section applies.

(2) Land to which this section applies, in relation to a planning decision, is land which—

(*a*) constitutes or forms part of the decision area, and

(*b*) at the time of the decision has an unexpended balance of established development value.

(3) If, in the case of any land to which this section applies, compensation is payable under this Part of this Act in respect of two or more interests in that land by reason of the same planning decision, and the aggregate amount of compensation payable apart from this subsection in respect of those interests would exceed the amount mentioned in paragraph (*b*) of subsection (1) of this section, the amount mentioned in that paragraph shall be allocated between those interests in proportion to the depreciation of the value of each of them respectively, and the amount of the compensation payable in respect of any of those interests shall be the sum so allocated to that interest.

(4) Where the land constituting the decision area, taken as a whole, does not satisfy both of the following conditions, that is to say,—

(*a*) that at the time of the decision it has an unexpended balance of established development value, and

(*b*) that every interest subsisting therein, the value of which is depreciated by the decision, subsists in the whole of that land,

the provisions of the next following subsection shall have effect for the purpose of assessing the compensation payable under this Part of this Act in respect of any interest subsisting in that land or any part thereof.

(5) Where this subsection applies in relation to an interest in land—

(*a*) the depreciation of the value of the interest by the planning decision shall first be ascertained with reference to the whole of the land which constitutes or forms part of the decision area and is land in which that interest subsists;

(*b*) the land referred to in the preceding paragraph shall then be treated as divided into as many parts as may be requisite to ensure that each such part consists of land which either satisfies both of the conditions mentioned in the last preceding subsection or is not land which, at the time of the decision, has an unexpended balance of established development value; and

(*c*) the depreciation of the value of the interest, ascertained in accordance with paragraph (*a*) of this subsection, shall then be apportioned between those parts, according to the nature of those parts and the effect of the planning decision in relation to each of them,

and the amount of the compensation shall be the aggregate of the amounts which would be payable by virtue of the preceding provisions of this section if the planning decision had been made separately with respect to each of those parts.

(6) In this section "the decision area" in relation to a planning decision means the aggregate of the land to which the decision relates.

Assessment of depreciation.

**107.**—(1) For the purposes of this Part of this Act, the value of an interest in land, or of an interest in so far as it subsists in particular land, shall be taken to be depreciated by a planning decision (in this section referred to as "the relevant decision") if, and to the extent to which, that value, calculated in accordance with the following provisions of this section, falls short of

PART VI what that value, so calculated, would have been if the relevant decision had been a decision to the contrary effect.

(2) Subject to the following provisions of this section, any such value shall for the purposes of this section be calculated—

(*a*) as at the time of the relevant decision, but

(*b*) as affected by that decision, by any grant of planning permission made after that decision and in force immediately before the Minister gives notice of his findings on the claim for compensation in respect of that decision, and by any undertaking to grant planning permission so in force, and

(*c*) on the assumption that, after the relevant decision, and apart from any such permission or undertaking as is mentioned in the last preceding paragraph, planning permission would not be granted for any new development of the land in question, but would be granted for any development thereof other than new development.

(3) If in consequence of another planning decision or of an order, being a decision or order made—

(*a*) before the relevant decision, and

(*b*) either in respect of the whole or part of the land to which the relevant decision relates, or in respect of land which includes the whole or part of that land,

compensation to which this subsection applies has become or becomes payable in respect of that other planning decision or that order, the calculation to be made under this section shall be made as if that other planning decision had been a decision to the contrary effect, or that order had not been made, as the case may be.

(4) The last preceding subsection applies—

(*a*) to any compensation payable under this Part of this Act, or under Part II or Part V of the Act of 1954, and

(*b*) to so much of any compensation payable under section one hundred and eighteen of this Act, or under the provisions of that section as applied by section one hundred and nineteen thereof, and so much of any compensation to which Part IV of the Act of 1954 applied, as is or was payable in respect of loss or damage consisting of depreciation of the value of an interest in land.

(5) In this section " a decision to the contrary effect "—

(*a*) in relation to a decision refusing permission, means a decision granting the permission subject to such conditions (if any) of a description falling within subsection

(2) of section one hundred and one of this Act as the authority making the decision might reasonably have been expected to impose if the permission had not been refused; and

(*b*) in relation to a decision granting the permission subject to conditions, means a decision granting the permission applied for subject only to such of those conditions (if any) as fell within subsection (2) of that section.

*Claims for, and payment of, compensation*

General provisions as to claims for compensation.

**108.**—(1) Compensation under this Part of this Act shall not be payable unless a claim for it is duly made in accordance with the provisions of this section.

(2) A claim for compensation under this Part of this Act shall not have effect unless it is made before the end of the period of six months beginning with the date of the planning decision to which it relates:

Provided that the Minister may in any particular case (either before, on or after the date on which the time for claiming would otherwise have expired) allow an extended, or further extended, period for making such a claim.

(3) Regulations made under this section may—

(*a*) require claims for compensation under this Part of this Act to be made in a form prescribed by the regulations;

(*b*) require a claimant to provide such evidence in support of the claim, and such information as to the interest of the claimant in the land to which the claim relates, and as to the interests of other persons therein which are known to the claimant, as may be so prescribed.

(4) Any claim for such compensation in respect of a planning decision shall be sent to the local planning authority; and it shall be the duty of that authority, as soon as may be after receipt of a claim, to transmit the claim to the Minister, and to furnish the Minister with—

(*a*) any evidence or other information provided by the claimant in accordance with regulations made under this section, and

(*b*) such other information (if any) as may be required by or under regulations made under this section, being information appearing to the Minister to be relevant to the exercise of his powers under the provisions of Part III of this Act relating to the review of planning decisions where compensation is claimed.

PART VI

(5) Where a claim is transmitted to the Minister under the last preceding subsection—

(*a*) if it appears to the Minister that the development to which the planning decision related was not new development, or that at the time of the planning decision no part of the land to which the claim relates had an unexpended balance of established development value, or that compensation is excluded by section one hundred and one or section one hundred and two of this Act, the Minister shall notify the claimant accordingly, stating on which of those grounds it appears to him that compensation is not payable, and inviting the claimant to withdraw the claim;

(*b*) unless the claim is withdrawn, the Minister shall give notice of the claim to every other person (if any) appearing to him to have an interest in the land to which the planning decision related.

**Effect on claims of direction under s. 25.**

**109.**—(1) Where, in accordance with subsection (3) of section twenty-six of this Act, the Minister gives notice of a direction under section twenty-five of this Act to a person who has made a claim for compensation in respect of the planning decision to which that direction relates, that person, if he does not withdraw the claim, may, at any time within thirty days after the service on him of the Minister's notice, give notice to the Minister modifying the claim.

(2) Subject to any modification by virtue of a notice given by a claimant under the preceding subsection, where the Minister gives a direction under section twenty-five of this Act in respect of a decision of a local planning authority, any claim made in respect of that decision shall have effect as if it had been made in respect of the decision which, by virtue of the direction, is substituted for the decision of the authority, or, as the case may be, as if it had been made in respect of the decision of the authority as modified by the direction.

**Determination of claims.**

**110.**—(1) Provision shall be made by regulations under this section—

(*a*) for requiring claims for compensation under this Part of this Act to be determined by the Minister in such manner as may be prescribed by the regulations;

(*b*) for regulating the practice and procedure to be followed in connection with the determination of such claims;

(*c*) for requiring the Minister, on determining any such claim, to give notice of his findings to the claimant, and to every other person (if any) who has made a claim for compensation under this Part of this Act in respect of the same planning decision, and, if his findings in-

clude an apportionment, to give particulars of the apportionment to any other person entitled to an interest in land appearing to the Minister to be an interest substantially affected by the apportionment. PART VI

(2) Subject to the next following subsection, provision shall be made by regulations under this section—

(*a*) in relation to a decision refusing permission, means a notice of the Minister's findings has been given in accordance with the preceding subsection, if he wishes to dispute the findings, and any other person to whom particulars of an apportionment included in those findings have been so given, or who establishes that he is entitled to an interest in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require the findings, or, as the case may be, the apportionment, to be referred to the Lands Tribunal;

(*b*) for enabling the claimant and every other person to whom notice of any findings or apportionment has been given as mentioned in the preceding paragraph to be heard by the Tribunal on any reference under this section of those findings or of that apportionment, as the case may be; and

(*c*) for requiring the Tribunal, on any such reference, either to confirm or to vary the Minister's findings or the apportionment, as the case may be, and to notify the parties of the decision of the Tribunal.

(3) Where on a reference to the Lands Tribunal under this section it is shown that an apportionment relates wholly or partly to the same matters as a previous apportionment, and is consistent with that previous apportionment in so far as it relates to those matters, the Tribunal shall not vary the apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.

**Payment of compensation.**

**111.** Where compensation is determined under the last preceding section to be payable, the Minister shall pay the compensation to the person entitled thereto in accordance with the preceding provisions of this Part of this Act.

*Subsequent recovery of compensation*

**Apportionment and registration of compensation.**

**112.**—(1) Where, on a claim for compensation under this Part of this Act in respect of a planning decision, the Minister determines that compensation is payable and that the amount of the compensation exceeds twenty pounds, the Minister shall (if it appears to him to be practicable to do so) apportion the amount of the compensation between different parts of the land to which

PART VI

the claim for compensation relates, and shall include particulars of the apportionment in the notice of his findings under section one hundred and ten of this Act.

(2) In carrying out an apportionment under the preceding subsection the Minister shall divide the land into parts, and shall distribute the compensation between those parts, according to the way in which the different parts of the land appear to him to be differently affected by the planning decision.

(3) On a reference to the Lands Tribunal under section one hundred and ten of this Act, unless the decision of the Tribunal will not affect the amount of the compensation or any apportionment thereof by the Minister, the preceding provisions of this section shall apply with the substitution, for references to the Minister, of references to the Lands Tribunal.

(4) Where, on a claim for compensation under this Part of this Act in respect of a planning decision, compensation has become payable of an amount exceeding twenty pounds, the Minister shall cause notice of that fact, specifying the planning decision and the land to which the claim for compensation relates, and the amount of the compensation and any apportionment thereof under this section, to be deposited with the council of the county borough or county district in which the land is situated, and, if that council is not the local planning authority, with the local planning authority.

(5) Notices deposited under this section shall be registered in the register of local land charges, in such manner as may be prescribed by rules made for the purposes of this section under subsection (6) of section fifteen of the Land Charges Act, 1925, by the proper officer of the council of the county borough or county district.

(6) In relation to compensation specified in a notice registered under this section, references in this Part of this Act to so much of the compensation as is attributable to a part of the land to which the notice relates shall be construed in accordance with the following provisions, that is to say,—

(*a*) if the notice does not include an apportionment under the preceding provisions of this section, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the notice relates;

(*b*) if the notice includes such an apportionment, the compensation shall be treated as distributed in accordance with that apportionment as between the different parts of the land by reference to which the apportionment is made; and so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part of the land.

PART VI
Recovery of compensation on subsequent development.

**113.**—(1) No person shall carry out any new development to which this section applies, on land in respect of which a notice (hereafter in this Part of this Act referred to as a "compensation notice") is registered under the last preceding section, until such amount (if any) as is recoverable under this section in respect of the compensation specified in the notice has been paid or secured to the satisfaction of the Minister.

(2) Subject to the following provisions of this section, this section applies to any new development—

(*a*) which is development of a residential, commercial or industrial character and consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination thereof, or

(*b*) which consists in the winning and working of minerals, or

(*c*) to which, having regard to the probable value of the development, it is in the opinion of the Minister reasonable that this section should apply.

(3) This section shall not apply to any development by virtue of paragraph (*c*) of the last preceding subsection if, on an application made to him for the purpose, the Minister has certified that, having regard to the probable value of the development, it is not in his opinion reasonable that this section should apply thereto.

(4) Where the compensation specified in the compensation notice became payable in respect of the imposition of conditions on the granting of permission to develop land, this section shall not apply to the development for which that permission was granted.

Amount recoverable, and provisions for payment or remission thereof.

**114.**—(1) Subject to the following provisions of this section, the amount recoverable under the last preceding section in respect of the compensation specified in a compensation notice—

(*a*) if the land on which the development is to be carried out (in this subsection referred to as "the development area") is identical with, or includes (with other land) the whole of, the land comprised in the compensation notice, shall be the amount of compensation specified in that notice;

(*b*) if the development area forms part of the land comprised in the compensation notice, or includes part of that land together with other land not comprised in that notice, shall be so much of the amount of the compensation specified in that notice as is attributable to land comprised in that notice and falling within the development area.

PART VI

(2) Where, in the case of any land in respect of which a compensation notice has been registered, the Minister is satisfied, having regard to the probable value of any proper development of that land, that no such development is likely to be carried out unless he exercises his powers under this subsection, he may, in the case of any particular development, remit the whole or part of any amount otherwise recoverable under the last preceding section; and where part only of any such amount has been remitted, he shall cause the compensation notice to be amended by substituting therein, for the statement of the amount of the compensation, in so far as it is attributable to that land, a statement of the amount which has been remitted under this subsection.

(3) Where, in connection with the development of any land, an amount becomes recoverable under the last preceding section in respect of the compensation specified in a compensation notice, then, except where, and to the extent that, payment of that amount has been remitted under the last preceding subsection, no amount shall be recoverable under the last preceding section in respect of that compensation, in so far as it is attributable to that land, in connection with any subsequent development thereof.

(4) No amount shall be recoverable under the last preceding section in respect of any compensation by reference to which a sum has become recoverable by the Minister under section one hundred and ninety of this Act.

(5) An amount recoverable under the last preceding section in respect of any compensation shall be payable to the Minister, and—

(*a*) shall be so payable either as a single capital payment or as a series of instalments of capital and interest combined, or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Minister may direct, after taking into account any representations made by the person by whom the development is to be carried out; and

(*b*) except where the amount is payable as a single capital payment, shall be secured by that person in such manner (whether by mortgage, covenant or otherwise) as the Minister may direct.

(6) If any person initiates any new development to which the last preceding section applies in contravention of subsection (1) of that section, the Minister may serve a notice on him specifying the amount appearing to the Minister to be the amount recoverable under that section in respect of the compensation in question, and requiring him to pay that amount to the Minister within such period, not being less than three months after the service of the notice, as may be specified in the notice.

Amount recovered not to be deducted from unexpended balance.

**115.**—(1) Where an amount has become recoverable under section one hundred and thirteen of this Act in respect of the compensation specified in a compensation notice, the following provisions of this section shall have effect for the purpose of determining any question as to the unexpended balance of established development value of any land at any subsequent time.

(2) Except where, and to the extent that, payment of that amount has been remitted under the last preceding section, so much (if any) of that compensation as is attributable to that land shall, for the purpose mentioned in the preceding subsection, be treated as not having become payable, and accordingly (notwithstanding anything in section ninety-four of this Act) shall not be deducted from that balance.

*Supplementary provisions*

Mortgages, rentcharges and settlements.

**116.**—(1) Regulations made under this section may make provision as to the exercise of the right to claim compensation under this Part of this Act, and as to the person to whom such compensation or any part thereof is to be paid, and as to the application of any such compensation or any part thereof, in cases where, apart from this section, the right to claim the compensation is exercisable by reference to an interest in land which is subject to a mortgage, or to a rentcharge, or to the trusts of a settlement, or which was so subject at a time specified in the regulations.

(2) In relation to any case where, by virtue of any such regulations, compensation or a part thereof is to be paid to the owner of a rentcharge, the regulations may apply all or any of the provisions of section twenty-five of the War Damage Act, 1943 (which relates to the rights of owners of rentcharges as to payments for war damage) subject to such adaptations and modifications as may be prescribed by the regulations, and may provide for disputes arising under the regulations, so far as they relate to rentcharges, to be referred to the Lands Tribunal for determination by that tribunal.

Calculation of value.

**117.**—(1) In calculating value for any of the purposes of this Part of this Act—

(*a*) rules (2) to (4) of the rules set out in section five of the Land Compensation Act, 1961, shall apply with the necessary modifications; and

(*b*) if the interest to be valued is subject to a mortgage, it shall be treated as if it were not subject to the mortgage:

Provided that rule (3) of those rules shall not apply for the purposes of the Sixth Schedule to this Act.

PART VI

(2) Where, for the purposes of any of the provisions of this Part of this Act, value falls to be calculated by reference to the duration of a tenancy, and, by reason of any option or other contractual right with respect to the determination, renewal or continuance of the tenancy, the date of expiry of the tenancy is not ascertainable with certainty, that date shall be taken to be such as appears reasonable and probable having regard to the interests of the party by whom the option is exercisable, or in whose favour the right operates, and to any other material considerations subsisting at the time when the calculation of value falls to be made.

## PART VII

## COMPENSATION FOR OTHER PLANNING RESTRICTIONS

### *Revocation or modification of planning permission*

Compensation where planning permission revoked or modified.

**118.**—(1) Where planning permission is revoked or modified by an order under section twenty-seven of this Act, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the land—

(*a*) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or

(*b*) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the local planning authority shall pay to that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to the last preceding subsection, no compensation shall be paid under this section in respect of any work carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.

(4) In calculating, for the purposes of this section, the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted for development of the land of any class specified in the Third Schedule to this Act.

(5) In this Part of this Act any reference to an order under section twenty-seven of this Act includes a reference to an order under the provisions of that section as applied by subsection (2) of section twenty-eight of this Act.

PART VII

Application of s. 118 to special cases of refusal or conditional grant of planning permission.

**119.**—(1) The provisions of this section shall have effect where—

(*a*) planning permission for the development of land has been granted by a development order, and

(*b*) that permission is withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order, and

(*c*) on an application made in that behalf under Part III of this Act, planning permission for that development is refused, or is granted subject to conditions other than those previously imposed by the development order.

(2) In any case falling within the preceding subsection, the provisions of the last preceding section shall apply as if the planning permission granted by the development order—

(*a*) had been granted by the local planning authority under Part III of this Act, and

(*b*) had been revoked or modified by an order under section twenty-seven of this Act,

and the provisions of section one hundred and twenty (except paragraph (*b*) of subsection (5) thereof) and of sections one hundred and twenty-one and one hundred and twenty-two of this Act shall apply as if references therein to an order under section twenty-seven of this Act were references to the planning decision whereby the planning permission in question is refused, or is granted subject to conditions other than those previously imposed by the development order.

Registration and apportionment of compensation for depreciation.

**120.**—(1) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation of an amount exceeding twenty pounds, the local planning authority shall (if it appears to them to be practicable to do so) apportion the amount of the compensation for depreciation between different parts of the land to which the claim for that compensation relates, and give particulars of any such apportionment to the claimant and to every other person (if any) entitled to an interest in land which appears to the authority to be substantially affected by the apportionment.

(2) In carrying out an apportionment under the preceding subsection, the local planning authority shall divide the land into parts, and shall distribute the compensation for depreciation between those parts, according to the way in which different parts of the land appear to the authority to be differently affected by the order in consequence of which the compensation is payable.

(3) Subsection (2) of section one hundred and ten of this Act, and any regulations made by virtue thereof, shall have effect with respect to any such apportionment (subject to any necessary

PART VII

modifications) as they have effect with respect to an apportionment under subsection (1) of section one hundred and twelve of this Act.

(4) On a reference to the Lands Tribunal by virtue of the last preceding subsection, subsections (1) and (2) of this section, so far as they relate to the making of an apportionment, shall apply with the substitution, for references to the local planning authority, of references to the Lands Tribunal.

(5) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation exceeding twenty pounds, the local planning authority shall give notice thereof to the Minister, specifying the amount of the compensation for depreciation and any apportionment thereof under this section; and subsections (4) to (6) of section one hundred and twelve of this Act shall have effect with respect thereto as they have effect with respect to compensation under Part VI of this Act, subject, however, to any necessary modifications, and, in particular, with the substitution—

(*a*) for references to the compensation mentioned in that section, of references to the compensation for depreciation specified in the notice, and

(*b*) for references to the planning decision, of references to the order under section twenty-seven of this Act in consequence of which the compensation is payable.

(6) In this and the next following section "compensation for depreciation" means so much of any compensation payable under the preceding provisions of this Part of this Act as is payable in respect of loss or damage consisting of depreciation of the value of an interest in land, and "interest" (where the reference is to an interest in land) means the fee simple or a tenancy of the land and does not include any other interest therein.

Exchequer contribution towards compensation in certain cases.

**121.**—(1) Where a notice under the last preceding section is given to the Minister in consequence of the making of an order under section twenty-seven of this Act, and the circumstances are such that, if the permission revoked or modified by the order had been refused, or, as the case may be, had been granted as so modified, at the time when it was granted, compensation under Part VI of this Act could have been claimed and would have been payable by the Minister, the Minister may, subject to the provisions of this section, pay to the local planning authority a contribution of the amount appearing to him to be the amount of compensation which would have been so payable by him under Part VI of this Act.

(2) The amount of any such contribution shall not exceed—

(*a*) the amount of the compensation for depreciation paid by the local planning authority, or

(*b*) the unexpended balance of established development value, at the date of the making of the order, of the land in respect of which that compensation was paid.

(3) Regulations made under this section shall make provision, in relation to cases where the Minister proposes to pay a contribution under this section,—

(*a*) for requiring the Minister to give notice of his proposal to persons entitled to such interests as may be prescribed in the land to which the proposal relates, and to such other persons (if any) as may be determined in accordance with the regulations to be affected by the proposal;

(*b*) for enabling persons to whom notice of the proposal is given to object to the proposal, on the grounds that compensation would not have been payable as mentioned in subsection (1) of this section, or that the amount of the compensation so payable would have been less than the amount of the proposed contribution;

(*c*) for enabling any person making such an objection to require the matter in dispute to be referred to the Lands Tribunal for determination; and

(*d*) where a contribution under this section is paid, for applying (with any necessary modifications) the provisions of Part VI of this Act as to the reduction or extinguishment of the unexpended balance of established development value of land, as if the contribution had been a payment of compensation under Part VI of this Act.

Recovery, on subsequent development, of compensation under s. 118.

**122.**—(1) In relation to notices registered under the provisions of section one hundred and twelve of this Act, as applied by the preceding provisions of this Part of this Act, sections one hundred and thirteen and one hundred and fourteen of this Act shall have effect as they have effect in relation to compensation notices registered as therein mentioned:

Provided that, in a case where the compensation under section one hundred and eighteen of this Act specified in such a notice became payable in respect of an order modifying planning permission, the said sections shall not apply to development in accordance with that permission as modified by the order.

(2) Subject to the next following subsection, any sum recovered by the Minister under section one hundred and thirteen of this Act, as applied by the preceding subsection, shall be paid to the local planning authority who paid the compensation to which that sum relates.

PART VII

(3) In paying any such sum to the local planning authority, the Minister shall deduct therefrom—

(*a*) the amount of any contribution paid by him under the last preceding section in respect of the compensation to which the sum relates;

(*b*) the amount of any grant paid by him under Part XII of this Act in respect of that compensation:

Provided that, if the sum recovered by the Minister is an instalment of the total sum recoverable, or is recovered by reference to development of part of the land in respect of which the compensation was payable, any deduction to be made under paragraph (*a*) or paragraph (*b*) of this subsection shall be a deduction of such amount as the Minister may determine to be the proper proportion of the amount referred to in that paragraph.

*Other restrictions*

Compensation for planning decisions restricting development other than new development.

**123.**—(1) The provisions of this section shall have effect where, on an application for planning permission to carry out development of any class specified in Part II of the Third Schedule to this Act, the Minister, either on appeal or on the reference of the application to him for determination, refuses the permission or grants it subject to conditions.

(2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the value of the interest of any person in the land is less than it would have been if the permission had been granted, or had been granted unconditionally, as the case may be, the local planning authority shall pay to that person compensation of an amount equal to the difference.

(3) In determining, for the purposes of the last preceding subsection, whether or to what extent the value of an interest in land is less than it would have been if the permission had been granted, or had been granted unconditionally,—

(*a*) it shall be assumed that any subsequent application for the like planning permission would be determined in the same way; but

(*b*) if, in the case of a refusal of planning permission, the Minister, on refusing that permission, undertook to grant planning permission for some other development of the land in the event of an application being made in that behalf, regard shall be had to that undertaking.

(4) Where, on such an application as is mentioned in subsection (1) of this section, planning permission is granted by the Minister subject to conditions for regulating the design or

external appearance of buildings, or the size or height of buildings, the Minister, if it appears to him to be reasonable to do so having regard to the local circumstances, may direct that those conditions shall be disregarded, either altogether or to such extent as may be specified in the direction, in assessing the compensation (if any) payable under this section. PART VII

(5) Where, in the case of an application for planning permission to carry out any such development as is mentioned in subsection (1) of this section, a notice under subsection (1) of section forty of this Act is served in respect of the whole or part of the land to which the application relates, the preceding provisions of this section shall have effect as if the application had been an effective application for planning permission, and as if that permission had been refused, as mentioned in subsection (1) of this section, in respect of that land or that part thereof, as the case may be.

(6) No compensation shall be payable under this section in respect of an interest in land in respect of which a purchase notice is served.

Compensation in respect of orders under s. 28.

**124.**—(1) The provisions of this section shall have effect where an order is made under section twenty-eight of this Act, requiring a use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed.

(2) If, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person has suffered damage in consequence of the order by depreciation of the value of an interest in the land to which he is entitled, or by being disturbed in his enjoyment of the land, that authority shall pay to that person compensation in respect of that damage.

(3) Without prejudice to the last preceding subsection, any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.

(4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) of this section shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

PART VII

Compensation in respect of tree and building preservation orders.

**125.**—(1) The matters for which provision may under section twenty-nine of this Act be made by a tree preservation order, or may under section thirty of this Act be made by a building preservation order, include the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of damage or expenditure caused or incurred in consequence of the refusal of any consent required under the order, or of the grant of any such consent subject to conditions.

(2) Subsection (4) of section thirty-one of this Act applies for the purposes of this section.

Compensation for restrictions on advertising.

**126.** Where, for the purpose of complying with any regulations made under section thirty-four of this Act, works are carried out by any person—

(*a*) for removing an advertisement which was being displayed on the seventh day of January, nineteen hundred and forty-seven, and was being displayed on the date on which the regulations came into force, or

(*b*) for discontinuing the use for the display of advertisements of a site used for that purpose on the last-mentioned date,

that person shall, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, be entitled to recover from that authority compensation in respect of any expenses reasonably incurred by him in that behalf.

*Supplementary provisions*

General provisions as to compensation for depreciation under Part VII.

**127.**—(1) For the purpose of assessing any compensation to which this section applies, the rules set out in section five of the Land Compensation Act, 1961, shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) This section applies to any compensation which, under the preceding provisions of this Part of this Act, other than section one hundred and twenty-five thereof, is payable in respect of depreciation of the value of an interest in land.

(3) Where an interest in land is subject to a mortgage—

(*a*) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage;

(*b*) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to

the making of a claim by the person entitled to the interest;

(*c*) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(*d*) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

Determination of claims for compensation.

**128.**—(1) Except in so far as may be otherwise provided by any tree preservation order or building preservation order, or by any regulations made under this Act, any question of disputed compensation under this Part of this Act shall be referred to and determined by the Lands Tribunal.

(2) In relation to the determination of any such question, the provisions of sections two and four of the Land Compensation Act, 1961, shall apply, subject to any necessary modifications and to the provisions of any regulations made under this Act.

## PART VIII

## PROVISIONS ENABLING OWNER TO REQUIRE PURCHASE OF HIS INTEREST

### *Interests affected by planning decisions or orders*

Purchase notice on refusal or conditional grant of planning permission.

**129.**—(1) Where, on an application for planning permission to develop any land, permission is refused or is granted subject to conditions, then if any owner of the land claims—

(*a*) that the land has become incapable of reasonably beneficial use in its existing state, and

(*b*) in a case where planning permission was granted subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions, and

(*c*) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the local planning authority or the Minister has undertaken to grant planning permission,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the council of the county borough

PART VIII

or county district in which the land is situated a notice requiring that council to purchase his interest in the land in accordance with the following provisions of this Part of this Act.

(2) Where, for the purpose of determining whether the conditions specified in paragraphs (*a*) to (*c*) of the preceding subsection are fulfilled in relation to any land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial use of that land, then, in determining that question for that purpose, no account shall be taken of any prospective use of that land which would involve the carrying out of new development.

(3) A notice under this section, or under any other provision of this Part of this Act to which this subsection is applied, is in this Act referred to as a " purchase notice ".

Action by council on whom purchase notice is served.

**130.**—(1) The council on whom a purchase notice is served under the last preceding section shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner by whom the purchase notice was served a notice stating either—

(*a*) that the council are willing to comply with the purchase notice, or

(*b*) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place, or

(*c*) that, for reasons specified in the notice under this subsection, the council are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place, and that they have transmitted a copy of the purchase notice to the Minister, on a date specified in the notice under this subsection, together with a statement of the reasons so specified.

(2) Where the council on whom a purchase notice is served by an owner have served on him a notice in accordance with paragraph (*a*) or paragraph (*b*) of the preceding subsection, the council, or the other local authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part V of this Act, and to have served a notice to treat in respect thereof on the date of service of the notice under the preceding subsection.

(3) Where the council on whom a purchase notice is served by an owner propose to serve on him a notice in accordance

with paragraph (*c*) of subsection (1) of this section, they shall transmit a copy of the purchase notice to the Minister, together with a statement of their reasons.

Procedure on reference of purchase notice to Minister.

**131.**—(1) Where a copy of a purchase notice is transmitted to the Minister under subsection (3) of the last preceding section, the Minister shall consider whether to confirm the notice or to take other action under the next following section in respect thereof.

(2) Before confirming a purchase notice or taking any other action under the next following section in respect thereof, the Minister shall give notice of his proposed action—

(*a*) to the person by whom the purchase notice was served;

(*b*) to the council on whom the purchase notice was served;

(*c*) to the local planning authority for the area in which the land is situated; and

(*d*) if the Minister proposes to substitute any other local authority or statutory undertakers for the council on whom the purchase notice was served, to that other local authority or those statutory undertakers.

(3) If, within such period as may be specified in a notice under the last preceding subsection, being a period of not less than twenty-eight days from the service of that notice, any of the persons, authorities or statutory undertakers on whom that notice is served so requires, the Minister, before confirming the purchase notice or taking any other action under the next following section in respect thereof, shall afford to those persons, authorities and undertakers an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(4) Where the Minister has given notice under subsection (2) of this section of his proposed action, and any of the persons, authorities and statutory undertakers concerned have appeared before and been heard by a person appointed by the Minister for the purpose, and it then appears to the Minister to be expedient to take action under the next following section otherwise than in accordance with the notice given by him, the Minister may take that action accordingly.

Action by Minister in relation to purchase notice.

**132.**—(1) Subject to the following provisions of this section, if the Minister is satisfied that the conditions specified in paragraphs (*a*) to (*c*) of subsection (1) of section one hundred and twenty-nine of this Act are fulfilled in relation to a purchase notice, he shall confirm the notice.

(2) If it appears to the Minister to be expedient to do so, he may, in lieu of confirming the purchase notice, grant planning permission for the development in respect of which the application was made, or, where planning permission for that development was granted subject to conditions, revoke or amend those

PART VIII

conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development.

(3) If it it appears to the Minister that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which planning permission ought to be granted, he may, in lieu of confirming the purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that planning permission for that development shall be granted in the event of an application being made in that behalf.

(4) If it appears to the Minister, having regard to the probable ultimate use of the land, that it is expedient to do so, he may, if he confirms the notice, modify it, either in relation to the whole or in relation to any part of the land to which it relates, by substituting another local authority or statutory undertakers for the council on whom the notice was served.

(5) In the last preceding section, any reference to the taking of action by the Minister under this section is a reference to the taking by him of any such action as is mentioned in subsections (1) to (4) of this section, or to the taking by him of a decision not to confirm the purchase notice on the grounds that any of the conditions referred to in subsection (1) of this section are not fulfilled.

Effect of Minister's action in relation to purchase notice.

**133.**—(1) Where the Minister confirms a purchase notice, the council on whom the purchase notice was served (or, if under subsection (4) of the last preceding section the Minister modified the purchase notice by substituting another local authority or statutory undertakers for that council, that other local authority or those statutory undertakers) shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part V of this Act, and to have served a notice to treat in respect thereof on such date as the Minister may direct.

(2) If, before the end of the relevant period, the Minister has neither confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in subsection (2) or subsection (3) of the last preceding section, and has not notified the owner by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the end of that period, and the council on whom the notice was served shall be deemed to be authorised to acquire the interest of the owner compulsorily in accordance with the provisions of Part V of this Act, and to have served a notice to treat in respect thereof at the end of that period.

(3) For the purposes of the last preceding subsection the relevant period is whichever of the following periods first expires, that is to say,—

(*a*) the period of nine months beginning with the date of service of the purchase notice, and

(*b*) the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Minister.

(4) Where the Minister has notified the owner by whom a purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice (including any decision not to confirm the notice in respect of part of the land to which it relates, and including any decision to grant any permission, or give any direction, in lieu of confirming the notice, either wholly or in part) and that decision of the Minister is quashed under the provisions of Part XI of this Act, the purchase notice shall be treated as cancelled, but the owner may serve a further purchase notice in its place.

(5) For the purposes of any regulations made under this Act as to the time within which a purchase notice may be served, the service of a purchase notice under the last preceding subsection shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with those regulations if the planning decision, in consequence of which the notice is served, had been made on the date on which the decision of the Minister was quashed as mentioned in the last preceding subsection.

Special provisions as to compensation where purchase notice served.

**134.**—(1) Where by virtue of section one hundred and eighteen of this Act compensation is payable in respect of expenditure incurred in carrying out any work on land, then, if a purchase notice is served in respect of an interest in that land, any compensation payable in respect of the acquisition of that interest in pursuance of the purchase notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable by virtue of that section.

(2) Where a purchase notice served in respect of an interest in land does not take effect, or does not take effect in relation to a part of the land, by reason that the Minister gives a direction under subsection (3) of section one hundred and thirty-two of this Act, then if, on a claim made to the local planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that the permitted development value of that interest (or, as the case may be, of that interest so far as it relates to that part of the land) is less than its existing use value, the local planning authority shall pay to the person entitled to that interest compensation of an amount which (subject to the following provisions of this section) shall be equal to the difference.

PART VIII

(3) If the planning permission which, by the direction referred to in the last preceding subsection, is required to be granted would be granted subject to conditions for regulating the design or external appearance of buildings, or the size or height of buildings, or for regulating the number of buildings to be erected on the land, the Minister, if it appears to him to be reasonable to do so having regard to the local circumstances, may direct that those conditions shall be disregarded, either altogether or to such extent as may be specified in the direction, in assessing any compensation payable under the last preceding subsection.

(4) Sections one hundred and twenty-seven and one hundred and twenty-eight of this Act shall have effect in relation to compensation under subsection (2) of this section as they have effect in relation to compensation to which those sections apply.

(5) In this section " permitted development value ", in relation to an interest in land in respect of which a direction is given under subsection (3) of section one hundred and thirty-two of this Act. means the value of that interest calculated with regard to that direction, but on the assumption that no planning permission would be granted otherwise than in accordance with that direction, and " existing use value ", in relation to such an interest, means the value of that interest as (for the purpose of ascertaining the compensation payable on an acquisition thereof in pursuance of the purchase notice) that value would have been assessed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, as modified by the provisions of sections fifty-one to fifty-four of the Act of 1947, if no enactment repealing, modifying or superseding any of those provisions had been passed after the passing of the Act of 1947.

Purchase notice in respect of order revoking or modifying planning permission.

**135.**—(1) Where by an order under section twenty-seven of this Act planning permission in respect of any land is revoked, or is modified by the imposition of conditions, then if any owner of the land claims—

(*a*) that the land has become incapable of reasonably beneficial use in its existing state, and

(*b*) in a case where the planning permission was modified by the imposition of conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions, and

(*c*) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the local planning authority or the Minister has undertaken to grant planning permission,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the council of the county borough or county district in which the land is situated a notice requiring that council to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.

(2) Subsection (3) of section one hundred and twenty-nine of this Act shall apply to this section; and, subject to the next following subsection, subsection (2) of that section and sections one hundred and thirty to one hundred and thirty-four of this Act shall apply to a notice served by virtue of subsection (1) of this section as they apply to a notice served by virtue of subsection (1) of section one hundred and twenty-nine of this Act.

(3) In the application of section one hundred and thirty-two of this Act to a purchase notice served by virtue of subsection (1) of this section, that section shall apply as if the following subsection were substituted for subsection (2) thereof:

"(2) If it appears to the Minister to be expedient to do so, he may, in lieu of confirming the purchase notice, cancel the order revoking the planning permission, or, where the order modified the permission by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the development in respect of which the permission was granted".

Purchase notice in respect of order requiring discontinuance of use or alteration or removal of buildings or works.

**136.**—(1) If any person entitled to an interest in land in respect of which an order is made under section twenty-eight of this Act claims—

(*a*) that by reason of the order the land is incapable of reasonably beneficial use in its existing state, and

(*b*) that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which planning permission has been granted, whether by that order or otherwise,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the council of the county borough or county district in which the land is situated a notice requiring that council to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.

(2) Subsection (3) of section one hundred and twenty-nine of this Act shall apply to this section; and, subject to the next following subsection, subsection (2) of that section and sections one hundred and thirty to one hundred and thirty-four of this Act shall apply to a notice served by virtue of subsection (1) of this section as they apply to a notice served by virtue of subsection (1) of section one hundred and twenty-nine of this Act

PART VIII

(3) In the application of section one hundred and thirty-two of this Act to a purchase notice served by virtue of subsection (1) of this section, that section shall have effect subject to the following modifications, that is to say,—

(*a*) in subsection (1), for the reference to the conditions therein mentioned, there shall be substituted a reference to the conditions specified in paragraphs (*a*) and (*b*) of subsection (1) of this section; and

(*b*) the following subsection shall be substituted for subsection (2):—

"(2) If it appears to the Minister to be expedient to do so, he may, in lieu of confirming the purchase notice, revoke the order under section twenty-eight of this Act, or, as the case may be, amend that order so far as appears to him to be required in order to prevent the land from being rendered incapable of reasonably beneficial use by the order".

(4) Where a purchase notice in respect of an interest in land is served in consequence of such an order as is mentioned in subsection (1) of this section, then if—

(*a*) that interest is acquired in accordance with the preceding provisions of this Part of this Act, or

(*b*) compensation is payable in respect of that interest under subsection (2) of section one hundred and thirty-four of this Act,

no compensation shall be payable in respect of that order under section one hundred and twenty-four of this Act.

(5) Except as provided by this section, no purchase notice shall be served in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of such an order as is mentioned in subsection (1) of this section.

Purchase notices in other cases.

**137.**—(1) Sections one hundred and twenty-nine to one hundred and thirty-four of this Act are provisions falling within subsection (2) of section twenty-nine of this Act; and subsection (1) of the said section twenty-nine, and subsection (5) of section thirty and subsection (2) of section thirty-four of this Act, shall have effect accordingly.

(2) Where, in the case of an application for planning permission, a notice under subsection (1) of section forty of this Act is served in respect of the whole or part of the land to which the application relates, the provisions of sections one hundred and twenty-nine to one hundred and thirty-four of this Act shall have effect as if the application had been an effective application for planning permission, and as if that permission had been refused in respect of that land or that part thereof, as the case may be.

*Interests of owner-occupiers affected by planning proposals* PART VIII

Scope of these provisions.

**138.**—(1) The provisions of sections one hundred and thirty-nine to one hundred and fifty-one of this Act shall have effect in relation to land which—

(*a*) is land designated by a development plan as subject to compulsory acquisition, or

(*b*) is land allocated by a development plan for the purposes of any functions of a government department, local authority or statutory undertakers, or of the National Coal Board, or is land defined in such a plan as the site of proposed development for the purposes of any such functions, or

(*c*) is land indicated in a development plan (otherwise than by being allocated or defined as mentioned in the last preceding paragraph) as land on which a highway is proposed to be constructed or land to be included in a highway as proposed to be improved or altered, or

(*d*) is land authorised by a special enactment to be compulsorily acquired, or land falling within the limits of deviation within which powers of compulsory acquisition conferred by a special enactment are exercisable, or

(*e*) is land on or adjacent to the line of a highway proposed to be constructed, improved or altered, as indicated in an order or scheme which has come into operation under the provisions of Part II of the Highways Act, 1959, relating to trunk roads or special roads, being land in relation to which a power of compulsory acquisition conferred by any of the provisions of Part X of that Act may become exercisable, as being land required for purposes of construction, improvement or alteration as indicated in the order or scheme, or

(*f*) is land shown on plans approved by a resolution of a local highway authority as land comprised in the site of a highway as proposed to be constructed, improved or altered by that authority.

(2) Interests qualifying for protection under these provisions are either—

(*a*) interests in hereditaments or parts of hereditaments, or

(*b*) interests in agricultural units or parts of agricultural units.

(3) An interest in the whole or part of a hereditament shall be taken to be an interest qualifying for protection under these provisions if, on the date of service of a notice under the next following section in respect thereof, either—

PART VIII

(*a*) the annual value of the hereditament does not exceed such amount as may be prescribed for the purposes of this paragraph by an order made by the Minister, and the interest in question is the interest of an owner-occupier of the hereditament, or

(*b*) in a case not falling within the preceding paragraph, the interest in question is the interest of a resident owner-occupier of the hereditament.

(4) An interest in the whole or part of an agricultural unit shall be taken to be an interest qualifying for protection under these provisions if, on the date of service of a notice under the next following section in respect thereof, it is the interest of an owner-occupier of the unit.

(5) In this section and in the said sections one hundred and thirty-nine to one hundred and fifty-one "these provisions" means the provisions of this section and of those sections, and "the specified descriptions" means the descriptions contained in paragraphs (*a*) to (*f*) of subsection (1) of this section.

Notice requiring purchase of claimant's interest.

**139.**—(1) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions, and a person claims that—

(*a*) he is entitled to an interest in that hereditament or unit, and

(*b*) the interest is one which qualifies for protection under these provisions, and

(*c*) since the relevant date he has made reasonable endeavours to sell that interest, and

(*d*) he has been unable to sell it except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were comprised in land of any of the specified descriptions,

he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, these provisions.

(2) The preceding subsection shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the entirety of a hereditament or agricultural unit:

Provided that this subsection shall not enable any person—

(*a*) if he is entitled to an interest in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of his interest in part of the hereditament or unit, or

(*b*) if he is entitled to an interest only in part of a hereditament or agricultural unit, to make or serve any such claim or notice in respect of his interest in less than the entirety of that part.

(3) In this section " the relevant date "—

(*a*) in relation to land designated, allocated, defined or indicated as mentioned in any of paragraphs (*a*) to (*c*) of subsection (1) of the last preceding section, means the date (whether before or after the commencement of this Act) on which the development plan, or the amendment of the development plan, by virtue of which the land was first so designated, allocated, defined or indicated came into operation;

(*b*) in relation to any such land as is mentioned in paragraph (*d*) of that subsection, means the date (whether before or after the commencement of this Act) on which the special enactment in question came into operation;

(*c*) in relation to land falling within paragraph (*e*) of that subsection, means the date (whether before or after the commencement of this Act) of the coming into operation of the order or scheme by virtue of which it falls within that paragraph;

(*d*) in relation to land falling within paragraph (*f*) of that subsection, means the date (whether before or after the commencement of this Act) of the passing of the resolution by virtue of which it falls within that paragraph.

(4) In these provisions " the claimant ", in relation to a notice served under this section, means the person who served that notice, and any reference to the interest of the claimant, in relation to such a notice, is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in subsection (1) of this section.

Objection to notice requiring purchase of claimant's interest.

**140.**—(1) Where a notice has been served under the last preceding section in respect of a hereditament or an agricultural unit, the appropriate authority, at any time before the end of the period of two months beginning with the date of service of that notice, may serve on the claimant a counter-notice in the prescribed form objecting to the notice.

(2) The grounds on which objection may be made in a counter-notice to a notice served under the last preceding section are:—

(*a*) that no part of the hereditament or agricultural unit to which the notice relates is comprised in land of any of the specified descriptions;

PART VIII

(*b*) that the appropriate authority (unless compelled to do so by virtue of these provisions) do not propose to acquire any part of the hereditament, or (in the case of an agricultural unit) any part of the affected area, in the exercise of any relevant powers;

(*c*) that (in the case of an agricultural unit) the appropriate authority propose in the exercise of relevant powers to acquire a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of these provisions) do not propose to acquire any other part of that area in the exercise of any such powers;

(*d*) that, on the date of service of the notice under the last preceding section, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;

(*e*) that (for reasons specified in the counter-notice) the interest of the claimant is not an interest qualifying for protection under these provisions;

(*f*) that the conditions specified in paragraphs (*c*) and (*d*) of subsection (1) of the last preceding section are not fulfilled.

(3) Any counter-notice served under this section in respect of a notice under the last preceding section shall specify the grounds (being one or more of the grounds mentioned in the last preceding subsection) on which the appropriate authority object to the notice.

(4) In this section " relevant powers ", in relation to any land falling within any of the specified descriptions, means any powers under which the appropriate authority are or could be authorised—

(*a*) to acquire that land compulsorily as being land falling within that description, or

(*b*) to acquire that land compulsorily for any of the relevant purposes;

and " the relevant purposes ", in relation to any such land, means the purposes for which, in accordance with the circumstances by virtue of which that land falls within the description in question, it is liable to be acquired or is indicated as being proposed to be acquired.

Reference of objection to Lands Tribunal.

**141.**—(1) Where a counter-notice has been served under the last preceding section, objecting to a notice served under section one hundred and thirty-nine of this Act, the claimant, at any time before the end of the period of two months beginning with the date of service of the counter-notice, may require the objection to be referred to the Lands Tribunal.

(2) On any such reference, if the objection is not withdrawn, the Lands Tribunal shall consider the matters set out in the notice served by the claimant and the grounds of the objection specified in the counter-notice; and, subject to the next following subsection, unless it is shown to the satisfaction of the Tribunal that the objection is not well-founded, the Tribunal shall uphold the objection.

(3) An objection on the grounds mentioned in paragraph (*b*) or paragraph (*c*) of subsection (2) of the last preceding section shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.

(4) If the Tribunal determines not to uphold the objection, the Tribunal shall declare that the notice to which the counter-notice relates is a valid notice.

(5) If the Tribunal upholds the objection, but only on the grounds mentioned in paragraph (*c*) of subsection (2) of the last preceding section, the Tribunal shall declare that the notice is a valid notice in relation to the part of the affected area specified in the counter-notice as being the part which the appropriate authority propose to acquire as therein mentioned, but not in relation to any other part of the affected area.

(6) In any case falling within subsection (4) or subsection (5) of this section, the Tribunal shall give directions specifying the date on which notice to treat (as mentioned in the next following section) is to be deemed to have been served.

Effect of valid notice requiring purchase.

**142.**—(1) Where a notice has been served under section one hundred and thirty-nine of this Act, and either—

(*a*) no counter-notice objecting to that notice is served in accordance with these provisions, or

(*b*) where such a counter-notice has been served, the objection is withdrawn, or, on a reference to the Lands Tribunal, is not upheld by the Tribunal,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in the hereditament, or (in the case of an agricultural unit) the interest of the claimant in so far as it subsists in the affected area, and to have served a notice to treat in respect thereof on the date mentioned in the next following subsection.

(2) The said date—

(*a*) in a case where, on a reference to the Lands Tribunal, the Tribunal determines not to uphold the objection, is the date specified in directions given by the Tribunal in accordance with subsection (6) of the last preceding section;

PART VIII

(*b*) in any other case, is the date on which the period of two months beginning with the date of service of the notice under section one hundred and thirty-nine of this Act comes to an end.

(3) Where the notice under section one hundred and thirty-nine of this Act relates to an agricultural unit, and the appropriate authority have served a counter-notice objecting to that notice on the grounds mentioned in paragraph (*c*) of subsection (2) of section one hundred and forty of this Act, then if either—

(*a*) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired, gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the affected area specified in the counter-notice, and withdraws his claim as to the remainder of that area, or

(*b*) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with subsection (5) of the last preceding section in respect of that part of the affected area,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far it subsists in the part of the affected area specified in the counter-notice (but not in so far as it subsists in any other part of that area) and to have served a notice to treat in respect thereof on the date mentioned in the next following subsection.

(4) The said date—

(*a*) in a case falling within paragraph (*a*) of the last preceding subsection, is the date on which notice is given in accordance with that paragraph, and

(*b*) in a case falling within paragraph (*b*) of that subsection, is the date specified in directions given by the Lands Tribunal in accordance with subsection (6) of the last preceding section.

Compensation for acquisition in pursuance of notice requiring purchase.

**143.**—(1) Subject to the next following subsection, the compensation payable in respect of a compulsory acquisition in pursuance of a notice served under these provisions in respect of a hereditament—

(*a*) shall not include any amount attributable to damage sustained by reason that the hereditament is severed from other land held therewith, and

(*b*) shall not include any amount attributable to disturbance.

(2) Paragraph (*a*) of the preceding subsection shall not apply to an amount attributable to damage sustained by reason that the hereditament is severed from agricultural land held therewith.

(3) The compensation payable in respect of a compulsory acquisition in pursuance of a notice served under these provisions in respect of an agricultural unit shall not include any amount attributable to disturbance.

Withdrawal of notice requiring purchase.

**144.**—(1) Subject to the next following subsection, the person by whom a notice has been served under section one hundred and thirty-nine of this Act may withdraw the notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been determined by the Lands Tribunal, or at any time before the end of the period of six weeks beginning with the date on which the compensation is so determined; and, where such a notice is withdrawn by virtue of this subsection, any notice to treat deemed to have been served in consequence thereof shall be deemed to have been withdrawn.

(2) A person shall not be entitled by virtue of the preceding subsection to withdraw a notice after the appropriate authority have exercised a right of entering upon and taking possession of land in pursuance of a notice to treat deemed to have been served in consequence of that notice.

(3) No compensation shall be payable in respect of the withdrawal of a notice to treat which is deemed to have been withdrawn by virtue of subsection (1) of this section.

Effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire.

**145.**—(1) The provisions of subsections (2) and (3) of this section shall have effect where the grounds of objection specified in a counter-notice served under section one hundred and forty of this Act consist of or include the grounds mentioned in paragraph (*b*) of subsection (2) of that section, and either—

(*a*) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal, or

(*b*) the time for referring that objection to the Lands Tribunal expires without its having been so referred.

(2) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes the whole or part of the hereditament or agricultural unit to which the counter-notice relates, or if the land in question falls within paragraph (*d*) of subsection (1) of section one hundred and thirty-eight of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in the hereditament or agricultural unit or any part thereof shall cease to have effect.

(3) If the land in question falls within paragraph (*a*) of subsection (1) of section one hundred and thirty-eight of this Act, then (without prejudice to the effect of any subsequent designation)

PART VIII

the development plan shall have effect as if no part of the hereditament, or (in the case of an agricultural unit) no part of the affected area, were designated therein as land subject to compulsory acquisition.

(4) The provisions of subsections (5) and (6) of this section shall have effect where the grounds of objection specified in a counter-notice under section one hundred and forty of this Act consist of or include the grounds mentioned in paragraph (*c*) of subsection (2) of that section, and either—

(*a*) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal, or

(*b*) the time for referring that objection to the Lands Tribunal expires without its having been so referred;

and in those subsections any reference to " the part of the affected area not required " is a reference to the whole of that area except the part specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in the counter-notice.

(5) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes any of the part of the affected area not required, or if the land in question falls within paragraph (*d*) of subsection (1) of section one hundred and thirty-eight of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in any land comprised in the part of the affected area not required shall cease to have effect.

(6) If the land in question falls within paragraph (*a*) of subsection (1) of section one hundred and thirty-eight of this Act, then (without prejudice to the effect of any subsequent designation) the development plan shall have effect as if no land comprised in the part of the affected area not required were designated therein as land subject to compulsory acquisition.

Death of claimant after service of notice requiring purchase.

**146.**—(1) In relation to any time after the death of a person who has served a notice under section one hundred and thirty-nine of this Act, the provisions mentioned in the next following subsection shall apply as if any reference therein to the claimant were a reference to the claimant's personal representatives.

(2) The said provisions are subsection (1) of section one hundred and forty, subsection (1) of section one hundred and forty-one and subsection (3) of section one hundred and forty-two of this Act.

" Appropriate authority" for purposes of these provisions.

**147.**—(1) Subject to the following provisions of this section, in these provisions " the appropriate authority ", in relation to any land, means the government department, local authority or other body by whom, in accordance with the circumstances by

virtue of which the land falls within any of the specified descriptions, the land is liable to be acquired or is indicated as being proposed to be acquired.

(2) If any question arises—

(*a*) whether the appropriate authority in relation to any land for the purposes of these provisions is the Minister of Transport or a local highway authority, or

(*b*) which of two or more local highway authorities is the appropriate authority in relation to any land for those purposes,

that question shall be referred to the Minister of Transport, whose decision shall be final.

(3) Subject to the last preceding subsection, if any question arises as to which of two or more local authorities is the appropriate authority in relation to any land for the purposes of these provisions, that question shall be referred to the Minister, whose decision shall be final.

"Appropriate enactment" for purposes of these provisions.

**148.**—(1) Subject to the following provisions of this section, in these provisions "the appropriate enactment", in relation to land falling within any of the specified descriptions, means the enactment which provides for the compulsory acquisition of land as being land falling within that description.

(2) In relation to land falling within the description contained in paragraph (*b*) of subsection (1) of section one hundred and thirty-eight of this Act an enactment shall, for the purposes of the preceding subsection, be taken to be an enactment which provides for the compulsory acquisition of land as being land falling within that description if—

(*a*) the enactment provides for the compulsory acquisition of land for the purposes of the functions which are indicated in the development plan as being the functions for the purposes of which the land is allocated or is proposed to be developed, or

(*b*) where no particular functions are so indicated in the development plan, the enactment provides for the compulsory acquisition of land for the purposes of any of the functions of the government department, local authority or other body for the purposes of whose functions the land is allocated or is defined as the site of proposed development.

(3) Where, in accordance with the circumstances by virtue of which any land falls within any of the specified descriptions, it is indicated that the land is proposed to be acquired for highway purposes, any enactment under which a highway authority are or (subject to the fulfilment of the relevant conditions) could be authorised to acquire that land compulsorily for highway

PART VIII

purposes shall, for the purposes of subsection (1) of this section, be taken to be an enactment providing for the compulsory acquisition of that land as being land falling within the description in question.

(4) In the last preceding subsection the reference to the fulfilment of the relevant conditions is a reference to such one or more of the following as are applicable to the circumstances in question, that is to say,—

(*a*) the coming into operation of any requisite order under the provisions of Part II of the Highways Act, 1959, relating to trunk roads;

(*b*) the coming into operation of any requisite scheme or order under the provisions of the said Part II relating to special roads;

(*c*) the making or approval of any requisite plans.

(5) If, apart from this subsection, two or more enactments would be the appropriate enactment in relation to any land for the purposes of these provisions, the appropriate enactment for those purposes shall be taken to be that one of those enactments under which, in the circumstances in question, it is most likely that (apart from these provisions) the land would have been acquired by the appropriate authority.

(6) If any question arises as to which enactment is the appropriate enactment in relation to any land for the purposes of these provisions, that question shall be referred—

(*a*) where the appropriate authority are a government department, to the Minister or Board in charge of that department;

(*b*) where the appropriate authority are a local highway authority, to the Minister of Transport;

(*c*) where the appropriate authority are statutory undertakers, to the appropriate Minister; and

(*d*) in any other case, to the Minister,

and the decision of the Minister or Board to whom a question is referred under this subsection shall be final.

Meaning of "owner-occupier" and "resident owner-occupier".

**149.**—(1) Subject to the following provisions of this section, in these provisions "owner-occupier", in relation to a hereditament, means a person who—

(*a*) occupies the whole or part of the hereditament in right of an owner's interest therein, and has so occupied the hereditament or that part thereof during the whole of the period of six months ending with the date of service, or

(*b*) occupied, in right of an owner's interest, the whole or part of the hereditament during the whole of a period

of six months ending not more than six months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.

(2) Subject to the following provisions of this section, in these provisions "owner-occupier", in relation to an agricultural unit, means a person who—

(*a*) occupies the whole of that unit, and has occupied it during the whole of the period of six months ending with the date of service, or

(*b*) occupied the whole of that unit during the whole of a period of six months ending not more than six months before the date of service,

and, at all times material for the purposes of paragraph (*a*) or paragraph (*b*) of this subsection, as the case may be, has been entitled to an owner's interest in the whole or part of that unit.

(3) In these provisions "resident owner-occupier", in relation to a hereditament, means an individual who—

(*a*) occupies the whole or part of the hereditament as a private dwelling in right of an owner's interest therein, and has so occupied the hereditament or that part thereof, as the case may be, during the whole of the period of six months ending with the date of service, or

(*b*) occupied, in right of an owner's interest, the whole or part of the hereditament as a private dwelling during the whole of a period of six months ending not more than six months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.

(4) In this section "owner's interest", in relation to a hereditament or agricultural unit, means a freehold interest therein or a tenancy thereof granted or extended for a term of years certain of which, on the date of service, not less than three years remain unexpired; and in this and the next following section "date of service", in relation to a hereditament or agricultural unit, means the date of service of a notice in respect thereof under section one hundred and thirty-nine of this Act.

General interpretation of these provisions.

**150.**—(1) Subject to the following provisions of this section, in these provisions the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"the affected area", in relation to an agricultural unit, means so much of that unit as, on the date of service, consists of land falling within any of the specified descriptions;

PART VIII

"agricultural unit" means land which is occupied as a unit for agricultural purposes, including any dwellinghouse or other building occupied by the same person for the purpose of farming the land;

"annual value", in relation to a hereditament, means the value which, on the date of service, is shown in the valuation list as the rateable value of that hereditament, except that, where the rateable value differs from the net annual value, it means the value which on that date is shown in the valuation list as the net annual value thereof;

"the claimant" has the meaning assigned to it by subsection (4) of section one hundred and thirty-nine of this Act;

"hereditament" means the aggregate of the land which forms the subject of a single entry in the valuation list for the time being in force for a rating area;

"special enactment" means a local enactment, or a provision contained in an Act other than a local or private Act, being a local enactment or provision authorising the compulsory acquisition of land specifically identified therein; and in this definition "local enactment" means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

"the specified descriptions" and "these provisions" have the meanings assigned to them respectively by subsection (5) of section one hundred and thirty-eight of this Act.

(2) Where any land is on the boundary between two or more rating areas, and accordingly—

(*a*) different parts of that land form the subject of single entries in the valuation lists for the time being in force for those areas respectively, but

(*b*) if the whole of that land had been in one of those areas, it would have formed the subject of a single entry in the valuation list for that area,

the whole of that land shall be treated, for the purposes of the definition of "hereditament" in the preceding subsection, as if it formed the subject of a single entry in the valuation list for a rating area.

(3) Land which forms the subject of an entry in the valuation list by reason only that it is land over which any shooting, fishing or other sporting rights are exercisable, or that it is land over which a right of exhibiting advertisements is let out or reserved, shall not be taken to be a hereditament within the said definition.

(4) Where, in accordance with subsection (2) of this section, land whereof different parts form the subject of single entries in the valuation lists for the time being in force for two or more rating areas is treated as if it formed the subject of a single entry in the valuation list for a rating area, the definition of " annual value " in subsection (1) of this section shall apply as if any reference therein to a value shown in the valuation list were a reference to the aggregate of the values shown (as rateable values or as net annual values, as the case may be) in those valuation lists in relation to the different parts of that land.

(5) Any reference in these provisions to a development plan is a reference to such a plan in the form in which (whether as originally made or approved by the Minister or as subsequently amended) that plan is for the time being in force.

Special provisions as to partnerships.

**151.**—(1) The provisions of this section shall have effect for the purposes of the application of these provisions to a hereditament or agricultural unit occupied for the purposes of a partnership firm.

(2) Occupation for the purposes of the firm shall be treated as occupation by the firm, and not as occupation by any one or more of the partners individually, and the definitions of " owner-occupier " in subsections (1) and (2) of section one hundred and forty-nine of this Act shall apply in relation to the firm accordingly.

(3) If, after the service by the firm of a notice under section one hundred and thirty-nine of this Act, any change occurs (whether by death or otherwise) in the constitution of the firm, any proceedings, rights or obligations consequential upon that notice may be carried on or exercised by or against, or (as the case may be) shall be incumbent upon, the partners for the time being constituting the firm.

(4) Nothing in this section or elsewhere in these provisions shall be construed as indicating an intention to exclude the operation of section nineteen of the Interpretation Act, 1889 (whereby, unless the contrary intention appears, " person " includes any body of persons corporate or unincorporate) in relation to any of these provisions.

(5) Subsection (2) of this section shall not affect the definition of " resident owner-occupier " in subsection (3) of section one hundred and forty-nine of this Act.

*Supplementary provisions*

No withdrawal of constructive notice to treat.

**152.** Without prejudice to the provisions of subsection (1) of section one hundred and forty-four of this Act, the power conferred by section thirty-one of the Land Compensation Act, 1961, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of any of the provisions of this Part of this Act.

## PART IX

## HIGHWAYS

Stopping up and diversion of highways.

**153.**—(1) The Minister of Transport may by order authorise the stopping up or diversion of any highway, if he is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III of this Act, or to be carried out by a government department.

(2) Any order made under this section may make such provision as appears to the Minister of Transport to be necessary or expedient for the provision or improvement of any other highway, and may direct—

(*a*) that any highway so provided or improved shall for the purposes of the Highways Act, 1959, be a highway maintainable at the public expense;

(*b*) that the said Minister, or any local authority specified in that behalf in the order, shall be the highway authority for that highway;

(*c*) in the case of a highway for which the said Minister is to be the highway authority, that the highway shall, on such date as may be specified in the order, become a trunk road within the meaning of the Highways Act, 1959.

(3) Any order made under this section may contain such incidental and consequential provisions as appear to the Minister of Transport to be necessary or expedient, including in particular provision for authorising that Minister, or requiring any other authority or person specified in the order,—

(*a*) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is attributable to the doing of any such work, or

(*b*) to repay, or to make contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section one or section two of the Restriction of Ribbon Development Act, 1935, in relation to any highway stopped up or diverted under the order.

(4) The powers of the Minister of Transport under subsection (1) of this section shall include power to make an order authorising the stopping up or diversion of any highway which is temporarily stopped up or diverted under any other enactment.

(5) The provisions of this section shall have effect without prejudice to—

(*a*) any power conferred on the Minister of Transport by any other enactment to authorise the stopping up or diversion of a highway, or

(*b*) the provisions of section three of the Acquisition of Land (Authorisation Procedure) Act, 1946, or

(*c*) the provisions of section one hundred and fifty-five of this Act.

Procedure in relation to orders under s. 153.

**154.**—(1) Before making an order under the last preceding section, the Minister of Transport shall publish in at least one local newspaper circulating in the relevant area, and in the London Gazette, a notice—

(*a*) stating the general effect of the order;

(*b*) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of three months from the date of the publication of the notice; and

(*c*) stating that, within that period, any person may by notice to that Minister object to the making of the order.

(2) Not later than the date on which that notice is so published, the Minister of Transport—

(*a*) shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan, on every local authority in whose area any highway to which the order relates is situated, and on any water, hydraulic power, gas or electricity undertakers having any cables, mains, pipes or wires laid along, across, under or over any highway to be stopped up or diverted under the order, and

(*b*) shall cause a copy of the notice to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order.

(3) If before the end of the said period of three months an objection is received by the Minister of Transport from any local authority or undertakers on whom a notice is required to be served under the last preceding subsection, or from any other person appearing to him to be affected by the order, and the objection is not withdrawn, the said Minister shall cause a local inquiry to be held:

Provided that, if the objection is made by a person other than such a local authority or undertakers, the said Minister may dispense with such an inquiry if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.

(4) After considering any objections to the order which are not withdrawn, and, where a local inquiry is held, the report of the person who held the inquiry, the Minister of Transport

PART IX

(subject to the next following subsection) may make the order either without modification or subject to such modifications as he thinks fit.

(5) Where the order contains a provision requiring any such payment, repayment or contribution as is mentioned in paragraph (*a*) or paragraph (*b*) of subsection (3) of the last preceding section, and objection to that provision is duly made, in accordance with subsection (3) of this section, by an authority or person who would be required thereby to make such a payment, repayment or contribution, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(6) Immediately after the order has been made, the Minister of Transport shall publish, in the manner specified in subsection (1) of this section, a notice stating that the order has been made, and naming a place where a copy of the order may be seen at all reasonable hours; and the provisions of subsection (2) of this section shall have effect in relation to any such notice as they have effect in relation to a notice under subsection (1) of this section.

(7) In this section "the relevant area", in relation to an order, means the area in which any highway to which the order relates is situated, and "local authority" means the council of a county, county borough, county district or parish, or of a borough included in a rural district, and the parish meeting of a rural parish not having a separate parish council.

Extinguishment of public rights of way over land held for planning purposes.

**155.**—(1) Where any land has been acquired or appropriated for planning purposes, and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, the Minister may by order extinguish any public right of way over the land if he is satisfied that an alternative right of way has been or will be provided or that the provision of an alternative right of way is not required.

(2) The provisions of the last preceding section (except subsection (5) thereof) shall have effect in relation to orders under this section as they have effect in relation to orders under section one hundred and fifty-three of this Act, with the substitution, for references to the Minister of Transport, of references to the Minister.

(3) In this section any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with subsection (1) of section eighty-seven of this Act as if this section were in Part V of this Act.

Compulsory acquisition of land in connection with highways.

**156.**—(1) The Minister of Transport or a local highway authority may be authorised to acquire land compulsorily—

(*a*) for the purpose of providing or improving any highway which is to be provided or improved in pursuance of an order under section one hundred and fifty-three of

this Act, or for any other purpose for which land is required in connection with such an order, or

(*b*) for the purpose of providing any public right of way which is to be provided as an alternative to a right of way extinguished under the last preceding section.

(2) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply to the acquisition of land under this section, and accordingly shall have effect—

(*a*) as if this section had been in force immediately before the commencement of that Act, and

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

Concurrent proceedings in connection with highways.

**157.**—(1) In relation to orders under section one hundred and fifty-three of this Act, regulations made under this Act by the Minister of Transport may make provision for securing that any proceedings required to be taken for the purposes of the acquisition of land under the last preceding section (as mentioned in paragraph (*a*) of subsection (1) of the last preceding section) may be taken concurrently with any proceedings required to be taken for the purposes of the order.

(2) In relation to orders under section one hundred and fifty-five of this Act, regulations made under this Act may make provision for securing—

(*a*) that any proceedings required to be taken for the purposes of such an order may be taken concurrently with any proceedings required to be taken for the purposes of the acquisition of the land over which the right of way is to be extinguished, or

(*b*) that any proceedings required to be taken for the purposes of the acquisition of any other land under the last preceding section (as mentioned in paragraph (*b*) of subsection (1) of the last preceding section) may be taken concurrently with either or both of the proceedings referred to in the preceding paragraph.

Provisions as to telegraphic lines.

**158.**—(1) Where in pursuance of an order under section one hundred and fifty-three of this Act a highway is stopped up or diverted, and, immediately before the date on which the order became operative, there was under, in, on, over, along or across the highway a telegraphic line belonging to or used by the Postmaster-General, the Postmaster-General shall have the same powers in respect of that line as if the order had not become operative:

Provided that if any person entitled to land over which the highway subsisted requires that the telegraphic line should be altered, paragraphs (1) to (8) of section seven of the Telegraph Act, 1878, shall apply to the alteration, and accordingly shall

PART IX have effect, subject to any necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered.

(2) Where any such order provides for the improvement of a highway, other than a trunk road, and, immediately before the date on which the order became operative, there was under, in, on, over, along or across the highway a telegraphic line belonging to or used by the Postmaster-General, then if the local highway authority require that that line should be altered, paragraphs (1) to (8) of the said section seven shall apply to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the local highway authority:

Provided that those paragraphs shall not apply by virtue of this subsection to the alteration of a telegraphic line for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act, 1950.

(3) Where an order under section one hundred and fifty-five of this Act extinguishing a public right of way is made on the application of a local authority, and at the time of the publication of the notice required by subsection (1) of section one hundred and fifty-four of this Act (as applied by the said section one hundred and fifty-five) there was under, in, on, over, along or across the land over which the right of way subsisted a telegraphic line belonging to or used by the Postmaster-General—

(*a*) the power of the Postmaster-General to remove the line shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished, and shall be exercisable in respect of the whole or any part of the line after the end of that period if before the end of that period the Postmaster-General has given notice to the local authority of his intention to remove the line or that part thereof, as the case may be;

(*b*) the Postmaster-General may by notice given in that behalf to the local authority not later than the end of the said period of three months abandon the telegraphic line or any part thereof;

(*c*) subject to the last preceding paragraph, the Postmaster-General shall be deemed at the end of that period to have abandoned any part of the line which he has then neither removed nor given notice of his intention to remove;

(*d*) the Postmaster-General shall be entitled to recover from the local authority the expense of providing, in substitution for the line and any telegraphic line connected

therewith which is rendered useless in consequence of the removal or abandonment of the line, a telegraphic line in such other place as the Postmaster-General may require;

(*e*) where under the preceding provisions of this subsection the Postmaster-General has abandoned the whole or any part of a telegraphic line, it shall vest in the local authority, and the provisions of the Telegraph Acts, 1863 to 1954, shall not apply in relation to the line or that part thereof with respect to anything done or omitted after the abandonment thereof.

(4) In this section "telegraphic line" and "alter" have the same meanings as in the Telegraph Act, 1878.

## PART X

## STATUTORY UNDERTAKERS

### *General provisions*

Planning permission to develop operational land.

**159.**—(1) Where an application for planning permission to develop operational land is made by statutory undertakers, and is referred to the Minister under Part III of this Act, or where an appeal is made to the Minister under Part III of this Act from the decision on such an application, the application or appeal shall be dealt with by the Minister and the appropriate Minister.

(2) If, on such an application or appeal, the Minister and the appropriate Minister propose to refuse planning permission, or to grant it subject to conditions, they shall notify to the statutory undertakers the decision which they propose to make; and if, within twenty-eight days from the date on which the statutory undertakers receive that notification, the undertakers make an application to the appropriate Minister in that behalf, the decision shall be embodied in an order made by the Minister and the appropriate Minister, and that order shall be subject to special parliamentary procedure.

(3) Notwithstanding anything in Part III of this Act, planning permission to develop operational land of statutory undertakers shall not, except with their consent, be granted subject to conditions requiring that any buildings or works authorised by the permission shall be removed, or that any use of the land so authorised shall be discontinued, at the end of a specified period.

(4) Subject to the provisions of this Part of this Act as to compensation, the provisions of this Act shall apply to an application which is dealt with under this section by the Minister and the appropriate Minister as if it had been dealt with by the Minister.

PART X

(5) For the avoidance of doubt it is hereby declared that, for the purposes of the application of the Statutory Orders (Special Procedure) Act, 1945, to any order made by the Minister and the appropriate Minister under this section, the requirements imposed by this Act with respect to the consideration of any such application or appeal as is mentioned in subsection (1) of this section shall be deemed to be requirements with respect to proceedings preliminary to the making of the order within the meaning of section two of the said Act of 1945.

Development requiring authorisation of government department.

**160.**—(1) Where, under the enactments regulating the carrying on of a statutory undertaking, the authorisation of a government department is required in respect of any development of operational land, and that department propose to decide—

(*a*) to refuse the authorisation on the grounds that planning permission ought not to be granted for the development, and on no other grounds, or

(*b*) to grant the authorisation and direct that planning permission shall be deemed to be granted subject to conditions other than conditions imposed as part of the authorisation,

the provisions of subsection (2) of the last preceding section shall apply (subject to any necessary modifications) in relation to that decision, and to the proposal to make that decision, as they apply in relation to any such decision or proposed decision as is mentioned in that subsection.

(2) Where the authorisation of a government department is required as mentioned in the preceding subsection, then, except where that authorisation has been granted without any direction as to the grant of planning permission, the Minister and the appropriate Minister shall not be required to deal with an application for planning permission under subsection (1) of the last preceding section.

(3) The provisions of subsection (3) of section forty-one of this Act shall have effect for the purposes of this section as they have effect for the purposes of that section.

Revocation or modification of permission to develop operational land.

**161.**—(1) In relation to any planning permission, granted on the application of statutory undertakers, for the development of operational land, the provisions of Part III of this Act with respect to the revocation and modification of planning permission shall have effect as if, for any reference therein to the Minister, there were substituted a reference to the Minister and the appropriate Minister.

(2) Where the Minister and the appropriate Minister propose to confirm or make an order under section twenty-seven of this Act as modified by the preceding subsection, they shall give notice of that proposal to the statutory undertakers, and shall afford them an opportunity of objecting to the proposal; and if any

objection is so made by the statutory undertakers and is not withdrawn, the order shall be subject to special parliamentary procedure.

Order requiring discontinuance of use etc. of operational land.

**162.**—(1) The provisions of Part III of this Act with respect to the making of orders requiring the discontinuance of any use of land or imposing conditions on the continuance thereof, or requiring buildings or works on land to be altered or removed, shall have effect, in relation to operational land of statutory undertakers, as if, for any reference therein to the Minister, there were substituted a reference to the Minister and the appropriate Minister.

(2) Where the Minister and the appropriate Minister propose to confirm or make an order under section twenty-eight of this Act as modified by the preceding subsection, they shall give notice of that proposal to the statutory undertakers, and shall afford them an opportunity of objecting to the proposal; and if any objection is so made by the statutory undertakers and is not withdrawn, the order shall be subject to special parliamentary procedure.

Acquisition of land of statutory undertakers.

**163.**—(1) Notwithstanding anything in paragraph 10 of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, a compulsory purchase order to which this section applies may be confirmed or made without the appropriate Minister's certificate.

(2) This section applies to any compulsory purchase order under this Act authorising the acquisition of land which has been acquired by statutory undertakers for the purposes of their undertaking.

(3) Except where the appropriate Minister's certificate is given, or the land to which the order relates is land designated by a development plan as subject to compulsory acquisition,—

(*a*) a compulsory purchase order to which this section applies shall be of no effect unless it is confirmed or made by the appropriate Minister jointly with the Minister or Ministers who would apart from this subsection have power to make or confirm it, and

(*b*) if any objection to such an order is duly made by the statutory undertakers and is not withdrawn, the order shall be subject to special parliamentary procedure.

(4) Where any operational land of statutory undertakers is designated as subject to compulsory acquisition as mentioned in subsection (4) of section five of this Act, any reference in that subsection to an order made by the Minister shall be construed, in relation to that land, as a reference to an order made by the Minister and the appropriate Minister.

PART X

(5) In this section "the appropriate Minister's certificate" means such a certificate as is mentioned in paragraph 10 of the First Schedule to the said Act of 1946.

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

**164.**—(1) Where any land has been acquired by a Minister, a local authority or statutory undertakers under Part V of this Act, or has been appropriated by a local authority for planning purposes, and—

(*a*) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, or

(*b*) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking,

the acquiring or appropriating authority may serve on the statutory undertakers a notice stating that, at the end of such period as may be specified in the notice, the right will be extinguished, or requiring that, before the end of such period as may be so specified, the apparatus shall be removed.

(2) The statutory undertakers on whom a notice is served under the preceding subsection may, before the end of the period of twenty-eight days from the service of the notice, serve a counter-notice on the acquiring or appropriating authority stating that they object to all or any of the provisions of the notice, and specifying the grounds of their objection.

(3) If no counter-notice is served under the last preceding subsection—

(*a*) any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice, and

(*b*) if, at the end of the period so specified in relation to any apparatus, any requirement of the notice as to the removal of the apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

(4) If a counter-notice is served under subsection (2) of this section on a local authority or on statutory undertakers, the authority or undertakers may either withdraw the notice (without prejudice to the service of a further notice) or may apply to the Minister and the appropriate Minister for an order under this section embodying the provisions of the notice, with or without modification.

(5) If a counter-notice is served under subsection (2) of this section on a Minister, he may withdraw the notice (without prejudice to the service of a further notice) or he and the appropriate Minister may make an order under this section embodying the provisions of the notice, with or without modification.

(6) In this section any reference to the appropriation of land for planning purposes shall be construed in accordance with subsection (1) of section eighty-seven of this Act as if this section were in Part V of this Act.

Orders under s. 164.

**165.**—(1) Where a Minister and the appropriate Minister propose to make an order under subsection (5) of the last preceding section, they shall prepare a draft of the order.

(2) Before making an order under subsection (4) or subsection (5) of the last preceding section, the Ministers proposing to make the order—

(*a*) shall afford to the statutory undertakers on whom notice was served under subsection (1) of that section an opportunity of objecting to the application for, or proposal to make, the order, and

(*b*) if any objection is made, shall consider the objection and afford to those statutory undertakers (and, in a case falling within subsection (4) of that section, to the local authority or statutory undertakers on whom the counter-notice was served) an opportunity of appearing before, and being heard by, a person appointed by the Minister and the appropriate Minister for the purpose,

and may then, if they think fit, make the order in accordance with the application or in accordance with the draft order, as the case may be, either with or without modification.

(3) Where an objection to an order under the last preceding section is duly made and is not withdrawn before the making of the order, the order shall be subject to special parliamentary procedure.

(4) Subject to the last preceding subsection, where an order is made under the last preceding section,—

(*a*) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order, and

(*b*) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

PART X
Extension or modification of functions of statutory undertakers.

**166.**—(1) The powers conferred by this section shall be exercisable where, on a representation made by statutory undertakers, it appears to the Minister and the appropriate Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—

(*a*) to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for any purpose in connection with which a local authority or Minister may be authorised under Part V of this Act to acquire land, or

(*b*) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in the next following subsection.

(2) The said acts and events are—

(*a*) the acquisition under Part V of this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers in question;

(*b*) the extinguishment of a right or the imposition of any requirement by virtue of section one hundred and sixty-four of this Act;

(*c*) a decision on an application made by the statutory undertakers for planning permission to develop any such land as is mentioned in paragraph (*a*) of this subsection;

(*d*) the revocation or modification of planning permission granted on any such application;

(*e*) the making of an order under section twenty-eight of this Act in relation to any such land.

(3) The powers conferred by this section shall also be exercisable where, on a representation made by a local authority or Minister, it appears to the Minister and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified, in order to secure the provision of new services, or the extension of existing services, for any purpose in connection with which the local authority or Minister making the representation may be authorised under Part V of this Act to acquire land.

(4) Where the powers conferred by this section are exercisable, the Minister and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order to secure the services in question, as mentioned in paragraph (*a*) of subsection (1) of this section or in the last preceding subsection, or to secure the adjustment

in question, as mentioned in paragraph (*b*) of subsection (1) of this section, as the case may be.

(5) Without prejudice to the generality of the last preceding subsection, an order under this section may make provision—

(*a*) for empowering the statutory undertakers to acquire (whether compulsorily or by agreement) any land specified in the order, and to erect or construct any buildings or works so specified;

(*b*) for applying, in relation to the acquisition of any such land or the construction of any such works, enactments relating to the acquisition of land and the construction of works;

(*c*) where it has been represented that the making of the order is expedient for the purposes mentioned in paragraph (*a*) of subsection (1) of this section, or in subsection (3) of this section, for giving effect to such financial arrangements between the local authority or Minister and the statutory undertakers as they may agree, or as, in default of agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order;

(*d*) for such incidental and supplemental matters as appear to the Minister and the appropriate Minister to be expedient for the purposes of the order.

Procedure in relation to orders under s. 166.

**167.**—(1) As soon as may be after making such a representation as is mentioned in subsection (1) or subsection (3) of the last preceding section—

(*a*) the statutory undertakers, in a case falling within subsection (1) of that section, or

(*b*) the local authority or Minister making the representation, in a case falling within subsection (3) thereof,

shall publish, in such form and manner as may be directed by the Minister and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, and shall also, if it is so directed by the Minister and the appropriate Minister, serve a like notice on such persons, or persons of such classes, as may be so directed.

(2) Orders under the last preceding section shall be subject to special parliamentary procedure.

Relief of statutory undertakers from obligations rendered impracticable.

**168.**—(1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligation incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this subsection applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment

PART X

of that obligation, either absolutely or to such extent as may be specified in the order.

(2) The preceding subsection applies to the following acts and events, that is to say—

(*a*) the compulsory acquisition under Part V of this Act of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers, and

(*b*) the acts and events specified in paragraphs (*b*) to (*e*) of subsection (2) of section one hundred and sixty-six of this Act.

(3) As soon as may be after making a representation to the appropriate Minister under subsection (1) of this section, the statutory undertakers shall, as may be directed by the appropriate Minister, either publish (in such form and manner as may be so directed) a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, or serve such a notice on such persons, or persons of such classes, as may be so directed, or both publish and serve such notices.

(4) If any objection to the making of an order under this section is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.

(5) The provisions of subsection (1) of section eleven of this Act shall have effect, subject to any necessary modifications, in relation to an order made under this section as they have effect in relation to a development plan approved by the Minister under Part II of this Act, as if in those provisions any reference to the local planning authority were a reference to the appropriate Minister.

(6) Subject to the next following subsection, and to the provisions of Part XI of this Act, an order under this section shall become operative on the date on which the notice required by the provisions applied by the last preceding subsection is first published.

(7) Where in accordance with subsection (4) of this section the order is subject to special parliamentary procedure, the last preceding subsection shall not apply.

Objections to orders under ss. 166 and 168.

**169.**—(1) For the purposes of sections one hundred and sixty-six and one hundred and sixty-eight of this Act, an objection to the making of an order thereunder shall not be treated as duly made unless—

(*a*) the objection is made within the time and in the manner specified in the notice required by the section under which the order is proposed to be made, and

(*b*) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

(2) Where an objection to the making of such an order is duly made in accordance with the preceding subsection and is not withdrawn, the following provisions of this section shall have effect in relation thereto:

Provided that, in the application of those provisions to an order under section one hundred and sixty-six of this Act, any reference to the appropriate Minister shall be construed as a reference to the Minister and the appropriate Minister.

(3) Unless the appropriate Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the appropriate Minister, before making a final decision, shall consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.

(4) In so far as the appropriate Minister, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision.

(5) If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the appropriate Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is not submitted within the specified period, the appropriate Minister may make a final decision without further investigation as to those matters.

(6) Subject to subsections (4) and (5) of this section, the appropriate Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the appropriate Minister; and if the objector avails himself of that opportunity, the appropriate Minister shall afford an opportunity of appearing and being heard on the same occasion to the statutory undertakers, local authority or Minister on whose representation the order is proposed to be made, and to any other persons to whom it appears to the appropriate Minister to be expedient to afford such an opportunity.

(7) Notwithstanding anything in the preceding provisions of this section, if it appears to the appropriate Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.

PART X

(8) In this section any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification (if any) ought to be made.

*Compensation*

Right to compensation in respect of certain decisions and orders.

**170.**—(1) Statutory undertakers shall, subject to the following provisions of this Part of this Act, be entitled to compensation from the local planning authority—

(*a*) in respect of any decision made in accordance with section one hundred and fifty-nine of this Act whereby planning permission to develop operational land of those undertakers is refused or is granted subject to conditions;

(*b*) in respect of any decision made by a government department in respect of any such land, either refusing an authorisation as mentioned in paragraph (*a*) of subsection (1) of section one hundred and sixty of this Act, or directing that planning permission shall be deemed to be granted subject to conditions as mentioned in paragraph (*b*) of that subsection;

(*c*) in respect of any order under section twenty-seven of this Act, as modified by section one hundred and sixty-one thereof, whereby planning permission, granted on the application of those undertakers for the development of any such land, is revoked or modified.

(2) Where, by virtue of section one hundred and sixty-four of this Act, any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.

(3) Notwithstanding anything in subsection (1) of this section, if the decision or order in question relates to land acquired by the statutory undertakers after the seventh day of January, nineteen hundred and forty-seven, and the Minister and the appropriate Minister are satisfied, having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that it is unreasonable that compensation should be recovered in respect of that decision or order, they may include therein a direction that subsection (1) of this section shall not apply to that decision or order:

Provided that the power conferred by this subsection shall not be exercisable in relation to a decision falling within paragraph (*b*) of subsection (1) of this section, if the land in question

was acquired by the statutory undertakers (whether compulsorily or by agreement) for the purposes of the development to which the decision relates, and was so acquired with the consent or authority of a government department.

Measure of compensation to statutory undertakers.

**171.**—(1) Where statutory undertakers are entitled to compensation—

(*a*) as mentioned in subsection (1) or subsection (2) of the last preceding section, or

(*b*) under the provisions of section one hundred and twenty-four in respect of an order made under section twenty-eight of this Act as modified by section one hundred and sixty-two thereof, or

(*c*) in respect of a compulsory acquisition of land which has been acquired by those undertakers for the purposes of their undertaking, where the first-mentioned acquisition is effected under a compulsory purchase order confirmed or made without the appropriate Minister's certificate,

the amount of the compensation shall (subject to the next following section) be an amount calculated in accordance with the following provisions of this section.

(2) The said amount, subject to the next following subsection, shall be the aggregate of the following amounts, that is to say—

(*a*) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation;

(*b*) whichever of the following is applicable, namely—

(i) where such an adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment;

(ii) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation;

PART X

(*c*) where the compensation is under subsection (2) of the last preceding section, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.

(3) Where any such adjustment as is mentioned in paragraph (*a*) of the last preceding subsection is made, the aggregate amount mentioned in that subsection shall be reduced by such amount (if any) as appears to the Lands Tribunal to be appropriate to offset—

(*a*) the estimated value of any property (whether moveable or immoveable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used, in so far as the value of the property has not been taken into account under paragraph (*c*) of the last preceding subsection, and

(*b*) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under paragraph (*b*) of the last preceding subsection and is directly attributable to the adjustment,

and by any further amount which appears to the Lands Tribunal to be appropriate, having regard to any increase in the capital value of immoveable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under paragraph (*b*) of this subsection.

(4) References in this section to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or a balance of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances; and references to an increase in net receipts shall be construed accordingly.

(5) In this section "proceeding giving rise to compensation" means the particular action (that is to say, the decision, order, extinguishment of a right, imposition of a requirement, or acquisition) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken, and "the appropriate Minister's certificate" has the same meaning as in section one hundred and sixty-three of this Act.

PART X

Exclusion of s. 171 at option of statutory undertakers.

**172.**—(1) Where statutory undertakers are entitled to compensation in respect of such a compulsory acquisition as is mentioned in paragraph (c) of subsection (1) of the last preceding section, the statutory undertakers may by notice in writing under this section elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section five of the Land Compensation Act, 1961) which would be applicable apart from the last preceding section; and if the undertakers so elect the compensation shall be ascertained accordingly.

(2) An election under this section may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of part of that land.

(3) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

Procedure for assessing compensation where s. 171 applies.

**173.**—(1) Where the amount of any such compensation as is mentioned in subsection (1) of section one hundred and seventy-one of this Act falls to be ascertained in accordance with the provisions of that section, the compensation shall, in default of agreement, be assessed by the Lands Tribunal, if apart from this section it would not fall to be so assessed.

(2) For the purposes of any proceedings arising before the Lands Tribunal in respect of compensation falling to be ascertained as mentioned in the preceding subsection, the provisions of sections two and four of the Land Compensation Act, 1961, shall apply as they apply to proceedings on a question referred to the Tribunal under section one of that Act, but with the substitution in section four of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed.

*Supplementary provisions*

Special provisions as to display of advertisements on operational land.

**174.**—(1) The provisions of this Part of this Act specified in the next following subsection do not apply in relation to the display of advertisements on operational land of statutory undertakers.

(2) The said provisions are sections one hundred and fifty-nine to one hundred and sixty-two and subsections (1) and (3) of section one hundred and seventy of this Act.

Special provisions as to statutory undertakers who are local planning authorities.

**175.** In relation to statutory undertakers who are local planning authorities, the last preceding section and the provisions specified in subsection (2) thereof shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

## PART XI

### VALIDITY OF PLANNING INSTRUMENTS AND DECISIONS, AND PROCEEDINGS RELATING THERETO

Validity of development plans and of certain orders, decisions and directions.

**176.**—(1) Except as provided by the following provisions of this Part of this Act, the validity of—

(*a*) a development plan or an amendment of a development plan, whether before or after it has been approved or made, or

(*b*) an order under section one hundred and fifty-three of this Act, whether before or after the order has been made, or

(*c*) an order under section one hundred and sixty-eight of this Act, whether before or after the order has been made, or

(*d*) any such order as is mentioned in subsection (2) of this section, whether before or after it has been confirmed, or

(*e*) any such action on the part of the Minister as is mentioned in subsection (3) of this section,

shall not be questioned in any legal proceedings whatsoever.

(2) The orders referred to in paragraph (*d*) of the preceding subsection are orders of any of the following descriptions, that is to say—

(*a*) any order under section twenty-seven of this Act or under the provisions of that section as applied by or under any other provision of this Act;

(*b*) any order under section twenty-eight of this Act;

(*c*) any tree preservation order;

(*d*) any building preservation order;

(*e*) any order made in pursuance of subsection (4) of section thirty-four of this Act.

(3) The action referred to in paragraph (*e*) of subsection (1) of this section is action on the part of the Minister of any of the following descriptions, that is to say—

(*a*) any decision of the Minister on an application for planning permission referred to him under section twenty-two of this Act;

(*b*) any decision of the Minister on an appeal under section twenty-three of this Act;

(*c*) any decision of the Minister to confirm a purchase notice;

(*d*) any decision of the Minister not to confirm a purchase notice, including any decision not to confirm a purchase notice in respect of part of the land to which it

relates, and including any decision to grant any permission, or give any direction, in lieu of confirming a purchase notice, either wholly or in part;

(*e*) any decision of the Minister relating to an application for consent under a tree preservation order or building preservation order, or relating to an application for consent under any regulations made in accordance with section thirty-four of this Act, or relating to any certificate or direction under any such order or regulations, whether it is a decision of the Minister on appeal or a decision on an application referred to him for determination in the first instance;

(*f*) the giving by the Minister of any direction under section twenty-five of this Act.

(4) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Minister to take any such action as is mentioned in the last preceding subsection.

Validity of enforcement notices and similar notices.

**177.**—(1) Subject to the next following subsection, the validity of an enforcement notice which has been served under Part IV of this Act on the owner and occupier of the land shall not, except by way of an appeal under Part IV of this Act, be questioned in any proceedings whatsoever on any of the grounds specified in paragraphs (*b*) to (*e*) of subsection (1) of section forty-six of this Act.

(2) The preceding subsection shall not apply to proceedings brought under subsection (5) of section forty-seven of this Act against a person who—

(*a*) has held an interest in the land since before the enforcement notice was served under Part IV of this Act, and

(*b*) did not have the enforcement notice served on him thereunder, and

(*c*) did not appeal against that notice under Part IV of this Act.

(3) The validity of a notice which has been served under section fifty-two of this Act on the owner and occupier of the building to which the notice relates shall not, except by way of an appeal under Part IV of this Act, be questioned in any proceedings whatsoever on the grounds that the works to which the notice relates were not, or were not wholly, works in contravention of subsection (1) of section thirty-three of this Act.

(4) Subject to the next following subsection, the validity of a notice which has been served under section thirty-six of this Act

PART XI

on the owner and occupier of the land shall not, except by way of an appeal under Part IV of this Act, be questioned in any proceedings whatsoever on any of the grounds specified in paragraphs (*a*) to (*c*) of subsection (1) of section fifty-seven of this Act.

(5) The last preceding subsection shall not apply to proceedings brought under section fifty-six of this Act against a person on whom the notice referred to in that subsection was not served, but who has held an interest in the land since before that notice was served on the owner and occupier of the land, if he did not appeal against the notice under Part IV of this Act.

(6) The validity of a notice purporting to be an enforcement notice shall not depend on whether any non-compliance to which the notice relates was a non-compliance with conditions, or with limitations, or with both; and any reference in such a notice to non-compliance with conditions or limitations (whether both expressions are used in the notice or only one of them) shall be construed as a reference to non-compliance with conditions, or with limitations, or both with conditions and limitations, as the case may require.

Proceedings for questioning validity of development plans and of orders under ss. 153 and 168.

**178.**—(1) If any person aggrieved by a development plan, or by an amendment of a development plan, desires to question the validity thereof or of any provision contained therein on the grounds that it is not within the powers of this Act, or that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the approval or making of the plan, or, as the case may be, in relation to the making of the amendment, he may, within six weeks from the date on which the notice required by subsection (1) of section eleven of this Act is first published, make an application to the High Court under this section.

(2) On any application under this section the High Court—

(*a*) may by interim order suspend the operation of the plan or amendment, as the case may be, or of any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;

(*b*) if satisfied that the plan or amendment, or any provision contained therein, is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Act or of any regulation made thereunder, may quash the plan or amendment or any provision contained therein, either generally or in so far as it affects any property of the applicant.

(3) The preceding provisions of this section shall apply to an order under section one hundred and fifty-three of this Act as they apply to a development plan, as if, in subsection (1) of this

section, for the reference to the notice therein mentioned, there were substituted a reference to the notice required by subsection (6) of section one hundred and fifty-four of this Act.

(4) Subsections (1) and (2) of this section shall apply, subject to any necessary modifications, to an order under section one hundred and sixty-eight of this Act as they apply in relation to a development plan.

Proceedings for questioning validity of other orders, decisions and directions.

**179.**—(1) If any person—

(*a*) is aggrieved by any order to which this section applies and desires to question the validity of that order, on the grounds that the order is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to that order, or

(*b*) is aggrieved by any action on the part of the Minister to which this section applies and desires to question the validity of that action, on the grounds that the action is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to that action,

he may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the High Court under this section.

(2) Without prejudice to the preceding subsection, if the authority directly concerned with any order to which this section applies, or with any action on the part of the Minister to which this section applies, desire to question the validity of that order or action on any of the grounds mentioned in the preceding subsection, the authority may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the High Court under this section.

(3) This section applies to any such order as is mentioned in subsection (2) of section one hundred and seventy-six of this Act and to any such action on the part of the Minister as is mentioned in subsection (3) of that section.

(4) On any application under this section the High Court—

(*a*) may by interim order suspend the operation of the order or action, the validity whereof is questioned by the application, until the final determination of the proceedings;

(*b*) if satisfied that the order or action in question is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation thereto, may quash that order or action:

PART XI

Provided that paragraph (*a*) of this subsection shall not apply to applications questioning the validity of tree preservation orders or building preservation orders.

(5) In relation to a tree preservation order, or to an order made in pursuance of subsection (4) of section thirty-four of this Act, the powers conferred on the High Court by the last preceding subsection shall be exercisable by way of quashing or (where applicable) suspending the operation of the order either in whole or in part, as the court may determine.

(6) References in this section to the confirmation of an order do not include the provisional confirmation of an order in pursuance of subsection (6) of section twenty-nine of this Act or in pursuance of subsection (2) of section thirty-one thereof, but (with that exception) include the confirmation of an order subject to modifications as well as the confirmation of an order in the form in which it was made.

(7) In this section " the relevant requirements ", in relation to any order or action to which this section applies, means any requirements of this Act or of the Tribunals and Inquiries Act, 1958, or of any order, regulations or rules made under this Act or under that Act, which are applicable to that order or action, and any reference to the authority directly concerned with any order or action to which this section applies—

(*a*) in relation to an order made by a local authority other than the local planning authority, and in relation to any decision of the Minister on appeal from a decision made by such a local authority, is a reference to that local authority;

(*b*) in relation to any such decision as is mentioned in paragraph (*c*) or paragraph (*d*) of subsection (3) of section one hundred and seventy-six of this Act, is a reference to the council on whom the notice in question was served, and, in a case where the Minister has modified such a notice, wholly or in part, by substituting another local authority or statutory undertakers for that council, includes a reference to that local authority or those statutory undertakers;

(*c*) in any other case, is a reference to the local planning authority:

Provided that if, in a case falling within paragraph (*a*) of this subsection, the order or decision in question was made in the exercise of functions delegated to the other local authority by the local planning authority, and it is agreed between the two authorities that the local planning authority shall act in the matter, the reference shall be construed as a reference to the local planning authority.

PART XI
Appeals to High Court relating to enforcement notices and similar notices.

**180.**—(1) Where the Minister gives a decision in proceedings on an appeal under Part IV of this Act against an enforcement notice, the appellant or the local planning authority or any person (other than the appellant) on whom the enforcement notice was served under Part IV of this Act may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Minister to state and sign a case for the opinion of the High Court.

(2) Where the Minister gives a decision in proceedings on an appeal under Part IV of this Act against a notice served under section fifty-two of this Act, the appellant or the local planning authority or any person (other than the appellant) on whom the notice was served may appeal to the High Court against the decision on a point of law.

(3) At any stage of the proceedings on any such appeal as is mentioned in either of the preceding subsections, the Minister may state any question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court; and a decision of the High Court on a case stated by virtue of this subsection shall be deemed to be a judgment of the court within the meaning of section twenty-seven of the Supreme Court of Judicature (Consolidation) Act, 1925 (which relates to the jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).

(4) In relation to any proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules—

(*a*) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Minister, and

(*b*) providing for the Minister, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.

(5) Rules of court relating to any such proceedings as are mentioned in the last preceding subsection may provide for excluding so much of subsection (1) of section sixty-three of the Supreme Court of Judicature (Consolidation) Act, 1925, as requires appeals to the High Court to be heard and determined by a Divisional Court; but no appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.

(6) In this section "decision" includes a direction or order, and references to the giving of a decision shall be construed accordingly.

PART XI
Appeals to High Court against decisions under s. 43

**181.**—(1) If, in the case of any decision to which this section applies, the person who made the application to which the decision relates, or the local planning authority, is dissatisfied with the decision in point of law, that person or the local planning authority (as the case may be) may, according as rules of court may provide, either appeal against the decision to the High Court or require the Minister to state and sign a case for the opinion of the High Court.

(2) This section applies to any decision of the Minister—

(*a*) on an application under section forty-three of this Act which is referred to the Minister under the provisions of section twenty-two of this Act as applied by that section, or

(*b*) on an appeal from a decision of the local planning authority under section forty-three of this Act, being an appeal brought under the provisions of section twenty-three of this Act as so applied.

(3) Where an application under section forty-three of this Act is made as part of an application for planning permission, the preceding provisions of this section shall have effect in relation to that application in so far as it is an application under the said section forty-three, but not in so far as it is an application for planning permission.

(4) In relation to proceedings in the High Court or the Court of Appeal brought by virtue of this section, the power to make rules of court shall include power to make rules prescribing the powers of the High Court or the Court of Appeal with respect to—

(*a*) the giving of any decision which might have been given by the Minister;

(*b*) the remitting of the matter, with the opinion or direction of the court, for re-hearing and determination by the Minister;

(*c*) the giving of directions to the Minister.

(5) Rules of court relating to such proceedings as are mentioned in the last preceding subsection may provide for excluding so much of subsection (1) of section sixty-three of the Supreme Court of Judicature (Consolidation) Act, 1925, as requires appeals to the High Court to be heard and determined by a Divisional Court; but no appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.

(6) Without prejudice to the preceding provisions of this section, the power to make rules of court in relation to proceedings in the High Court or the Court of Appeal brought by virtue of this section shall include power to make rules providing for the Minister, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.

PART XI

Special provision as to decisions relating to statutory undertakers.

**182.** In relation to any action which—

(*a*) apart from the provisions of Part X of this Act, would fall to be taken by the Minister, and, if so taken, would be action falling within subsection (3) of section one hundred and seventy-six of this Act, but

(*b*) by virtue of Part X of this Act, is required to be taken by the Minister and the appropriate Minister,

the provisions of sections one hundred and seventy-six and one hundred and seventy-nine of this Act shall have effect (subject to the next following section) as if any reference in those provisions to the Minister were a reference to the Minister and the appropriate Minister.

Special provisions as to orders subject to special parliamentary procedure.

**183.**—(1) Where in accordance with subsection (4) of section five of this Act any land to which a development plan relates is designated as subject to compulsory acquisition in pursuance of an order which is subject to special parliamentary procedure, then—

(*a*) if that order is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, the provisions of sections one hundred and seventy-six and one hundred and seventy-eight of this Act shall not apply to the plan in so far as it so designates that land;

(*b*) in any other case, section one hundred and seventy-eight of this Act shall have effect in relation to the plan, in so far as it so designates that land, as if in subsection (1) of that section, for the reference to the date therein mentioned, there were substituted a reference to the date on which the order becomes operative under section six of the said Act of 1945.

(2) Where an order under section one hundred and fifty-three or section one hundred and sixty-eight of this Act is subject to special parliamentary procedure, then—

(*a*) if the order is confirmed by Act of Parliament under section six of the said Act of 1945, the provisions of sections one hundred and seventy-six and one hundred and seventy-eight of this Act shall not apply to the order;

(*b*) in any other case, section one hundred and seventy-eight of this Act shall have effect in relation to the order as if, in subsection (1) of that section, for the reference to the date therein mentioned, there were substituted a reference to the date on which the order becomes operative under section six of the said Act of 1945.

(3) Where by virtue of Part X of this Act any such action as is mentioned in the last preceding section is required to be embodied in an order, and that order is subject to special parliamentary procedure, then—

PART XI

(*a*) if the order in which the action is embodied is confirmed by Act of Parliament under section six of the said Act of 1945, the provisions of sections one hundred and seventy-six and one hundred and seventy-nine of this Act shall not apply;

(*b*) in any other case, the provisions of section one hundred and seventy-nine of this Act shall apply with the substitution, for any reference to the date on which the action is taken, of a reference to the date on which the order becomes operative under section six of the said Act of 1945.

## PART XII

## FINANCIAL PROVISIONS

Exchequer grants to local authorities.

**184.**—(1) Regulations made under this section with the consent of the Treasury may provide for the payment by the Minister to local authorities of grants of such amounts, and payable over such periods and subject to such conditions, as may be determined by or under the regulations in respect of expenditure incurred by those authorities, whether before or after the commencement of this Act,—

(*a*) in connection with the acquisition for war-damage redevelopment of land approved by the Minister for the purposes of the regulations, or in connection with the clearing or preliminary development of land acquired for such redevelopment by those authorities with such approval;

(*b*) in the payment of compensation in respect of land of the National Coal Board to which the relevant provisions relating to statutory undertakers apply by virtue of regulations made under section two hundred and four of this Act, being compensation payable under Part VII of this Act or under Part X thereof, otherwise than as mentioned in subsection (2) of section one hundred and seventy or in paragraph (*c*) of subsection (1) of section one hundred and seventy-one of this Act;

(*c*) in taking any action under section twenty-eight, section thirty-seven or subsection (2) of section sixty-one of this Act in respect of such land of the National Coal Board as is mentioned in the last preceding paragraph.

(2) Regulations made under this section may provide for the payment of grants thereunder, in such cases and subject to such conditions as may be prescribed by or under the regulations, in respect of land appropriated by local authorities (whether before or after the commencement of this Act) for any purpose approved by the Minister in accordance with the regulations, as if the land had been acquired for that purpose at a cost of such amount, and defrayed in such manner as may be determined by or under the regulations.

PART XII

(3) Without prejudice to the generality of the preceding provisions of this section, any regulations made under this section may provide—

(*a*) for the inclusion, in the expenditure incurred by local authorities in the acquisition of land approved by the Minister for the purposes of the regulations, of any sums, or any part of sums, paid by those authorities in connection with any restriction imposed on the development or use of the land by or under any enactment (whether by way of compensation or by way of contribution towards damage or expense incurred in consequence of the restriction);

(*b*) for the calculation of grants payable under the regulations by reference to the amount of the annual costs incurred or treated as being incurred by local authorities in respect of the borrowing of money to defray expenditure in respect of which the grants are made, or by reference to the excess of such annual costs over receipts of those authorities which are attributable to such expenditure, or over the annual value of such receipts, as may be prescribed by the regulations.

(4) In this section—

" war-damage redevelopment " means the redevelopment as a whole of an area of extensive war damage, and includes the relocation of population or industry, or the replacement of open space, in the course of such redevelopment;

" preliminary development ", in relation to land approved for the purposes of regulations made under this section, means the carrying out of any work determined in accordance with the regulations to be work preparatory to the development of the land for the purposes for which it was acquired or appropriated, or work comprised in the initial stages of such development;

" the relevant provisions relating to statutory undertakers " means all or any of the following provisions of this Act, that is to say, sections one hundred and fifty-nine to one hundred and sixty-two, subsection (1) of section one hundred and seventy, and section one hundred and seventy-one (excluding paragraph (*c*) of subsection (1) thereof).

Maximum amounts of grants.

**185.**—(1) Subject to the following provisions of this section, the amount of any grant paid to a local authority in accordance with regulations made under the last preceding section—

(*a*) where that amount is calculated by reference to annual costs incurred or treated as incurred by the authority in

PART XII

respect of the borrowing of money to defray expenditure in respect of which the grant is made, or by reference to the excess of such annual costs over the receipts, or the annual value of receipts, mentioned in paragraph (*b*) of subsection (3) of that section, shall not exceed an amount equal to fifty per cent. of those costs, or of that excess, as the case may be;

(*b*) in any other case, shall not exceed an amount equal to fifty per cent. of the amount of the expenditure in respect of which the grant is made.

(2) In respect of land of any of the following descriptions, that is to say—

(*a*) land comprised in a compulsory purchase order made by a local authority under the Act of 1944 or the Act of 1947, and confirmed before the twenty-sixth day of February, nineteen hundred and fifty-four, being land acquired for war-damage redevelopment;

(*b*) land acquired by agreement for war-damage redevelopment with the consent of the Minister given before that date;

(*c*) land appropriated by a local authority for war-damage redevelopment before that date; and

(*d*) land acquired or appropriated for war-damage redevelopment (whether before or after that date), being land contiguous or adjacent to land falling within any of the preceding paragraphs,

paragraph (*a*) of the preceding subsection shall apply (subject to the next following subsection) as if for the words "fifty per cent." there were substituted the words "ninety per cent.".

(3) The last preceding subsection shall not authorise the payment, in the case of any land, of a grant at a higher rate in respect of a year or part of a year which, together with the preceding years or parts of years in respect of which grants at a higher rate have been paid in the case of that land, would extend beyond a total period of eight years.

(4) In this section "war-damage redevelopment" has the same meaning as in the last preceding section, and references to a grant at a higher rate are references to a grant of an amount which—

(*a*) was or would have been authorised by section ninety-three of the Act of 1947 as that section had effect or would have had effect apart from section fifty of the Act of 1954 and the Local Government Act, 1958, and this Act, but

(*b*) otherwise than by virtue of the provisions of the Act of 1954 corresponding to subsections (2) and (3) of this section, was not or would not have been authorised by

the provisions substituted by the Act of 1954 for the said section ninety-three.

Supplementary provisions as to Exchequer grants.

**186.**—(1) Any approval of the Minister required for the purposes of the payment of grant under section one hundred and eighty-four of this Act in connection with the acquisition of land may be given subject to compliance with requirements imposed by the Minister for securing that any negotiations for the acquisition of the land by the local authority will be carried out by the Valuation Office, and that any valuation of the land for the purposes of the acquisition, or for any purposes of the regulations, will be made by that office.

(2) Subject to the preceding subsection, any regulations made for the purposes of section one hundred and eighty-four of this Act may make provision whereby the payment of grants in pursuance of the regulations is dependent upon the fulfilment of such conditions as may be determined by or in accordance with the regulations, and may also make provision for requiring local authorities to whom grants have been so paid to comply with such requirements as may be so determined.

Loans to local authorities.

**187.** The power of the Public Works Loan Commissioners to make loans under section nine of the Public Works Loans Act, 1875, shall include power to make loans to a local authority for the purpose of the discharge by them of their functions under any of the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto.

Contributions by Ministers towards compensation paid by local authorities.

**188.** Where compensation is payable by a local authority under this Act in consequence of any decision or order given or made under Part III of this Act, or under the provisions of Part VIII of this Act relating to purchase notices, then if that decision or order was given or made wholly or partly in the interest of a service which is provided by a government department, and the cost of which is defrayed out of moneys provided by Parliament, the Minister responsible for the administration of that service may pay to that authority a contribution of such amount as he may with the consent of the Treasury determine.

Contributions by local authorities and statutory undertakers.

**189.**—(1) Without prejudice to the provisions of subsections (1) and (3) of section two hundred and thirty-eight of the Highways Act, 1959 (which relate to contributions by certain local authorities towards expenses incurred in connection with highways), any local authority may contribute towards any expenses incurred by a local highway authority or by the Minister of Transport in the acquisition of land under Part V of this Act, or in the construction or improvement of roads on land so acquired, or in connection with any development required in the interests of the proper planning of the area of the local authority.

PART XII

(2) Any local authority and any statutory undertakers may contribute towards—

(*a*) any expenses incurrred by a local planning authority in or in connection with the carrying out of a survey or the preparation of a development plan under Part II of this Act;

(*b*) any expenses incurred by a local planning authority, or by the council of a county district, in or in connection with the performance of any of their functions under Part III, Part IV or Part V of this Act or under the provisions of Part VIII of this Act relating to purchase notices.

(3) Where any expenses are incurred by a local authority in the payment of compensation payable in consequence of anything done under Part III of this Act, or under the provisions of Part VIII of this Act relating to purchase notices, the Minister may, if it appears to him to be expedient to do so, require any other local authority to contribute towards those expenses such sum as appears to him to be reasonable, having regard to any benefit accruing to that authority by reason of the proceeding giving rise to the compensation.

(4) The provisions of the last preceding subsection shall apply in relation to payments made by a local authority to any statutory undertakers in accordance with financial arrangements to which effect is given under paragraph (*c*) of subsection (5) of section one hundred and sixty-six of this Act, as they apply in relation to compensation payable by such an authority in consequence of anything done under Part III of this Act, and the reference in the last preceding subsection to the proceeding giving rise to the compensation shall be construed accordingly.

(5) For the purposes of this section, contributions made by a local planning authority towards the expenditure of a joint advisory committee shall be deemed to be expenses incurred by that authority for the purposes for which that expenditure is incurred by the committee.

Recovery from acquiring authorities of sums paid by way of compensation.

**190.**—(1) Where an interest in land is compulsorily acquired, or is sold to an authority possessing compulsory purchase powers, and any of the land comprised in the acquisition or sale is land in respect of which a notice to which this section applies is registered (whether before or after the completion of the acquisition or sale) in respect of a planning decision or order made before the service of the notice to treat, or the making of the contract, in pursuance of which the acquisition or sale is effected, the Minister shall, subject to the following provisions of this section, be entitled to recover from the acquiring authority a sum equal to so much of the amount of the compensation

specified in the notice as (in accordance with subsection (6) of section one hundred and twelve of this Act) is to be treated as attributable to that land.

(2) This section applies to notices registered under subsection (5) of section one hundred and twelve of this Act and to notices registered under the provisions of that subsection as applied by subsection (5) of section one hundred and twenty of this Act.

(3) If, immediately after the completion of the acquisition or sale, there is outstanding some interest in the land comprised therein to which a person other than the acquiring authority is entitled, the sum referred to in subsection (1) of this section shall not accrue due until that interest either ceases to exist or becomes vested in the acquiring authority.

(4) No sum shall be recoverable under this section in the case of a compulsory acquisition or sale where the Minister is satisfied that the interest in question is being acquired for the purposes of the use of the land as a public open space.

(5) Where by virtue of the preceding provisions of this section the Minister recovers a sum in respect of any land, by reason that it is land in respect of which a notice is registered under the provisions of subsection (5) of section one hundred and twelve of this Act as applied by section one hundred and twenty of this Act, subsections (2) and (3) of section one hundred and twenty-two of this Act shall have effect in relation to that sum as if it were a sum recovered as mentioned in subsection (2) of the last-mentioned section.

(6) In this and the next following section "interest" (where the reference is to an interest in land) means the fee simple or a tenancy of the land, and does not include any other interest therein.

Recovery from acquiring authorities of sums paid in respect of war-damaged land.

**191.**—(1) Where an interest in land is compulsorily acquired by, or sold to, an authority possessing compulsory purchase powers, and a payment exceeding twenty pounds has become or becomes payable under section fifty-nine of the Act of 1947 in respect of that interest, the Minister shall, subject to the following provisions of this section, be entitled to recover the amount of the payment from the acquiring authority.

(2) If, before the eighteenth day of November, nineteen hundred and fifty-two, operations were begun in, on, over or under the land, or a use of the land was instituted, being operations or a use—

(*a*) in respect of which a development charge has at any time been determined to be payable, or it has at any time been determined that no development charge was payable, or

(*b*) comprised in a scheme of development exempt from development charge,

the preceding subsection shall not apply to so much of any

PART XII

payment referred to in that subsection as was attributable to any land in relation to which the determination was made or, as the case may be, which is included in that scheme of development.

(3) No amount shall be recoverable under this section in respect of any land in relation to which an amount has become recoverable by the Minister under the provisions of section one hundred and thirteen of this Act as applied by section two hundred and eight of this Act.

(4) If the acquisition or sale in question does not extend to the whole of the land to which the payment under the said section fifty-nine related, the amount recoverable under this section shall be so much of that payment as, in accordance with the next following subsection, is to be treated as apportioned to the land in which the interest acquired or sold subsists.

(5) For the purposes of this section a payment under section fifty-nine of the Act of 1947 shall be treated as apportioned, as between different parts of the land to which it related, in the way in which it might reasonably be expected to have been so apportioned if, under the scheme made under that section, the authority determining the amount of the payment had been required (in accordance with the same principles as applied to the determination of that amount) to apportion it between different parts of that land.

(6) In this section references to a scheme of development exempt from development charge are references to a scheme of development such that, if the operations and uses of land comprised in the scheme had all been begun or instituted before the eighteenth day of November, nineteen hundred and fifty-two, all those operations and uses would have been exempt from the provisions of Part VII of the Act of 1947 by virtue of regulations made thereunder; and references to the amount of a payment shall be construed as including any interest payable on the principal amount of the payment.

Sums recoverable from acquiring authorities reckonable for purposes of grant.

**192.** Where a sum is recoverable from an authority under section one hundred and ninety or section one hundred and ninety-one of this Act by reference to an acquisition or purchase of an interest in land, and in respect thereof, or of a subsequent appropriation of the land, a grant became or becomes payable to that or some other authority under an enactment, the power conferred by that enactment to pay the grant shall include, and shall be deemed always to have included, power to pay a grant in respect of that sum as if it had been expenditure incurred by the acquiring authority in connection with the acquisition or purchase.

PART XII

Expenses of government departments.

**193.**—(1) The following expenses of the Minister shall be paid out of moneys provided by Parliament, that is to say,—

(*a*) any expenses incurred by the Minister in the making of grants in accordance with regulations made under section one hundred and eighty-four of this Act;

(*b*) any sums necessary to enable the Minister to make any payments becoming payable by him under Part VI or Part VII of this Act or under section two hundred and nine thereof;

(*c*) any expenses incurred by the Minister under subsection (3) of section forty-four of this Act, or in the payment of expenses of any committee established under section thirty-four of this Act;

(*d*) subject to the provisions of subsection (4) of the next following section, any instalment payable by the Minister under subsections (2) and (3) of that section;

(*e*) any administrative expenses incurred by the Minister for the purposes of this Act.

(2) Any expenses incurred by the Minister of Transport under Part IX of this Act shall be paid out of moneys provided by Parliament.

(3) There shall be paid out of moneys provided by Parliament any expenses incurred by any government department (including the Minister and the Minister of Transport)—

(*a*) in the acquisition of land under Part V of this Act;

(*b*) in the payment of compensation under subsection (4) of section seventy of this Act, under subsection (2) of section one hundred and seventy thereof, or under section two hundred and twelve thereof;

(*c*) under paragraph (*b*) of subsection (5) of section eighty-two of this Act; or

(*d*) under section one hundred and eighty-eight of this Act:

Provided that this subsection shall not apply to any expenses incurred by the Postmaster-General.

Repayment of sums issued out of Consolidated Fund in respect of certain payments.

**194.**—(1) The provisions of this section shall have effect with respect to sums issued to the Minister or the Central Land Board out of the Consolidated Fund under subsection (1) of section sixty-four of the Act of 1954 (which related to the issue out of the Consolidated Fund of sums required for making payments under Part I or Part V of that Act).

(2) The aggregate of the sums so issued in any financial year, whether to the Minister or to the Central Land Board, shall be repaid by the Minister into the Exchequer, as mentioned in the next following subsection, with interest thereon at such rate as the Treasury may determine, such interest accruing, in respect of the whole aggregate, from such date in the financial year in which the sums were issued as the Treasury may determine.

PART XII

(3) The said aggregate shall be repaid by twenty equal annual instalments, of principal and interest combined, falling due on the anniversary of the date determined under the last preceding subsection, the first such instalment falling due in the financial year next following the financial year in which the sums in question were issued.

(4) Any sums received by the Minister by virtue of—

(*a*) the provisions of section one hundred and thirteen of this Act, as applied by the transitional provisions hereinafter contained to compensation paid under Part V of the Act of 1954, or

(*b*) the provisions of section one hundred and ninety of this Act as so applied,

shall be paid into the Exchequer, and shall be treated as paid in satisfaction, or part satisfaction, of such one or more instalments payable under the preceding provisions of this section as the Treasury may determine.

(5) All sums paid into the Exchequer under the preceding provisions of this section shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows:—

(*a*) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury may think fit;

(*b*) so much thereof as represents interest shall be applied towards meeting such part of the annual charges for the National Debt as represents interest.

(6) In respect of each financial year the Minister shall prepare, in such form and manner and at such time as the Treasury may direct, an account of any sums received by him as mentioned in subsection (4) of this section.

(7) On or before the thirtieth day of November in each year, the Minister shall transmit to the Comptroller and Auditor General the account prepared by him under the last preceding subsection in respect of the last preceding financial year; and the Comptroller and Auditor General shall examine and certify each such account and lay before each House of Parliament copies thereof, together with his report thereon.

General provision as to receipts of Minister.

**195.** Without prejudice to the last preceding section, and subject to the provisions of section one hundred and twenty-two of this Act, any sums received by the Minister—

(*a*) under any provision of this Act, or

(*b*) in respect of the payment of a development charge,

shall be paid into the Exchequer.

PART XII
Expenses of county councils.

**196.** The council of any county may direct that any expenses incurred by them under the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto shall be treated as expenses for special county purposes chargeable upon such part of the county as may be specified in the directions.

## PART XIII

## APPLICATION OF ACT TO SPECIAL CASES

### *Minerals*

Power to modify Act in relation to minerals.

**197.**—(1) In relation to development consisting of the winning and working of minerals, the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto shall have effect subject to such adaptations and modifications as may be prescribed by regulations made under this Act with the consent of the Treasury.

(2) In relation to interests in land consisting of or comprising minerals (being either the fee simple or tenancies of such land) and in relation to claims established (as mentioned in subsection (2) of section eighty-nine of this Act) wholly or partly in respect of such land, the provisions of this Act specified in paragraph 2 of the Eighth Schedule thereto shall have effect subject to such adaptations and modifications as may be prescribed by regulations made under this Act with the consent of the Treasury.

(3) Regulations made for the purposes of this section shall be of no effect unless they are approved by resolution of each House of Parliament.

(4) Any regulations made by virtue of subsection (1) of this section shall not apply—

(*a*) to the winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for those purposes, or

(*b*) to development consisting of the winning and working of any minerals vested in the National Coal Board, being development to which any of the provisions of this Act relating to operational land of statutory undertakers apply by virtue of regulations made under section two hundred and four of this Act;

and nothing in subsection (1) of this section or in this subsection shall be construed as affecting the prerogative right of Her Majesty (whether in right of the Crown or of the Duchy of Lancaster) or of the Duke of Cornwall to any gold or silver mine.

PART XIII
Modification of Mines (Working Facilities and Support) Act, 1923.

**198.**—(1) Where a development plan provides that any land is to be used for the purpose of securing the winning and working of any minerals comprised therein, then, without prejudice to the powers conferred by Part V of this Act in relation to land designated by a development plan as subject to compulsory acquisition, the provisions of the Mines (Working Facilities and Support) Act, 1923, shall have effect in relation to the land subject to such modifications as may be prescribed by regulations made under this Act by the Minister and the Minister of Power.

(2) Regulations made for the purposes of this section may in particular provide for securing—

(*a*) that a right to work any minerals in the land may be granted by the High Court under the said Act of 1923 to any person who is desirous of working them, either by himself or through his lessees, and who is unable to obtain the necessary rights by agreement on reasonable terms;

(*b*) that for the purposes of the determination by the court of an application for any such right, it shall be assumed that the winning and working of the minerals is expedient in the national interest; and

(*c*) that the compensation or consideration in respect of any such right which is granted by the court shall be assessed having regard to the amount of the compensation which would be payable in respect of a compulsory acquisition of the minerals under Part V of this Act.

(3) Subsections (3) and (4) of the last preceding section shall apply to the provisions of this section and to any regulations made thereunder as they apply to the provisions of subsection (1) of that section and to regulations made by virtue of that subsection.

*Crown land*

Exercise of powers in relation to Crown land.

**199.**—(1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section,—

(*a*) a development plan approved or made under Part II of this Act may include proposals relating to the use of Crown land, and may designate the land as subject to compulsory acquisition, and any power to acquire land compulsorily under Part V of this Act may be exercised in relation to any interest therein which is for the time being held otherwise than by or on behalf of the Crown;

(*b*) any restrictions or powers imposed or conferred by Part III or Part IV of this Act, by the provisions of Part VIII

of this Act relating to purchase notices, or by any of the provisions of sections one hundred and fifty-nine to one hundred and sixty-two of this Act, shall apply and be exercisable in relation to Crown land, to the extent of any interest therein for the time being held otherwise than by or on behalf of the Crown.

(2) Except with the consent of the appropriate authority—

(*a*) no order or notice shall be made or served under any of the provisions of sections twenty-eight to thirty-one, section thirty-six or section forty-five of this Act, or under any of those provisions as applied by any order or regulations made under Part III of this Act, in relation to land which for the time being is Crown land;

(*b*) no building which for the time being is Crown land shall be included in any list compiled or approved under section thirty-two of this Act;

(*c*) no interest in land which for the time being is Crown land shall be acquired compulsorily under Part V of this Act.

(3) No enforcement notice shall be served under section forty-five of this Act in respect of development carried out by or on behalf of the Crown after the appointed day on land which was Crown land at the time when the development was carried out.

(4) No purchase notice shall be served in relation to any interest in Crown land unless an offer has been previously made by the owner of that interest to dispose thereof to the appropriate authority on terms that the price payable for it shall be equal to (and shall, in default of agreement, be determined in like manner as) the compensation which would be payable in respect of that interest if it were acquired in pursuance of a purchase notice, and that offer has been refused by the appropriate authority.

(5) The rights conferred by the provisions of sections one hundred and thirty-eight to one hundred and fifty-one of this Act shall be exercisable by a person who (within the meaning of those provisions) is an owner-occupier of a hereditament or agricultural unit which is Crown land, or is a resident owner-occupier of a hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and those provisions shall apply accordingly.

(6) In this Part of this Act " Crown land " means land in which there is a Crown interest or a Duchy interest; " Crown interest " means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for

PART XIII

Her Majesty for the purposes of a government department; "Duchy interest" means an interest belonging to Her Majesty in right of the Duchy of Lancaster, or belonging to the Duchy of Cornwall; and for the purposes of this and the next following section "the appropriate authority", in relation to any land,—

(*a*) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;

(*b*) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;

(*c*) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;

(*d*) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department;

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

Agreements relating to Crown land.

**200.**—(1) The appropriate authority and the local planning authority for the area in which any Crown land is situated may make agreements for securing the use of the land, so far as may be prescribed by any such agreement, in conformity with the provisions of the development plan applicable thereto; and any such agreement may contain such consequential provisions, including provisions of a financial character, as may appear to be necessary or expedient having regard to the purposes of the agreement.

(2) An agreement made under this section by the Crown Estate Commissioners or by a government department shall not have effect unless it is approved by the Treasury.

(3) In considering whether to make or approve an agreement under this section relating to land belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

PART XIII

Supplementary provisions as to Crown and Duchy interests.

**201.**—(1) Subject to the following provisions of this section—

(*a*) where there is a Crown interest in any land, the provisions of Part VI of this Act and of sections one hundred and twenty to one hundred and twenty-two thereof, and the provisions of the Fifth, Sixth and Seventh Schedules to this Act and the transitional provisions hereinafter contained in so far as they relate to Part VI or to sections one hundred and twenty to one hundred and twenty-two of this Act, shall have effect in relation to any private interest or Duchy interest as if the Crown interest were a private interest; and

(*b*) where there is a Duchy interest in any land, those provisions shall have effect in relation to that interest, and to any private interest, as if the Duchy interest were a private interest.

(2) References in this Act to claims established under Part VI of the Act of 1947 include references to claims so established in accordance with arrangements made under subsection (2) of section eighty-eight of that Act (which provided for the application of Part VI of that Act to Duchy interests and for the payment of sums in lieu of development charges in respect of such interests); references to development charges include references to sums determined in accordance with such arrangements to be appropriate in substitution for development charges; and references to the amount of an established claim or of a development charge shall be construed accordingly.

(3) Where, in accordance with an agreement under the last preceding section, the approval of a local planning authority is required in respect of any development of land in which there is a Duchy interest, the provisions of this Act referred to in paragraph (*a*) of subsection (1) of this section shall have effect in relation to the withholding of that approval, or the giving thereof subject to conditions, as if it were a refusal of planning permission, or a grant of planning permission subject to conditions, as the case may be.

(4) In this section " private interest " means an interest which is neither a Crown interest nor a Duchy interest.

*London and Isles of Scilly*

Application of Act to London.

**202.** The provisions of the Ninth Schedule to this Act shall have effect for the purposes of the application of this Act to the administrative county of London.

PART XIII

Application of Act to Isles of Scilly.

**203.**—(1) The Minister shall, after consultation with the Council of the Isles of Scilly, by order provide for the application to those Isles of the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto as if those Isles were a separate county; and any such order may provide for the application of those provisions of this Act to those Isles subject to such modifications as may be specified in the order.

(2) In relation to land in the Isles of Scilly, the provisions of this Act specified in paragraph 2 of the Eighth Schedule thereto shall have effect as if those Isles were a county district, and the Council of the Isles were the council of that district.

*Other special cases*

National Coal Board.

**204.**—(1) Regulations made under this Act by the Minister and the Minister of Power with the consent of the Treasury may direct that any of the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto, being provisions relating to statutory undertakers and to land of such undertakers, shall apply, subject to such adaptations, modifications and exceptions as may be specified in the regulations, in relation to the National Coal Board, and in relation to land (including mines) of that Board of any such class as may be specified in the regulations, as if the Board were statutory undertakers and as if land of any class so specified were operational land.

(2) Without prejudice to the generality of the preceding subsection, any regulations made thereunder may in particular provide that any compensation payable to the National Coal Board by virtue of any of the provisions applied by the regulations, being compensation which, in the case of statutory undertakers, would be assessable in accordance with the provisions of section one hundred and seventy-one of this Act, shall, instead of being assessed in accordance with that section, be assessed in accordance with the provisions of the regulations.

Ecclesiastical property.

**205.**—(1) Without prejudice to the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, with respect to notices served under that Act, where under any of the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto a notice is required to be served on an owner of land, and the land is ecclesiastical property, a like notice shall be served on the Church Commissioners.

(2) Where the fee simple of any ecclesiastical property is in abeyance—

(*a*) if the property is situated elsewhere than in Wales or Monmouthshire, then for the purposes of the provisions of this Act specified in paragraph 3 of the Eighth Schedule thereto the fee simple shall be treated as being vested in the Church Commissioners;

(*b*) in any case, the fee simple shall, for the purposes of a compulsory acquisition of the property under Part V of this Act, be treated as being vested in the Church Commissioners, and any notice to treat shall be served, or be deemed to have been served, accordingly.

(3) Any compensation payable under Part VII of this Act in respect of land which is ecclesiastical property shall be paid to the Church Commissioners, to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising, or disposing of the proceeds of, such a sale.

(4) Any sum which under any of the provisions of this Act specified in paragraph 2 of the Eighth Schedule thereto is payable in relation to land which is, or on the appointed day was, ecclesiastical property, and apart from this subsection would be payable to an incumbent, shall be paid to the Church Commissioners, to be applied for the purposes mentioned in the last preceding subsection; and where any sum is recoverable under section one hundred and thirteen, section one hundred and twenty-two or section two hundred and eight of this Act in respect of any such land, the Church Commissioners may apply any money or securities held by them in the payment of that sum.

(5) In this section "ecclesiastical property" means land belonging to an ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of a bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

Settled land, and land of universities and colleges.

**206.**—(1) The purposes authorised for the application of capital moneys—

(*a*) by section seventy-three of the Settled Land Act, 1925, and by that section as applied by section twenty-eight of the Law of Property Act, 1925, in relation to trusts for sale, and

(*b*) by section twenty-six of the Universities and College Estates Act, 1925,

and the purposes authorised by section seventy-one of the Settled Land Act, 1925, by that section as so applied, and by section thirty-one of the Universities and College Estates Act, 1925, as purposes for which moneys may be raised by mortgage, shall include the payment of any sum recoverable under section one hundred and thirteen, section one hundred and twenty-two or section two hundred and eight of this Act.

(2) The purposes authorised, as mentioned in the preceding subsection, for the application of capital moneys and as purposes for which moneys may be raised by mortgage, shall include the

PART XIII

discharge of any sum payable in respect of a development charge under Part VII of the Act of 1947, being a sum determined by the Central Land Board as a capital payment or as an instalment of capital.

(3) The classes of works specified in Part II of the Third Schedule to the Settled Land Act, 1925 (which specifies improvements which may be paid for out of capital money, subject to provisions under which repayment out of income may be required to be made) shall include works specified by the Minister as being required for properly maintaining a building in relation to which a building preservation order is in force, and which is settled land within the meaning of that Act.

## PART XIV

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Default powers of Minister.

**207.**—(1) If it appears to the Minister, after consultation with the local planning authority, to be expedient that any order to which this subsection applies should be made, he may give directions to the local planning authority requiring them to submit to him such an order for his confirmation, or may himself make such an order; and any order so made by the Minister shall have the like effect as if it had been made by the local planning authority and confirmed by the Minister under Part III of this Act.

(2) The preceding subsection applies to the following orders, that is to say,—

(*a*) orders under section twenty-seven of this Act, or under the provisions of that section as applied by any order or regulations made under Part III of this Act;

(*b*) orders under section twenty-eight of this Act;

(*c*) tree preservation orders and building preservation orders, and orders amending or revoking tree preservation orders or building preservation orders.

(3) The provisions of Part III of this Act, and of any regulations made thereunder, with respect to the procedure to be followed in connection with the submission by the local planning authority of any order to which subsection (1) of this section applies, with respect to the confirmation of such an order by the Minister, and with respect to the service of copies thereof as so confirmed, shall have effect, subject to any necessary modifications, in relation to any proposal by the Minister to make such an order by virtue of subsection (1) of this section, in relation to the making thereof by the Minister, and in relation to the service of copies thereof as so made.

(4) If it appears to the Minister, after consultation with the local planning authority, to be expedient that—

(*a*) an enforcement notice under section forty-five of this Act, or under the provisions of that section as applied by a building preservation order or by regulations under section thirty-four of this Act, or

(*b*) a notice under section thirty-six or section fifty-two of this Act,

should be served in respect of any land, he may give directions to the local planning authority requiring them to serve such a notice, or may himself serve such a notice; and any notice so served by the Minister shall have the like effect as a notice served by the local planning authority:

Provided that, in relation to an enforcement notice so served by the Minister, the provisions of sections forty-seven to forty-nine and section fifty-one of this Act shall apply as if, for any reference therein to the local planning authority, there were substituted a reference to the Minister.

(5) If the Minister is satisfied, after holding a local inquiry,—

(*a*) that the council of a county borough or county district have failed to take steps for the acquisition of any land which, in the opinion of the Minister, ought to be acquired by that council under section sixty-eight of this Act, for the purpose of securing its use in the manner proposed by the development plan, or

(*b*) that a local authority have failed to carry out, on land acquired by them under section sixty-eight of this Act, or appropriated by them under section seventy-three of this Act, any development which, in the opinion of the Minister, ought to be carried out,

the Minister may by order require the council or authority to take such steps as may be specified in the order for acquiring the land, or carrying out the development, as the case may be.

(6) Any order under the last preceding subsection shall be enforceable, on the application of the Minister, by mandamus.

Recovery, on subsequent development, of payments in respect of war-damaged land.

**208.**—(1) In relation to notices registered under section fifty-seven of the Act of 1954 (which provided for the registration of notices of payments made under section fifty-nine of the Act of 1947) the provisions of sections one hundred and thirteen and one hundred and fourteen of this Act shall have effect (subject to the following provisions of this section) as they have effect in relation to notices registered under section one hundred and twelve of this Act.

PART XIV

(2) The said provisions shall have effect as mentioned in the preceding subsection, but as if—

(*a*) any reference therein to the compensation specified in a notice were a reference to the payment so specified, and

(*b*) section one hundred and thirteen of this Act applied to every description of new development.

(3) No amount shall be recoverable by the Minister by virtue of this section in respect of any land in relation to which an amount has become recoverable under section one hundred and ninety-one of this Act.

(4) Subsection (5) of section one hundred and ninety-one of this Act shall apply for the purposes of this section as it applies for the purposes of that section.

Development charges.

**209.** The provisions of the Tenth Schedule to this Act (which relates to development charges) shall have effect.

Temporary provisions pending operation of development plans.

**210.** Where, in accordance with the provisions of Part III or Part IV of this Act, a local planning authority are required to have regard to the provisions of the development plan in relation to the exercise of any of their functions, then, in relation to the exercise of those functions during any period before such a plan has become operative with respect to the area of that authority, the authority—

(*a*) shall have regard to any directions which may be or have been given to them by the Minister as to the provisions to be included in such a plan, and

(*b*) subject to any such directions, shall have regard to the provisions which in their opinion will be required to be so included for securing the proper planning of their area.

Rights of entry.

**211.**—(1) Any person duly authorised in writing by the Minister or by a local planning authority may at any reasonable time enter upon any land for the purpose of surveying it in connection with—

(*a*) the preparation, approval, making or amendment of a development plan relating to the land under Part II of this Act, including the carrying out of any survey under Part II of this Act;

(*b*) any application under Part III of this Act, or under any order or regulations made thereunder, for any permission, consent or determination to be given or made in

connection with that land or any other land under Part III of this Act or under any such order or regulations;

(*c*) any proposal by the local planning authority or by the Minister to make or serve any order or notice under Part III or Part IV of this Act, or under any order or regulations made thereunder.

(2) Any person, being an officer of the Valuation Office or a person duly authorised in writing by the Minister, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation under Part VI of this Act in respect of that land or any other land.

(3) Any person, being an officer of the Valuation Office or a person duly authorised in writing by a local planning authority, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of that land or any other land, being compensation payable by the local planning authority under Part VII of this Act or under Part X thereof, otherwise than as mentioned in subsection (2) of section one hundred and seventy or in paragraph (*c*) of subsection (1) of section one hundred and seventy-one of this Act.

(4) Any person, being an officer of the Valuation Office or a person duly authorised in writing by a Minister having power to acquire land designated by a development plan under this Act as subject to compulsory acquisition, or to authorise the acquisition of land so designated, and any person duly authorised in writing by a local authority having power to acquire land under Part V of this Act, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land, or in connection with any claim for compensation in respect of any such acquisition.

(5) Any person duly authorised in writing by the Minister or by a local planning authority may at any reasonable time enter upon any land in respect of which an order or notice has been made or served as mentioned in paragraph (*c*) of subsection (1) of this section, for the purpose of ascertaining whether the order or notice has been complied with.

(6) Subject to the provisions of the next following section, any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein.

PART XIV
Supplementary provisions as to rights of entry.

**212.**—(1) A person authorised under the last preceding section to enter upon any land shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a person acting in the exercise of his powers under the last preceding section shall be liable on summary conviction to a fine not exceeding twenty pounds.

(3) If any person who, in compliance with the provisions of the last preceding section, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the survey or estimate for which he was authorised to enter the premises, be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

(4) Where any land is damaged in the exercise of a right of entry conferred under the last preceding section, or in the making of any survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from the Minister or authority on whose behalf the entry was effected.

(5) The provisions of section one hundred and twenty-eight of this Act shall apply in relation to compensation under the last preceding subsection as they apply in relation to compensation under Part VII of this Act.

(6) Where under the last preceding section a person proposes to carry out any works authorised by virtue of subsection (6) of that section—

(*a*) he shall not carry out those works unless notice of his intention to do so was included in the notice required by subsection (1) of this section, and

(*b*) if the land in question is held by statutory undertakers, and those undertakers object to the proposed works on the grounds that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the appropriate Minister.

Local inquiries.

**213.**—(1) The Minister may cause a local inquiry to be held for the purposes of the exercise of any of his functions under any of the provisions of this Act.

(2) The provisions of subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the giving of evidence at, and defraying the cost of,

local inquiries) shall have effect with respect to any inquiry held by virtue of this section as if the Minister were a department for the purposes of that section. PART XIV

Service of notices.

**214.**—(1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under this Act may be served or given either—

(*a*) by delivering it to the person on whom it is to be served or to whom it is to be given, or

(*b*) by leaving it at the usual or last known place of abode of that person, or, in a case where an address for service has been given by that person, at that address, or

(*c*) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode, or, in a case where an address for service has been given by that person, at that address, or

(*d*) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if—

(*a*) being addressed to him either by name or by the description of " the owner " or " the occupier ", as the case may be, of the premises (describing them) it is delivered or sent in the manner specified in paragraph (*a*), paragraph (*b*) or paragraph (*c*) of the preceding subsection, or

(*b*) being so addressed, and marked in such manner as may be prescribed by regulations under this Act for securing that it shall be plainly identifiable as a communication of importance, it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.

(3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears to the authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice or document shall be taken to be duly served on all

PART XIV

persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed to " the owners and any occupiers " of that part of the land (describing it) and is affixed conspicuously to some object on the land.

Power to require information as to interests in land.

**215.**—(1) For the purpose of enabling the Minister or a local authority to make an order or serve any notice or other document which, by any of the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto, he or they are authorised or required to make or serve, the Minister or the local authority may require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to state in writing the nature of his interest therein, and the name and address of any other person known to him as having an interest therein, whether as a freeholder, mortgagee, lessee or otherwise.

(2) Any person who, having been required in pursuance of this section to give any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding five pounds.

Combined applications.

**216.**—(1) Regulations made under this Act may provide for the combination in a single document, made in such form and transmitted to such authority as may be prescribed by the regulations, of—

(*a*) an application for planning permission in respect of any development, and

(*b*) an application required, under any enactment specified in the regulations, to be made to a local authority in respect of that development.

(2) Before making any regulations under this section, the Minister shall consult with such local authorities or associations of local authorities as appear to him to be concerned.

(3) Different provision may be made by any such regulations in relation to areas in which different enactments are in force.

(4) An application required to be made to a local authority under an enactment specified in any such regulations shall, if made in accordance with the provisions of the regulations, be valid notwithstanding anything in that enactment prescribing, or enabling any authority to prescribe, the form in which, or the manner in which, such an application is to be made.

(5) The last preceding subsection shall have effect without prejudice to—

(*a*) the validity of any application made in accordance with the enactment in question ; or

(*b*) any provision of that enactment enabling a local authority to require further particulars of the matters to which the application relates.

(6) In this section " application " includes a submission.

PART XIV
Regulations and orders.

**217.**—(1) The Minister may make regulations under this Act—

(*a*) for prescribing the form of any notice, order or other document authorised or required by any of the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto to be served, made or issued by any local authority;

(*b*) for any purpose for which regulations are authorised or required to be made under this Act, not being a purpose for which regulations are authorised or required to be made by another Minister.

(2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument; and any statutory instrument containing regulations made under this Act (except regulations which, by virtue of any provision of this Act, are of no effect unless approved by a resolution of each House of Parliament) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power conferred by any of the provisions of this Act specified in paragraphs 1 and 3 of the Eighth Schedule thereto to make an order shall include power to vary or revoke any such order by a subsequent order.

(4) The power to make orders conferred by subsection (2) of section two of this Act, or for the purposes of paragraph (*f*) of subsection (2) of section twelve of this Act, and the power to make development orders under section fourteen of this Act, shall be exercisable by statutory instrument; and any statutory instrument—

(*a*) which contains an order under subsection (2) of section two of this Act which has been made after a local inquiry has been held in accordance with the proviso to that subsection, or

(*b*) which contains a development order,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Without prejudice to the last preceding subsection, where a development order makes provision for excluding or modifying any enactment contained in a public general Act (other than any of the enactments specified in the Eleventh Schedule to this Act) the order shall not have effect until that provision is approved by a resolution of each House of Parliament.

(6) Any power (exercisable in accordance with subsection (2) of section two hundred and twenty-five of this Act) to make regulations or orders under this Act before the date of the commencement of this Act shall include power, by any regulations or order so made, to revoke any regulations or order made under any of the enactments which, as from that date, are repealed by this Act or having effect by virtue of any of those enactments as if made thereunder.

PART XIV

Exercise of functions of Board of Trade.

**218.** Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board or any person authorised in that behalf by the President of the Board.

Licensing planning areas.

**219.**—(1) Where the united district for which, by an order under section two of this Act, a joint planning board is constituted comprises a licensing planning area, or the whole or part of such a united district is included in a licensing planning area, the Secretary of State may by order revoke or vary any order made under Part II of the Licensing Act, 1953, so far as may be necessary or expedient in consequence of the order under section two of this Act.

(2) Subject to the preceding subsection, nothing in any order made under section two of this Act shall affect the validity of any order made under Part II of the Licensing Act, 1953, before the date of the order under section two of this Act.

Act not excluded by special enactments.

**220.** For the avoidance of doubt it is hereby declared that the provisions of this Act, and any restrictions or powers thereby imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the passing of the Act of 1947, or by any local Act passed at any time during the Session of Parliament held during the regnal years 10 & 11 Geo. 6, for authorising or regulating any development of the land.

Interpretation.

**221.**—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"acquiring authority", in relation to the acquisition of an interest in land (whether compulsorily or by agreement) or to a proposal so to acquire such an interest, means the government department, local authority or other body by whom the interest is, or is proposed to be, acquired;

"the Act of 1944" means the Town and Country Planning Act, 1944;

"the Act of 1947" means the Town and Country Planning Act, 1947;

"the Act of 1954" means the Town and Country Planning Act, 1954;

"the Act of 1959" means the Town and Country Planning Act, 1959;

"advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the preceding provisions of this definition)

includes any hoarding or similar structure used, or adapted for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

"the appointed day" means the first day of July, nineteen hundred and forty-eight;

"the appropriate Minister"—

(*a*) in relation to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, means the Minister of Power;

(*b*) in relation to statutory undertakers carrying on an undertaking for the supply of water, means the Minister; and

(*c*) in relation to any other statutory undertakers, means the Minister of Transport;

"area of extensive war damage" and "area of bad lay-out or obsolete development" mean respectively an area consisting of land shown to the satisfaction of the Minister to have sustained war damage or, as the case may be, to be badly laid out or of obsolete development, or consisting of such land together with other land contiguous or adjacent thereto, being in each case land comprised in an area which is defined by a development plan as an area of comprehensive development;

"authority possessing compulsory purchase powers", in relation to the compulsory acquisition of an interest in land, means the person or body of persons effecting the acquisition, and, in relation to any other transaction relating to an interest in land, means any person or body of persons who could be or have been authorised to acquire that interest compulsorily for the purposes for which the transaction is or was effected, or a body (being a parish council or parish meeting or the council of a borough included in a rural district) on whose behalf a county council could be or have been so authorised;

"authority to whom Part II of the Act of 1959 applies" means a body of any of the descriptions specified in Part I of the Fourth Schedule to the Act of 1959;

PART XIV

"building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

"buildings or works" includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly;

"building operations" includes rebuilding operations, structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder;

"building preservation order" has the meaning assigned to it by section thirty of this Act;

"caravan site" has the meaning assigned to it by subsection (4) of section one of the Caravan Sites and Control of Development Act, 1960;

"clearing", in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of such other operations in relation thereto as may be prescribed;

"common" includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green;

"compulsory acquisition" does not include the vesting in a person by an Act of Parliament of property previously vested in some other person;

"corporate land" has the same meaning as in the Local Government Act, 1933;

"development" has the meaning assigned to it by section twelve of this Act, and "develop" shall be construed accordingly;

"development order" has the meaning assigned to it by section fourteen of this Act;

"development plan" has the meaning assigned to it by section four of this Act, and includes a plan made in accordance with subsection (5) of that section;

"disposal" means disposal by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other manner, except by way of appropriation, gift or mortgage, and "dispose of" shall be construed accordingly;

"enactment" includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, bye-law or scheme made under an Act of Parliament;

" enforcement notice " means a notice under section forty-five of this Act;

" engineering operations " includes the formation or laying out of means of access to highways;

" erection " in relation to buildings includes extension, alteration and re-erection;

" fuel or field garden allotment " means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;

" functions " includes powers and duties;

" government department " includes any Minister of the Crown;

" highway " has the same meaning as in the Highways Act, 1959;

" improvement ", in relation to a highway, has the same meaning as in the Highways Act, 1959;

" industrial building " (except in Part VI of this Act) has the meaning assigned to it by section twenty-one of the Local Employment Act, 1960;

" industrial development certificate " has the meaning assigned to it by section thirty-eight of this Act;

" joint planning board " has the meaning assigned to it by section two of this Act;

" land " means any corporeal hereditament, including a building, and, in relation to the acquisition of land under Part V of this Act, includes any interest in or right over land;

" lease " includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage, and " leasehold interest " means the interest of the tenant under a lease as so defined;

" local authority " (except in section one hundred and fifty-four of this Act) means the council of a county, county borough, metropolitan borough or county district, the Common Council of the City of London, and any other authority being a local authority within the meaning of the Local Loans Act, 1875, and includes any drainage board and any joint board or joint committee if all the constituent authorities are local authorities within the meaning of that Act;

PART XIV

" local highway authority " means a highway authority other than the Minister of Transport ;

" local planning authority " has the meaning assigned to it by section two of this Act ;

" means of access " includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street ;

" minerals " includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working, except that it does not include peat cut for purposes other than sale ;

" Minister " (except where the reference is to " the Minister ") means any Minister of the Crown or other government department ;

" the Minister " (subject to the transitional provisions hereinafter contained in relation to any time before the third day of November, nineteen hundred and fifty-one) has the meaning assigned to it by section one of this Act ;

" mortgage " includes any charge or lien on any property for securing money or money's worth ;

" National Trust " means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907 ;

" new development " has the meaning assigned to it by subsection (5) of section twelve of this Act ;

" open space " means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground ;

" operational land ", in relation to statutory undertakers, means land which is used for the purpose of the carrying on of their undertaking and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings ;

" owner ", in relation to any land, means (except in sections sixteen, seventeen and forty-seven of this Act) a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let ;

" planning decision " means a decision made on an application under Part III of this Act;

" planning permission " means permission under Part III of this Act, and in construing references to planning permission to develop land or to carry out any development of land, or to applications for such permission, regard shall be had to subsection (2) of section twenty of this Act;

" planning permission granted for a limited period " has the meaning assigned to it by subsection (2) of section eighteen of this Act;

" prescribed " (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act;

" previous apportionment ", in relation to an apportionment for any of the purposes of the relevant provisions, means an apportionment made before the apportionment in question, being—

(*a*) an apportionment for any of the purposes of the relevant provisions as made, confirmed or varied by the Lands Tribunal on a reference to that Tribunal, or

(*b*) an apportionment for any of those purposes which might have been referred to the Lands Tribunal by virtue of any of the relevant provisions, where the time for such a reference has expired without its being required to be so referred, or where, after it had been so referred, the reference was withdrawn before the Tribunal gave their decision thereon, or

(*c*) an apportionment made by or with the approval of the Central Land Board in connection with the approval by the Board, under subsection (2) of section two of the Town and Country Planning Act, 1953, of an assignment of part of the benefit of an established claim (as defined by subsection (4) of section eighty-nine of this Act),

and in this definition " the relevant provisions " means any of the provisions of Part VI of this Act, any of those provisions as applied by any other provision of this Act, and any of the provisions of the Act of 1954;

PART XIV

" purchase notice " has the meaning assigned to it by section one hundred and twenty-nine of this Act;

" relocation of population or industry ", in relation to an area of extensive war damage or an area of bad lay-out or obsolete development, means the rendering available elsewhere than in that area (whether in an existing community or a community to be newly established) of accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and other requirements, being accommodation to be rendered available for persons or undertakings who are living or carrying on business or other activities in that area or who were doing so but by reason of war circumstances are no longer for the time being doing so, and whose continued or resumed location in that area would be inconsistent with the proper planning thereof;

" replacement of open space ", in relation to an area of extensive war damage or an area of bad lay-out or obsolete development, means the rendering of land available for use as an open space, or otherwise in an undeveloped state, in substitution for land in that area which is so used;

" statutory undertakers " means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and " statutory undertaking " shall be construed accordingly;

" tenancy " has the same meaning as in the Landlord and Tenant Act, 1954;

" tree preservation order " has the meaning assigned to it by section twenty-nine of this Act;

" use ", in relation to land, does not include the use of land for the carrying out of any building or other operations thereon;

" Valuation Office " means the Valuation Office of the Inland Revenue Department;

" war damage " has the same meaning as in the War Damage Act, 1943.

(2) If, in relation to anything required or authorised to be done under this Act, any question arises as to which Minister is or was the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury; and if any question so arises whether land of statutory undertakers is operational land, that question shall be determined by the Minister who is the appropriate Minister in relation to those undertakers.

(3) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.

(4) With respect to references in this Act to planning decisions,—

(*a*) in relation to a decision altered on appeal by the reversal or variation of the whole or part thereof, such references shall be construed as references to the decision as so altered;

(*b*) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the local planning authority and not to the decision of the Minister on the appeal;

(*c*) in relation to a decision given on an appeal in the circumstances mentioned in section twenty-four of this Act, such references shall be construed as references to the decision so given;

(*d*) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the local planning authority (whether or not that decision is or was altered on that appeal) or, in the case of a decision given on an appeal in the circumstances mentioned in section twenty-four of this Act, the time when in accordance with that section notification of a decision of the local planning authority is deemed to have been received.

(5) For the purposes of this Act development of land shall be taken to be initiated—

(*a*) if the development consists of the carrying out of operations, at the time when those operations are begun;

(*b*) if the development consists of a change in use, at the time when the new use is instituted;

(*c*) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.

PART XIV

(6) References in this Act to a contract are references to a contract in writing, or a contract attested by a memorandum or note thereof in writing signed by the parties thereto or by some other person or persons authorised by them in that behalf, and, in relation to an interest in land conveyed or assigned without a preliminary contract, are references to the conveyance or assignment; and references to the making of a contract are references to the execution thereof or (if it was not in writing) to the signature of the memorandum or note by which it was attested.

(7) In this Act—

(*a*) references to a person from whom title is derived by another person include references to any predecessor in title of that other person;

(*b*) references to a person deriving title from another person include references to any successor in title of that other person;

(*c*) references to deriving title are references to deriving title either directly or indirectly.

(8) For the avoidance of doubt it is hereby declared that where, under any provision of this Act, the value of an interest in land is required to be assessed on the assumption that planning permission would be granted for development of any class specified in the Third Schedule to this Act, that assumption is to be made on the footing that any such development must comply with the provisions of any enactment, other than this Act, which would be applicable thereto.

(9) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.

Consequential amendments.

**222.** The enactments specified in the Twelfth Schedule to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.

Savings, transitional provisions and repeals.

**223.**—(1) The savings and transitional provisions contained in the Thirteenth and Fourteenth Schedules to this Act shall have effect.

(2) Subject to the provisions of those Schedules, the enactments specified in the Fifteenth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

PART XIV

Saving for Interpretation Act, 1889, s. 38.

**224.** The inclusion in this Act of any express saving, transitional provision or amendment shall not be taken as prejudicing the operation of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals).

Commencement.

**225.**—(1) Subject to the following provisions of this section, this Act shall come into operation on the first day of April, nineteen hundred and sixty-three (in this section referred to as " the commencement date ").

(2) This section, any provisions of this Act which confer any power to make regulations or orders, or which (whether expressly or as construed in accordance with subsection (3) of section thirty-two of the Interpretation Act, 1889) confer any power to revoke or vary any regulations or orders, and any provisions of this Act relating to the exercise of any such power, shall come into operation on the passing of this Act; but no regulations or order shall be made under this Act so as to come into operation before the commencement date.

(3) In the last preceding subsection the reference to provisions of this Act relating to the exercise of any such power as is therein mentioned includes a reference to any provisions of this Act whereby statutory instruments containing regulations or an order are subject to annulment in pursuance of a resolution of either House of Parliament, or whereby any regulations or order or any provisions thereof require the approval of each of those Houses.

(4) Any reference in this Act to the commencement of this Act is a reference to the coming into operation of so much of this Act as comes into operation on the commencement date, and any reference to the date of the commencement of this Act is a reference to that date; and if any Act passed after the passing of this Act refers to the commencement of this Act, subsections (2) and (3) of this section shall be disregarded for the purpose of construing that reference in accordance with section thirty-six of the Interpretation Act, 1889 (which relates to the meaning of " commencement " with reference to an Act).

(5) The preceding provisions of this section shall have effect without prejudice to the generality of section thirty-seven of the Interpretation Act, 1889 (which relates to the exercise of statutory powers between the passing and the commencement of an Act).

Short title and extent.

**226.**—(1) This Act may be cited as the Town and Country Planning Act, 1962.

(2) This Act shall not extend to Scotland or Northern Ireland.

# SCHEDULES

Section 2.

## FIRST SCHEDULE

### JOINT PLANNING BOARDS

1. A joint planning board constituted by an order under section two of this Act shall consist of such number of members as may be determined by the order, to be appointed by the constituent councils.

2. A joint planning board so constituted shall be a body corporate, with perpetual succession and a common seal.

3. An order constituting a joint planning board and any order amending or revoking any order constituting a joint planning board—

(*a*) may, without prejudice to the provisions of section two hundred and ninety-three of the Local Government Act, 1933 (which authorises the application of the provisions of that Act to joint boards), provide for regulating the appointment, tenure of office and vacation of office of members of the board, for regulating the meetings and proceedings of the board, and for the payment of the expenses of the board by the constituent councils;

(*b*) may provide for the transfer and compensation of officers, the transfer of property and liabilities, and the adjustment of accounts and apportionment of liabilities;

(*c*) may contain such other provisions as appear to the Minister to be expedient for enabling the board to exercise their functions; and

(*d*) may apply to the board, with any necessary modifications and adaptations, any of the provisions of the Second Schedule to this Act.

Section 2.

## SECOND SCHEDULE

### PLANNING COMMITTEES AND JOINT ADVISORY COMMITTEES

### PART I

*Planning committees*

1. A local planning authority may establish such planning committees as they think it expedient to establish for the efficient discharge of their functions as a local planning authority, and may authorise any such committee to exercise on their behalf any of those functions, except the power to borrow money or to levy or issue a precept for a rate.

2ND SCH.

2. A planning committee of a local planning authority may, subject to any restrictions imposed by the local planning authority,—

(*a*) appoint such sub-committees constituted in such manner as the committee may determine; and

(*b*) authorise any such sub-committee to exercise any of the functions of the committee on their behalf.

3. A majority of every planning committee of a local planning authority shall be members of the authority, and a majority of every sub-committee of any such committee shall be members either of the local planning authority or of the councils of county districts comprised in the area of that authority.

4. Any power conferred by this Part of this Schedule to establish or appoint committees or sub-committees, or to authorise such committees or sub-committees to exercise any functions, shall include power to dissolve or alter the constitution of such committees or sub-committees, and to revoke or vary any such authorisation.

## PART II

### *Joint advisory committees*

5. Any two or more local planning authorities may, with the approval of the Minister, concur in establishing a joint advisory committee for the purpose of advising those authorities as to the preparation of development plans and generally as to the planning of development in their areas; and any such committee shall be constituted in such manner as may be determined by the authorities by whom it is established:

Provided that a majority of the members of any such committee shall be members of one or other of those authorities.

6. If it appears to the Minister to be expedient that a joint advisory committee of any two or more local planning authorities should be established in accordance with the last preceding paragraph, he may, after consultation with those authorities, by order establish such a committee, and any such order may—

(*a*) provide for the reference to the committee of such matters as may be specified in the order;

(*b*) make such incidental and consequential provisions (including provision for the payment of expenses of the committee and the transfer and compensation of officers) as appear to the Minister to be expedient.

7. Any power conferred by this Part of this Schedule to establish committees or to authorise such committees to exercise any functions shall include power to dissolve or alter the constitution of such committees, and to revoke or vary any such authorisation.

8. The provisions of this Part of this Schedule shall be in addition to and not in substitution for the provisions of the Local Government Act, 1933, with respect to the appointment by local authorities of joint committees.

Sections 12 and 118.

## THIRD SCHEDULE

### DEVELOPMENT NOT CONSTITUTING NEW DEVELOPMENT

### PART I

*Development not ranking for compensation under s.* 123

1. The carrying out of any of the following works, that is to say—

(*a*) the rebuilding, as often as occasion may require, of any building which was in existence on the appointed day, or of any building which was in existence before that day but was destroyed or demolished after the seventh day of January, nineteen hundred and thirty-seven, including the making good of war damage sustained by any such building;

(*b*) the rebuilding, as often as occasion may require, of any building erected after the appointed day which was in existence at a material date;

(*c*) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building and (in either case) are works for making good war damage,

so long as (in the case of works falling within any of the preceding sub-paragraphs) the cubic content of the original building is not exceeded—

(i) in the case of a dwellinghouse, by more than one-tenth or seventeen hundred and fifty cubic feet, whichever is the greater, and

(ii) in any other case, by more than one-tenth.

2. The use as two or more separate dwellinghouses of any building which at a material date was used as a single dwellinghouse.

### PART II

*Development ranking for compensation under s.* 123

3. The enlargement, improvement or other alteration, as often as occasion may require, of any such building as is mentioned in sub-paragraph (*a*) or sub-paragraph (*b*) of paragraph 1 of this Schedule, or any building substituted for such a building by the carrying out of any such operations as are mentioned in that paragraph, so long as the cubic content of the original building is not increased or exceeded—

(*a*) in the case of a dwellinghouse, by more than one-tenth or seventeen hundred and fifty cubic feet, whichever is the greater, and

(*b*) in any other case, by more than one-tenth.

4. The carrying out, on land which was used for the purposes of agriculture or forestry at a material date, of any building or other operations required for the purposes of that use, other than operations for the erection, enlargement, improvement or alteration of dwellinghouses or of buildings used for the purposes of market gardens, nursery grounds or timber yards or for other purposes not connected with general farming operations or with the cultivation or felling of trees.

5. The winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for those purposes.

6. In the case of a building or other land which, at a material date, was used for a purpose falling within any general class specified in the Town and Country Planning (Use Classes for Third Schedule Purposes) Order, 1948, or which, having been unoccupied on and at all times since the appointed day, was last used (otherwise than before the seventh day of January, nineteen hundred and thirty-seven) for any such purpose, the use of that building or land for any other purpose falling within the same general class.

7. In the case of any building or other land which, at a material date, was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building used for that purpose on the appointed day, or on the day thereafter when the building began to be so used, or, as the case may be, one-tenth of the area of the land so used on that day.

8. The deposit of waste materials or refuse in connection with the working of minerals, on any land comprised in a site which at a material date was being used for that purpose, so far as may be reasonably required in connection with the working of those minerals.

## PART III

*Supplementary provisions*

9. Any reference in this Schedule to the cubic content of a building shall be construed as a reference to that content as ascertained by external measurement.

10. Where, after the appointed day, any buildings or works have been erected or constructed, or any use of land has been instituted, and any condition imposed under Part III of this Act, limiting the period for which those buildings or works may be retained, or that use may be continued, has effect in relation thereto, this Schedule shall not operate except as respects the period specified in that condition.

11. For the purposes of paragraph 3 of this Schedule—

(*a*) the erection, on land within the curtilage of any such building as is mentioned in that paragraph, of an additional building to be used in connection with the original building shall be treated as the enlargement of the original building; and

(*b*) where any two or more buildings comprised in the same curtilage are used as one unit for the purposes of any institution or undertaking, the reference in that paragraph to the cubic content of the original building shall be construed as a reference to the aggregate cubic content of those buildings.

3RD SCH.

12. In this Schedule "at a material date" means at either of the following dates, that is to say—

(*a*) the appointed day, and

(*b*) the date by reference to which this Schedule falls to be applied in the particular case in question:

Provided that sub-paragraph (*b*) of this paragraph shall not apply in relation to any buildings, works or use of land in respect of which, whether before or after the date mentioned in that sub-paragraph, an enforcement notice served before that date has become or becomes effective.

Section 75.

## FOURTH SCHEDULE

### FURTHER PROVISIONS WITH RESPECT TO ORDERS PROVIDING FOR EXPEDITED COMPLETION

*Introductory*

1.—(1) The provisions of this Schedule shall have effect with respect to any compulsory purchase order which includes a direction, under subsection (1) of section seventy-four of this Act, that the provisions of Part V of this Act relating to expedited completion shall apply to the order so far as it relates to land specified in the direction; and in this Schedule "the relevant land" means the land so specified.

(2) In this Schedule "the Act of 1845" means the Lands Clauses Consolidation Act, 1845, and "the Act of 1946" means the Acquisition of Land (Authorisation Procedure) Act, 1946.

*Particulars to be included in notice of confirmation of order*

2. The notice of the confirmation of the order required by paragraph 6 of the First Schedule to the Act of 1946 to be published—

(*a*) shall refer to the provisions as to entry and vesting contained in subsection (6) of section seventy-five of this Act, and

(*b*) shall include a notification to the effect that every person entitled to claim compensation in respect of any of the relevant land or any interest in such land is invited to give information to the acquiring authority, in the prescribed form, with respect to his name and address and the land and interest in question.

*Certificate of acquiring authority for purpose of determining date of vesting*

3. For the purposes of section seventy-five of this Act, a certificate given by the acquiring authority stating that the service of notices on occupiers required by subsection (5) of that section was completed on a date specified in the certificate shall be conclusive evidence of the fact so stated.

*Exclusion of power of entry conferred by Act of* 1946

4. Paragraph 3 of the Second Schedule to the Act of 1946 (which provides for entry on land comprised in a compulsory purchase order before the purchase money has been paid, and without previous consent or compliance with sections eighty-four to ninety of the Act of 1845) shall not have effect in relation to the order.

*Restriction on withdrawal of constructive notice to treat*

5. The power conferred by section thirty-one of the Land Compensation Act, 1961, to withdraw a notice to treat shall, in the case of a notice to treat which is deemed to have been served by virtue of subsection (2) of section seventy-five of this Act, not be exercisable at any time after the interest in respect of which the notice is deemed to have been served has vested in the acquiring authority by virtue of subsection (6) of the said section seventy-five.

*Special provisions with respect to parts of buildings, etc.*

6.—(1) Where a part only of a house, building or manufactory, or of a park or garden belonging to a house, is comprised in the relevant land, then, if notice in that behalf is given to the acquiring authority in accordance with the provisions of the next following sub-paragraph, no notice to treat shall be deemed by virtue of subsection (2) of section seventy-five of this Act to have been served in respect of any interest in the said part; and, as from the giving of the first-mentioned notice, the order shall have effect in relation to that part as if it had not been comprised in the relevant land.

(2) A notice under the preceding sub-paragraph in respect of any premises consisting of part of a house, building, manufactory, park or garden may be given to the acquiring authority by any person having in those premises an interest in respect of which, but for that sub-paragraph, a notice to treat would be deemed to have been served, but shall not have effect if given before the order has come into operation or after the acquiring authority have executed in respect of those premises a declaration under subsection (3) of the said section seventy-five.

(3) Where by virtue of subsection (2) of the said section seventy-five a notice to treat is deemed to have been served in respect of any interest, section ninety-two of the Act of 1845 (which provides that a person shall not be compelled to sell part only of a building if he is prepared to sell the whole) shall, in relation to the acquisition of that interest under the order, be excepted from the incorporation (by virtue of paragraph 1 of the Second Schedule to the Act of 1946) of the Act of 1845 with section sixty-eight of this Act.

7. Paragraph 4 of the Second Schedule to the Act of 1946 (which makes special provision, in substitution for section ninety-two of the Act of 1845, with respect to the compulsory acquisition of parts of buildings) shall not have effect in relation to the order.

*Compensation not to be affected by provision for expedited completion*

8. Where any of the relevant land has become vested in the acquiring authority by virtue of subsection (6) of section seventy-five of this Act, the authority shall be liable to pay the like compensation for the land, and the like interest on the compensation agreed or awarded, as they would have been required to pay if the provisions of the Act of 1845 specified in the said subsection (6), and the provisions of that Act compliance with which would have been requisite in order to render exercisable by them the powers referred to in that subsection, had been complied with.

4TH SCH.

*Exclusion of provisions of Act of* 1845 *relating to absent parties and interests omitted to be purchased*

9.—(1) Where a notice to treat is deemed by virtue of subsection (2) of section seventy-five of this Act to have been served in respect of any interest, the provisions of the Act of 1845 specified in the following sub-paragraph shall, in relation to the purchase of that interest under the order, be excepted from the incorporation (by virtue of paragraph 1 of the Second Schedule to the Act of 1946) of the Act of 1845 with section sixty-eight of this Act.

(2) The said provisions are sections fifty-eight to sixty-two and sixty-four to sixty-seven (which relate to the mode of ascertaining compensation to absent parties) and sections one hundred and twenty-four to one hundred and twenty-six (which relate to interests which have by mistake been omitted to be purchased).

*Rentcharges and leases affecting relevant land and other land*

10.—(1) Where land consisting or forming part of the relevant land is, together with other land not comprised in the relevant land, charged with a rentcharge, such portion of the rentcharge as may be apportioned under section one hundred and sixteen of the Act of 1845 to the first-mentioned land shall, subject to sub-paragraph (3) of this paragraph, be treated as having been extinguished by virtue of subsection (6) of section seventy-five of this Act on the vesting of that land in the acquiring authority under that subsection.

(2) Where by virtue of the preceding sub-paragraph a portion of a rentcharge is treated as having been extinguished, sections one hundred and fifteen to one hundred and eighteen of the Act of 1845 shall have effect as if the extinguishment had taken place under section one hundred and seventeen of that Act.

(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 sections one hundred and fifteen to one hundred and eighteen shall have effect as if, at the time of the vesting of the relevant land in the acquiring authority under subsection (6) of section seventy-five of this Act, the person entitled to the rentcharge had released that land from the rentcharge on the condition mentioned in section one hundred and sixteen of the Act of 1845; and, in that case, no part of the rentcharge shall be treated as having been extinguished by virtue of the said subsection (6) so far as regards the remaining part of the land charged therewith.

(4) In this paragraph references to a rentcharge include references to any such rent service, chief or other rent, or other payment or incumbrance, as is mentioned in the words introductory to the said sections one hundred and fifteen to one hundred and eighteen.

11. Where land consisting or forming part of the relevant land is, together with other land not comprised in the relevant land, comprised in a lease for a term of years unexpired, section one hundred and nineteen of the Act of 1845 shall have effect in relation thereto

with the substitution, for references therein to the time of the apportionment of rent therein mentioned, of references to the time of the vesting in the acquiring authority of the leasehold interest in the first-mentioned land under subsection (6) of section seventy-five of this Act.

*Miscellaneous*

12. Where any of the relevant land has become vested in the acquiring authority under subsection (6) of section seventy-five of this Act, any person who, in consequence thereof, is relieved from any liability (whether in respect of a rentcharge, rent under a lease, mortgage interest or any other matter) 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 constitute the cause of his being so relieved, or of some 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.

13. Where, at the time of the vesting of an interest in the acquiring authority by virtue of subsection (6) of section seventy-five of this Act, the compensation payable in respect thereof is not finally ascertained, section twelve of the Finance Act, 1895 (which provides for the collection of stamp duty, where property is vested by way of sale by virtue of an Act, within three months from the date of vesting) shall have effect, with respect to the vesting of that interest, with the substitution, for the reference therein to the date of vesting, of a reference to the date on which the compensation has become finally ascertained.

14. Where, after land has become vested in the acquiring authority under subsection (6) of section seventy-five of 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 as trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof, and section sixty-four 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.

15.—(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 subsection (2) of section seventy-five of 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 subsection (6) of the said section seventy-five.

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

Section 92.

## FIFTH SCHEDULE

### ADJUSTMENT OF CLAIM HOLDINGS

### PART I

*Adjustment of claim holdings pledged to Central Land Board as security for development charges*

1.—(1) In this Part of this Schedule references to the pledging of a claim holding to the Central Land Board are references to any transaction whereby—

(*a*) the holder of the claim holding mortgaged it to the Central Land Board as security, or part of the security, for one or more development charges determined, or thereafter to be determined, by the Board, or

(*b*) the holder and the Central Land Board agreed that a development charge determined by the Board should be set off against any payment which might thereafter become payable to the holder by reference to that holding, or

(*c*) the Central Land Board refrained from determining a development charge, which would otherwise have fallen to be determined by them, in consideration of a mortgage of the holding, with or without other claim holdings.

(2) All pledges of claim holdings to the Central Land Board made by the same person, whether or not made at the same time, other than any pledge to which sub-paragraph (1) of paragraph 2 of this Schedule applies, shall for the purposes of this Part of this Schedule be treated collectively as a single pledge made at the time when the last of those pledges was made.

(3) Where a development charge covered by a pledge to the Central Land Board was determined in respect of land consisting of, or forming part of, the area of a claim holding—

(*a*) which was not comprised in the pledge, but

(*b*) whose holder immediately before the time of completion was the person who would, apart from the pledge, have been liable to pay the unpaid balance of the development charge,

then, for the purposes of this Part of this Schedule, that claim holding shall be deemed to have been comprised in the pledge.

(4) In this Part of this Schedule (but without prejudice to the operation of paragraph 10 of the Tenth Schedule to this Act) references to the determination of a development charge in respect of any land are references to a determination of the Central Land Board that the charge was payable in respect of the carrying out of operations in, on, over or under that land, or in respect of the use of that land.

(5) For the purposes of this Part of this Schedule (but without prejudice to the operation of paragraph 10 of the Tenth Schedule to this Act) the amount of a development charge—

(*a*) in a case where the Central Land Board determined that amount as a single capital payment, shall be taken to have been the amount of that payment, and

5TH SCH.

(*b*) in a case where the Board determined that amount otherwise than as a single capital payment, shall be taken to have been the amount of the single capital payment which would have been payable if the Board had determined the amount as such a payment;

and references in this Part of this Schedule to the unpaid balance of a development charge are references to the amount of the charge, if no sum was actually paid to the Board on account of the charge, or if any sum was so paid, are references to the amount of the charge reduced by the amount or aggregate amount of the sum or sums so paid, other than any sum paid by way of interest.

(6) In relation to the pledging of a claim holding to the Central Land Board, references in this Part of this Schedule to a development charge covered by the pledge are references to a development charge the payment of which was secured, or partly secured, by the pledge, or, as the case may be, which was agreed to be set off against any payment which might become payable by reference to that claim holding.

(7) References in this Part of this Schedule to a mortgage of a claim holding do not include a mortgage which was subsequently discharged.

2.—(1) Where a claim holding was pledged to the Central Land Board in accordance with the special arrangements relating to owners of single house plots, that claim holding shall, subject to the next following sub-paragraph, be deemed to have been extinguished as from the time when it was pledged to the Board.

(2) Where a claim holding (in this sub-paragraph referred to as "the original holding") was pledged as mentioned in the preceding sub-paragraph, but was so pledged by reference to a plot of land which did not extend to the whole of the area of the original holding, the preceding sub-paragraph shall not apply, but there shall be deemed to have been substituted for the original holding, as from the time of the pledge, a claim holding with an area consisting of so much of the area of the original holding as was not comprised in that plot of land, and with a value equal to that fraction of the value of the original holding which then attached to so much of the area of the original holding as was not comprised in that plot.

3. Without prejudice to the last preceding paragraph, where a pledge to the Central Land Board comprised one or more claim holdings, and the unpaid balance of the development charge covered by the pledge, or (if more than one) the aggregate of the unpaid balances of the development charges so covered, was equal to or greater than the value of the claim holding, or the aggregate value of the claim holdings, as the case may be, the holding or holdings shall be deemed to have been extinguished as from the time of the pledge.

4. Where a pledge to the Central Land Board comprised only a single claim holding with an area of which every part either consisted of, or formed part of, the land in respect of which some development charge covered by the pledge was determined, and the last preceding paragraph does not apply, the value of that claim

5TH SCH. holding shall be deemed to have been reduced, as from the time of the pledge, by the unpaid balance of the development charge covered by the pledge, or (if more than one) by the aggregate of the unpaid balances of all the development charges covered by the pledge.

5.—(1) The provisions of this paragraph shall have effect in the case of a pledge of one or more claim holdings to the Central Land Board to which neither paragraph 3 nor paragraph 4 of this Schedule applies.

(2) Any claim holding comprised in the pledge with an area of which every part either consisted of, or formed part of, the land in respect of which some development charge covered by the pledge was determined shall be allocated to the development charge in question, or (if more than one) to those development charges collectively.

(3) Any claim holding comprised in the pledge with an area part of which did, and part of which did not, consist of, or form part of, such land as is mentioned in the last preceding sub-paragraph shall be treated as if, at the time of the pledge, the claim holding (in this sub-paragraph referred to as " the parent holding ") had been divided into two separate claim holdings, that is to say—

(*a*) a claim holding with an area consisting of so much of the area of the parent holding as consisted of, or formed part of, such land as is mentioned in the last preceding sub-paragraph, and with a value equal to that fraction of the value of the parent holding which then attached to that part of the area of the parent holding, and

(*b*) a claim holding with an area consisting of the residue of the area of the parent holding, and with a value equal to that fraction of the value of the parent holding which then attached to the residue of the area of the parent holding,

and the claim holding referred to in head (*a*) of this sub-paragraph shall be allocated to the development charge in question, or (if more than one) to those development charges collectively.

(4) Paragraph 3 or paragraph 4 of this Schedule shall then apply in relation to each claim holding (if any) allocated in accordance with sub-paragraph (2) or sub-paragraph (3) of this paragraph to any development charge, or to any development charges collectively, as if the pledge had comprised only that claim holding and had covered only that development charge or those development charges.

(5) If, after the application of the preceding provisions of this paragraph, there remains outstanding any claim holding not allocated in accordance with those provisions, or any claim holding which (having been so allocated) is deemed to have been reduced in value but not extinguished, an amount equal to the aggregate of—

(*a*) the unpaid balance of any development charge covered by the pledge to which no claim holding was so allocated, and

(*b*) the amount (if any) by which the value of any claim holding so allocated which is deemed to have been extinguished

5TH SCH.

falls short of the unpaid balance of the development charge, or the aggregate of the unpaid balances of the development charges, to which it was so allocated,

shall be treated as having been deducted from the value of the claim holding so remaining outstanding, or (if more than one) as having been deducted rateably from the respective values of those claim holdings, and the value of any such holding shall be deemed to have been reduced accordingly as from the time of the pledge.

## PART II

*Adjustment by reference to payments in respect of war-damaged land*

6.—(1) The provisions of this Part of this Schedule shall have effect where a payment under the scheme has become, or becomes, payable in respect of an interest in land, and a claim holding related (or would, apart from this Part of this Schedule, have related) to the like interest in the whole or part of that land, with or without any other land.

(2) In this Part of this Schedule " the scheme " means the scheme made under section fifty-nine of the Act of 1947, " the date of the scheme " means the twelfth day of December, nineteen hundred and forty-nine, and " payment under the scheme " means a payment which has become, or becomes, payable by virtue of the scheme.

(3) In relation to any payment under the scheme " the payment area ", in this Part of this Schedule, means the land in respect of which the payment became or becomes payable, and references to the amount of the payment shall be construed as references to the principal amount thereof, excluding any interest payable thereon in accordance with subsection (3) of section sixty-five of the Act of 1947.

7. If the payment area is identical with the area of the claim holding, then—

(*a*) in the case of a payment of an amount equal to the value of the claim holding, the claim holding shall be deemed to have been extinguished as from the date of the scheme;

(*b*) in the case of a payment of an amount less than the value of the claim holding, the value of the claim holding shall be deemed to have been reduced, as from the date of the scheme, by the amount of the payment.

8.—(1) If the payment area forms part of the area of the claim holding, the holding (in this paragraph referred to as " the parent holding ") shall be treated, as from the date of the scheme, as having been divided into two claim holdings, that is to say—

(*a*) a claim holding with an area consisting of that part of the area of the parent holding which constituted the payment area, and with a value equal to that fraction of the value of the parent holding which attached to that part of the area of the parent holding, and

5TH SCH.

(*b*) a claim holding with an area consisting of the residue of the area of the parent holding, and with a value equal to that fraction of the value of the parent holding which attached to the residue of the area of the parent holding.

(2) Where the preceding sub-paragraph applies, the last preceding paragraph shall have effect in relation to the claim holding referred to in head (*a*) of the preceding sub-paragraph as if it were the parent holding.

9. If the payment area includes the area of the claim holding together with other land, paragraph 7 of this Schedule shall apply as if—

(*a*) the payment area had been identical with the area of the claim holding, but

(*b*) the amount of the payment had been so much of the actual amount thereof as might reasonably be expected to have been attributed to the area of the claim holding if, under the scheme, the authority determining the amount of the payment had been required (in accordance with the same principles as applied to the determination of that amount) to apportion it between the area of the claim holding and the rest of the payment area.

10. If the payment area includes part of the area of the claim holding together with other land not comprised in the area of the claim holding—

(*a*) paragraph 8 of this Schedule shall apply as if the part of the payment area comprised in the area of the claim holding had been the whole of the payment area, and

(*b*) the last preceding paragraph shall apply as if the part of the area of the claim holding comprised in the payment area had been the whole of the area of the claim holding

## PART III

### *Adjustment in cases of partial disposition of claim holdings*

11. The provisions of this Part of this Schedule shall have effect where, by virtue of a disposition of part of the benefit of an established claim, not being a mortgage made otherwise than by way of assignment (in this Part of this Schedule referred to as " the relevant disposition "), different persons became entitled to different parts of the benefit of that established claim.

12. As from the date of the relevant disposition, each of those different parts shall be treated as having constituted a separate claim holding.

13. The area and value of any such separate claim holding at any time after the relevant disposition shall be taken to have been such as may, in the requisite manner, be or have been determined to be just and appropriate in all the circumstances.

14. In the last preceding paragraph the reference to determination in the requisite manner of the area and value of a claim holding is a reference to the determination thereof on the occasion of an

apportionment affecting that holding which fell or falls to be made for any of the purposes of the Act of 1954, of Part VI of this Act or of this Schedule, being a determination made—

(*a*) by the authority making that apportionment, or

(*b*) where, under the Act of 1954 or Part VI of this Act, that authority's findings were or are referred to the Lands Tribunal, by that Tribunal,

having regard in particular to the principles mentioned in the next following paragraph.

15.—(1) The said principles are those set out in the following provisions of this paragraph.

(2) The aggregate of the values of all claim holdings representing parts of the benefit of the same established claim must not exceed the amount of the established claim.

(3) Subject to the last preceding sub-paragraph, where a claim holding representing part only of the benefit of an established claim was pledged to the Central Land Board, otherwise than as mentioned in paragraph 2 of this Schedule, and by virtue of Part I of this Schedule the value of that claim holding is deemed to have been reduced by reference to an amount due by way of development charge, the value of that holding at the time of the pledge is not to be taken to have been less than the amount credited for the purposes of the pledge by reference to the holding.

(4) In the case of the claim holding representing the part of the benefit of an established claim which was the subject of the relevant disposition, if it was not a claim holding to which sub-paragraph (5) of this paragraph applies,—

(*a*) the area of that claim holding is to be taken to be the claim area of that established claim, less the area of any claim holding to which the said sub-paragraph (5) applies which represents part of the benefit of the same established claim, and

(*b*) the value of the claim holding immediately after the relevant disposition is, subject to sub-paragraphs (2) and (3) of this paragraph, to be taken to have been that part of the amount of the established claim to which the holder purported to become entitled under the terms of the relevant disposition.

(5) Where any person who was entitled to a claim holding representing part only of the benefit of an established claim—

(*a*) at any time while so entitled was also entitled to the interest in land to which the established claim related in so far as that interest subsisted in part only of the claim area, and

(*b*) became entitled to both that holding and that interest in such circumstances that the authority making the apportionment in question or the Lands Tribunal, as the case may be, were or are satisfied that the holding and the interest were intended to relate to one another,

the area of that claim holding is to be taken to be that part of the claim area, and the value of the holding immediately after the

5TH SCH.

relevant disposition (however that or any other disposition affecting the holding was expressed, but subject to sub-paragraphs (2) to (4) of this paragraph) is to be taken to have been an amount equal to so much of the amount of the established claim as might reasonably be expected to have been attributed to that part of the claim area if the authority determining the amount of that established claim had been required to apportion it, in accordance with the same principles as applied to its determination, between that part and the residue of the claim area.

16. Paragraph 1 of this Schedule shall apply for the purposes of this Part of this Schedule as it applies for the purposes of Part I thereof.

## PART IV

### *Adjustment in respect of payments under Part I of Act of* 1954

17. The provisions of this Part of this Schedule shall have effect where, by virtue of Part I of the Act of 1954, a payment became or becomes payable in respect of a claim holding.

18. Subject to the following provisions of this Part of this Schedule, if either—

(*a*) the principal amount of the payment was or is not less than the value of the claim holding, or

(*b*) the payment (whatever its amount) became or becomes payable under Case D (that is to say, by virtue of section eight of the Act of 1954, which related to cases where a claim holding had been disposed of for valuable consideration),

the claim holding shall be deemed to have been extinguished ; and if the principal amount of the payment (not being a payment under Case D) was or is less than the value of the claim holding, the value of that holding shall be deemed to have been reduced by the principal amount of the payment.

19. The last preceding paragraph shall apply where two or more payments under Part I of the Act of 1954 were or are payable in respect of the same claim holding, with the substitution, for references to the principal amount of the payment, of references to the aggregate of the principal amounts of the payments.

20.—(1) Where one or more relevant acts or events have occurred in relation to a claim holding (in this paragraph referred to as " the parent holding ") and any such act or event did not extend to the whole of the area of the parent holding, then, for the purposes of the preceding provisions of this Part of this Schedule, and for the purposes of Part V of this Schedule and of Part VI of this Act,—

(*a*) the parent holding shall be treated as having been divided, immediately before the time of completion, into as many separate claim holdings, with such areas, as may be necessary to ensure that, in the case of each holding, either any relevant act or event extending to the area of that holding extended to the whole thereof or no relevant act or event extended to the area of that holding ;

(*b*) the value of each of the separate holdings respectively shall be taken to have been that fraction of the value of the parent holding which then attached to the part of the area of the parent holding constituting the area of the separate holding; and 5TH SCH.

(*c*) the portion of the amount of any payment under Part I of the Act of 1954 which, by the authority determining that amount, was or is apportioned to the area of any of the separate claim holdings shall be taken to have been a payment payable under the said Part I in respect of that claim holding.

(2) In this paragraph "relevant act or event", in relation to a claim holding, means an act or event whereby, in accordance with the provisions of Part I of the Act of 1954, one or more payments became or become payable in respect of that claim holding.

21. For the purposes of this Part of this Schedule—

(*a*) a payment shall be treated as having become payable notwithstanding that the right to receive the payment was extinguished by subsection (2) of section fourteen of the Act of 1954 (which enabled the Central Land Board to set off payments against liabilities in respect of development charges);

(*b*) any reduction of the principal amount of a payment by virtue of that subsection shall be disregarded; and

(*c*) where in accordance with subsection (3) of section fourteen or subsection (6) of section fifty-eight of the Act of 1954 (which provided for cases of failure to apply for a payment within the appropriate period) an amount was determined as being the principal amount of a payment to which a person would have been entitled as mentioned in those subsections respectively, that payment shall be treated as if it had become due and as if the principal amount thereof had been the amount so determined.

22.—(1) Where in accordance with the preceding provisions of this Part of this Schedule a claim holding is deemed to have been extinguished or the value of a claim holding is deemed to have been reduced, the extinguishment or reduction, as the case may be, shall be deemed to have had effect immediately before the time of completion.

(2) References in this Part of this Schedule to the value of a claim holding are references to the value thereof immediately before the time of completion.

## PART V

### *Adjustment in respect of compensation under Part V of Act of* 1954

23. Where compensation under Part V of the Act of 1954 became or becomes payable by reference to a claim holding, then (subject to the following provisions of this Part of this Schedule) for the purposes of Part VI of this Act—

5TH SCH.

(*a*) if the principal amount of the compensation was or is equal to the value of the claim holding at the time of completion (ascertained apart from this Part of this Schedule) the claim holding shall be deemed to have been extinguished immediately before that time;

(*b*) if the principal amount of the compensation was or is less than the value of the claim holding at that time (ascertained apart from this Part of this Schedule) the value of the claim holding shall be deemed to have been reduced immediately before that time by the principal amount of the compensation.

24. Where compensation became or becomes payable as mentioned in the last preceding paragraph, and at any time an amount became or becomes recoverable in respect thereof under section twenty-nine of the Act of 1954, as applied by section forty-six of that Act, or under section one hundred and thirteen of this Act as applied by paragraph 27 of the Fourteenth Schedule thereto to compensation under Part V of the Act of 1954, then, for the purposes of Part VI of this Act, the last preceding paragraph shall have effect as from that time as if the principal amount of that compensation had been reduced by a sum equal to seven-eighths of the amount which so became or becomes recoverable.

25. Where, in the case of a claim holding (in this paragraph referred to as "the parent holding"), compensation under Part V of the Act of 1954 became or becomes payable in respect of depreciation of the value of an interest in land by one or more planning decisions or orders, and any such decision or order did not extend to the whole of the area of the parent holding, then, both for the purposes of the preceding provisions of this Part of this Schedule and for the purposes of Part VI of this Act,—

(*a*) the parent holding shall be treated as having been divided immediately before the time of completion into as many separate claim holdings, with such areas, as may be necessary to ensure that, in the case of each holding, either any such decision or order extending to the area of that holding extended to the whole thereof or no such decision or order extended to the area of that holding;

(*b*) the value of each of the separate holdings respectively shall be taken to have been that fraction of the value of the parent holding which then attached to the part of the area of the parent holding constituting the area of the separate holding; and

(*c*) the portion of the amount of any such compensation which, by the authority determining that amount, was or is apportioned to the area of any of the separate claim holdings shall be taken to have been compensation payable under Part V of the Act of 1954 in respect of that claim holding.

## PART VI

### *Supplementary provisions*

26. Where in accordance with any of the provisions of this Schedule a part of the benefit of an established claim constituted

a separate claim holding, the interest in land to which that claim holding related— 5TH SCH.

(*a*) if the established claim related to the fee simple of the claim area, shall be taken to have been the fee simple of the area of the claim holding;

(*b*) if the established claim related to a leasehold interest, shall be taken to have been that leasehold interest in so far as it subsisted in the area of the claim holding.

27. Where in accordance with any of the provisions of this Schedule a claim holding (in this paragraph referred to as "the parent holding") is to be treated as divided into two or more claim holdings, a person who was the holder of one of those holdings shall be treated as having been the holder thereof at any time when he was the holder of the parent holding.

28. Expressions used in this Schedule and in Part VI of this Act have the same meanings in this Schedule as in that Part of this Act.

29. In this Schedule "the holder", in relation to a claim holding, means the person for the time being entitled to the holding, or, in the case of a holding subject to a mortgage made otherwise than by way of assignment, means the person who would for the time being have been entitled to the holding if it had not been mortgaged, and "the time of completion" means the time when, in accordance with section ninety-two of this Act, the adjustment of claim holdings is deemed to have been completed.

## SIXTH SCHEDULE

Section 95.

### CALCULATION OF VALUE OF PREVIOUS DEVELOPMENT OF LAND

1. Where for the purposes of section ninety-five of this Act the value of any development initiated before a time referred to in that section has to be ascertained with reference to that time, the value of the development shall be calculated in accordance with the provisions of this Schedule.

2. Subject to the following provisions of this Schedule, the value shall be calculated by reference to prices current at the time in question—

(*a*) as if the development had not been initiated, but the land had remained in the state in which it was immediately before the development was initiated, and

(*b*) on the assumption that (apart from the provisions of Part III of this Act or the provisions of the Act of 1947, as the case may be) the development could at that time lawfully be carried out,

and shall be taken to be the difference between the value which in those circumstances the land would have had at that time if planning permission for that development had been granted unconditionally immediately before that time and the value which in those circumstances the land would have had at that time if planning permission for that development had been applied for and refused immediately before that time, and it could be assumed

6TH SCH.

that planning permission for that development, and any other new development of that land, would be refused on any subsequent application.

3. If the development involved the clearing of any land, the reference in sub-paragraph (*a*) of the last preceding paragraph to the state of the land immediately before the development shall be construed as a reference to the state of the land immediately after the clearing thereof but before the carrying out of any other operations.

4.—(1) If the development was initiated in pursuance of planning permission granted subject to conditions, paragraph 2 of this Schedule shall apply as if the reference to the granting of permission unconditionally were a reference to the granting of permission subject to the like conditions.

(2) If the permission referred to in the preceding sub-paragraph was granted subject to conditions which consisted of, or included, a requirement expressed by reference to a specified period, the reference in that sub-paragraph to the like conditions shall be construed, in relation to the condition imposing that requirement, as a reference to a condition imposing the like requirement in respect of a period of like duration beginning at the time in question.

5. In the application of the preceding provisions of this Schedule to development initiated, but not completed, before the time in question, references to permission for that development shall be construed as references to permission for so much of that development as had been carried out before that time.

Section 96.

## SEVENTH SCHEDULE

### APPORTIONMENT OF UNEXPENDED BALANCE OF ESTABLISHED DEVELOPMENT VALUE

*Determination of relevant area*

1.—(1) Where, in the case of a compulsory acquisition to which section ninety-six of this Act applies, any area of the relevant land which, immediately before the relevant date, has an unexpended balance of established development value does not satisfy the conditions set out in the next following sub-paragraph, that area shall be treated as divided into as many separate areas as may be requisite to ensure that each of those separate areas satisfies those conditions.

(2) The conditions referred to in the preceding sub-paragraph are—

(*a*) that all the interests (other than excepted interests) subsisting in the area in question subsist in the whole of that area, and

(*b*) that any rentcharge charged on that area is charged on the whole of it.

(3) Any area of the relevant land which has an unexpended balance of established development value and which complies with the conditions set out in the last preceding sub-paragraph is in this Schedule referred to, in relation to the interests subsisting therein, as "the relevant area", and the subsequent provisions of this

Schedule shall have effect separately in relation to each relevant area. 7TH SCH.

*Preliminary calculations*

2. There shall be calculated the amount referable to the relevant area of the rent which might reasonably be expected to be reserved if the relevant land were to be let on terms prohibiting the carrying out of any new development but permitting the carrying out of any other development; and the amount so calculated is in this Schedule referred to as "the existing use rent".

3.—(1) If, in the case of an interest in fee simple which is subject to a rentcharge, or in the case of a tenancy, so much of the rent reserved under the rentcharge or tenancy as is referable to the relevant area exceeds the existing use rent, there shall be calculated the capital value of the right to receive, for the period of the remainder of the term of the rentcharge or tenancy, an annual payment equal to the excess; and any amount so calculated in the case of any interest is in this Schedule referred to as "the rental liability" of that interest.

(2) Where the interest in fee simple is subject to more than one rentcharge, then, for the purposes of the preceding sub-paragraph, in relation to any period included in the term of two or more of those rentcharges, those two or more rentcharges shall be treated as a single rentcharge charged on the relevant area for the duration of that period, with a rent reserved thereunder of an amount equal to the aggregate of so much of their respective rents as is referable to the relevant area.

4. In the case of any interest in reversion—

(*a*) there shall be calculated the capital value, as at the time immediately before the relevant date, of the right to receive a sum equal to the unexpended balance of established development value of the relevant area at that time, but payable at the end of the tenancy upon the termination of which the interest in question is immediately expectant; and the amount so calculated in the case of any interest is in this Schedule referred to as "the reversionary development value" of that interest;

(*b*) if so much of the rent reserved under the said tenancy as is referable to the relevant area exceeds the existing use rent, there shall also be calculated the capital value as at the said time of the right to receive, for the period of the remainder of the term of that tenancy, an annual payment equal to the excess; and any amount so determined in the case of any interest is in this Schedule referred to as "the rental increment" of that interest.

*Apportionment of unexpended balance between interests*

5. Where two or more interests (other than excepted interests) subsist in the relevant area, the portion of the unexpended balance of established development value of the relevant area attributable

7TH SCH.

to each of those interests respectively shall be taken to be the following, that is to say—

(*a*) in the case of the interest in fee simple, an amount equal to the reversionary development value of that interest, less the amount (if any) by which any rental liability of that interest exceeds any rental increment thereof;

(*b*) in the case of a tenancy in reversion, an amount equal to the reversionary development value of that tenancy, less the aggregate of—

(i) the reversionary development value of the interest in reversion immediately expectant upon the termination of that tenancy, and

(ii) the amount (if any) by which any rental liability of that tenancy exceeds any rental increment thereof;

(*c*) in the case of a tenancy other than a tenancy in reversion, the remainder (if any) of the said balance after the deduction of the aggregate of—

(i) the reversionary development value of the interest in reversion immediately expectant upon the termination of that tenancy, and

(ii) any rental liability of that tenancy.

*Application of Schedule to past acquisitions*

6. In relation to any compulsory acquisition to which section ninety-six of this Act applies, where the relevant date was a date before the commencement of this Act, the preceding provisions of this Schedule shall have effect with the necessary modifications.

*Interpretation*

7. In this Schedule—

(*a*) "the relevant land", in relation to a compulsory acquisition to which section ninety-six of this Act applies, means the land in which the interest acquired subsisted or subsists;

(*b*) "tenancy" does not include an excepted interest;

(*c*) any reference to an interest or tenancy in reversion does not include an interest or tenancy in reversion immediately expectant upon the termination of an excepted interest;

(*d*) "the relevant date" and "excepted interest" have the same meanings as in section ninety-six of this Act; and

(*e*) other expressions have the same meanings as in Part VI of this Act.

## EIGHTH SCHEDULE

PROVISIONS OF ACT REFERRED TO IN SECTIONS 187, 196, 197, 203 TO 205, 215 AND 217

1.—(1) Sections 1 to 12; section 13, except subsection (7); section 14, except subsection (6); subsection (1) of section 17; sections 18 to 21; section 22, with the omission, in subsection (4), of the references to sections 15 and 16; section 23, with the omission, in subsection (6), of the reference to section 16; section 24; sections 27

8TH SCH.

to 39; sections 41 to 87; section 118; section 119, with the omission, in subsection (2), of the reference to sections 120 to 122; section 123, except subsection (5); sections 124 to 136; subsection (1) of section 137; sections 153 to 175; in section 176, subsection (1), with the omission of paragraphs (*d*) and (*e*); section 177, except subsection (6); section 178; section 180; section 183, with the omission, in subsection (3), of the references to section 179; section 184; subsection (1) of section 185; sections 186 to 189; sections 196 to 198; in section 199, subsection (1) (the reference, in paragraph (*b*), to Part III being construed as not referring to sections 15 and 16) and subsections (2) to (4) and subsection (6); section 200; section 205, except paragraph (*a*) of subsection (2) and subsection (4); subsections (2) and (3) of section 206; section 207; section 210; section 211, except subsection (2); section 212; section 215; section 219; the 1st, 2nd, 3rd and 4th Schedules; the 9th Schedule, except paragraphs 13 and 14; the 10th Schedule, except paragraphs 9 and 10; and the 11th and 13th Schedules.

(2) Any other provisions of this Act in so far as they apply, or have effect for the purposes of, any of the provisions specified in the preceding sub-paragraph.

2.—(1) Sections 25 and 26; section 40; sections 88 to 117; sections 120 to 122; subsection (5) of section 123; subsection (2) of section 137; subsections (2) to (4) of section 185; sections 190 to 192; section 194; section 201; subsection (4) of section 205; subsection (1) of section 206; section 208; subsection (2) of section 211; the 5th and 6th Schedules; paragraph 13 of the 9th Schedule; and paragraphs 9 and 10 of the 10th Schedule.

(2) Any other provisions of this Act in so far as they apply, or have effect for the purposes of, any of the provisions specified in the preceding sub-paragraph.

3.—(1) Subsection (6) of section 14; sections 15 and 16; subsections (2) and (3) of section 17; section 96, with the omission of paragraph (*b*) of subsection (2) and paragraph (*b*) of subsection (6); section 97 (construed as if, in section 96, those paragraphs were omitted); sections 138 to 151; in section 176, subsection (1), with the omission of paragraphs (*a*) to (*c*), and subsections (2) to (4); subsection (6) of section 177; section 179; sections 181 and 182; subsection (3) of section 183; in section 199, subsection (1) (construed as if the reference to Part III were a reference only to sections 15 and 16) and subsection (5); in section 205, subsection (2), with the omission of paragraph (*b*); the 7th Schedule; and paragraph 14 of the 9th Schedule.

(2) Any other provisions of this Act in so far as they apply, or have effect for the purposes of, any of the provisions specified in the preceding sub-paragraph.

## NINTH SCHEDULE

Section 202.

### PROVISIONS RELATING TO LONDON

1. The London County Council is the local planning authority for London.

2. The following provisions of this Act, that is to say, sections sixty-eight, seventy-four, the provisions of Part VIII relating to

9TH SCH. purchase notices, and section two hundred and seven, shall have effect as if references therein to the council of the county borough or county district in which the land is situated—

(*a*) in relation to land in the City, were references to the Common Council, and

(*b*) in relation to land elsewhere in London, were references to the London County Council.

3. The following provisions of this Act, that is to say, sections thirty-one to thirty-three, sixty-nine, seventy-one, one hundred and fifty-four and one hundred and eighty-nine, shall have effect in relation to land in London as if any reference therein to the council of a county borough or county district included a reference to the Common Council and to the council of any metropolitan borough.

4. The power of a local planning authority to make agreements under section thirty-seven of this Act may be exercised also—

(*a*) in relation to land in the City, by the Common Council, and

(*b*) in relation to land in a metropolitan borough, by the council of that borough with the consent of the London County Council,

and references in that section to a local planning authority shall be construed accordingly.

5. The council of a metropolitan borough shall not, except with the consent of the London County Council, be authorised to acquire land compulsorily under subsection (2) of section sixty-eight of this Act.

6.—(1) Without prejudice to the powers conferred by section sixty-seven of this Act, or by section sixty-eight thereof as modified by the last preceding paragraph, if the Minister is satisfied that it is expedient in the public interest that any land within a metropolitan borough (whether designated by a development plan as subject to compulsory acquisition or not) should be acquired by the council of that borough for the purpose of providing a public open space, he may authorise that council to acquire that land compulsorily.

(2) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply to the compulsory acquisition of land under the preceding sub-paragraph, and accordingly shall have effect as if that sub-paragraph had been in force immediately before the commencement of that Act.

(3) Before submitting to the Minister a compulsory purchase order under this paragraph, the council of a metropolitan borough shall consult with the London County Council.

(4) Any reference in this Act to Part V thereof shall be construed as including a reference to the preceding provisions of this paragraph.

7. References in this Act to any of the provisions of sections one hundred and sixty-three to one hundred and sixty-six of the Local Government Act, 1933, shall, in relation to land in London, be construed as references respectively to the corresponding provisions of sections one hundred and six to one hundred and nine of the London Government Act, 1939.

9TH SCH.

8.—(1) In relation to land in the City, the London County Council may delegate to the Common Council any of their functions under regulations made by virtue of section thirty-four of this Act with respect to the control of advertisements.

(2) The preceding sub-paragraph shall have effect without prejudice to the provisions of section twelve of the City of London (Various Powers) Act, 1958 (which relates to the delegation of planning powers to the Common Council) or of any scheme made thereunder, whether made before or after the commencement of this Act.

9. Without prejudice to the last preceding paragraph or to any such provisions as are mentioned in sub-paragraph (2) thereof, the London County Council shall consult with the Common Council—

(*a*) before submitting to the Minister any proposals for altering or adding to the development plan relating to land in the City;

(*b*) before determining any application for planning permission relating to any such land;

(*c*) before making a tree preservation order or building preservation order affecting any such land.

10. In relation to land in any metropolitan borough, the London County Council may delegate to the council of that borough any of their functions under regulations made under section thirty-four of this Act with respect to the control of advertisements.

11. The London County Council shall consult with the council of a metropolitan borough—

(*a*) before submitting to the Minister proposals for altering or adding to the development plan relating to any land in that borough;

(*b*) before determining any application for planning permission for the development of any such land, being an application of any such class as may be prescribed by the development order;

(*c*) before making a tree preservation order or a building preservation order affecting any such land.

12.—(1) The class of applications for planning permission prescribed by a development order for the purposes of sub-paragraph (*b*) of the last preceding paragraph shall be such class as appears to the Minister to involve matters of principle.

(2) Where an application of any class so prescribed is referred to the Minister for determination in pursuance of directions given by him under section twenty-two of this Act, the London County Council shall give notice to that effect to the council of the metropolitan borough in which the land to which the application relates is situated; and the Minister shall, in dealing with the application, take into account any representations made to the London County Council by the council of that borough.

9TH SCH.

13.—(1) In relation to land in the City, the provisions of this Act specified in paragraph 2 of the Eighth Schedule thereto shall have effect as if references to a county borough or county district were references to the City and references to the council of a county borough or county district were references to the Common Council.

(2) In relation to land elsewhere in London, those provisions shall have effect as if references to a county borough or county district were references to London and references to the council of a county borough or county district were references to the London County Council.

14.—(1) In the application to London of sections one hundred and thirty-eight to one hundred and fifty-one of this Act—

(*a*) any reference to a highway authority or a local highway authority shall be construed as including a reference to the London County Council; and

(*b*) in paragraph (*e*) of subsection (1) of section one hundred and thirty-eight of this Act, the reference to the provisions of Part X of the Highways Act, 1959, shall be construed as a reference to those provisions as modified by the Twentieth Schedule to that Act.

15.—(1) The provisions of this paragraph shall have effect in relation to any land in London which is defined by a development plan—

(*a*) as the site of a proposed road, or

(*b*) as land required for the widening of an existing road which is of less than byelaw width,

and is designated by the plan as land to which this paragraph applies.

(2) The appropriate council may at any time by order declare the land (together with any land forming part of any such existing road as is mentioned in the preceding sub-paragraph) to be a private street, and thereupon the land shall be deemed to have been dedicated to the public and to be a private street:

Provided that, except with the consent of all persons interested in the land, no such order shall be made by the appropriate council in relation to land which has not been acquired by them at the date of the order, other than land forming part of any such existing road.

(3) In relation to land which is deemed to be a private street by virtue of a declaration under the last preceding sub-paragraph,—

(*a*) if it is land in the City, the provisions of sections one hundred and twenty-six to one hundred and twenty-eight of the City of London Sewers Act, 1848, and any provisions of the City of London Sewers Acts, 1848 to 1897, which relate to those sections, or

(*b*) if it is land elsewhere in London, the provisions of section one hundred and five of the Metropolis Management Act, 1855, section seventy-seven of the Metropolis Management Amendment Act, 1862, and the Metropolis Management Act, 1862, Amendment Act, 1890, and any provisions of

the Metropolis Management Acts, 1855 to 1893, which relate to those provisions, 9TH SCH.

shall apply, subject to such exceptions, adaptations and modifications as may be prescribed by regulations made under this Act, as if the land were a street to which those provisions respectively apply.

(4) Regulations made for the purposes of the last preceding sub-paragraph shall make provision for securing—

(*a*) that the amount of the expenses incurred in the execution of street works charged under the provisions referred to in that sub-paragraph on the owners of adjoining land shall not exceed the amount which would, at the date of the commencement of the works, have been the cost of the execution of street works in the course of the construction, widening or improvement, if it had been carried out so as to comply with the provisions of any byelaws, regulations or other enactments in force in the district, and, with respect to matters for which no such provision is made, so as to comply with such requirements as would, at the date of the commencement of the works, have been imposed by the highway authority as a condition of declaring the street to be a highway repairable by the inhabitants at large;

(*b*) that, as soon as the street has been made up or widened by or to the satisfaction of the appropriate council, it shall become a highway repairable by the inhabitants at large;

(*c*) that no expenses incurred in the execution of any street works shall be recoverable against agricultural land or buildings until the land or buildings cease to be agricultural land or buildings;

(*d*) that no expenses incurred in the execution of street works for the purpose of making a new street shall be recoverable in respect of any land (whether the site of a building or not) unless and until access is provided for, and used by, persons or vehicles from that land to the new street.

(5) Regulations made for the purposes of sub-paragraph (3) of this paragraph—

(*a*) may make provision whereby, in respect of street works carried out by the appropriate council, expenses incurred by a local authority in the construction of sewers in or under the land (being expenses incurred after the date on which the land is defined and designated as mentioned in sub-paragraph (1) of this paragraph, but before it is declared to be a private street under sub-paragraph (2) thereof) may be included in the expenses recoverable as mentioned in the last preceding sub-paragraph; and

(*b*) may provide for authorising the appropriate council to enter upon any land adjoining the street for the purpose of executing street works on land comprised in the street.

(6) The references in sub-paragraph (3) of this paragraph to the enactments therein mentioned shall be construed as including references to those enactments as amended by any other local Act, and to any local Act making provision corresponding with the provisions

9TH SCH. of those enactments, or corresponding with the provisions of sections one hundred and seventy-four to one hundred and eighty-eight of the Highways Act, 1959; and the power of the Minister to make regulations for the purposes of this paragraph shall include power to make special regulations with respect to any district in which such a local Act is in force.

(7) In this paragraph—

"the appropriate council" in relation to land in the City means the Common Council, and in relation to land in a metropolitan borough means the council of that borough;

"byelaw width", in relation to a road, means the width required by any byelaws, regulations or other enactments regulating the construction of streets in the area in which the road is situated;

"construction" and "improvement", in relation to a street, include the planting, laying out, maintenance and protection of trees, shrubs and grass margins in and beside the street;

"street works" means the sewering, levelling, paving, metalling, flagging, channelling and making good a street or part of a street and providing proper means of lighting for it.

16. Section ten of the Development and Road Improvement Funds Act, 1909 (which enables the Minister of Transport to authorise the construction of new roads in respect of which advances are made under that Act and provides for the expenses of the construction, and for the maintenance, of such roads) shall apply in relation to the construction of a new road by a local highway authority on land defined by a development plan as the site of a proposed road, or on any other land acquired by or transferred to them under Part V of this Act, as if the road were a road in respect of the construction of which an advance were made to that authority under that section.

17. Notwithstanding anything in section eleven of the London County Council (Loans) Act, 1955, in the case of money borrowed by the London County Council for the purpose of the discharge of their functions under the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto, the manner in which the Council may borrow shall include borrowing from the Public Works Loan Commissioners in accordance with the Public Works Loans Acts, 1875 to 1882.

18. In this Schedule (except in this paragraph) "London" means the administrative county of London, "the City" means the City of London and "the Common Council" means the Common Council of the City of London.

Section 209.

## TENTH SCHEDULE

### DEVELOPMENT CHARGES

1. This Schedule applies to any determination under Part VII of the Act of 1947 that a development charge was payable in respect of the carrying out of operations in, on, over or under land, or in respect of the use of land, where the development charge in question or part thereof for the time being remains undischarged and a person is or may become liable in respect thereof.

2.—(1) The Minister may at any time, on application made to him in that behalf in accordance with regulations under this Act by the person entitled to an interest in land to which such a determination relates, vary the determination in such manner as appears to him to be appropriate having regard to any change of circumstances since the determination was made, including the development, after the determination, of adjacent land in accordance with planning permission granted otherwise than in accordance with the provisions of the development plan:

Provided that the Minister shall not vary any such determination so as to increase the amount of the development charge payable thereunder.

(2) Where the Minister varies a determination under the preceding sub-paragraph, he may amend, discharge or release any covenants or charges made or given in respect of the determination, or repay any sums previously paid thereunder, so far as may be required in order to give effect to the variation.

3. Where, in the case of a determination to which this Schedule applies,—

(*a*) planning permission for the carrying out of operations, or the institution or continuance of a use, to which the determination relates is revoked by an order made under section twenty-seven of this Act, or

(*b*) an order is made under section twenty-eight of this Act requiring the removal of any buildings or works erected or constructed in carrying out those operations, or requiring the discontinuance of that use, as the case may be, or

(*c*) the whole of the land to which the determination relates is compulsorily acquired under this or any other Act,

the determination, and any covenants or charges made or given in respect thereof, shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder.

4. Where, in the case of a determination to which this Schedule applies,—

(*a*) planning permission for the carrying out of the operations, or for the institution or continuance of the use, to which the determination relates is modified by an order made under section twenty-seven of this Act, or

(*b*) an order is made under section twenty-eight of this Act requiring the alteration of any buildings or works erected or constructed in the carrying out of those operations, or imposing conditions on the continuance of that use, as the case may be, or

(*c*) part (but not the whole) of the land to which the determination relates is compulsorily acquired under this or any other Act,

the Minister shall, on application made to him in accordance with regulations under this Act, vary the determination, and amend, discharge or release any covenants or charges made or given in respect thereof, so far as may be just in consequence of the order or acquisition, as the case may be.

10TH SCH.

5. Where compensation is payable under Part VII of this Act in consequence of any such order as is mentioned in sub-paragraph (*a*) or sub-paragraph (*b*) of paragraph 3 or paragraph 4 of this Schedule, then in calculating for the purposes of the compensation any depreciation of the value of an interest in the land to which the order relates, or any other loss or damage sustained by a person interested in that land, regard shall be had to the preceding provisions of this Schedule and to anything done by the Minister thereunder, or done by the Minister or the Central Land Board under section seventy-three of the Act of 1947.

6. Where, in the case of a determination to which this Schedule applies, compensation is payable under Part VII of this Act in consequence of any such order as is mentioned in the last preceding paragraph, or where the whole or part of the land to which the determination relates is compulsorily acquired under this or any other Act, then if any sums have been paid by way of development charge in accordance with that determination, the Minister shall pay to the authority or person by whom compensation is payable in consequence of the order, or in respect of the compulsory acquisition, as the case may be, a contribution towards that compensation, representing such proportion of the sums so paid by way of development charge as may be agreed between the Minister and that authority or person, or, failing agreement, as may be determined by the Minister, to be appropriate in all the circumstances of the case.

7. Section one hundred and nineteen of this Act shall apply for the purposes of the preceding provisions of this Schedule and shall accordingly have effect as if those provisions were included among the provisions of sections one hundred and twenty to one hundred and twenty-two applied (with modifications) by subsection (2) of section one hundred and nineteen.

8. Where a determination to which this Schedule applies was made by an order under section seventy-four of the Act of 1947 (which related to development carried out in contravention of Part VII of that Act) and, by virtue of subsection (2) of that section, an interest in land was charged with the payment of any sums, that charge shall be deemed to be a land charge of Class A within the meaning of the Land Charges Act, 1925; and the Minister shall, for the purposes of enforcing it, have the same powers and remedies under the Law of Property Act, 1925, and otherwise as he would have had if he were a mortgagee by deed having powers of sale and lease and of appointing a receiver.

9. Where a determination to which this Schedule applies was in respect of the winning and working of minerals over a period ending on or after the first day of January, nineteen hundred and fifty-five, the Minister shall, on application made to him in that behalf in accordance with regulations under this Act, vary the determination, and amend, discharge or release any covenants or charges made or given in respect thereof, in such manner as appears to him appropriate for limiting the development charge to the winning and working of the minerals within so much of that period as preceded that day, and shall repay any sums paid thereunder so far as may be requisite for giving effect to the variation.

10TH SCH.

10.—(1) For the purposes of the provisions of Part VI of this Act, and of the Fifth Schedule thereto, and of the last preceding paragraph, a development charge shall be deemed not to have been determined if—

(*a*) the determination thereof ceased to have effect by virtue of subsection (2) of section seventy-three of the Act of 1947 or ceases to have effect by virtue of paragraph 3 of this Schedule, or

(*b*) by virtue of subsection (1) of section one of the Town and Country Planning Act, 1953, the charge was not payable, or

(*c*) under subsection (5) of the said section one, any sum paid in respect of the charge became repayable.

(2) For the purposes mentioned in the preceding sub-paragraph a development charge shall be deemed to have become payable notwithstanding any agreement of the Central Land Board or of the Minister to a postponement of the payment of the charge, if the whole or part of the charge would have been payable but for that agreement.

(3) In the provisions of this Act mentioned in sub-paragraph (1) of this paragraph references to a determination that a development charge was payable, or as to the amount of a development charge, shall, in a case where the determination was subsequently varied, be construed as references to the determination as so varied.

11.—(1) References in this Schedule to the carrying out of operations include references to the retention on land of buildings or works which have been erected or carried out in accordance with planning permission granted for a limited period.

(2) Any reference in this Schedule to the compulsory acquisition of land includes a reference to the acquisition of land by agreement by an authority or person who has power or can be authorised to acquire it compulsorily.

## ELEVENTH SCHEDULE

Section 217.

ENACTMENTS EXCEPTED FROM S. 217 (5)

1. Section five of the Roads Improvement Act, 1925.

2. Section one hundred and seven of the Public Health Act, 1936.

3. Section one hundred and forty of the Public Health (London) Act, 1936.

4. The following provisions of the Highways Act, 1959, that is to say, subsections (1), (2), (5) and (8) to (10) of section seventy-two, section seventy-three, except subsection (5) thereof, sections one hundred and fifty-nine, one hundred and sixty-three and one hundred and sixty-six, subsections (2) and (4) of section one hundred and seventy, section two hundred and seventeen, subsection (7) of section two hundred and twenty-two, subsections (5) and (7) of section two hundred and sixty-six, and the Ninth Schedule.

11TH SCH.

5. The following further provisions of the Highways Act, 1959, that is to say—

(*a*) section one hundred and fifty-eight and subsection (1) of section one hundred and seventy in so far as they are applicable for the purposes of section one hundred and fifty-nine of that Act;

(*b*) subsection (11) of section two hundred and twenty-two in so far as it is applicable for the purposes of section two hundred and seventeen of that Act;

(*c*) in section two hundred and sixty-six, subsections (1) to (3) in so far as they are applicable for the purposes of section seventy-two of that Act, subsections (1), (3) and (6) in so far as they are applicable for the purposes of section seventy-three thereof, and subsections (1) and (3) in so far as they are applicable for the purposes of section one hundred and sixty-three and of subsection (2) of section one hundred and seventy thereof;

(*d*) section two hundred and seventy in so far as it is applicable for the purposes of section seventy-three of that Act.

6.—(1) Section two hundred and forty-three of the Highways Act, 1959, in so far as the purposes in question are the purposes of the exercise by a county council, in relation to county roads maintained by that council, of their powers under the provisions of that Act mentioned in the next following sub-paragraph.

(2) The said provisions are subsections (1), (2), (5) and (8) to (10) of section seventy-two and section two hundred and seventeen.

7. Any enactment making such provision as might by virtue of any Act of Parliament have been made in relation to the area to which the order applies by means of a byelaw, order or regulation not requiring confirmation by Parliament.

8. Any enactment which has been previously excluded or modified by a development order, and any enactment having substantially the same effect as any such enactment.

Section 222.

## TWELFTH SCHEDULE

### ENACTMENTS AMENDED

### *The Building Restrictions (War-Time Contraventions) Act*, 1946 (9 & 10 Geo. 6, c. 35)

In section seven, in the definition in subsection (1) of "authority responsible for enforcing planning control", after the words "Town and Country Planning Act, 1947" there shall be inserted the words "or of paragraph 12 of the Thirteenth Schedule to the Town and Country Planning Act, 1962", and the words "under Part III of that Act" shall be omitted; and at the end of subsection (5) there shall be added the words "or by paragraph 12 of the Thirteenth Schedule to the Town and Country Planning Act, 1962".

*The Civil Aviation Act*, 1949 12TH SCH.
(12, 13 and 14 Geo. 6, c. 67)

In section thirty, in subsection (1), for the words from "arbitration of the tribunal" to "Town and Country Planning Act, 1944" there shall be substituted the words "Lands Tribunal", and for the words "paragraph 2 of that Schedule" there shall be substituted the words "subsections (2) to (5) of section one hundred and seventy-one of the Town and Country Planning Act, 1962"; in subsection (2), for the words from "The said paragraph 2" to "in the case of compensation" there shall be substituted the words "Subsections (2) to (5) of the said section one hundred and seventy-one shall have effect for the purposes of this section as if, in paragraph (*c*) of subsection (2) of that section, the words 'is under subsection (2) of the last preceding section, and' were omitted, and as if, at the end of that paragraph, there were inserted the following paragraph:—

(*d*)", and for the words "sub-paragraph (4) thereof" there shall be substituted the words "subsection (5) of that section".

In the Fourth Schedule, in paragraph 4, for the words from "the First Schedule" to "making of an order under" (in the second place where the last-mentioned words occur in that paragraph) there shall be substituted the words "section one hundred and sixty-nine of the Town and Country Planning Act, 1962, shall have effect as if any reference in that section to section one hundred and sixty-six of that Act, or to the section under which the order is proposed to be made, included a reference to"; and in paragraph 8, for the words from "the First Schedule" to "making of an order under" (in the second place where the last-mentioned words occur in that paragraph) there shall be substituted the words "section one hundred and sixty-nine of the Town and Country Planning Act, 1962, shall have effect as if any reference in that section to section one hundred and sixty-eight of that Act, or to the section under which the order is proposed to be made, included a reference to".

*The Town Development Act*, 1952
(15 & 16 Geo. 6 and 1 Eliz. 2. c. 54)

In section six, in subsection (1), for the words "1947, has become operative under" there shall be substituted the words "1962, has become operative under the Town and Country Planning Act, 1947, or"; in subsection (5), for the words "Part IV of the said Act of 1947" there shall be substituted the words "Part V of the said Act of 1962"; and for subsection (6) there shall be substituted the following subsection:—

"(6) For the purposes of any enactment (including any enactment contained in this Act) which contains a reference to section sixty-eight of the Town and Country Planning Act, 1962, or a reference which (by virtue of that Act or of section thirty-eight of the Interpretation Act, 1889) is to be construed as, or as including, a reference to that section, this section shall

12TH SCH.

be treated as forming part of section sixty-eight of the said Act of 1962, and shall in particular be so treated for the purposes of subsection (1) of section seventy-one, subsection (1) of section seventy-four, subsection (2) of section eighty-six and subsection (1) of section eighty-seven of that Act."

*The Highways Act*, 1959

(7 & 8 Eliz. 2. c. 25)

In section nineteen, in subsection (1), for the words "subsection (4) of section nine of the Special Roads Act, 1949" there shall be substituted the words "section eight of the Town and Country Planning Act, 1962."

*The Town and Country Planning Act*, 1959

(7 & 8 Eliz. 2. c. 53)

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

"(*c*) to section seventy-eight of the Town and Country Planning Act, 1962 (which relates to the disposal of land held for planning purposes)".

Section 223.

## THIRTEENTH SCHEDULE

SAVINGS AND TRANSITIONAL PROVISIONS RELATING TO ENACTMENTS PREVIOUSLY REPEALED

*Schemes and agreements*

1.—(1) The repeal shall not affect the operation of—

(*a*) any such scheme as was mentioned in paragraph 7 of the Tenth Schedule to the Act of 1947 (which related to certain schemes made under the Town and Country Planning Act, 1932, and the Town Planning Act, 1925) in so far as, by virtue of that paragraph, the scheme continued to have effect immediately before the commencement of this Act, or

(*b*) any order made under that paragraph (which empowered the Minister to make provision by order for winding up any such scheme) in so far as the order continued to have effect immediately before the commencement of this Act.

(2) Any power to make orders under paragraph 7 of that Schedule shall continue to be exercisable notwithstanding the repeal.

2.—(1) The repeal shall not affect the operation of any such agreement as was mentioned in paragraph 10 of the Tenth Schedule to the Act of 1947 (which related to certain agreements made before the appointed day for restricting the planning, development or use of land), or of any order discharging or modifying a restriction imposed by such an agreement, in so far as any such agreement or order was in force immediately before the commencement of this Act; and any such agreement may be enforced as if this Act had not been passed.

13TH SCH.

(2) Nothing in any such agreement shall be construed as restricting the exercise, in relation to land to which the agreement applies, of any powers exercisable by any Minister or authority under this Act, so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Minister as mentioned in section two hundred and ten, or as requiring the exercise of any such powers otherwise than in accordance with such provisions or directions.

(3) If the Minister is satisfied, on application made to him by any person being a party to any such agreement, or a person entitled to land affected thereby, or by the local planning authority, that any restriction on the development or use of the land imposed by the agreement is inconsistent with the proper planning or development of the area comprising the land, he may by order discharge or modify that restriction so far as appears to him to be expedient.

(4) Without prejudice to the last preceding sub-paragraph, if any person being a party to any such agreement (whether as originally made or as modified under the last preceding sub-paragraph), or a person entitled to land affected thereby, claims that the agreement ought to be modified or rescinded, having regard to the provisions of this Act or to anything done under this Act or under the Act of 1947, he may refer to arbitration the question whether the agreement should be so modified or rescinded, and the arbitrator may make such award as appears to him to be just having regard to all the circumstances.

*Land declared subject to compulsory purchase*

3.—(1) The provisions of this paragraph shall have effect in relation to land which, by an order under section one of the Act of 1944, was declared to be subject to compulsory purchase.

(2) Subject to the following provisions of this paragraph—

(*a*) subsections (3) and (4) of section six and subsection (1) of section nine shall apply in relation to the land as if it were designated by a development plan as subject to compulsory acquisition;

(*b*) Part V of this Act shall apply in relation to the land as if it were comprised in an area defined by a development plan as an area of comprehensive development and were designated as subject to compulsory acquisition under this Act by the appropriate local authority;

(*c*) sections one hundred and thirty-eight to one hundred and fifty shall apply in relation to the land as if it were designated by a development plan as subject to compulsory acquisition;

(*d*) subsection (1) of section one hundred and seventy-six shall apply in relation to the order as if it were a development plan.

13TH SCH.

(3) For the purposes of the application to any land, by virtue of the last preceding sub-paragraph, of subsection (1) of section nine, the reference in that subsection to the date therein mentioned shall be construed as a reference to the date of the coming into operation of the order under section one of the Act of 1944 whereby the land was declared to be subject to compulsory purchase.

(4) In relation to any land to which subsection (1) of section nine applies by virtue of this paragraph, subsections (2) and (3) of that section shall have effect with the substitution, in subsection (2) thereof, for the words "the development plan shall have effect, after the end of that period, as if the land were not designated as subject to compulsory acquisition", of the words "paragraph 3 of the Thirteenth Schedule to this Act shall cease to apply to the land at the end of that period".

(5) Part V of this Act shall not apply by virtue of this paragraph to any operational land of statutory undertakers, unless an order made under paragraph (*b*) of subsection (5) of section thirteen of the Act of 1944, declaring that it is expedient that the land should be subject to compulsory purchase, has taken effect.

(6) Any reference in this paragraph to subsection (1) of section nine shall be construed as including a reference to that subsection as modified by subsection (5) of that section.

*Compulsory purchase orders under Act of* 1944

4. Any compulsory purchase order made or confirmed under Part I of the Act of 1944 (whether before or after the appointed day) shall, if in force immediately before the commencement of this Act, continue in force and shall have effect as if it had been made under the Acquisition of Land (Authorisation Procedure) Act, 1946, as applied by Part V of this Act.

*Land acquired under Act of* 1944

5. For the purposes of Part V of this Act—

(*a*) any land acquired by a Minister in pursuance of a compulsory purchase order under Part I of the Act of 1944 shall be deemed to have been acquired under section sixty-seven;

(*b*) any land acquired by a local authority in pursuance of any such order shall be deemed to have been acquired under section sixty-eight;

(*c*) any land acquired by a local authority by agreement under the Act of 1944 shall be deemed to have been acquired under section seventy-one.

*Development authorised under enactments previously repealed*

6.—(1) Where any works on land existing at the appointed day, or any use to which land was put on that day, had been authorised by a permission granted subject to conditions under a planning scheme or an interim development order, the provisions of Parts III and IV

of this Act, the provisions of Part VIII of this Act relating to purchase notices, and the provisions of sections one hundred and fifty-nine to one hundred and sixty-two, shall apply in relation to those works or that use as if the conditions had been imposed on the grant of planning permission.

(2) Without prejudice to the generality of the preceding sub-paragraph, where any such permission was granted subject to conditions (in whatever form) restricting the period for which the works or use might be continued on the land, then, if that period had not expired at the appointed day and the works were or are not removed, or the use discontinued, at the end of that period, the provisions of Part IV of this Act relating to enforcement notices shall apply in relation thereto as if the works had been carried out, or the use begun, as the case may be, at the end of that period and without the grant of planning permission in that behalf.

(3) The power of a local planning authority under Part III of this Act to grant permission for the retention on land of buildings or works constructed or carried out before the date of the application, or the continuance of any use of land instituted before that date, shall include power to grant such permission in respect of any works or use authorised by a permission granted subject to any such conditions as are mentioned in the last preceding sub-paragraph.

(4) Where at any time before the appointed day it was determined under the Building Restrictions (War-Time Contraventions) Act, 1946, that any works on land or any use of land should be deemed to comply with planning control (within the meaning of that Act) subject to any conditions specified in the determination, the provisions of this paragraph shall apply in relation to those works or that use as if those conditions had been imposed on the grant of permission under a planning scheme or an interim development order.

(5) Provision may be made by regulations under this Act for applying the preceding provisions of this paragraph, subject to such adaptations and modifications as may be specified in the regulations, to works on land carried out, or uses of land begun, at any time before the appointed day, in accordance with permission granted subject to conditions under any enactment repealed by the Act of 1947, other than the enactments relating to town and country planning; and for the purposes of this provision any works or use in respect of which a notice was served under subsection (1) of section one of the Restriction of Ribbon Development (Temporary Development) Act, 1943, or was deemed by virtue of subsection (4) of that section to have been so served, shall be treated as carried out or begun in accordance with permission granted subject to a condition restricting the period for which the works or use might be continued on the land.

7.—(1) Where permission for any development of land was granted, at any time after the twenty-first day of July, nineteen hundred and forty-three and before the appointed day, on an application in that behalf made under an interim development order, then, if and so far as that development was not carried out before the appointed day and the permission was in force immediately before that day, planning

13TH SCH.

permission shall be deemed to have been granted in respect thereof subject to the like conditions (if any) as were imposed by the permission under the interim development order as it had effect immediately before the appointed day:

Provided that this sub-paragraph shall not apply in relation to any development for which permission was required before the appointed day under the Restriction of Ribbon Development Act, 1935, unless that permission was also granted.

(2) The provisions of section twenty-seven shall apply in relation to planning permission which is deemed to have been granted by virtue of this paragraph as if it had been granted on an application under Part III of this Act; and, in relation to any order made under that section for the revocation or modification of any such permission, any reference in subsection (3) of section one hundred and eighteen to the grant of permission shall be construed as a reference to the grant of the permission under the interim development order.

(3) Where permission for any development of land was granted as mentioned in sub-paragraph (1) of this paragraph, and permission for that development was also granted under the Restriction of Ribbon Development Act, 1935, then, if the permission so granted under the said Act of 1935 was granted subject to conditions, those conditions shall be treated for the purposes of this paragraph as conditions imposed by the permission granted under the interim development order.

8.—(1) Where any works for the erection or alteration of a building had been begun but not completed before the appointed day, then if—

(*a*) immediately before that day those works could have been completed in conformity with the provisions of a planning scheme or of permission granted thereunder, or in accordance with permission granted by or under an interim development order, and

(*b*) where any permission was required under the Restriction of Ribbon Development Act, 1935, for the carrying out of those works, that permission was granted,

planning permission shall be deemed to have been granted in respect of the completion of those works.

(2) The planning permission deemed to have been granted by virtue of this paragraph shall be deemed to have been so granted subject to any conditions applicable thereto under the scheme or the permission granted by or under the interim development order, as the case may be, and to any conditions imposed by the permission (if any) granted under the Restriction of Ribbon Development Act, 1935, and shall include permission to use the building, when erected or altered,—

(*a*) where the purpose for which it could be so used was prescribed by or under the planning scheme, or by the permission granted by or under the interim development order, as the case may be, for that purpose;

(*b*) in any other case, for the purpose for which the building, or the building as altered, was designed.

(3) In relation to any such works as are mentioned in sub-paragraph (1) of this paragraph, being works in respect of which permission was granted after the twenty-first day of July, nineteen hundred and forty-three, on an application in that behalf made under an interim development order, the provisions of this paragraph shall have effect in substitution for the provisions of the last preceding paragraph.

9. Where in pursuance of sub-paragraph (3) of paragraph 6 of this Schedule permission is granted for the retention on land of works authorised as mentioned in that sub-paragraph, sub-paragraph (1) of paragraph 11 of the Tenth Schedule to this Act shall apply in relation to the retention of those works as if they had been erected or carried out in accordance with planning permission granted for a limited period.

10.—(1) Any reference in Part VI of this Act, or in the Fifth Schedule thereto, to a planning decision shall, where the context so admits, include a reference to any decision deemed to have been made by virtue of the provisions of paragraph 7 or paragraph 8 of this Schedule.

(2) The preceding sub-paragraph shall have effect without prejudice to the provisions of Part I of the Fourteenth Schedule to this Act as read with paragraph 18 of this Schedule.

*Development contravening planning control under enactments previously repealed*

11.—(1) This paragraph applies to any enforcement notice served before the commencement of this Act by virtue of section seventy-five of the Act of 1947 (which related to development contravening planning control under the enactments repealed by that Act), being a notice which had not ceased for all purposes to have effect before the commencement of this Act.

(2) The repeal shall not invalidate any enforcement notice to which this paragraph applies.

(3) In relation to any such notice which was served before the twenty-ninth day of August, nineteen hundred and sixty, on the owner and occupier of the land to which it related—

(*a*) sections forty-five to forty-nine shall not apply;

(*b*) section fifty shall not apply if the planning permission in question was granted before the said twenty-ninth day of August; and

(*c*) sections twenty-three and twenty-four of the Act of 1947, as applied by section seventy-five of that Act, shall have effect as they would have had effect in relation to the notice if this Act had not been passed.

(4) In relation to any enforcement notice to which this paragraph applies, not being a notice falling within the last preceding sub-paragraph, subsections (3) and (5) of section forty-five and (subject to paragraphs 13 to 16 of this Schedule) sections forty-six to fifty-one shall have effect as they have effect in relation to an enforcement notice served under section forty-five.

13TH SCH.

12.—(1) In so far as an enforcement notice could, if this Act had not been passed, have been served by virtue of section seventy-five of the Act of 1947, at a time on or after the date of the commencement of this Act, in respect of any works or use of land of a description to which that section applied, there shall subsist by virtue of this paragraph a corresponding power in the like circumstances to serve an enforcement notice (to the like effect as that which could have been so served) in respect of those works or that use of land.

(2) Subsections (3) and (5) of section forty-five and (subject to paragraphs 13 to 16 of this Schedule) sections forty-six to fifty-one shall have effect in relation to an enforcement notice served by virtue of this paragraph as they have effect in relation to an enforcement notice served under section forty-five.

13.—(1) Where an enforcement notice falling within sub-paragraph (4) of paragraph 11 of this Schedule, or an enforcement notice served by virtue of the last preceding paragraph, was or is served in respect of any works being government war works within the meaning of the Requisitioned Land and War Works Act, 1945, then, subject to the following provisions of this paragraph—

(*a*) if the steps required by the notice have been taken by the owner or occupier of the land, any expenses reasonably incurred in that behalf shall be recoverable from the authority by whom the notice was served;

(*b*) where the steps required by the notice have been taken by that authority, the authority shall not be entitled, under section forty-eight, to recover the expenses incurred by them in that behalf.

(2) Where, under paragraph (*b*) of subsection (1) of section two of the Compensation (Defence) Act, 1939, compensation has been paid equal to the full cost (as estimated for the purposes of that compensation) of taking the steps required by the enforcement notice, the preceding sub-paragraph shall not apply.

(3) Where compensation has been paid in respect of the land, being either compensation under the said paragraph (*b*) but not equal to the full cost (as so estimated) of taking those steps, or being compensation under subsection (4) of section three of that Act, the amount which by virtue of sub-paragraph (1) of this paragraph is recoverable from the authority by whom the enforcement notice was served, or, as the case may be, is not recoverable by that authority, shall be reduced so far as may be just having regard to the compensation so paid.

14. In the application of section forty-six to an enforcement notice by virtue of paragraph 11 or paragraph 12 of this Schedule, subsection (1) of that section shall have effect as if for paragraphs (*b*) and (*c*) of that subsection there were substituted the following paragraph:—

"(*b*) that the works or use to which the enforcement notice related were not works or a use to which section seventy-five of the Act of 1947 applied".

15.—(1) The power of the local planning authority under Part III of this Act to grant permission for the retention on land of buildings or works constructed or carried out before the date of application, or for the continuance of a use of land instituted before that date, shall include power to grant such permission in respect of any buildings or other works, or use of land, in respect of which that authority are empowered to serve an enforcement notice by virtue of paragraph 12 of this Schedule. 13TH SCH.

(2) Where permission is so granted, paragraphs 11 to 13 of this Schedule shall cease to apply to the works or use to which the permission relates, but without prejudice to the application thereto of any provisions of Part IV of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

16. Where in pursuance of sub-paragraph (3) of paragraph 6 of this Schedule permission is granted for the retention on land of works, or the continuance of a use, authorised as mentioned in that sub-paragraph, such of the provisions of paragraphs 11 to 15 of this Schedule as (apart from this paragraph) would be applicable thereto shall cease to apply to those works or that use, but without prejudice to the application thereto of any provisions of Part IV of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

17. The repeal shall not affect the operation of any regulations made under subsection (8) of section seventy-five of the Act of 1947 (which enabled provision to be made by regulations for applying the provisions of that section to contraventions, committed before the appointed day, of restrictions under enactments other than those relating to town and country planning) or of the provisions of that section as applied by any such regulations.

*General and supplementary provisions*

18.—(1) Where by virtue of any of the provisions of the Tenth Schedule to the Act of 1947, or of any regulations made thereunder, an application, decision, appeal or order made, direction given, or list compiled or approved, under an enactment repealed by that Act fell to be treated as if it had been an application, decision or appeal made, direction given, or list compiled or approved, or (in the case of an order) had been made, or had been included in an order made, under that Act, it shall be treated for the purposes of the Fourteenth Schedule to this Act as if it had been an application, decision or appeal made, direction given, or list compiled or approved, or had been made, or included in an order made, under that Act in accordance with the provisions or regulations in question.

(2) References in this paragraph to any of the provisions of the Tenth Schedule to the Act of 1947 shall be construed as including references to any such provisions as modified by subsection (2) of section one hundred and fourteen of that Act (which related to London).

19. Any reference in this Schedule to a numbered section shall, unless the reference is to a section of a specified Act, be construed as a reference to the section bearing that number in this Act.

13TH SCH.

20. In this Schedule "planning scheme" means a scheme under the Town and Country Planning Act, 1932, or under an enactment repealed by that Act, "interim development order" means an order made under subsection (1) of section ten of the said Act of 1932 and "the repeal" means the repeal effected by section two hundred and twenty-three.

Section 223.

## FOURTEENTH SCHEDULE

### FURTHER SAVINGS AND TRANSITIONAL PROVISIONS

### PART I

### GENERAL PROVISIONS

1.—(1) In so far as any order, regulation, rule, development plan or amendment of a development plan, application, objection, representation, determination, decision, reference, appeal, declaration, agreement, arrangement, claim or apportionment made, payment made or recovered, report or proposal submitted, list or amendment of a list compiled or made, permission granted, consent, approval or authorisation given, certificate, information or direction issued or given, notice or copy served, published or registered, inquiry held, delegation effected, register kept, requirement imposed, or other thing done, under an enactment repealed by this Act could have been made, recovered, submitted, compiled, granted, issued, given, served, published, registered, held, effected, kept, imposed or done under a corresponding provision of this Act, it shall not be invalidated by the repeal, but shall have effect as if made, recovered, submitted, compiled, granted, issued, given, served, published, registered, held, effected, kept, imposed or done under that corresponding provision.

(2) In relation to any permission which (whether by virtue of an enactment repealed by this Act or otherwise) was deemed to be granted under an enactment repealed by this Act, the preceding sub-paragraph shall have effect as if any reference in that sub-paragraph to permission granted included a reference to permission deemed to be granted.

(3) Sub-paragraph (1) of this paragraph shall not apply to any regulations or order revoked as from the commencement of this Act in the exercise of the powers conferred by section two hundred and seventeen.

2. Where any Act (whether passed before, or in the same Session as, this Act) or any document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

3. Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

14TH SCH.

4. Without prejudice to paragraph 1 of this Schedule, any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to an event which has occurred, under or for the purposes of or by reference to or in contravention of any provisions of this Act shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes of or by reference to or in contravention of the corresponding provisions of the enactments repealed by this Act.

5.—(1) Nothing in this Act shall affect the enactments repealed thereby in their operation in relation to offences committed before the commencement of this Act.

(2) Where an offence, for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence had been committed under the corresponding provision of this Act.

6.—(1) The repeal shall not affect any right to, or claim for, or any liability in respect of, any payment under an enactment to which this paragraph applies; and any such right, claim or liability shall have effect and may be enforced, and moneys in respect of any such payment shall be applicable or may be raised, in accordance with the provisions of the enactment in question (including the provisions of any other enactment which, immediately before the commencement of this Act, had effect for the purposes of that enactment) as if this Act had not been passed, and any direction or proceedings relating thereto may be given, brought or continued accordingly.

(2) This paragraph applies to the following enactments, that is to say,—

(*a*) Parts I and V of the Act of 1954;

(*b*) subsections (1) to (5) of section fifty-two of that Act;

(*c*) the scheme made under section fifty-nine of the Act of 1947;

(*d*) Part VII of the Act of 1947;

(*e*) any other enactment which (if contained in an Act) is not repealed by, and re-enacted (with or without modifications) in, this Act, or (if not contained in an Act) has effect otherwise than by virtue of an enactment so repealed and re-enacted.

(3) Without prejudice to the preceding provisions of this paragraph, any proceedings relating to any such claim as is mentioned in subsection (1) of section eighty-nine may be brought or continued, and shall be determined in accordance with the relevant provisions (that is to say, the provisions of the Act of 1947 and of the First Schedule to the Act of 1954 and any other enactment having effect for the purposes thereof) as if this Act had not been passed.

(4) Sub-paragraph (1) of this paragraph shall have effect in relation to any such right, claim or liability as is therein mentioned notwithstanding that, immediately before the commencement of this

14TH SCH.

Act, the right, claim or liability had not yet accrued or been made or become enforceable, as the case may be:

Provided that, in relation to any such claim which had not been made before the commencement of this Act, so much of that sub-paragraph as provides that the claim shall have effect in accordance with the provisions therein mentioned shall be construed as providing that the claim may be made in accordance with those provisions, and, when made, shall have effect accordingly.

7.—(1) Any reference in this Act to an order or scheme made or confirmed under an enactment which is not repealed by, and re-enacted (with or without modifications) in, this Act, shall be construed as a reference to any order or scheme so made or confirmed whether before or after the commencement of this Act.

(2) Without prejudice to the preceding sub-paragraph, any reference in this Act to an order or scheme made or confirmed under an enactment contained in the Highways Act, 1959, or under any other such enactment as is mentioned in the preceding sub-paragraph, shall be construed as including a reference to any order or scheme made or confirmed under any corresponding provisions of an enactment repealed by the Highways Act, 1959, or repealed by the other enactment in question, as the case may be.

8. In the preceding provisions of this Part of this Schedule, references (however expressed) to things done under enactments repealed by this Act shall be construed as including references to things which, by virtue of paragraph 18 of the Thirteenth Schedule to this Act, are to be treated as if done under the Act of 1947.

## PART II

## PROVISIONS RELATING TO PART I OF ACT

*Transfer of property and officers to local planning authorities*

9. Nothing in this Act shall affect the operation of any regulations made by virtue of section one hundred and one of the Act of 1947 (which enabled provision to be made by regulations for the transfer of property and officers to local planning authorities and other matters consequential upon or supplementary to section four of that Act) in so far as any such regulations do not have effect in accordance with paragraph 1 of this Schedule.

## PART III

## PROVISIONS RELATING TO PART III OF ACT

*Planning permission*

10. Subsection (1) of section thirteen applies (subject to the provisions of that section) to the carrying out of development whether before or after the commencement of this Act, except that it does not apply to development carried out on or before the appointed day.

11. In sections fifteen and sixteen references to an application for planning permission do not include any application made before the sixteenth day of August, nineteen hundred and fifty-nine.

12. Where by virtue of the proviso to subsection (3) of section one of the Town and Country Planning (Amendment) Act, 1951 (which

related to works for making good war damage which were begun during the period from the appointed day to the thirteenth day of December, nineteen hundred and fifty) any works were treated, immediately before the commencement of this Act, as if planning permission had been granted unconditionally in respect thereof, those works shall be treated for the purposes of this Act as if planning permission had been so granted in respect thereof.

*Review of planning decisions and orders under Part V of Act of* 1954

13. For the purposes of paragraph 1 of this Schedule, any direction given under subsection (3) or subsection (4) of section forty-five of the Act of 1954, whether before or (by virtue of paragraph 6 of this Schedule) after the commencement of this Act, as well as any direction given under section twenty-three of that Act, shall be treated as a direction which could have been given under section twenty-five and as having been given under provisions of that Act corresponding to those of section twenty-five.

*Maintenance of waste land, etc.*

14. Subsection (2) of section thirty-six does not apply to any notice served before the twenty-ninth day of August, nineteen hundred and sixty.

*Industrial development*

15.—(1) Where an application for planning permission was made before the first day of April, nineteen hundred and sixty, and, by reason that it was made before that day, any provisions of the Local Employment Act, 1960, being provisions corresponding to any of the provisions of sections thirty-eight to forty, did not apply in relation thereto, the corresponding provisions of sections thirty-eight to forty shall not have effect in relation to that application, but without prejudice to the operation, in relation thereto, of any other provisions of those sections.

(2) For the purposes of the preceding sub-paragraph the definition of " industrial building " in subsection (1) of section two hundred and twenty-one shall be treated as if it were included among the provisions of sections thirty-eight to forty; and where, in accordance with the preceding sub-paragraph, that definition does not apply, " industrial building " shall have the meaning which was assigned to it by section fifteen of the Distribution of Industry Act, 1945.

*Application to determine whether planning permission required*

16. Notwithstanding anything in subsection (6) of section twenty-two or subsection (7) of section twenty-three as applied by subsection (2) of section forty-three, a decision of the Minister, under any corresponding provisions of the Act of 1947, that any operations or use would constitute or involve development of land, or that an application for planning permission was required in respect thereof, shall not be treated as final for the purposes of any appeal to the court under section twenty-three of the Act of 1947 in relation to those operations or that use.

PART IV

PROVISIONS RELATING TO PART IV OF ACT

*Enforcement notices*

17.—(1) The provisions of this paragraph shall have effect in relation to any enforcement notice served before the twenty-ninth

14TH SCH

day of August, nineteen hundred and sixty, on the owner and occupier of the land to which it related.

(2) Sections forty-five to forty-nine shall not apply.

(3) Notwithstanding the repeal, sections twenty-three and twenty-four of the Act of 1947 shall have effect in relation to any such notice as they would have had effect if this Act had not been passed.

(4) Section fifty shall not have effect in relation to any such notice if the planning permission in question was granted before the twenty-ninth day of August, nineteen hundred and sixty.

(5) In the application of section fifty-one to such a notice, for the references in subsections (3) and (4) to section forty-eight there shall be substituted references to subsection (1) of section twenty-four of the Act of 1947, and in subsection (5) of section fifty-one the words from "and no person" onwards shall be omitted.

(6) In this paragraph "enforcement notice" does not include a notice served by virtue of section seventy-five of the Act of 1947.

*Notices in respect of listed buildings*

18.—(1) The provisions of this paragraph shall have effect in relation to any notice served under subsection (8) of section thirty of the Act of 1947 before the twenty-ninth day of August, nineteen hundred and sixty.

(2) Subsections (1) and (2) of section fifty-two, and sections fifty-three to fifty-five, shall not apply.

(3) Notwithstanding the repeal, the provisions of subsections (3) to (5) of section twenty-three of the Act of 1947 and of section twenty-four of that Act, as applied by subsection (8) of section thirty thereof, and any regulations made for the purposes of the last-mentioned subsection, shall have effect in relation to any such notice.

*Notices in respect of waste land, etc.*

19.—(1) The provisions of this paragraph shall have effect in relation to any notice served under subsection (1) of section thirty-three of the Act of 1947 before the twenty-ninth day of August, nineteen hundred and sixty.

(2) Sections fifty-six to sixty shall not apply.

(3) Notwithstanding the repeal, the provisions of subsections (3) to (5) of section twenty-three of the Act of 1947 and of section twenty-four of that Act, as applied by subsection (2) of section thirty-three thereof, and any regulations made for the purposes of the last-mentioned subsection, shall have effect in relation to any such notice.

*Building preservation orders and control of advertisements*

20. The repeal shall not affect the operation of any order under section twenty-nine of the Act of 1947 which was in force immediately before the twenty-ninth day of August, nineteen hundred and sixty, or any regulations under section thirty-one of that Act which were in force immediately before that day, in so far as any such order or regulations applied (with or without adaptations or modifications) any of the provisions of that Act which were repealed by section forty-eight of the Caravan Sites and Control of Development Act, 1960, and accordingly are not re-enacted in this Act.

PART V 14TH SCH.

PROVISIONS RELATING TO PART V OF ACT

*Consent of Minister to acquisition, appropriation or disposal of land*

21. Nothing in Part I of this Schedule shall be construed as validating any transaction whereby a local authority purported, in the exercise of a power conferred by an enactment repealed by this Act, but without the consent of a Minister then required by that enactment,—

(*a*) to acquire land by agreement in pursuance of a contract made before the sixteenth day of August, nineteen hundred and fifty-nine, or

(*b*) to appropriate or dispose of land before that day,

notwithstanding that the transaction could have been validly effected without that consent under the corresponding provisions of Part V of this Act.

*Land acquired, or authorised to be acquired, under Part IV of Act of* 1947

22.—(1) The repeal shall not affect the validity of any order authorising the compulsory acquisition of any land—

(*a*) under subsection (2) of section thirty-seven of the Act of 1947 (which enabled the Minister of Works or the Postmaster General, during the period before a development plan had become operative with respect to any area, to be authorised in certain circumstances to acquire land compulsorily);

(*b*) under subsection (2) of section thirty-eight of that Act (which enabled certain local authorities, during any such period, to be authorised in certain circumstances to acquire land compulsorily); or

(*c*) under subsection (3) of the said section thirty-eight in a case where the power conferred by that subsection was exercisable in lieu of the exercise of the power conferred by subsection (2) thereof,

or of any notice served or other thing done in pursuance of any such order.

(2) The provisions of Part V of this Act shall have effect in relation to any land acquired, or authorised to be acquired, in pursuance of any such order as is mentioned in the preceding sub-paragraph as if—

(*a*) in the case of land acquired, or authorised to be acquired, by a Minister, the land had been acquired, or authorised to be acquired, by that Minister under section sixty-seven;

(*b*) in the case of land acquired, or authorised to be acquired, by a local authority, the land had been acquired, or authorised to be acquired, by that local authority under section sixty-eight.

23. Section eighty-one shall have effect in relation to land acquired by the Central Land Board under section forty-three of the Act of 1947 as it has effect in relation to land acquired by a local authority for planning purposes (as defined by subsection (1) of section eighty-seven).

14TH SCH.

24. For the purposes of the construction, in accordance with Part I of this Schedule, of subsections (4) and (5) of section eighty-four, any land acquired by the Central Land Board under Part IV of the Act of 1947 shall be treated as if it had been acquired thereunder by the Minister; and, in relation to land so acquired, the powers conferred by those subsections shall be exercisable by the Minister accordingly.

25. In accordance with Part I of this Schedule, the reference in subsection (1) of section eighty-seven to the acquisition of land under section sixty-eight or section seventy-one includes a reference to the acquisition of land under section thirty-eight or section forty of the Act of 1947; and the reference in that subsection to the appropriation of land for purposes for which land can be acquired under section sixty-eight or section seventy-one is a reference to the appropriation of land for those purposes whether before or after the commencement of this Act.

26. The repeal shall not affect the operation of subsection (6) of section forty-three of the Act of 1947 (which enabled provision to be made by regulations for the keeping of a register of land acquired and disposed of by the Central Land Board) or of any regulations made thereunder, as modified by the Order in Council made under section sixty-three of the Act of 1954 (which provided for the dissolution of the Central Land Board), in so far as that subsection or any such regulations, as so modified, would have had effect if this Act had not been passed.

## PART VI

### PROVISIONS RELATING TO PART VI OF ACT

### *Compensation under Part V of Act of* 1954

27.—(1) Subject to the following provisions of this paragraph, for the purposes of the construction of sections one hundred and twelve to one hundred and fifteen in accordance with Part I of this Schedule, any compensation (whether by way of principal or interest) under Part V of the Act of 1954, and any claim for, or notice registered in respect of, any such compensation, as well as any compensation under Part II of that Act, or any claim for, or notice registered in respect of, compensation under the said Part II, shall be treated as compensation, or, as the case may be, a claim for, or notice registered in respect of, compensation, under provisions of that Act corresponding to those of Part VI of this Act.

(2) For the purposes of the construction of section one hundred and twelve in accordance with the preceding sub-paragraph in relation to Part V of the Act of 1954, any reference to a planning decision shall be construed as including a reference to an order under section twenty-one of the Act of 1947.

(3) Where compensation under Part V of the Act of 1954 became or becomes payable in respect of an order modifying planning permission, then (notwithstanding anything in the preceding provisions of this paragraph) the provisions of sections one hundred and thirteen and one hundred and fifteen shall not apply to development in accordance with that permission as modified by the order.

*Provision excluding recovery of compensation* 14TH SCH.

28. For the purposes of the construction, in accordance with Part I of this Schedule, of subsection (4) of section one hundred and fourteen,—

(*a*) the provisions of subsection (6) of section fifty-two of the Act of 1954 as originally enacted, and

(*b*) those provisions as applied by any regulations made under subsection (8) of the said section fifty-two,

as well as the provisions of the said subsection (6) as amended by section fifty-one of the Act of 1959, shall be treated as provisions corresponding to those of section one hundred and ninety.

## PART VII

## PROVISIONS RELATING TO PART VII OF ACT

*Exchequer contribution towards compensation*

29. For the purposes of the construction of subsection (1) of section one hundred and twenty-one in accordance with Part I of this Schedule, any compensation which could have been claimed and would have been payable under Part V of the Act of 1954, as well as any compensation which could have been claimed and would have been payable under Part II of that Act, shall be treated as compensation which could have been claimed and would have been payable under provisions of that Act corresponding to the provisions of Part VI of this Act.

*Recovery of compensation*

30. For the purposes of the construction of subsection (3) of section one hundred and twenty-two in accordance with Part I of this Schedule, any grant paid—

(*a*) under the provisions of the section substituted by section fifty of the Act of 1954 for section ninety-three of the Act of 1947, but without the amendments made by the Local Government Act, 1958, or

(*b*) under the provisions of Part IX of the Act of 1947 as originally enacted,

as well as any grant paid under the provisions of the said section ninety-three as in force immediately before the commencement of this Act, shall be treated as a grant paid under provisions corresponding to those of Part XII of this Act.

## PART VIII

## PROVISIONS RELATING TO PART X OF ACT

*Application of s.* 164 *to land acquired by Central Land Board*

31. In subsection (1) of section one hundred and sixty-four, the reference to land acquired by a Minister, a local authority or statutory undertakers under Part V of this Act shall be construed as including a reference to land acquired by the Central Land Board under Part IV of the Act of 1947, as well as to land acquired under the said Part IV by a Minister, a local authority or statutory undertakers.

14TH SCH.

## PART IX

### PROVISIONS RELATING TO PART XI OF ACT

*Orders made and action taken before 16th August, 1959*

32.—(1) Notwithstanding anything in Part I of this Schedule, the provisions of section one hundred and seventy-six shall not have effect in relation to—

(*a*) any order made before the sixteenth day of August, nineteen hundred and fifty-nine, under any of the provisions of the Act of 1947 corresponding to the provisions of this Act under which the orders mentioned in subsection (2) of that section can be made, or

(*b*) any action on the part of the Minister taken before the said sixteenth day of August under any of the provisions of that Act or of the Act of 1954 corresponding to the provisions of this Act under which action of the descriptions mentioned in subsection (3) of that section can be taken,

and section one hundred and seventy-nine does not apply to any such order or action as is mentioned in this sub-paragraph.

(2) In relation to any action which, in accordance with any provisions of the Act of 1947 corresponding to provisions of Part X of this Act, were required to be taken by the Minister and the appropriate Minister, the reference in the preceding sub-paragraph to the Minister shall be construed as a reference to the Minister and the appropriate Minister.

33. Section one hundred and eighty-one does not apply to any decision of the Minister made before the sixteenth day of August, nineteen hundred and fifty-nine, under any of the provisions of the Act of 1947 corresponding to the provisions of this Act mentioned in subsection (2) of that section.

*Notices served before 29th August, 1960*

34. Subsection (1) of section one hundred and seventy-seven shall not apply to any enforcement notice which was served before the twenty-ninth day of August, nineteen hundred and sixty, on the owner and occupier of the land to which it related.

35. Subsection (3) of section one hundred and seventy-seven shall not apply to any notice served under subsection (8) of section thirty of the Act of 1947 before the said twenty-ninth day of August; and subsection (4) of section one hundred and seventy-seven shall not apply to any notice served before that day under subsection (1) of section thirty-three of that Act.

*Directions under Part V of Act of 1954*

36. For the purposes of the construction, in accordance with Part I of this Schedule, of paragraph (*f*) of subsection (3) of section one hundred and seventy-six (but without prejudice to sub-paragraph (1) of paragraph 32 of this Schedule) any direction given on or after the sixteenth day of August, nineteen hundred and fifty-nine, by the Minister under subsection (3) or subsection (4) of section forty-five of the Act of 1954, as well as any direction given by the Minister on or after that day under section twenty-three of that Act, shall be treated as a direction given under provisions of that Act corresponding to the provisions of section twenty-five.

## PART X

## PROVISIONS APPLICABLE TO PART XII OF ACT

*Exchequer grants to local authorities*

37. Nothing in this Act shall affect the payment (whether before or after the commencement of this Act) of any grant in respect of any period before the commencement of this Act.

*Recovery of sums from acquiring authorities*

38.—(1) In relation to any acquisition or sale of an interest in land in pursuance of a notice to treat served, or contract made, before the thirtieth day of October, nineteen hundred and fifty-eight,—

(*a*) section one hundred and ninety shall not apply;

(*b*) the repeal shall not affect any right of recovering any sum in respect thereof under the provisions of subsection (6) of section fifty-two of the Act of 1954 as originally enacted, or under those provisions as applied by regulations made under subsection (8) of the said section fifty-two.

(2) Subject to the preceding sub-paragraph, section one hundred and ninety shall have effect in relation to interests in land acquired or sold as therein mentioned whether before or after the commencement of this Act; and for the purposes of the construction of that section in accordance with Part I of this Schedule, any notice registered under the provisions of section twenty-eight of the Act of 1954 as applied by Part V of that Act, as well as any notice registered under those provisions as applied by Part IV of that Act, shall be treated as a notice registered under provisions of that Act corresponding to the provisions of this Act referred to in section one hundred and ninety, and references in section one hundred and ninety to compensation specified in a notice shall be construed accordingly.

39. Section one hundred and ninety-one shall have effect in relation to interests in land acquired or sold as therein mentioned whether before or after the commencement of this Act, except that it shall not have effect in relation to any acquisition or sale in pursuance of a notice to treat served, or contract made, before the sixth day of August, nineteen hundred and forty-seven.

*Financing of payments under s. 59 of Act of 1947*

40. Notwithstanding the repeal of section sixty-seven of the Act of 1947, any sums which, apart from this Act, would have fallen to be issued or raised in accordance with subsection (1) or subsection (2) of that section may be so issued or raised as if this Act had not been passed; and any securities created and issued to raise money under that section (whether before or after the commencement of this Act) shall, in accordance with subsection (2) of that section, be deemed for all purposes to have been created and issued under the National Loans Act, 1939.

*Financing of payments under Parts I and V of Act of 1954*

41. The repeal shall not affect the operation of subsections (1) and (2) of section sixty-four of the Act of 1954, in so far as those subsections would have continued to have effect if this Act had not been passed.

14TH SCH.

*Payments into the Exchequer*

42. Subsection (4) of section one hundred and ninety-four shall apply to any sums received by the Minister by virtue of subsections (1) to (5) of section fifty-two of the Act of 1954 as it applies to sums received by the Minister by virtue of the provisions mentioned in the said subsection (4).

## PART XI

## PROVISIONS RELATING TO PART XIII OF ACT

*Minerals*

43.—(1) In the Town and Country Planning (Modification of Mines Act) Regulations, 1948 (being regulations made under the provisions of the Act of 1947 corresponding to section one hundred and ninety-eight), Regulation 6 (which makes provision as to the assessment of the compensation or consideration for a right to work minerals, but by virtue of the Town and Country Planning Act, 1953, does not apply to any determination of compensation or consideration made after the passing of that Act) is hereby revoked.

(2) The preceding sub-paragraph shall have effect without prejudice to the operation of any of the other provisions of those Regulations in accordance with Part I of this Schedule.

44.—(1) Regulation 10 of the Town and Country Planning (Minerals) Regulations, 1954, and section seventy-nine of the Act of 1947 as applied by that regulation, shall (notwithstanding the repeal) have effect after the date of the commencement of this Act in any case where they would have had effect after that date if this Act had not been passed.

(2) The said Regulation 10, in so far as it has effect in accordance with the preceding sub-paragraph, may be revoked or varied by regulations made under section one hundred and ninety-seven as if it were a regulation made under that section.

(3) In this paragraph any reference to the said Regulation 10 is a reference to that regulation as varied by any subsequent regulations.

*Ecclesiastical property, settled land, and land of universities and colleges*

45. For the purposes of the construction of sections two hundred and five and two hundred and six in accordance with Part I of this Schedule, the provisions of section forty-six of the Act of 1954, as well as the provisions of section forty-one of that Act, shall be treated as provisions corresponding to those of section one hundred and twenty-two.

## PART XII

## MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

*Registration of payments under s. 59 of Act of 1947*

46.—(1) The repeal shall not affect the operation of subsections (1) and (2) of section fifty-seven of the Act of 1954, in so far as those subsections would have continued to have effect if this Act had not been passed.

(2) In subsection (1) of the said section fifty-seven, the references to subsection (7) of section fifty-two of that Act and to paragraph (*a*)

of the proviso to that subsection shall be construed as including references respectively to subsection (1) and to subsection (2) of section one hundred and ninety-one.

*Saving for Act of* 1944 *as applied by other enactments*

47. The repeal shall not affect the operation of any provisions of the Act of 1944 as applied by the New Towns Act, 1946.

48.—(1) This paragraph shall have effect for the purposes of any enactment (not contained in the New Towns Act, 1946) which applies the provisions of section twenty-five of the Act of 1944, with adaptations consisting of or including adaptations of the references in that section to a purchasing authority or to the purchasing or appropriating authority.

(2) Any such enactment shall be construed (in accordance with Part I of this Schedule or section thirty-eight of the Interpretation Act, 1889) as applying the provisions of section one hundred and sixty-four, and of subsection (2) of section one hundred and seventy, with corresponding adaptations of the references in those provisions to a Minister, a local authority or statutory undertakers, or to the acquiring or appropriating authority, as the case may require.

*Definition of "local authority"*

49. For the purposes of the construction, in accordance with Part I of this Schedule, of any enactment which incorporates the definition of "local authority" in the Act of 1947, section one hundred and fifty-four and the reference thereto in the corresponding definition in subsection (1) of section two hundred and twenty-one shall be disregarded.

*Saving for powers of Postmaster-General*

50. Except as provided by section one hundred and fifty-eight, nothing in the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto or in any order or regulations made thereunder shall affect any powers or duties of the Postmaster-General under the provisions of the Telegraph Acts, 1863 to 1954, or apply to any telegraphic lines (within the meaning of the Telegraph Act, 1878) placed or maintained by virtue of any of the provisions of those Acts.

*Saving in respect of works below high-water mark*

51. Nothing in the provisions of this Act specified in paragraph 1 of the Eighth Schedule thereto shall authorise the execution of any works (whether of construction, demolition or alteration) on, over or under tidal lands below high-water of ordinary spring tides, except—

(*a*) with the consent of any persons whose consent would have been required if this Act had not been passed, and

(*b*) in accordance with such plans and sections, and subject to such restrictions and conditions, as may be approved by the Minister of Transport before the works are begun.

*Land Compensation Act,* 1961, *s.* 31

52. Any reference in this Act to the power conferred by section thirty-one of the Land Compensation Act, 1961, to withdraw a notice to treat shall, in relation to any notice to treat falling within section forty-one of that Act, be construed as a reference to the

14TH SCH. corresponding power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919.

*"The Minister" in relation to time before 3rd November, 1951*

53. Any reference in this Act to the Minister—

(*a*) in relation to any time before the third day of November, nineteen hundred and fifty-one, but on or after the thirtieth day of January, nineteen hundred and fifty-one, shall be construed as a reference to the Minister of Local Government and Planning, and

(*b*) in relation to any time before the said thirtieth day of January, shall be construed as a reference to the Minister of Town and Country Planning.

*Supplementary*

54.—(1) Where in this Act (including this Schedule except Part I thereof) express provision is made in respect of any matter, the provisions of Part I of this Schedule, in so far as they are applicable to that matter, shall have effect subject to that express provision.

(2) Except as provided by the preceding sub-paragraph, the mention in any of the provisions of this Act (including this Schedule except Part I thereof) of any matter to which Part I of this Schedule is applicable shall not be construed as affecting the generality of the provisions of Part I of this Schedule.

55. Any reference in this Schedule to a numbered section shall, unless the reference is to a section of a specified Act, be construed as a reference to the section bearing that number in this Act.

56. In this Schedule "the repeal" means the repeal effected by section two hundred and twenty-three.

Section 223.

## FIFTEENTH SCHEDULE

### ENACTMENTS REPEALED

| Session and Chapter | Short Title | Extent of Repeal |
|---|---|---|
| 7 & 8 Geo. 6. c. 47. | The Town and Country Planning Act, 1944. | The whole Act. |
| 10 & 11 Geo. 6. c. 51. | The Town and Country Planning Act, 1947. | The whole Act, except section forty-six, subsection (8) of section forty-nine, subsection (1) of section one hundred and thirteen, so much of subsection (1) of section one hundred and nineteen as defines the expressions "land" and "local authority", section one hundred and twenty, and so much of the Eighth Schedule as does not consist of amendments of the Town and Country Planning Act, 1944. |
| 12 & 13 Geo. 6. c. 32. | The Special Roads Act, 1949. | Subsections (2) and (4) of section nine. |

15TH SCH.

| Session and Chapter | Short Title | Extent of Repeal |
|---|---|---|
| 14 Geo. 6. c. 39 | The Public Utilities Street Works Act, 1950. | In the Fifth Schedule, the entry relating to the Town and Country Planning Act, 1947. |
| 14 & 15 Geo. 6. c. 19. | The Town and Country Planning (Amendment) Act, 1951. | The whole Act. |
| 14 & 15 Geo. 6. c. 60. | The Mineral Workings Act, 1951. | Subsection (1) of section fourteen.<br>Subsections (2) and (3) of section thirty-one.<br>Subsection (3) of section forty-three in so far as it relates to the Town and Country Planning Act, 1947. |
| 1 & 2 Eliz. 2. c. 16. | The Town and Country Planning Act, 1953. | The whole Act. |
| 2 & 3 Eliz. 2. c. 72. | The Town and Country Planning Act, 1954. | Sections one to twenty-nine.<br>Sections thirty-eight to fifty-two.<br>Section fifty-four.<br>Sections fifty-seven to sixty.<br>Section sixty-one, except subsections (1) and (6).<br>Sections sixty-two to sixty-eight.<br>In section sixty-nine, subsections (3) to (5), and subsections (7) and (8).<br>In section seventy-one, subsection (2) and subsections (4) to (6).<br>The First, Second, Third and Fourth Schedules.<br>The Seventh Schedule, except the entry relating to the Mineral Workings Act, 1951.<br>The Eighth Schedule. |
| 5 & 6 Eliz. 2. c. 56. | The Housing Act, 1957... | In the Tenth Schedule, the entry relating to the Town and Country Planning Act, 1944. |
| 7 & 8 Eliz. 2. c. 25. | The Highways Act, 1959 | In the Twenty-second Schedule, the entry relating to the Town and Country Planning Act, 1947.<br>In the Twenty-fourth Schedule, in paragraph 37, the words from " either of the following enactments " to the end of sub-paragraph (*a*). |
| 7 & 8 Eliz. 2. c. 53. | The Town and Country Planning Act, 1959. | Sections thirty-one and thirty-two.<br>Sections thirty-five to forty-four.<br>Section fifty-one.<br>Subsections (1) to (3) and subsections (5) and (6) of section fifty-two.<br>Sections fifty-three to fifty-six. |

15TH SCH.

| Session and Chapter | Short Title | Extent of Repeal |
|---|---|---|
| 7 & 8 Eliz. 2. c. 53—*cont.* | The Town and Country Planning Act, 1959—*cont.* | In section fifty-seven, subsections (5), (6), (8) and (9).<br>In section fifty-eight, paragraph (*b*) of subsection (1) and subsections (2), (5) and (6).<br>The Fifth and Sixth Schedules.<br>In the Seventh Schedule, the entries relating to the Town and Country Planning Act, 1947 and the Town and Country Planning Act, 1954.<br>The Eighth and Ninth Schedules. |
| 8 & 9 Eliz. 2. c. 18. | The Local Employment Act, 1960. | Sections sixteen to nineteen.<br>In section twenty-one, the words "and in the Town and Country Planning Act, 1947".<br>Subsection (1) of section twenty-two.<br>Subsections (1) and (3) of section twenty-six. |
| 8 & 9 Eliz. 2. c. 62. | The Caravan Sites and Control of Development Act, 1960. | Sections twenty-one and twenty-two.<br>Sections thirty-three to forty-seven.<br>Subsection (2) of section forty-eight.<br>The Third Schedule.<br>The Fourth Schedule, except the entry relating to the Public Health Act, 1936. |

*Table of Statutes referred to in this Act*

| Short Title | Session and Chapter |
|---|---|
| Small Tenements Recovery Act, 1838 ... ... | 1 & 2 Vict. c. 74. |
| Lands Clauses Consolidation Act, 1845 ... ... | 8 & 9 Vict. c. 18. |
| City of London Sewers Act, 1848 ... ... | 11 & 12 Vict. c. clxiii. |
| Metropolis Management Act, 1855 ... ... | 18 & 19 Vict. c. 120. |
| Burial Act, 1857 ... ... ... ... ... | 20 & 21 Vict. c. 81. |
| Metropolis Management Amendment Act, 1862 | 25 & 26 Vict. c. 102. |
| Local Loans Act, 1875 ... ... ... ... | 38 & 39 Vict. c. 83. |
| Public Works Loans Act, 1875 ... ... ... | 38 & 39 Vict. c. 89. |
| Telegraph Act, 1878 ... ... ... ... | 41 & 42 Vict. c. 76. |
| Interpretation Act, 1889 ... ... ... ... | 52 & 53 Vict. c. 63. |
| Metropolis Management Act, 1862, Amendment Act, 1890 ... ... ... ... ... ... | 53 & 54 Vict. c. 54. |
| Finance Act, 1895 ... ... ... ... ... | 58 & 59 Vict. c. 16. |
| National Trust Act, 1907 ... ... ... ... ... | 7 Edw. 7. c. cxxxvi. |
| Development and Road Improvement Funds Act, 1909 ... ... ... ... ... ... | 9 Edw. 7. c. 47. |
| Acquisition of Land (Assessment of Compensation) Act, 1919 ... ... ... ... ... | 9 & 10 Geo. 5. c. 57. |
| Mines (Working Facilities and Support) Act, 1923 | 13 & 14 Geo. 5. c. 20. |
| Town Planning Act, 1925 ... ... ... ... | 15 & 16 Geo. 5. c. 16. |
| Settled Land Act, 1925 ... ... ... ... | 15 & 16 Geo. 5. c. 18. |
| Law of Property Act, 1925 ... ... ... | 15 & 16 Geo. 5. c. 20. |

| Short Title | Session and Chapter |
|---|---|
| Land Charges Act, 1925 ... ... ... ... | 15 & 16 Geo. 5. c. 22. |
| Universities and College Estates Act, 1925 ... | 15 & 16 Geo. 5. c. 24. |
| Supreme Court of Judicature (Consolidation) Act, 1925 ... ... ... ... ... ... | 15 & 16 Geo. 5. c. 49. |
| Roads Improvement Act, 1925 ... ... ... | 15 & 16 Geo. 5. c. 68. |
| Rating and Valuation (Apportionment) Act, 1928 | 18 & 19 Geo. 5. c. 44. |
| Town and Country Planning Act, 1932 ... ... | 22 & 23 Geo. 5. c. 48. |
| Local Government Act, 1933 ... ... ... | 23 & 24 Geo. 5. c. 51. |
| Restriction of Ribbon Development Act, 1935 ... | 25 & 26 Geo. 5. c. 47. |
| Public Health Act, 1936 ... ... ... ... | 26 Geo. 5 & 1 Edw. 8. c. 49. |
| Public Health (London) Act, 1936 ... ... | 26 Geo. 5 & 1 Edw. 8. c. 50. |
| Green Belt (London and Home Counties) Act, 1938 ... ... ... ... ... ... | 1 & 2 Geo. 6. c. xciii. |
| Limitation Act, 1939 ... ... ... ... | 2 & 3 Geo. 6. c. 21. |
| London Government Act, 1939 ... ... ... | 2 & 3 Geo. 6. c. 40. |
| Compensation (Defence) Act, 1939 ... ... | 2 & 3 Geo. 6. c. 75. |
| National Loans Act, 1939 ... ... ... ... | 2 & 3 Geo. 6. c. 117. |
| War Damage Act, 1943 ... ... ... ... | 6 & 7 Geo. 6. c. 21. |
| Restriction of Ribbon Development (Temporary Development) Act, 1943 ... ... ... | 6 & 7 Geo. 6. c. 34. |
| Town and Country Planning Act, 1944 ... ... | 7 & 8 Geo. 6. c. 47. |
| Distribution of Industry Act, 1945 ... ... | 8 & 9 Geo. 6. c. 36. |
| Requisitioned Land and War Works Act, 1945 ... | 8 & 9 Geo. 6. c. 43. |
| Statutory Orders (Special Procedure) Act, 1945... | 9 & 10 Geo. 6. c. 18. |
| Building Restrictions (War Time Contraventions) Act, 1946 ... ... ... ... ... ... | 9 & 10 Geo. 6. c. 35. |
| Acquisition of Land (Authorisation Procedure) Act, 1946 ... ... ... ... ... ... | 9 & 10 Geo. 6. c. 49. |
| New Towns Act, 1946 ... ... ... ... | 9 & 10 Geo. 6. c. 68. |
| Forestry Act, 1947 ... ... ... ... ... | 10 & 11 Geo. 6. c. 21. |
| Town and Country Planning Act, 1947 ... ... | 10 & 11 Geo. 6. c. 51. |
| Agricultural Holdings Act, 1948 ... ... ... | 11 & 12 Geo. 6. c. 63. |
| Special Roads Act, 1949 ... ... ... ... | 12, 13 & 14 Geo. 6. c. 32. |
| National Parks and Access to the Countryside Act, 1949 ... ... ... ... ... ... | 12, 13 & 14 Geo. 6. c. 97. |
| Public Utilities Street Works Act, 1950 ... ... | 14 Geo. 6. c. 39. |
| Town and Country Planning (Amendment) Act, 1951 ... ... ... ... ... ... | 14 & 15 Geo. 6. c. 19. |
| Forestry Act, 1951 ... ... ... ... ... | 14 & 15 Geo. 6. c. 61. |
| Town and Country Planning Act, 1953 ... ... | 1 & 2 Eliz. 2. c. 16. |
| Licensing Act, 1953 ... ... ... ... | 1 & 2 Eliz. 2. c. 46. |
| Landlord and Tenant Act, 1954 ... ... ... | 2 & 3 Eliz. 2. c. 56. |
| Town and Country Planning Act, 1954 ... ... | 2 & 3 Eliz. 2. c. 72. |
| London County Council (Loans) Act, 1955 ... | 4 & 5 Eliz. 2. c. xxvi. |
| Housing Act, 1957 ... ... ... ... ... | 5 & 6 Eliz. 2. c. 56. |
| City of London (Various Powers) Act, 1958 ... | 6 & 7 Eliz. 2. c. xlvii. |
| Local Government Act, 1958 ... ... ... | 6 & 7 Eliz. 2. c. 55. |
| Tribunals and Inquiries Act, 1958 ... ... | 6 & 7 Eliz. 2. c. 66. |
| Opencast Coal Act, 1958 ... ... ... ... | 6 & 7 Eliz. 2. c. 69. |
| Highways Act, 1959 ... ... ... ... | 7 & 8 Eliz. 2. c. 25. |
| Town and Country Planning Act, 1959 ... ... | 7 & 8 Eliz. 2. c. 53. |
| Local Employment Act, 1960 ... ... ... | 8 & 9 Eliz. 2. c. 18. |
| Caravan Sites and Control of Development Act, 1960 ... ... ... ... ... ... | 8 & 9 Eliz. 2. c. 62. |
| Land Compensation Act, 1961 ... ... ... | 9 & 10 Eliz. 2. c. 33. |