Countryside (Scotland) Act 1967

CHAPTER 86

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ELIZABETH II



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An Act to make provision for the better enjoyment of the Scottish countryside, for the establishment of a Countryside Commission for Scotland and for the improvement of recreational and other facilities; to extend the powers of local planning authorities as respects land in their districts; to make financial provision with respect to the matters aforesaid; and for connected purposes. [27th October 1967]

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

THE COUNTRYSIDE COMMISSION FOR SCOTLAND

The Countryside Commission for Scotland.

1.—(1) There shall be established a Countryside Commission for Scotland (in this Act referred to as " the Commission ") who shall exercise the functions conferred on them by this Act for the provision, development and improvement of facilities for the enjoyment of the Scottish countryside, and for the conservation and enhancement of the natural beauty and amenity thereof.

(2) In the exercise of their functions the Commission shall have due regard to the need for the development of recreational and tourist facilities and for the balanced economic and social development of the countryside.

(3) The Commission shall consist of such number of members not exceeding fourteen, as the Secretary of State may from time

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to time determine, and the members shall, in accordance with subsection (4) below, be appointed by the Secretary of State, who may appoint one of them to be chairman.

(4) The Commission shall be comprised of—

(*a*) persons appointed after consultation with such associations of local authorities as appear to the Secretary of State to represent local planning authorities;

(*b*) persons appointed after consultation with such organisations as appear to the Secretary of State to be representative of countryside interests; and

(*c*) such other persons as the Secretary of State may think fit.

(5) The provisions of Schedule 1 to this Act shall have effect with respect to the Commission.

(6) The Secretary of State may, after consultation with the Commission, give to them directions of a general character as to the exercise of their functions, and the Commission shall give effect to any such directions.

1957 c. 20

(7) In Part III of Schedule 1 to the House of Commons Disqualification Act 1957 (which specifies offices the holders of which are disqualified under that Act) as it applies to the House of Commons of the Parliament of the United Kingdom, there shall be inserted at the appropriate point in alphabetical order the entry "Chairman of the Countryside Commission for Scotland".

The countryside.

2.—(1) In this Act "the countryside" means the areas which are for the time being designated as such on maps prepared and approved by the Secretary of State in accordance with subsections (2) to (5) below, or as amended by him under subsection (6) below, or, before the approval of those maps, such areas as are described in subsection (8) below.

(2) The Secretary of State shall, as soon as may be after the passing of this Act, prepare maps relating to the areas of local planning authorities designating the parts of those areas which are to be treated as the countryside for the purposes of this Act, and in preparing those maps he shall consult with the Commission and the local planning authorities concerned and shall have regard to the following considerations—

(*a*) whether land is of a rural character or otherwise;

(*b*) in the case of extensive areas of open land within burghs or other centres of population, the suitability of that land for open-air recreation;

(*c*) the indications as to the use or proposed use of land given by a development plan for the time being in force by virtue of the Act of 1947;

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(*d*) whether land is for the time being treated as part of the countryside by virtue of subsection (8) below.

(3) The Secretary of State shall refer the maps mentioned in subsection (2) above to the Commission and to the local planning authorities concerned, who may make representations to him with respect thereto.

(4) Having considered any representations made to him under subsection (3) above the Secretary of State may make such amendments, if any, to the maps as he considers appropriate and may from time to time approve those maps.

(5) The Secretary of State shall complete his approval of all the maps referred to in subsection (2) above within one year from the passing of this Act or within such longer period (not exceeding two years from the passing of this Act) as may be specified in an order made by statutory instrument by him, and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) After the completion of his approval of the maps in accordance with subsection (5) above the Secretary of State may, having regard to any changes in the circumstances affecting the areas concerned, from time to time prepare and approve amendments to those maps, and the provisions of subsections (2) to (4) above with regard to the preparation and approval of maps shall, apart from any provision as to time, apply with any necessary modifications to the preparation and approval of those amendments.

(7) Every local planning authority shall make available for inspection by the public at all reasonable hours and without charge copies of the maps relating to their district which have been approved by the Secretary of State under this section, including any amendments of those maps which have been approved as aforesaid, and copies thereof, including reproductions on such scale as may be appropriate, shall be made available by them on sale to the public at a reasonable cost.

(8) Before the approval by the Secretary of State of maps relating to an area, "the countryside" in relation to that area means the landward areas of counties and the areas of small burghs containing according to the last published census a population of less than 5,000 inhabitants, but excludes such areas or includes such other areas as the Secretary of State, having regard to the considerations mentioned in paragraphs (*a*) to (*c*) of subsection (2) above, may, after consultation with the Commission and the local planning authorities concerned, by order from time to time designate.

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Duties of the Commission.

3. The Commission shall have the following duties—

(*a*) to keep under review all matters relating to the provision, development and improvement of facilities for the enjoyment of the countryside, the conservation and enhancement of its natural beauty and amenity, and the need to secure public access to the countryside for the purposes of open-air recreation; and to consult with such local planning authorities and other bodies as appear to the Commission to have an interest in those matters;

(*b*) to encourage, assist, concert or promote the implementation of any proposals with respect to those matters made by any other person or body, being proposals which the Commission consider to be suitable;

(*c*) to exercise the functions relating to development projects or schemes conferred on them by section 5 below;

(*d*) to consult with local planning authorities regarding the exercise of their powers under section 48 below and from time to time to advise them thereanent;

(*e*) to advise the Secretary of State or any other Minister or any public body on such matters relating to the countryside as he or they may refer to the Commission or as the Commission may think fit.

Powers of the Commission.

4. The Commission shall have the following powers—

(*a*) where it appears to the Commission that it would assist them in the exercise of their functions, to establish, promote or assist in the establishment of committees or other appropriate bodies, to promote or assist in the promotion of conferences or meetings, to participate in such committees, bodies, conferences or meetings, and to defray in whole or in part the expenses of participants;

(*b*) where it appears to the Commission that the provision, development or improvement of recreational or tourist facilities or the conservation or enhancement of the natural beauty or amenity of any area of the countryside involves special problems or requires the application of special professional or technical skill, on being so requested by any local planning authority concerned, to place at the disposal of the authority the services of officers or servants of the Commission on such terms as may be agreed with the authority and are approved by the Secretary of State;

(*c*) to carry out or commission the carrying out of such inquiries, investigations or researches, either on their own account or jointly with other persons, as the Commission may deem necessary or expedient for the purposes of their functions;

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(*d*) to engage in any activity which they may consider appropriate for the purpose of educating and informing persons in the proper use of, and behaviour in, the countryside;

(*e*) to provide or assist in the provision of publicity and information services relating to the countryside, to places of beauty or interest therein or to the functions of the Commission;

(*f*) to make such charges for any of their services as they think fit;

(*g*) to make to any public body recommendations as to the making of byelaws affecting the countryside or any area therein;

(*h*) to accept any gift or contribution made to them for the purposes of any of their functions, and, subject to the terms of the gift or contribution and to the provisions of this Act, to apply it for those purposes;

(*i*) for the purpose of providing themselves with office or other accommodation in connection with the exercise of any of their functions, to acquire land in manner provided by section 6(1) (*a*) below, to erect and maintain buildings or other structures thereon, and, when the land is no longer required for such purpose, to dispose of it in manner provided by the said section 6;

(*j*) to do all such things as are incidental to, or conducive to the attainment of the purposes of, any of their functions.

Development projects or schemes.

5.—(1) In pursuance of section 3(*c*) above the Commission shall have the following functions—

(*a*) after consultation with such local authorities and other bodies as appear to the Commission to have an interest, from time to time to prepare and submit to the Secretary of State for his approval proposals with respect to any area for a development project or scheme designed to facilitate the enjoyment of the countryside or to conserve or enhance its natural beauty or amenity, which—

(i) in relation to that area involves the application of new or developed methods, concepts or techniques, and

(ii) is designed to illustrate the appropriateness of such a project or scheme to that area or other areas of a similar nature or which present similar problems to that area;

(*b*) to concert, promote or to undertake, either by themselves or in conjunction with any other authority or person, measures to implement any proposals so approved.

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(2) The Secretary of State may approve in whole or in part or with modifications any proposals submitted to him under paragraph (*a*) of the foregoing subsection, or may refuse to approve them.

1965 c. 64.

(3) Section 14(2) of the Highlands and Islands Development (Scotland) Act 1965 (approval deemed to be planning permission) shall apply to an approval under subsection (2) above as it applies to an approval under that Act, so however that for any reference to the Board in that section there shall be substituted a reference to the Commission.

Powers of Commission in relation to development projects or schemes.

6.—(1) For the purpose of their functions under section 5(1)(*b*) above the Commission may—

(*a*) with the approval of the Secretary of State, by agreement acquire land, whether by way of purchase, feu, lease or excambion;

(*b*) acquire land compulsorily;

(*c*) hold and manage land, and with the approval of the Secretary of State, and subject to the subsequent provisions of this section, dispose of or otherwise deal with land;

(*d*) erect buildings or other structures and carry out works or other operations on land;

(*e*) provide equipment and services on or in connection with land or with the use of land;

(*f*) hold, manage, maintain, hire, let or otherwise dispose of such works, equipment or services;

(*g*) exercise any powers to carry out work or provide services or facilities conferred by this Act on local authorities or local planning authorities;

(*h*) with the approval of the Secretary of State and the Treasury, acquire by agreement and carry on or set up and carry on, directly or through an agent, or themselves carry on as agent, any business or undertaking, and, subject to such approval, may dispose of any such business or undertaking.

(2) The disposal of land under this section may be by way of sale, feu, lease, or excambion, and there may be created in relation to land held by the Commission any servitude, right or other privilege, but such land may not be disposed of by way of gift.

(3) The powers conferred by paragraphs (*d*) to (*g*) of subsection (1) above—

(*a*) may be exercised by the Commission either on or in connection with land belonging to them, or with the consent of all persons having an interest therein, on or in connection with other land, and

(*b*) shall be exercisable in relation to land not belonging to them on such terms as may be arranged by agreement with the persons having an interest in the land. PART I

(4) Where any person having such an interest in any land as enables him to bind the land enters into any such agreement as aforesaid, the agreement may be recorded in the Register of Sasines, and if so recorded shall be enforceable at the instance of the Commission against persons deriving title to the land from the person who entered into the agreement:

Provided that any such agreement shall not be enforceable against a third party who shall have in good faith and for value acquired right (whether completed by infeftment or not) to the land prior to the agreement being recorded as aforesaid, or against any person deriving title from such third party.

Grants and loans to persons other than public bodies.

7.—(1) In accordance with arrangements approved by the Secretary of State and the Treasury, the Commission shall have power to give financial assistance by way of grant or loan, or partly in one way and partly in the other, to any person, other than a public body, carrying on or proposing to carry on any project approved by the Secretary of State for the purposes of this section which in the opinion of the Commission is conducive to the attainment of any of the purposes of this Act.

(2) Before applying for the approval of the Secretary of State to any such project the Commission shall satisfy themselves that in all the circumstances it is preferable that the project should be carried out by a person other than a public body.

(3) On making a grant or loan under this section the Commission may impose such conditions as they think fit, including (in the case of a grant) conditions for repayment in specified circumstances.

(4) In this section "public body" does not include The National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the National Trust for Scotland Order Confirmation Act 1935. 26 Geo. 5 & 1 Edw. 8 c. ii.

Advisory functions of Commission regarding planning matters.

8.—(1) The Commission may, and if so requested by the Secretary of State or any local planning authority shall, advise the Secretary of State or, as the case may be, the authority, in relation to any matter arising under the Planning Acts which affects land in the countryside.

(2) In this section "the Planning Acts" means the Town and Country Planning (Scotland) Act 1945 and the Town and Country Planning (Scotland) Acts 1947 to 1966. 1945 c. 33.

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Areas of special planning control.

9.—(1) The Commission may, and if so requested by the Secretary of State shall, advise him as to the exercise of his powers under subsections (2) and (3) below.

(2) Where the Secretary of State is satisfied that any area in the countryside should by reason of its beauty or amenity or other special characteristics be the subject of further planning control, he may, after consultation with any local planning authority concerned, by order designate that area as an area of special planning control, and where an area is so designated the following provisions of this section shall apply.

(3) The Secretary of State may give directions to any local planning authority requiring them to give in accordance with subsection (4) below such information as may be specified in the directions regarding applications made to them for planning permission in respect of all development or any class of development as may be so specified in or in any part of an area of special planning control.

(4) Where directions under subsection (3) above are in force in relation to any application for planning permission the information specified in the directions shall, within 21 days of receipt by them of the application or such longer period as the Secretary of State may in any particular case allow, be given by the local planning authority to the Secretary of State and to the Commission, and the authority may when giving that information indicate the manner in which they propose to dispose of the application.

(5) After consultation with the local planning authority concerned the Commission shall, within 21 days of the receipt by them of such information relating to an application for planning permission, or such longer period as the Secretary of State may in any particular case allow, make recommendations to the local planning authority as to the manner in which they should dispose of the application, including, where appropriate, recommendations as to the conditions which should be attached to a grant of planning permission, and the authority shall notify the Secretary of State whether or to what extent those recommendations are acceptable to them.

(6) The Secretary of State shall as respects any application for planning permission in relation to which directions under subsection (3) above are in force intimate to the local planning authority concerned whether he desires that the application should be referred to him under section 13 of the Act of 1947 (reference of applications to the Secretary of State) and the authority shall not grant planning permission in respect of any such application until the Secretary of State intimates to them that he does not so desire.

(7) Expressions used in this section have the same meanings as in the Act of 1947.

PART II

ACCESS TO OPEN COUNTRY

Provision for public access to open country.

10.—(1) For the purpose of enabling the public to have access for open-air recreation to open country, the provisions of this Part of this Act shall apply to land which is or which gives or forms part of access to open country, being land—

(*a*) to which the provisions of the next following section are applied by an agreement under this Part of this Act (hereinafter referred to as an " access agreement ") or by an order under this Part of this Act (hereinafter referred to as an " access order "),

(*b*) acquired under this Part of this Act for the aforesaid purpose.

(2) In this Part of this Act " open country " means any land appearing to the authority with whom an access agreement is made or to the authority by whom an access order is made or by whom the land is acquired, as the case may be, to consist wholly or predominantly of mountain, moor, heath, hill, woodland, cliff or foreshore, with the waterways therein or contiguous or adjacent thereto (including any bank, barrier, dune, beach, flat or other land adjacent to the waterway or foreshore).

Rights of public where access agreement or order in force.

11.—(1) Subject to the following provisions of this Part of this Act, where an access agreement or order is in force as respects any land, a person who enters upon land comprised in the agreement or order for the purpose of open-air recreation without causing damage, or who is on such land for that purpose after having so entered thereon, shall not be treated as a trespasser on that land or incur any other liability by reason only of so entering or being on the land:

Provided that this subsection shall not apply to land which for the time being is excepted land as hereinafter defined except in so far as an access agreement provides that it shall so apply.

In this subsection " means of access " has the same meaning as in section 17 below.

(2) Nothing in the provisions of the foregoing subsection shall entitle a person to enter or be on any land, or to do anything thereon, in contravention of any prohibition contained in or having effect under any enactment.

(3) An access agreement or order may specify or provide for imposing restrictions subject to which persons may enter or be upon land by virtue of subsection (1) above, including in particular, but without prejudice to the generality of this subsection, restrictions excluding the land or any part thereof at

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particular times from the operation of the said subsection (1); and that subsection shall not apply to any person entering or being on the land in contravention of any such restriction or failing to comply therewith while he is on the land.

(4) Without prejudice to the provisions of the last foregoing subsection, subsection (1) above shall have effect subject to the provisions of Schedule 2 to this Act as to the general restrictions to be observed by persons having rights of access by virtue of the said subsection (1).

(5) For the purposes of this Part of this Act, the expression "excepted land" means land which for the time being is of any of the following descriptions, that is to say—

(*a*) land used for agricultural purposes other than livestock rearing land, being land which was so used at the date when the relevant access agreement or order was made;

(*b*) land comprised in a declaration for the time being in force under section 19 of the National Parks and Access to the Countryside Act 1949 (declarations that areas are nature reserves) or that section as applied by section 21 of that Act, in so far as that land is subject to byelaws made under section 20 of that Act or under that section as applied by the said section 21 prohibiting entry of persons;

1949 c. 97.

(*c*) land covered by buildings or the curtilage of such land;

(*d*) land used for the purpose of a park, garden or pleasure ground, being land which was so used at the date when the relevant access agreement or order was made;

(*e*) land used for the getting of minerals by surface working (including quarrying), land used for the purposes of a railway (including a light railway) or tramway, or land used for the purposes of a golf course, sports ground, playing field, racecourse or aerodrome within the meaning of the Civil Aviation Act 1949 as extended by the Airports Authority Act 1965;

1949 c. 67.
1965 c. 16.

(*f*) land (not falling within the foregoing paragraphs of this subsection) covered by works used for the purposes of a statutory undertaking or the curtilage of such land;

(*g*) land excepted from the application of this section in accordance with the provisions of section 15 below;

(*h*) land as respects which development is in course of being carried out which will result in the land becoming such land as is specified in paragraphs (*c*), (*e*) and (*f*) of this subsection:

Provided that land which is for the time being comprised in an access agreement or order shall not become excepted land by reason of any development carried out thereon, or any change of use made thereof, if the development or change

of use is one for which under the Act of 1947 planning permission is required and either that permission has not been granted or any condition subject to which it was granted has been contravened or has not been complied with.

Commission to consult with local planning authorities and other bodies on access requirements.

12.—(1) In the exercise of their duty under section 3(*a*) above to keep under review the need to secure public access to the countryside for the purposes of open-air recreation, the Commission shall consult from time to time with local planning authorities and with such bodies as appear to the Commission to be representative of owners and occupiers of land for the purpose of ascertaining what land there is of the descriptions specified in section 10(2) above and considering what action should be taken, whether by the making of access agreements or orders or by the acquisition of land, for securing such public access.

(2) In considering what action should be taken as aforesaid, the Commission and the local planning authority shall have regard to all relevant circumstances, including—

(*a*) in the case of particular land, the extent to which such access as aforesaid is likely to be available without such action being taken, and

(*b*) generally, the extent to which there is a need for greater facilities in the area of the authority for such access, whether for persons living in their area or for other persons.

Access agreements.

13.—(1) A local planning authority may with the approval of the Secretary of State make an access agreement with any person having an interest in land in the area of the authority whereby the provisions in that behalf of this Part of this Act shall apply to the land.

(2) An access agreement may provide for the making of payments by the local planning authority of either or both of the following descriptions, that is to say in consideration of the making of the agreement and by way of defraying or contributing towards expenditure incurred by the person making the agreement in consequence thereof.

(3) An access agreement may be made subject to such provisions for revocation or variation as may be specified in the agreement.

(4) Any person, being the liferenter or the heir of entail, in possession of any land shall have power to enter into access agreements relating to the land or any part thereof.

1921 c. 58.

(5) The Trusts (Scotland) Act 1921 shall have effect as if among the powers conferred on trustees by section 4 thereof (which relates to the general powers of trustees) there were included a power to enter into access agreements relating to the trust estate or any part thereof.

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(6) Where after consultation with the local planning authority it appears to the Commission desirable that an access agreement should be made in respect of any land, they may request the local planning authority to enter into such an agreement; and before entering into an access agreement in respect of land in any area of special planning control, the local planning authority shall consult with the Commission.

(7) Subject to the provisions of subsection (8) below, where an access agreement is made with one or some, but not all, of the persons having interests in the land to which the agreement relates, the provisions of this Part of this Act shall not, as against any person for the time being entitled to an interest in the land who is not a party to the agreement, operate so as to prejudice his rights in relation to that interest, or impose any restriction on him or confer any right against him, and the local planning authority shall, as soon as may be after the agreement is made, serve a copy of the agreement on every such person who is not a party thereto.

1955 c. 21.

(8) A grazings committee appointed under section 24 of the Crofters (Scotland) Act 1955 may, with the consent of a majority of the crofters ordinarily resident in the township, enter into an access agreement in relation to any part of the common grazings and may agree to the revocation or variation of any such agreement, and such agreement, revocation or variation shall be binding upon all the crofters who share in the common grazings and upon their successors.

(9) Where any agreement referred to in the last foregoing subsection contains a provision for the making of a payment under subsection (2) above, the payment shall be made to the grazings committee and shall be applied by them—

(*a*) in the case of a payment in consideration of the making of the agreement, either by division among the crofters who share in the common grazings in proportion to their respective rights therein or, with the consent of a majority of the crofters ordinarily resident in the township and with the approval of the Crofters Commission, in carrying out works for the improvement of the common grazings or the fixed equipment required in connection therewith;

(*b*) in the case of a payment in respect of expenditure incurred in consequence of the agreement, by defraying or contributing towards that expenditure.

(10) In this section "crofter" has the meaning assigned to it by section 3 of the Crofters (Scotland) Act 1955 as read with section 15(6) of the Crofters (Scotland) Act 1961.

1961 c. 58.

Access orders.

14.—(1) Subject to the provisions of this section, the authority by whom an access order may be made shall be the local

planning authority in whose area the land in question is situated; and an order made by such an authority shall be submitted to the Secretary of State and shall not have effect unless confirmed by him.

(2) An access order shall not be made as respects any land—

(*a*) if an access agreement or access agreements are in force which in the opinion of the authority having power to make such an order adequately secure to the public access to the open country in question for open-air recreation;

(*b*) where such an agreement or agreements are not in force, unless it appears to the said authority impracticable to secure the making of such an agreement or agreements.

(3) An access order shall contain a map, on such scale as may be prescribed, defining in such manner as may be prescribed—

(*a*) the land comprised in the order and, if it is not itself open country, its relation to the open country in question, and

(*b*) any land comprised in the order which is excepted land;

and the order shall also include such descriptive matter, if any, as may be prescribed or as may appear to the said authority to be requisite for the purposes of the order.

(4) The provisions in that behalf of Schedule 3 to this Act shall apply to the making, confirmation, coming into operation and validity of access orders.

(5) The Secretary of State shall not confirm or make an access order before byelaws have been made and confirmed under section 54 or made under section 55 of this Act in relation to the land in question.

(6) Where after consultation with the local planning authority it appears to the Commission desirable that an access order should be made in respect of any land, the Commission may request the authority to make an order accordingly; and before making an access order in respect of land in any area of special planning control, the local planning authority shall consult with the Commission.

(7) If in respect of any land—

(*a*) it appears to the Secretary of State that an access order should be made in respect thereof, or

(*b*) it is represented to the Secretary of State by the Commission that a local planning authority have not

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complied with a request made under the last foregoing subsection,

the Secretary of State, after consultation with the local planning authority and with the Commission, may direct the authority to make the order or may himself make the order.

(8) An access order may specify work or other things to be done (either at one time or from time to time) on the land in the exercise of the powers conferred by section 61 below.

Provisions as to land used for agricultural purposes or as woodlands.

15.—(1) If, on the submission of an access order to the Secretary of State for confirmation, a representation is duly made as respects any land—

(*a*) that the land is used, or about to be brought into use, for agricultural purposes, and that the use or proposed use as aforesaid will be prejudiced by the application of the provisions of section 11 above to the land; or

(*b*) that the land is used, or about to be brought into use, for the growing of timber for commercial purposes, and that the use or proposed use as aforesaid will be prejudiced as aforesaid; or

(*c*) that the land is used for the growing of timber so as to be of value for the amenity of the neighbourhood and that the growth or regeneration of the timber will be prejudiced as aforesaid,

then, subject to the provisions of this section, if the Secretary of State is satisfied that the conditions specified in paragraph (*a*), (*b*) or (*c*) of this subsection are fulfilled and outweigh the benefit arising from the increased facilities for public access, he shall not confirm the order so as to apply the said provisions to the land.

(2) Where, as respects land comprised in an access agreement, it is represented to the Secretary of State that the conditions specified in paragraph (*a*), (*b*) or (*c*) of the foregoing subsection are fulfilled, and the Secretary of State is satisfied as stated in that subsection, then subject to the provisions of this section—

(*a*) the Secretary of State shall notify to the authority by whom the agreement was made the fact that he is satisfied as aforesaid, and thereupon the authority shall vary the agreement so as to exclude the land;

(*b*) the fact that the agreement is expressed to be irrevocable shall not prevent its variation so as to exclude the land; and

(*c*) if the concurrence of any party to the agreement other than the said authority, or of the successor in title to his interest, cannot be obtained to the variation of the

agreement as aforesaid, the authority may by order made with the approval of the Secretary of State vary the agreement.

(3) Where, as respects land comprised in an access order (whether made by the Secretary of State or by a local planning authority), it is represented to the Secretary of State that the conditions specified in paragraph (*a*), (*b*) or (*c*) of subsection (1) above are fulfilled, and the Secretary of State is satisfied as stated in that subsection, then subject to the provisions of this section the Secretary of State shall make an order varying the access order so as to exclude the land.

(4) Before exercising any of his functions under this section the Secretary of State shall consult with the Commission; and before coming to a conclusion on any such representation as is mentioned in the two last foregoing subsections, the Secretary of State shall either cause a local inquiry to be held or afford to the person by whom the representation was made and to the local planning authority concerned an opportunity of being heard by a person appointed by the Secretary of State for the purpose, and shall consider the report of the person by whom the inquiry was held or the person appointed as aforesaid as the case may be.

(5) In determining whether the conditions specified in paragraph (*a*), (*b*) or (*c*) of subsection (1) above are fulfilled in the case of any proposed access order, the Secretary of State shall have regard to the provisions of section 11(3) above; and references in this section to varying an agreement or order so as to exclude land shall include references to varying an agreement or order by the imposition of such restrictions under the said section 11(3) as may be specified by the Secretary of State as requisite for the purposes of this section.

(6) In this section the expression "timber" includes trees of every description, and also saleable underwood.

Effect of access agreement or order on rights and liabilities of persons interested in land.

16.—(1) A person interested in any land comprised in an access agreement or order, not being excepted land, shall not carry out any work thereon whereby the area to which the public are able to have access by virtue of the agreement or order is substantially reduced:

Provided that nothing in this subsection shall affect the doing of anything whereby any land becomes excepted land.

(2) Any restriction arising under an agreement or otherwise as to the use of any land comprised in an access agreement or order shall have effect subject to the provisions of this Part of this Act, and any liability of a person interested in such land in respect of such a restriction shall be limited accordingly.

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(3) For the purposes of any enactment or rule of law as to the circumstances in which a right of way or servitude may be constituted, use of land by the public or by any person at any time while it is comprised in an access agreement or order shall be disregarded.

(4) Every access agreement and access order and every instrument or order varying or revoking any such agreement or order shall contain a particular description of the lands affected or a description by reference of those lands in the manner provided by section 61 of the Conveyancing (Scotland) Act 1874.

1874 c. 94.

(5) As soon as may be after any such agreement or instrument as is referred to in the last foregoing subsection is made, or after any such order is confirmed, the local planning authority shall cause it to be recorded in the Register of Sasines, and when so recorded, it shall be enforceable at the instance of the local planning authority against persons deriving title to the land or to the relevant interest therein from the person so entitled when the agreement, order or instrument was made:

Provided that any such agreement, order or instrument shall not be so enforceable against a third party who shall have in good faith and for value acquired right (whether completed by infeftment or not) to the land or to the relevant interest therein prior to the agreement, order or instrument being recorded as aforesaid, or against any person deriving title from such third party.

In this subsection, "relevant interest" means an interest which is subject to such an agreement, order or instrument as is referred to in the last foregoing subsection.

Provisions for securing safe and sufficient access.

17.—(1) An access agreement or order may make such provision as appears expedient for the purposes of the agreement or order for securing that safe and sufficient access will be available for the public on the land comprised in the agreement or order.

(2) Provision made by an access agreement or order by virtue of this section may be provision for any one or more of the following matters—

(*a*) the improvement or repair of any means of access to the land in existence at the time when the agreement or order is made;

(*b*) the construction of new means of access to the land;

(*c*) the carrying out of work to protect persons who are on land comprised in the agreement or order from injury or damage due to the state of the land or anything done or omitted to be done on it;

(*d*) the imposition of restrictions on the destruction, removal, alteration or closure of any means of access to the land or of any works provided under the last foregoing paragraph, or the doing of any thing whereby the use of any such means of access by the public would be impeded or the safety of the public would be endangered; and

(*e*) the maintenance of any such means of access to the land as are mentioned in paragraphs (*a*) and (*b*) of this subsection or of any works carried out in accordance with paragraph (*c*) of this subsection.

(3) No provision made by an access order by virtue of this section shall—

(*a*) apply to land which is for the time being excepted land, or authorise or require any thing to be done in relation to such land or any means of access thereto;

(*b*) affect the doing of any thing whereby any land becomes excepted land; or

(*c*) require, or authorise any person to require, any work to be carried out at the expense of any person interested in the land except as hereafter in this section expressly provided.

(4) Where it appears to the local planning authority in whose area the land is situated that any work is required for giving effect to any such provision of an access agreement or order as is specified in paragraphs (*a*), (*b*), (*c*) and (*e*) of subsection (2) above, the authority may agree with the owner and occupier of the land as to the carrying out of the work, and where it is agreed that it shall be carried out otherwise than by the authority may defray the cost of the carrying out thereof, or may contribute such part of that cost as may be specified in the agreement.

(5) If, in a case falling within the last foregoing subsection—

(*a*) the local planning authority are unable to make an agreement, or

(*b*) the owner or occupier fails to carry out within a reasonable period any work which he has agreed to carry out,

the local planning authority, after giving to the owner and the occupier not less than fourteen days' notice of their intention so to do, may take all necessary steps for carrying out the work; and where, in a case to which paragraph (*b*) of this subsection applies, the agreement provided that the authority should contribute part of the cost of carrying out the work, the authority may recover the amount of any expenses reasonably incurred

PART II

by them in carrying out the work, reduced by their contribution under the agreement, from the person by whom under the agreement the cost (apart from the authority's contribution) of carrying out the work would fall to be borne.

(6) In this section the expression "means of access," in relation to land, means any opening in a wall, fence or hedge bounding the land or any part thereof, with or without a gate, stile or other works for regulating passage through the opening, any stairs or steps for enabling persons to enter on the land or any part thereof, or any bridge, stepping stone or other works for crossing a water-course, ditch or bog on the land or adjoining the boundary thereof.

Power of local planning authority to enforce access.

18.—(1) If any person contravenes the provisions of section 16(1) above, or any such restriction as is specified in paragraph (*d*) of subsection (2) of the last foregoing section, any local planning authority whose area includes land in respect of which the contravention occurred may serve on that person a notice requiring him, within such period as may be specified in the notice, to carry out such work so specified as may appear to the authority to be requisite for remedying the contravention, being work for restoring or re-opening any means of access or for providing new means of access.

(2) If within the period specified in a notice under the foregoing subsection the person on whom the notice is served fails to comply therewith, the local planning authority may take all necessary steps for carrying out the work specified in the notice and may recover from that person any expenses reasonably incurred by them in carrying it out.

(3) Any person on whom a notice is served under subsection (1) above may, at any time within the period specified in the notice for carrying out the work so specified, appeal against the notice to the sheriff on the ground—

(*a*) that the period specified as aforesaid is too short;

(*b*) that the work specified in the notice, or some of that work, is not requisite for remedying the contravention;

(*c*) that he has not contravened the provisions or restriction in question; or

(*d*) that the work specified in the notice, or so much of the work as is requisite for remedying the contravention, has been carried out.

(4) On any such appeal the sheriff, if satisfied of the grounds of the appeal, may—

(*a*) extend the period within which the work was required to be carried out by the notice, or

(*b*) quash the notice as respects the whole or any part of the work specified therein, PART II

as the nature of the appeal may require; but if not so satisfied shall dismiss the appeal.

(5) The sheriff on such an appeal to him may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings, and an appeal shall lie to the Court of Session on any question of law from the decision of the sheriff.

(6) Where an appeal is taken under this section, the time between the taking of the appeal and the final determination thereof shall be disregarded in determining the period within which, in accordance with the notice, the work specified therein is to be carried out.

Suspension of public access to avoid risk of fire.

19. If the Secretary of State is satisfied that, by reason of any conditions of weather for the time being prevailing, public access to land comprised in an access agreement or order or any part thereof is likely to result in fires occurring thereon, he may direct that section 11(1) above shall not have effect in relation to such parts of the land and during such period as may be specified in the direction.

Compensation for access orders.

20. Where the value of the interest of any person in land is depreciated, or any person has suffered damage by being disturbed in his enjoyment of land, in consequence of the coming into operation of an access order, then subject to the following provisions of this Part of this Act the local planning authority in whose area the land comprised in the order is situated shall pay to that person compensation equal to the amount of the depreciation or damage:

Provided that nothing in this section shall confer on a person a right to compensation for depreciation of the value of an interest in land or for disturbance in his enjoyment of land, being land which in either case is not comprised in the order or if so comprised is excepted land, except if and in so far as either—

(*a*) it is held with land comprised in the order which is not excepted land, or

(*b*) the omission of any other person to exclude the public from the land comprised in the order or any part thereof would have been actionable at the instance of the first-mentioned person if the access order had not come into operation.

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Compensation to be assessed with regard to effect of first five years of access.

21.—(1) For the purpose of enabling compensation under the last foregoing section to be assessed in the light of experience gained of the actual effect on land of the coming into operation of access orders, any such compensation shall not, save as hereinafter provided, be claimed or payable before the expiration of a period of five years from the coming into operation of the order giving rise to the compensation (in this and the next following section referred to as " the relevant order ").

(2) Nothing in the foregoing subsection shall be construed as requiring such compensation to be assessed as at a date later than the date of the coming into operation of the relevant order; but in calculating the compensation it shall be assumed that on a sale at that date of the interest in respect of which the compensation is claimed, the purchaser would have had knowledge—

(*a*) of the actual effect during the said period, on the land in which the said interest subsists and the use of that land, of the coming into operation of the relevant order;

(*b*) of the fact and date of any revocation or variation during that period of the relevant order;

(*c*) of the fact and date of any changes during that period, as respects land comprised in the relevant order, from or to excepted land.

(3) If during the said period of five years the relevant order is revoked or varied so as to exclude from the operation thereof any land not being excepted land, the foregoing provisions of this section shall thereupon have effect, so far as concerns any claim for compensation in respect of the operation of the relevant order as respects the said land, as if for any reference to the said period of five years there were substituted a reference to the period beginning with the coming into operation of the relevant order and ending with the said revocation or variation.

(4) Where at different times within a period of five years two or more areas of land which are contiguous or adjacent to one another become comprised in access orders, and any person has an interest in each of those areas, then, with consent of every person having an interest in each of the areas other than the one first so comprised, the foregoing provisions of this section shall apply in relation to each of the last-mentioned areas with the substitution for any reference to the period of five years from the coming into operation of the order by virtue of which that area became so comprised as aforesaid of a reference to a period of five years from the coming into operation of the order by virtue of which the first of the areas became so comprised.

PART II
Claims for compensation and interest.

22.—(1) Any person claiming to be entitled to an interest in land in respect of the depreciation or the disturbance in the enjoyment of which compensation will become payable under section 20 above may apply to the local planning authority by whom the compensation will be payable to record his claim; and where an application is duly made under this subsection the authority shall record the claim accordingly in such manner as may be prescribed.

(2) An application under the foregoing subsection shall be made in such manner and within such period (not being less than three months) after the date when the relevant order came into operation as may be prescribed, and shall be accompanied by such particulars of the interest in land in respect of which it is made as may be prescribed:

Provided that nothing in this subsection shall authorise the imposition of any requirement that an applicant under the foregoing subsection shall state the amount of the compensation.

(3) Within such period as may be prescribed (not being less than three months) after the end of the period after which under the last foregoing section compensation may be claimed, any person who has applied under subsection (1) above for the recording of a claim to compensation, or any person claiming under him in respect of that compensation, may apply to the local planning authority, in such manner as may be prescribed, for the payment of the compensation.

(4) An application under the last foregoing subsection shall state the amount of compensation claimed by the applicant; and the application shall be accompanied by such evidence of the title of the applicant to the compensation as may be prescribed.

(5) Any compensation payable under section 20 above shall become due when, on an application for the payment thereof duly made under subsection (3) above, the amount of the compensation has been agreed or, in default of agreement, has been determined in manner provided under section 70 below; and any such compensation shall be payable with interest, at such rate as may be prescribed, from the date on which the relevant order came into operation to the date at which the compensation is paid.

Payments on account in special circumstances.

23.—(1) At any time during the period after which, under section 21 above, compensation may be claimed in respect of the coming into operation of an order, a person claiming to be entitled to such compensation may apply to the local planning

PART II

authority for a payment on account of the compensation on the ground of special circumstances; and if the authority are satisfied that such circumstances exist they shall make to him a payment on account of the compensation of such amount as they may determine.

(2) Any person aggrieved by the refusal of a local planning authority to make a payment on account under the last foregoing subsection, or by their determination thereunder of the amount of the payment to be made to him, may appeal to the Secretary of State; and the Secretary of State, after affording to the said person and to the authority an opportunity of being heard by a person appointed by the Secretary of State for the purpose, may either confirm the decision of the authority or direct that they shall make a payment on account of such amount as appears to the Secretary of State to be just.

Acquisition by local planning authorities of land for public access.

24.—(1) Where it appears to a local planning authority, as respects any land in their area which is or which gives or forms part of access to open country,—

(*a*) that it is requisite that the public should have access to that open country for open-air recreation; and

(*b*) that in the circumstances it is expedient that for that purpose the land should be acquired by the local planning authority,

the authority, if it appears to them impracticable to obtain such access by an access agreement or access order, may, with the consent of the Secretary of State, acquire the land by agreement, whether by way of purchase, feu, lease or excambion, or acquire the land compulsorily.

(2) A local planning authority may carry out on land acquired by them for the purposes of this section, and for the time being held by them for those purposes, such work as they may consider requisite for providing convenient means of access to the land or otherwise for the said purposes.

(3) While land acquired by a local planning authority under this section is held by them for the purposes thereof, it shall be the duty of the authority so to manage the land as to give to the public access for open-air recreation to so much thereof as appears to the authority to be practicable, having regard to the nature of the different parts of the land, to anything done thereon which may result in danger to the public or to persons employed thereon unless public access to the land or to adjoining land is restricted, and to all other relevant circumstances.

PART II
Acquisition by Secretary of State of land for public access.

25.—(1) Where it appears to the Secretary of State, as respects any land which is or which gives or forms part of access to open country—

(*a*) that it is requisite that the public should have access to that open country for open-air recreation; and

(*b*) that in the circumstances it is expedient that for that purpose the land should be acquired by him,

the Secretary of State may, with the consent of the Treasury, acquire the land by agreement, whether by way of purchase, feu, lease or excambion, or acquire the land compulsorily.

(2) Unless in any particular case the Secretary of State otherwise determines, any land acquired by the Secretary of State under this section shall be transferred to such other persons on such trusts or subject to such conditions as may appear to him expedient for securing to the public access for open-air recreation to so much thereof as appears to the Secretary of State to be practicable, having regard to the matters mentioned in subsection (3) of the last foregoing section.

(3) Subject to the provisions of the last foregoing subsection, the transfer of land under that subsection may be on such terms as to payment or otherwise as may, with the consent of the Treasury, be provided for by the arrangements for the transfer; and where the arrangements so provide the Secretary of State may defray or contribute to the cost of managing the land while it is managed in accordance with the trusts or conditions referred to in the last foregoing subsection.

(4) The Secretary of State may carry out on land acquired by him for the purposes of this section, and for the time being held by him for those purposes, such work as he may consider requisite for providing convenient means of access to the land or otherwise for the said purposes, or may arrange for any such work to be carried out by persons to whom the land is transferred.

(5) The Secretary of State may defray the cost of managing any land acquired by him under this section and not transferred to other persons.

Maps of land subject to public access.

26.—(1) A local planning authority whose area comprises any land—

(*a*) which is subject to an access agreement or order, or

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(*b*) which has been acquired under either of the two last foregoing sections and is for the time being held for the purpose for which it was acquired,

shall prepare and keep up to date a map, on such scale as may be prescribed, defining in such manner as may be prescribed—

(i) the land subject to the agreement or order or the land acquired and held as aforesaid, as the case may be;

(ii) in the case of land subject to such an agreement or order, any land comprised therein which is excepted land;

(iii) in the case of land acquired and held as aforesaid, any land comprised therein from which, for the purpose of avoiding danger to the public or to persons employed thereon or for any other reason, the public are excluded.

(2) An authority who are required by the foregoing subsection to prepare and keep up to date any map shall, so long as they are required so to do, have copies of the map and of the notices referred to in paragraph (*b*) below available for inspection by the public at such places as the authority may determine; and the authority shall display, at such places as they think fit, including places where the public obtain access to the land to which the map relates—

(*a*) reproductions of the map on an appropriate scale,

(*b*) notices specifying any restrictions on access to the land or any part thereof, whether the restrictions have effect by virtue of any of the provisions of this Part of this Act or otherwise.

Provisions as to danger areas.

27.—(1) The authority making an access agreement or order shall, after consulting with the owner and occupier of any land concerned, so delimit the land to which the agreement or order applies as to exclude all land which, by reason of anything done thereon or on other land contiguous or adjacent thereto, it appears to the authority expedient to exclude for the purpose of avoiding danger to the public or to persons employed on any of the said land.

(2) Where, while an access agreement or order is in force, the authority by whom the agreement or order was made are satisfied, as respects any land to which the agreement or order applies, that by reason of anything done or proposed to be done on that land or on other land contiguous or adjacent thereto it is expedient for the purpose aforesaid that the first-mentioned land should be excluded from the operation of the agreement or

order, the authority shall vary the agreement or order so as to exclude that land.

(3) The fact that an access agreement is expressed to be irrevocable shall not prevent its variation in pursuance of the last foregoing subsection; and where the concurrence of any party to an access agreement other than the said authority, or of the successor in title to his interest, cannot be obtained to the variation of the agreement in pursuance of that subsection, the said authority may by order made with the approval of the Secretary of State vary the agreement.

(4) A local planning authority shall have power, as respects any land which is subject to an access agreement or order, or as respects land held by the authority to which section 26(1)(*b*) above applies, to take such steps and carry out such work (including the erection and maintenance of fences or notices) as appear to them requisite for protecting the public from any source of danger on the land or on adjoining land.

(5) The provisions of the last foregoing subsection shall apply to the Secretary of State as respects land for the time being held by him under section 25 above as they apply to a local planning authority as respects land held by them.

(6) The application of section 11 above to any land shall not, in relation to any factory, magazine, store or premises already established, constitute the land an open place of resort for the public, or a public place, for the purposes of the Explosives Acts 1875 and 1923, or any order made or licence granted thereunder.

(7) The application of the said section 11 to any land shall, in relation to any factory, magazine, store or premises subsequently established, constitute the land such a place as aforesaid for the purposes of the said Acts or any such order or licence.

Boundary notices.

28. A local planning authority shall have power to erect and maintain notices or other means of indicating the boundaries of land comprised in an access agreement or order and of excepted land.

Power of local planning authority to contribute to work carried out by other persons.

29. A local planning authority shall have power, as respects any land in their area which is subject to an access agreement or order, to defray or contribute towards, or to undertake to defray or contribute towards, expenditure incurred or to be incurred in relation to the land by any person interested therein in taking such steps or carrying out such work as is mentioned in section 27(4) above, or in erecting and maintaining such notices or other means of indicating boundaries as are mentioned in the last foregoing section or section 26(2) above.

PART III

PUBLIC PATHS AND LONG-DISTANCE ROUTES

Creation of public paths

Creation of public paths by agreement.

30.—(1) A local planning authority shall have power to enter into an agreement with any person having the necessary power in that behalf for the creation by that person of a public path over land in their area.

(2) An agreement made under the foregoing subsection (in this Act referred to as a " public path creation agreement ") shall be on such terms as to payment or otherwise as may be specified in the agreement, and may, if it is so agreed, provide for the creation of the public path subject to limitations or conditions affecting any public right of way thereover.

(3) In this Part of this Act " public path " means a way which is a footpath or bridleway or a combination of those.

Compulsory powers for creation of public paths.

31.—(1) Where it appears to a local planning authority that there is need for a public path over land in their area and they are satisfied that, having regard to—

(*a*) the extent to which the path would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and

(*b*) the effect which the creation of the path would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 37 below,

it is expedient that the path should be created, the authority, if it appears to them impracticable to create the path by means of a public path creation agreement, may by order (in this Act referred to as a " public path creation order ") made by them and submitted to and confirmed by the Secretary of State create a public path.

(2) A right of way created by a public path creation order may be either unconditional or subject to such limitations or conditions as may be specified in the order, and the Secretary of State may confirm such an order subject to such modifications or conditions as he thinks fit.

(3) A public path creation order shall be in such form as may be prescribed and shall contain a map, on such scale as may be prescribed, defining the land over which a public path is thereby created.

(4) The provisions in that behalf of Schedule 3 to this Act shall apply to the making, confirmation, validity and date of operation of public path creation orders.

PART III
Exercise of powers under ss. 30 and 31.

32.—(1) Before exercising any of the powers conferred by the two last foregoing sections, a local planning authority shall consult with the Commission where the proposed exercise relates to an area of special planning control.

(2) Where a proposed public path lies partly within and partly outside the area of a local planning authority, the powers conferred by the two last foregoing sections on the authority shall extend to the whole of the path as if it lay wholly within their area:

Provided that, in relation to so much of the path as lies outside the area of the authority, the said powers shall not be exercisable as respects any part thereof in the area of any other local planning authority, except with the consent of that authority.

(3) Where it appears to the Secretary of State in any particular case that there is need for a public path as mentioned in section 31(1) above, and he is satisfied as mentioned in that subsection, the Secretary of State after consultation with every local planning authority in whose area the proposed public path will lie and with the Commission where any part of the proposed public path will lie within an area of special planning control, may direct any such authority to make and submit to him a public path creation order creating the public path or may himself make the order, and in relation to any order made in accordance with the provisions of this subsection, the proviso to the last preceding subsection shall not apply.

Making up and maintenance of public paths.

33.—(1) On the creation of a public path in pursuance of a public path creation agreement, or on the coming into operation of a public path creation order or public path diversion order, the local planning authority shall carry out such work as appears to them to be necessary to bring it into a fit condition for use by the public as a public path in conformity with the terms and conditions of the said agreement or order, as the case may be, and shall maintain it in such condition.

(2) If the Secretary of State is not satisfied that the local planning authority have carried out such work as is necessary to bring a public path referred to in subsection (1) above into a fit condition for use by the public as a public path or to maintain it in that condition, he may certify what work appears to him to be necessary for this purpose.

(3) If the local planning authority are not satisfied with a certificate made under subsection (2) above, the Secretary of State shall either cause a local inquiry to be held or shall give to the local planning authority an opportunity of being heard by a person appointed by him for the purpose, and, after considering the report of the person appointed to hold the inquiry or the person appointed as aforesaid, shall make such order either confirming or varying the certificate as he may think fit.

PART III

(4) Subject to the provisions of subsection (3) above, it shall be the duty of the local planning authority to carry out the work specified in a certificate made under subsection (2) above.

Closure of public paths.

34.—(1) Where it appears to a local planning authority as respects a public path in their area that it is expedient that the path should be closed on the ground that the path is not needed for public use, the authority may by order (in this Act referred to as a "public path extinguishment order") made by them and submitted to and confirmed by the Secretary of State extinguish the right of way over the path.

(2) The Secretary of State shall not confirm a public path extinguishment order unless he is satisfied that it is expedient so to do having regard to the extent to which it appears to him that the path would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path, account being taken of the provisions as to compensation contained in section 37 below.

(3) A public path extinguishment order shall be in such form as may be prescribed and shall contain a map, on such scale as may be prescribed, defining the land over which the right of way is thereby extinguished.

(4) Schedule 3 to this Act shall have effect as to the making, confirmation, validity and date of operation of public path extinguishment orders.

(5) Where in accordance with regulations made under paragraph 3 of the said Schedule proceedings preliminary to the confirmation of a public path extinguishment order are taken concurrently with proceedings preliminary to the confirmation of a public path creation order or of a public path diversion order made under the next following section then, in considering—

(*a*) under subsection (1) above whether the path to which the public path extinguishment order relates is needed for public use, or

(*b*) under subsection (2) above to what extent that path would apart from the order be likely to be used by the public,

the local planning authority or the Secretary of State, as the case may be, may have regard to the extent to which the public path creation order or the public path diversion order would provide an alternative path.

(6) For the purposes of subsections (1) and (2) above, any temporary circumstances preventing or diminishing the use of a path by the public shall be disregarded.

PART III
Diversion of public paths.

35.—(1) Where an owner, tenant or occupier of land crossed by a public path satisfies the local planning authority in whose area the land is situated that for securing the efficient use of the land or of other land held therewith or providing a shorter or more convenient path across his land, it is expedient that the line of the path across his land, or part of that line, should be diverted (whether on to other land of his or on to land of another owner, tenant or occupier), the authority may by order (in this Act referred to as a " public path diversion order ") made by them and submitted to and confirmed by the Secretary of State—

(*a*) create, as from such date as may be specified in the order, any such new public path as appears to the authority requisite for effecting the diversion, and

(*b*) extinguish, as from such date as may be so specified in accordance with the provisions of the next following subsection, the right of way over so much of the path as appears to the authority requisite as aforesaid.

(2) Where it appears to the authority that work requires to be done to provide necessary facilities for the convenient use of any such new public path as is mentioned in subsection (1)(*a*) above, the date specified under subsection (1)(*b*) above shall be later than the date specified under subsection (1)(*a*) above by such time as appears to the authority requisite for enabling the work to be carried out.

(3) A right of way created by a public path diversion order may either be unconditional or may (whether or not the right of way extinguished by the order was subject to limitations or conditions of any description) be subject to such limitations or conditions as may be specified in the order, and the Secretary of State may confirm the order subject to such modifications or conditions as he thinks fit.

(4) Before determining to make a public path diversion order on the representation of an owner, tenant or occupier, the authority may require him to enter into an agreement with them to defray, or to make such contribution as may be specified in the agreement towards—

(*a*) any compensation which may become payable under section 37 below;

(*b*) any expenses which any local planning authority may incur in bringing the new site of the path into a fit condition for use by the public.

(5) The Secretary of State shall not confirm a public path diversion order unless he is satisfied that the diversion to be effected thereby is expedient as mentioned in subsection (1) above, and further that the path will not be substantially less

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convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—

(*a*) the diversion would have on public enjoyment of the path as a whole,

(*b*) the coming into operation of the order would have as respects other land served by the existing right of way, and

(*c*) any new right of way created by the order would have as respects the land over which the right is so created and any land held therewith,

so, however, that for the purposes of paragraphs (*b*) and (*c*) of this subsection the Secretary of State shall take into account the provisions as to compensation of section 37 below.

(6) A public path diversion order shall be in such form as may be prescribed and shall contain a map, on such scale as may be prescribed, showing the existing site of so much of the line of the path as is to be diverted by the order and the new site to which it is to be diverted, and indicating whether a new right of way is created by the order over the whole of the new site or whether some part thereof is already comprised in a public path and, in the latter case, defining the part thereof so comprised.

(7) Schedule 3 to this Act shall have effect as to the making, confirmation, validity and date of operation of public path diversion orders.

Exercise of powers under sections 34 and 35.

36.—(1) Subject to the provisions of this section, section 32(1) and (2) above shall apply in the exercise of the powers conferred by the two last foregoing sections in relation to any public path as they apply in the exercise of the powers referred to in the said subsections.

(2) Where it appears to the Secretary of State as respects a public path that it is expedient as mentioned in section 34(1) above that the path should be closed, or where an owner, tenant or occupier of land crossed by a public path satisfies the Secretary of State that a diversion thereof is expedient as mentioned in section 35(1) above, then if—

(*a*) no local planning authority in whose area the public path lies have made or submitted to him a public path extinguishment order or a public path diversion order, as the case may be, and

(*b*) the Secretary of State is satisfied that, if such an order were made and submitted to him, he would have power to confirm the order in accordance with the provisions in that behalf of the two last foregoing sections,

the Secretary of State, after consultation with every such authority, may direct any such authority to make and submit to him a public path extinguishment order or a public path diversion order, as the case may be, or may himself make the order and, in relation to any order made in accordance with the provisions of this subsection, the proviso to section 32(2) above shall not apply.

(3) In relation to a public path diversion order made in accordance with the provisions of the last foregoing subsection, the Secretary of State or the authority, as the case may be, shall have the power conferred by section 35(4) above.

(4) An authority proposing to make a public path diversion order such that the authority who will be responsible for a part of the path after the diversion will be a different body from the authority who before the diversion are so responsible shall, before making the order, consult the authority who will be responsible for that part.

Compensation for creation, diversion and closure of public paths.

37.—(1) Subject to the following provisions of this section, if, on a claim made in accordance with this section, it is shown that the value of an interest of any person in land is depreciated, or that any person has suffered damage by being disturbed in his enjoyment of land, in consequence of the coming into operation of a public path creation order, a public path diversion order or a public path extinguishment order, the authority by whom the order was made shall pay to that person compensation equal to the amount of the depreciation or damage.

(2) A claim for compensation under this section shall be made within such time and in such manner as may be prescribed and shall be made to the authority by whom the order was made.

(3) For the purposes of the application of this section to an order made by the Secretary of State under section 32(3) or section 36(2) above, references in this section to the authority by whom the order was made shall be construed as references to the authority who, immediately before the making of the order, were, for the purposes of the said section 32(3) or 36(2) the appropriate authority in relation to the making of an order for the creation, diversion or closure of the public path or part of a public path to which the order relates.

(4) Nothing in this section shall confer on any person, in respect of a right of way created by a public path creation order or a public path diversion order, a right to compensation for depreciation of the value of an interest in land, or for disturbance in his enjoyment of land, not being in either case land over which the right of way was created or land held therewith, unless the creation of the right of way would have been actionable at his instance if it had been effected otherwise than in the exercise of statutory powers.

PART III
Supplementary provisions as to creation, closure and diversion of public paths.

38.—(1) Sections 34 to 36 above shall apply in relation to all public rights of way, whether created before or after the commencement of this Act.

(2) The provisions of sections 34 to 36 above shall not prejudice any power conferred by any other enactment to close or divert a road, and shall not otherwise affect the operation of any enactment relating to the extinguishment, suspension, diversion or variation of rights of way.

(3) A public path creation order, a public path extinguishment order or a public path diversion order affecting in any way the area of more than one local planning authority may contain provisions requiring one of the authorities to defray, or contribute towards, expenses incurred in consequence of the order by another of the authorities; and a public path diversion order diverting a part of the line of a path from a site in the area of one local planning authority to a site in the area of another may provide that the first mentioned authority shall continue to be responsible for the maintenance of that part of the path after the diversion.

(4) Every public path creation agreement, public path creation order, public path extinguishment order and public path diversion order shall contain a particular description of the lands affected or a description by reference of those lands in the manner provided by section 61 of the Conveyancing (Scotland) Act 1874.

1874 c. 94.

(5) As soon as may be after any such agreement as is referred to in the last foregoing subsection is made, or after any such order is confirmed, the local planning authority shall cause it to be recorded in the Register of Sasines, and when so recorded, it shall be enforceable at the instance of the local planning authority against persons deriving title to the land from the person so entitled when the agreement or order was made:

Provided that any such agreement or order shall not be so enforceable against a third party who shall have in good faith and for value acquired right (whether completed by infeftment or not) to the land prior to the agreement or order being recorded as aforesaid, or against any person deriving title from such third party.

(6) The Secretary of State shall not make or confirm a public path creation order, a public path extinguishment order or a public path diversion order relating to a right of way over land under, in, upon, over, along or across which there is any apparatus belonging to or used by any statutory undertakers for the purpose of their undertaking unless the undertakers have consented to the making or confirmation of the order, as the case may be; and any such consent may be given subject to

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the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

The consent of statutory undertakers to any such order shall not be unreasonably withheld, and any question arising under this subsection whether the withholding of a consent is unreasonable or whether any requirement is reasonable shall be determined by the appropriate Minister within the meaning of section 113(1) of the Act of 1947.

(7) Where in pursuance of a public path extinguishment order or a public path diversion order a public path is closed or diverted and, immediately before the date on which the order comes into force, there was under, in, upon, over, along or across the path any 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 come into force:

Provided that if any person entitled to land over which the path subsisted requires that the telegraphic line shall be altered, paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 shall apply to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered. 1878 c. 76.

Long-Distance Routes

General provisions as to long-distance routes.

39.—(1) Where it appears to the Commission that the public should be enabled to make extensive journeys on foot, on pedal cycles or on horseback along a particular route, being a route which for the whole or the greater part of its length does not pass along roads mainly used by vehicles, the Commission may prepare and submit to the Secretary of State a report under this section.

(2) A report under this section shall contain a map showing the route, defining those parts thereof over which there exists a public right of way, and indicating in each case the nature of that right; and the report shall set out such proposals as the Commission may think fit for the provision, maintenance and enjoyment of the route, and without prejudice to that generality—

(*a*) for the maintenance or improvement of any public path or road along which the route passes;

(*b*) for the provision and maintenance of such new public paths as may be required for enabling the public to journey along the route;

(*c*) for the provision and operation of ferries where they are needed for completing the route; and

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(*d*) for the provision of accommodation, toilet facilities, meals and refreshments along the route.

(3) A report under this section may also include such recommendations as the Commission may think fit for the restriction of traffic on existing roads along which the route passes.

(4) Before submitting a report under this section the Commission shall consult with every local planning authority through whose area the route passes; and it shall be the duty of every such authority to furnish to the Commission such information as the Commission may reasonably require for the purposes of the report.

(5) A report under this section shall contain an estimate, in such form as the Secretary of State may require, of the capital outlay and annual expenditure likely to be incurred by any authority in carrying out any such proposals contained therein as are mentioned in subsection (2) above; the report shall also contain any representations made by any authority consulted under subsection (4) above.

Approval of proposals relating to a long-distance route.

40.—(1) On the submission to the Secretary of State of a report under the last foregoing section, he shall consider any proposals contained in the report under subsection (2) of that section, any recommendations made under subsection (3) thereof and any representations referred to in subsection (5) thereof, and may either approve the proposals, with or without modifications or subject to such conditions as he thinks fit, or reject the proposals:

Provided that where the Secretary of State does not propose to approve the proposals as set out in the report he shall, before coming to a determination as to what action to take under this subsection, consult with the Commission and such other authorities and persons as he may think fit.

(2) As soon as may be after the Secretary of State determines under the last foregoing subsection either to approve any proposals, with or without modifications or conditions, or to reject them, he shall notify his determination to the Commission and to every local planning authority whose area is traversed by the route to which the report relates.

(3) Proposals approved by the Secretary of State under subsection (1) above, either as originally set out in the report or as modified by the Secretary of State, are hereinafter referred to as "approved proposals relating to a long-distance route", and such proposals shall be implemented by the local planning and other authorities concerned as soon as may be after their approval as aforesaid.

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Ferries for purposes of long-distance routes.

41.—(1) Where approved proposals relating to a long-distance route include proposals for the provision and operation of a ferry, the authority who are responsible for the maintenance of the roads or public paths to be connected by the ferry or, where there is more than one such authority, those authorities acting jointly or any such authority as may mutually be agreed—

(*a*) shall have power to provide and operate the ferry and to carry out such work and do all such things as appear to them expedient for the purpose of operating the ferry;

(*b*) may with the approval of the Secretary of State agree with any person or body of persons for the provision and operation of the ferry by him or them and for the making by the authority of such contributions as may be specified in the agreement:

Provided that nothing in this subsection shall—

(i) be construed as conferring on such an authority any exclusive right to operate a ferry;

(ii) authorise the doing of anything which apart from this subsection would be actionable by any person by virtue of his having an exclusive right to operate a ferry, unless he consents to the doing thereof;

(iii) authorise the doing of anything in relation to land in which any other person has an interest, if apart from this subsection the doing thereof would be actionable at his instance by virtue of that interest and he does not consent to the doing thereof;

and before carrying out any work in the exercise of powers conferred by this subsection, being work on the bank or bed of any waterway, the authority shall consult with every authority which under any enactment has functions relating to the waterway.

(2) An authority may acquire land compulsorily for the purpose of any of their functions under paragraph (*a*) of the foregoing subsection.

Variation of approved proposals.

42.—(1) Where proposals relating to a long-distance route have been approved by the Secretary of State under section 40 above, the Commission may from time to time prepare and submit to the Secretary of State a report proposing any such variation of the approved proposals as the Commission may think fit.

(2) Where, as respects any proposals approved as aforesaid, it appears to the Secretary of State, after consultation with the Commission, expedient that the proposals should be varied in any respect and the Commission have not submitted to the Secretary of State a report proposing that variation, the Secretary of State may direct that the proposals shall be so varied.

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(3) Where an authority have found it impracticable to implement any part of any proposals approved as aforesaid, they shall so inform the Commission and shall submit to the Commission a report proposing such variations of the approved proposals as they may think fit.

(4) Sections 39(4) and 40 above shall with the necessary modifications apply to a report or direction under this section; and section 39(5) above shall with the necessary modifications apply to any such report.

(5) Where the Secretary of State approves, with or without modifications, any proposals contained in a report under subsection (1) above, or gives a direction under subsection (2) above, the proposals for the variation of which the report was made or direction given shall thereafter have effect subject to the provisions of the report or direction; and references in this Act to approved proposals relating to a long-distance route shall be construed accordingly.

Miscellaneous Provisions relating to Rights of Way

Ploughing of public rights of way.

43.—(1) Where a public right of way crosses agricultural land or land which is being brought into use for agriculture, then, if—

(*a*) it is proposed in accordance with the rules of good husbandry to plough the land, and

(*b*) it is convenient, in so ploughing the land, to plough the way together with the rest of the land,

the right of way shall be subject to the condition that the occupier shall have the right, subject to the following provisions of this section, to plough the way as well as the rest of the land:

Provided that, where the way is subject to a public path creation agreement, a public path creation order, or a public path diversion order, the agreement or order may exclude the right to plough the way or any part of it and may impose restrictions or conditions on the exercise of that right.

(2) Within seven days after ploughing a public right of way in the exercise of the right conferred by the foregoing subsection the occupier shall give to the authority responsible under section 46(1) below for the protection of the right of way notice of that fact.

(3) Where a public right of way is ploughed in the exercise of the said right the occupier of the land shall as soon as may be after the ploughing is completed reinstate the surface of the way.

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(4) A person who fails to comply with the foregoing provisions of this section shall be guilty of an offence and shall be liable on summary conviction—

(*a*) in the case of a failure to comply with the provisions of an agreement or order as mentioned in the proviso to subsection (1) above, to a fine not exceeding £50;

(*b*) in the case of a failure to comply with the provisions of subsection (2) above to a fine not exceeding £10;

(*c*) in the case of a failure to comply with the provisions of subsection (3) above, to a fine not exceeding £50;

and where a person is convicted of the offence of failing to comply with the provisions of subsection (3) above and the offence in respect of which he was convicted is continued after the conviction he shall be guilty of a further offence and shall be liable on summary conviction to a fine not exceeding twenty shillings for each day on which the offence is so continued.

(5) If an occupier ploughs a public right of way and fails to reinstate the surface of the way, the local planning authority, after giving to the occupier not less than 14 days' notice of their intention, may take all necessary steps for carrying out the work, and may recover from the occupier the amount of any expenses reasonably incurred by them in relation thereto.

(6) Nothing in the provisions of this section shall prejudice any limitation or condition having effect apart from those provisions.

Pasturing of bulls.

44.—(1) No person shall, being the occupier of any field or enclosure through which there is a public right of way, permit any bull to be at large in such field or enclosure:

Provided that this section shall not apply to any bull which—

(*a*) does not exceed the age of 10 months; or

(*b*) is not of a recognised dairy breed and is at large in any field or enclosure in which cows or heifers are also at large.

(2) A person who fails to comply with the foregoing subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50.

Power to authorise erection of stiles, etc., on public rights of way.

45.—(1) Where the owner, tenant or occupier of land which is used or being brought into use for agriculture or forestry represents to the authority responsible under section 46(1) below for the protection of a public right of way which crosses the land that, for securing that the use, or any particular use, of the land for agriculture or forestry shall be efficiently carried on, it is expedient that stiles, gates or other works for preventing the ingress or egress of animals should be erected on the way, the authority may, subject to such conditions as they may

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impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public, authorise the erection of the stiles, gates or other works.

(2) If, on a representation duly made under the foregoing subsection, the authority refuse to grant an authorisation thereunder, or grant such an authorisation subject to conditions, the person who made the representation may appeal to the Secretary of State against the refusal or against the imposition of the conditions, as the case may be; and if the Secretary of State, after giving to the appellant and to the authority an opportunity of being heard by a person appointed by him for the purpose and considering the report of that person, determines to allow the appeal, he shall—

(*a*) if the appeal was against a refusal, authorise the erection of the stiles, gates or other works in question, subject to such conditions as he may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public;

(*b*) if the appeal was against the imposition of conditions, direct that the authorisation granted by the authority shall, as may be specified in the direction, have effect either unconditionally or subject to such modified conditions as may be so specified.

(3) Where an authorisation is granted by an authority under subsection (1) above or by the Secretary of State under the last foregoing subsection, the right of way shall be deemed to be subject to a condition that the stiles, gates or works may be erected and maintained in accordance with the authorisation and so long as the conditions attached thereto are complied with.

(4) Nothing in the provisions of this section shall prejudice any limitation or condition having effect apart from those provisions.

Protection and maintenance of rights of way.

46.—(1) It shall be the duty of a local planning authority to assert, protect and keep open and free from obstruction or encroachment any public right of way which is wholly or partly within their area, and they may for these purposes institute and defend legal proceedings and generally take such steps as they may deem expedient.

(2) Any local authority or local planning authority may repair and maintain any public right of way (not being a road or a footpath at the side of a road) within their area, but this power shall not relieve any other authority or person from any liability with respect to such repair or maintenance.

(3) Any person may with the consent of the local planning authority erect and maintain guide posts and direction notices on any public right of way other than a road.

(4) Section 42 of the Local Government (Scotland) Act 1894 is hereby repealed. PART III 1894 c. 58.

47. In this Part of this Act, unless the context otherwise requires— Interpretation of Part III.

" bridleway " means a way over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along that way;

" footpath " means a way over which the public have the following, but no other, rights of way, that is to say, a right of way on foot with or without a right of way on pedal cycles;

" horse " includes pony, ass and mule, and " horseback " shall be construed accordingly;

" public path " has the meaning assigned to it in section 30 of this Act

PART IV

FURTHER POWERS OF CERTAIN AUTHORITIES

48.—(1) A country park is a park or pleasure ground in the countryside which by reason of its position in relation to major concentrations of population affords convenient opportunities to the public for enjoyment of the countryside or open-air recreation. Country Parks.

(2) Each local planning authority shall assess the need for a country park whether within or outwith their area or partly within and partly outwith their area and shall from time to time review that need; for the purposes of this subsection each local planning authority, or where a joint advisory committee has been established under subsection (8) below, that committee, shall from time to time consult with the Commission and with such other local planning authorities as appear to them to be concerned.

(3) In assessing and reviewing the need for a country park under subsection (2) above, the local planning authority shall have regard to the existing availability and adequacy of such opportunities as are described in subsection (1) above.

(4) Any local planning authority may, whether within or outwith their area or partly within and partly outwith their area, provide, lay out, improve, maintain and manage a country park including any buildings, equipment, facilities, services or works ancillary thereto or which appear to them to be requisite for the enjoyment or convenience of the public, and the authority shall have power to make such charges as they think fit in connection with the use of the park by the public.

PART IV

(5) Any two or more local planning authorities may combine together for the purpose of exercising the powers conferred by subsection (4) above and the expenditure incurred in the exercise of those powers shall be shared between the authorities on terms agreed by them having regard to the prospective use of the country park by the inhabitants of the areas of the respective authorities concerned or failing such agreement on terms determined by the Secretary of State having regard to the aforesaid consideration.

(6) Any local planning authority or authorities shall have power to act as agent for any other local planning authority or authorities in the exercise of their powers under subsection (4) above and may receive from the authority or authorities on whose behalf they act contributions towards the expenditure incurred in the exercise of those powers on terms agreed or determined as mentioned in subsection (5) above.

(7) The powers conferred by subsection (4) above may be exercised by a local planning authority either on land belonging to them, or, with the consent of all persons having an interest therein, on other land and they shall include power to make arrangements by agreement for the exercise of any of those powers on behalf of the authority by some other person on such terms as may be specified in the agreement.

(8) Any two or more local planning authorities may, with the approval of the Secretary of State, concur in establishing a joint advisory committee for the purpose of making recommendations to those authorities as to the need mentioned in subsection (2) above, as to the provision of country parks by those authorities, and for the purpose of consulting with the Commission as to those matters; 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 those authorities.

(9) If it appears to the Secretary of State, after consulting with the Commission, that it is expedient that a joint advisory committee of any two or more local planning authorities should be established for the purposes mentioned in subsection (8) above he may, after consultation with those authorities, direct them to establish such a committee as is mentioned in that subsection, and the authorities concerned shall comply with any such direction.

(10) For the purpose of any of their functions under this section a local planning authority may acquire land compulsorily.

PART IV
Camping and caravan sites.

49.—(1) A local authority shall have power to provide camping sites for holiday or recreational purposes whether for the benefit of the inhabitants of their own area or otherwise, and to manage the sites or lease them to some other person.

(2) A local authority shall have power to do anything appearing to them desirable in connection with the provision of such sites, and in particular—

(*a*) to acquire land which is in use as a camping site or which has been laid out as a camping site, or

(*b*) to provide for the use of those occupying camping sites any services or facilities for their health or convenience.

(3) A local authority may make in respect of the use of sites managed by them, and of any services or facilities provided or made available under this section, such reasonable charges as they may determine.

(4) A local authority shall, in the performance of their functions under this section, have power to acquire land compulsorily where it appears to them that a camping site or an additional camping site is needed in their area, or that land which is in use as a camping site should in the interests of the general public be taken over by the local authority.

(5) In the foregoing provisions of this section "local authority" includes a local planning authority.

(6) The powers conferred by section 24 of the Caravan Sites and Control of Development Act 1960 (which relates to the provision of caravan sites) may be exercised by local planning authorities as well as by local authorities within the meaning of that Act. 1960 c. 62.

(7) Expenditure incurred by a district council under this or the next following section shall not be taken into account in any calculation as to the limit of one shilling per pound imposed on the district council by section 226 of the Local Government (Scotland) Act 1947. 1947 c. 43.

Provision of accommodation, meals and refreshments.

50.—(1) A local authority may make arrangements for securing the provision in the countryside in their area (whether by the authority or by other persons) of accommodation, meals and refreshments and may for the purposes of such arrangements erect such buildings and carry out such work as may appear to them to be expedient:

Provided that a local authority shall not under this subsection provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be.

PART IV

(2) A local authority may acquire land compulsorily for the purposes of any of their functions under the foregoing subsection.

(3) In this section " local authority " includes a local planning authority.

Parking Places. 1960 c. 16.

51.—(1) The powers to provide parking places conferred on local authorities in Scotland by section 28 of the Road Traffic Regulation Act 1967 shall include a power to provide parking places where it appears to the authority desirable to do so to facilitate the enjoyment of the countryside by members of the public.

(2) Local planning authorities may exercise the power conferred by the foregoing subsection, and for that purpose may acquire land compulsorily, and sections 28, 29, 31, 32, 52, 53 and 96 of the said Act of 1967 shall apply for the purposes of this subsection as if for any reference therein to a local authority there were substituted a reference to a local planning authority.

1960 c. 63.

Amendment of Local Government (Development and Finance) (Scotland) Act 1964. 1964 c. 67.

52.—(1) Section 2(1) of the Local Government (Development and Finance) (Scotland) Act 1964 (which relates to the power of local authorities to carry out work on land) shall be amended by adding after paragraph (*b*) the words

" or

(*c*) enabling members of the public to enjoy the countryside or engage in open-air recreation there,".

(2) The powers conferred by sections 2 and 3 of the said Act of 1964 may be exercised by local planning authorities as well as by local authorities within the meaning of that Act, and for the purposes of the said section 2 local planning authorities shall have power to acquire land compulsorily.

(3) The reference in section 3(2) of the said Act of 1964 (supplementary powers) to the powers conferred by section 2 of that Act shall include a reference to any powers conferred by this Act to carry out work, or provide services or facilities.

Contributions by or to local authorities.

53.—(1) A local authority may defray or contribute towards, or undertake to defray or contribute towards, expenditure incurred or to be incurred for the purposes of this Act by any other local authority, or by any other public body or person, and may receive from such a body or person contributions in respect of any expenditure so incurred or to be incurred.

In this subsection " expenditure for the purposes of this Act ", in relation to a local authority, includes expenditure in respect of which grant may be paid by virtue of section 67 of this Act.

(2) In this section " local authority " includes a local planning authority.

PART IV
Byelaws.

54.—(1) A local authority may, as respects land in their area belonging to them and situated in the countryside, and a local planning authority may, as respects a country park provided by them under section 48 above or as respects land or a waterway in relation to which an agreement or order has been made by them for the purpose of giving access to the public or such an order has been prepared in draft by the Secretary of State, or to which the public are given access in consequence of acquisition under Part II of this Act, make byelaws for the preservation of order, for the prevention of damage to the land, park or waterway or anything thereon or therein, and for securing that persons resorting thereto will so behave themselves as to avoid undue interference with the enjoyment of the land, park or waterway by other persons.

(2) Without prejudice to the generality of the foregoing subsection, byelaws under that subsection may prohibit, restrict or regulate—

(*a*) the use of the land, park or waterway, either generally or in any manner specified in the byelaws, by traffic of any description, or for any recreational purpose, so specified;

(*b*) the use of the waterway by boats which are not for the time being registered with the authority in such manner as the byelaws may provide, and may authorise the authority to make reasonable charges in respect of the registration of boats in pursuance of the byelaws;

(*c*) the depositing of rubbish and the leaving of litter;

(*d*) the lighting of fires;

and may be made so as to relate either to the whole or to any part of the land, park or waterway, and may make different provisions for different parts thereof.

(3) Before making byelaws under the foregoing provisions of this section a local authority may, and in the case of byelaws relating to an area of special planning control, shall, consult with the Commission.

(4) The Commission may, in relation to land owned or managed by them, make byelaws with respect to any of the matters mentioned in the foregoing provisions of this section.

(5) In this section "local authority" includes a local planning authority.

(6) Byelaws made under this or the next succeeding section shall not interfere with the exercise of any public right of way or navigation or of any functions of statutory undertakers or any port authority.

PART IV
Default powers of Secretary of State as to byelaws.

55.—(1) If a local planning authority, when required by the Secretary of State, as respects land or a waterway in relation to which an agreement or order has been made by them for the purpose of giving access to the public or such an order has been prepared in draft by him, or to which the public are given access in consequence of acquisition under Part II of this Act, to make byelaws with respect to any of the matters with respect to which they are empowered by the last foregoing section to make byelaws, do not within three months after being so required comply with the requirement to the satisfaction of the Secretary of State, he may himself make byelaws in relation to the matters, and as respects the land or waterway, in question:

Provided that before making byelaws under this section in relation to areas in the countryside the Secretary of State may, and in the case of byelaws relating to an area of special planning control, shall, consult with the Commission.

(2) Before making any byelaws under this section the Secretary of State shall cause the proposed byelaws to be made known in the locality to which they relate, shall give an opportunity for objections being made to the proposed byelaws, shall receive and consider all objections made and may if he considers it necessary or desirable cause a local inquiry to be held.

(3) Any byelaws made by the Secretary of State under this section shall have effect as if they had been made by the local planning authority and confirmed by the Secretary of State, and the provisions of this Act and of any enactment thereby applied shall have effect in relation to the byelaws accordingly.

Byelaws as to pleasure boats.

56.—(1) For the prevention of danger, obstruction or annoyance to persons in or on the sea or using the seashore, a local planning authority may make byelaws—

(*a*) regulating the speed of pleasure boats;

(*b*) regulating the use of pleasure boats so as to prevent their navigation in a dangerous manner or without due care and attention or without reasonable consideration for other persons;

(*c*) regulating the use of pleasure boats for any particular purpose and for confining the use of boats for such a purpose to any particular area or time of day;

(*d*) requiring the use of effectual silencers on pleasure boats.

(2) Any byelaw may be made under this section so as to have effect not only within the district of the local planning authority but also within a distance seaward from that district

not exceeding one thousand yards from low-water mark of ordinary spring tides; and any offence against any such byelaw committed within that distance may be inquired into and dealt with as if it had been committed within the district of the local planning authority.

(3) Byelaws made under this section shall not interfere with the exercise of any functions of statutory undertakers or any port authority.

Supplementary provisions as to byelaws. 1947 c. 43.

57.—(1) Sections 301 to 303 of the Local Government (Scotland) Act 1947 (which relate to the procedure for making byelaws, penalties and the proof of byelaws in legal proceedings) shall apply to byelaws made by the Commission or a local planning authority or an Electricity Board under section 54, section 56 or section 64 of this Act as if the Commission or authority or Board were a local authority within the meaning of the said Act of 1947.

(2) In relation to byelaws made under the said section 54 or the said section 56 or the said section 64 the confirming authority for the purposes of the said section 301 shall be the Secretary of State.

Powers of the Forestry Commissioners.

58.—(1) The Forestry Commissioners constituted under the Forestry Acts 1919 to 1945 (in this and the next succeeding section referred to as "the Commissioners") shall have the powers conferred on them by this section.

(2) The Commissioners may, on any land placed at their disposal by the Secretary of State, provide, or arrange for or assist in the provision of tourist, recreational or sporting facilities and any equipment, facilities or works ancillary thereto, including without prejudice to that generality—

(*a*) accommodation for visitors;

(*b*) camping sites and caravan sites;

(*c*) places for meals and refreshments;

(*d*) picnic places, viewpoint stances, parking places, routes for nature study and footpaths;

(*e*) information and display centres;

(*f*) shops in connection with any of the aforesaid facilities;

(*g*) public conveniences;

and the Commissioners shall have power to make such charges as they think fit in connection with any of those facilities.

In this subsection "provide" includes manage, maintain and improve.

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1967 c. 10.

(3) The Commissioners' powers to make byelaws under section 46 of the Forestry Act 1967 shall include a power to make byelaws for regulating the reasonable use by the public of the facilities described in subsection (2) above, and in relation to any such matter as is described in section 54(2) above.

(4) The Commission shall have power to act as agent for the Commissioners in the exercise of their powers under subsection (2) above.

(5) The definition of "public open space" in section 9(6) of the Forestry Act 1967 shall be amended by inserting after "1949" the words "or of Part II or section 48 of the Countryside (Scotland) Act 1967".

(6) Section 41 of the Forestry Act 1967 (which relates to the Forestry Fund) shall be amended as follows—

(*a*) in subsection (3)(*b*)(i) the word "and" shall be omitted and after the words "the Plant Health Act 1967" in that subsection there shall be inserted the words—

"and

(iii) the Countryside (Scotland) Act 1967";

(*b*) in subsection (4), after the word "Act" there shall be inserted the words "or received by them in the exercise of their powers under the Countryside (Scotland) Act 1967".

Extension of powers of Secretary of State under section 39 of the Forestry Act 1967.

59. The power of the Secretary of State under section 39 of the Forestry Act 1967 to acquire land shall include power to acquire land in proximity to land placed by him at the disposal of the Commissioners where it appears to him that the land which it is proposed to acquire is reasonably required by the Commissioners for the provision of such facilities as are mentioned in subsection (2) of the last foregoing section, and he shall have power to dispose of the land whether by way of sale, feu, lease or excambion where in his opinion it is no longer so required or where in his opinion such disposal is desirable for the purpose of securing the provision of any of those facilities by any other body or person.

Extension of powers of Secretary of State as respects certain land held by him.

60.—(1) Notwithstanding anything contained in the enactments mentioned in subsection (7) below the Secretary of State may, as respects land to which this section applies, exercise the powers conferred on the Forestry Commissioners by section 58(2) of this Act.

(2) The Secretary of State may make byelaws for regulating the reasonable use by the public of land to which this section

applies and facilities made available thereunder, and in relation to any such matter as is described in section 54(2) above. PART IV

(3) Before making any byelaws under this section the Secretary of State shall cause the proposed byelaws to be made known in the locality to which they relate, shall give an opportunity for objections being made to the proposed byelaws, shall receive and consider all objections made and may if he considers it necessary or desirable cause a local inquiry to be held.

(4) When such byelaws are made the Secretary of State shall cause them to be published in such manner as appears to him to be necessary to make them known to persons in the locality to which they relate, and shall on application furnish to any person a copy of the byelaws on payment of such sum, not exceeding one shilling for every copy, as he may determine.

(5) A byelaw made under this section shall be deemed to be a regulation within the meaning of the Documentary Evidence Act 1868 and may be proved accordingly. 1868 c. 37.

(6) If anyone fails to comply with, or acts in contravention of, any byelaw made under this section he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £20.

(7) This section applies to land held by the Secretary of State under or for the purposes of any of the following enactments—

(*a*) the Congested Districts (Scotland) Act 1897; 1897 c. 53.
(*b*) the Sailors and Soldiers (Gifts for Land Settlement) Act 1916; 1916 c. 60.
(*c*) the Small Holding Colonies Acts 1916 and 1918;
(*d*) the Land Settlement (Scotland) Act 1919; 1919 c. 97.
(*e*) the Agriculture (Miscellaneous Provisions) Act 1941; 1941 c. 50.
(*f*) the Agriculture (Miscellaneous Provisions) Act 1943; 1943 c. 16.
(*g*) the Agriculture (Scotland) Act 1948; 1948 c. 45.
(*h*) the Forestry Act 1967, 1967 c. 10.

but does not apply to land which for the time being is placed by the Secretary of State at the disposal of the Forestry Commissioners under the said Act of 1967.

(8) The Commission shall have power to act as agent for the Secretary of State in the exercise of his powers under subsection (1) above.

Improvement of waterways for purposes of open-air recreation.

61.—(1) Subject to the provisions of the next following section, a local planning authority whose area consists of or includes land which is part of the countryside may, as respects any waterway in or adjoining that land and within their area,

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carry out such work and do such other things as may appear to them expedient for facilitating the use of the waterway by the public for sailing, boating, bathing, fishing or other water sport or recreation, but in doing so shall take into consideration the disturbance of any fishing rights over the waterway which may be caused thereby.

(2) A local planning authority may, as respects any waterway in their area, enter into an agreement, on such terms as to payment or otherwise as may be specified in the agreement, with any public body on whom powers are conferred in relation to the waterway by or under any enactment, for the exercise by that body of any power conferred on the local planning authority by the last foregoing subsection.

(3) Where an agreement is made under the last foregoing subsection for the exercise of any power by any such body as is therein mentioned, no limitation imposed by law on the capacity of that body by virtue of the constitution thereof shall operate so as to prevent the body from exercising that power.

(4) Where it appears to the Secretary of State, as respects a waterway in the area of a local planning authority, that any power conferred on the authority by subsection (1) above should be exercised by any such body as is mentioned in subsection (2) above, and the local planning authority have not entered into an agreement with the said body under the said subsection (2), the Secretary of State may direct that the said power shall be exercisable by the said body:

Provided that no direction shall be given under this subsection except after consultation with the local planning authority and the said body.

(5) Subject to the following provisions of this section, no body shall exercise any power conferred by this section without the consent of every local water authority having functions relating to the waterway in question; and before exercising any such power the body shall consult with every other body which under any enactment has functions relating to that waterway.

(6) Where any local water authority referred to in the last foregoing subsection has refused its consent to a proposed exercise of powers under this section, the body proposing to exercise the power may apply to the Secretary of State who, if he is satisfied that the consent of the authority was unreasonably withheld, may authorise the proposed exercise of powers subject to such conditions or modifications as he may think fit.

(7) Where any body consulted under subsection (5) above objects to a proposed exercise of powers under this section,

and the objection is not withdrawn, the proposal shall not be proceeded with unless the body proposing to exercise the power applies to the Secretary of State who, if he is satisfied that it is expedient so to do, may authorise the proposed exercise of powers subject to such conditions or modifications as he may think fit, and if not so satisfied may refuse to authorise the proposed exercise of powers.

(8) Before deciding whether to authorise any proposal on an application to him under either of the last two foregoing subsections, the Secretary of State shall consult with the Commission and shall afford to the body proposing to exercise the power and to every local water authority which has refused its consent and to every other body which has objected to the proposed exercise of powers an opportunity of being heard by a person appointed by him for the purpose, and shall consider that person's report.

(9) Any local planning authority may acquire land compulsorily for the purpose of enabling any power conferred by this section to be exercised.

Exercise of powers under section 61.

62.—(1) The provisions of the last foregoing section shall not authorise a body to do anything in relation to land in which any other person has an interest, if apart from that section the doing thereof would be actionable at his instance by virtue of that interest and he does not consent to the doing thereof:

Provided that this subsection shall not apply in the case of land to or over which the public have access by virtue of an access order, but the exercise of any power under the last foregoing section as respects such land shall be subject to the provisions of Part II of this Act and of this section relating to such orders.

(2) Any body proposing, in the exercise of the powers conferred by the last foregoing section, to carry out any work on land comprised in an access order, whether the work is specified in the order or not, shall give to the owner and occupier of the land not less than twenty-eight days' notice of their intention so do to, specifying the work to be carried out.

(3) Where the work specified in a notice given under the foregoing subsection has not been specified in an access order as mentioned in section 14(8) above, then if before the expiration of the said notice the owner or occupier of the land serves notice of objection on the body they shall not carry out the work except in accordance with the provisions of the two next following subsections.

(4) A body on whom notice of objection has been served under the last foregoing subsection shall afford to the objector

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(*a*) not to carry out the work to which the objection relates, or

(*b*) to carry out the work, either as originally proposed or with such modifications as the body may determine,

and shall serve notice of their determination on the objector; and where the body determine as mentioned in paragraph (*b*) above, they may proceed with the work in accordance with the determination at any time after the expiration of fourteen days from the date on which notice of the determination is served on the objector:

Provided that if the objector serves notice of appeal under the next following subsection the body shall not proceed with the work except in accordance with the provisions of that subsection.

(5) Any person aggrieved by a determination of any body under the last foregoing subsection may within the period of fourteen days therein mentioned serve notice of appeal against the determination on the Secretary of State and on that body; and where notice of appeal is served under this subsection the Secretary of State, after affording to the appellant and to the body an opportunity of being heard by a person appointed by him for the purpose, and after considering that person's report, shall either direct that the body may carry out the work (whether as specified in the notice given under subsection (2) above or subject to such modifications or conditions as the Secretary of State may think fit) or shall direct the body not to carry out the work.

(6) Any power conferred by subsection (4)(*b*) above or by the last foregoing subsection to modify the work specified in a notice given under subsection (2) above shall not be exercised so as to affect land not affected by the notice.

(7) Where the value of the interest of any person in land is depreciated, or any person has suffered damage by being disturbed in his enjoyment of land, in consequence of any work done under the powers conferred by the last foregoing section, on land comprised in an access order, the body who carried out the work shall pay to that person compensation equal to the amount of the depreciation or damage:

Provided that nothing in this subsection shall confer on a person a right to compensation for depreciation of the value of an interest in land, or for disturbance in his enjoyment of land, of which account has already been taken or will be taken in fixing compensation under section 20 above:

Provided also that nothing in this subsection shall confer on a person a right to such compensation in respect of land or the

enjoyment thereof, not being in either case land on which the work was carried out or land held therewith, unless the carrying out of the work would have been actionable at his instance if it had been carried out otherwise than in the exercise of statutory powers.

(8) A claim for compensation under the last foregoing subsection shall be made within such time and in such manner as may be prescribed and shall be made to the body by whom the work was carried out.

(9) In this section " work " includes such other things as are referred to in section 61(1) above.

Provision of recreational facilities by local water authorities. 1946 c. 42.

63.—(1) Subject to subsection (5) of this section a local water authority within the meaning of the Water (Scotland) Act 1946 may, if it appears to them reasonable to do so—

(*a*) permit the use by members of the public, for the purposes of any form of recreation, of any waterway or land in which the authority have an interest;

(*b*) provide, or otherwise make available, facilities for use by persons resorting to any such waterway or land for the purposes of any such form of recreation.

(2) The powers of a local water authority under subsection (1) above shall, in the case of a waterway or land in which the authority have an interest but which they do not own, be exercisable only with the consent of the owners thereof:

Provided that where those powers are to be exercised in relation to a particular part of a waterway the consent of the owners of that part only need be obtained if the authority are satisfied that the exercise of those powers will not prejudice the rights or interests of other owners.

(3) The provisions of this section shall not authorise any authority, body or person to do or permit anything in relation to a waterway or land in which any other person has an interest if apart from this section the doing or permitting thereof would be actionable at his instance by virtue of that interest and he does not consent to the doing or permitting thereof.

(4) A local water authority may make such reasonable charges as they may determine in respect of the use for the purposes of recreation of any such waterway or land as is described in subsection (1) above, and of any facilities made available by the authority under that subsection.

(5) A local water authority may let to any person, for such consideration and on such terms and conditions as they think fit, any works constructed by them for the purpose of providing facilities under subsection (1) above, and may authorise that person to make such reasonable charges as the authority may determine in respect of the use thereof as mentioned in that subsection.

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(6) A local water authority may receive contributions from any authority, body or person in respect of the cost of the provision of the facilities mentioned in subsection (1) above, and those facilities may be provided by a local water authority jointly with any other authority, body or person.

(7) A local water authority may make byelaws prohibiting such a waterway or land as is described in subsection (1) above and as may be specified in the byelaws from being used for boating (whether with mechanically propelled boats or otherwise), swimming or other recreational purposes, or regulating the way in which any such waterway or land so specified may be used for any of those purposes, and when making byelaws under this subsection the authority shall have regard to the need to protect water from pollution and to the need to avoid conflict which might arise from the use of the water or land for various recreational purposes.

(8) Byelaws made in respect of any waterway by virtue of subsection (7) above may include provision prohibiting the use thereof by boats which are not for the time being registered with the local water authority in such manner as the byelaws may provide; and the byelaws may authorise the authority to make reasonable charges in respect of the registration of boats in pursuance of the byelaws.

(9) A local water authority may take such action as they consider necessary to remedy the effect of any contravention of, or failure to comply with, byelaws made under subsection (7) above, and may recover the expenses reasonably incurred by them in doing so from the person in default.

1946 c. 42.

(10) Sections 61(6) and 62 of the Water (Scotland) Act 1946 shall have effect in relation to byelaws made under subsection (7) above as they have effect in relation to byelaws made under the said section 61.

(11) For the purposes of this section a local water authority shall be deemed to have an interest in a waterway or land if they have power to make byelaws under the said Act of 1946 in relation to the waterway or land, and any reference to a local water authority shall be construed as including a reference to a water development board within the meaning of the Water (Scotland) Act 1967.

1967 c. 78.

Provision of recreational facilities by Electricity Boards.

1943 c. 32.

64. Without prejudice to the provisions of section 2(3) of the Hydro-Electric Development (Scotland) Act 1943 (general duties of the North of Scotland Hydro-Electric Board) the North of Scotland Hydro-Electric Board and the South of Scotland Electricity Board may, as respects any waterway or land owned by them, exercise the same powers as are conferred by subsection (1) and subsections (3) to (9) of section 63 above on local water authorities as respects waterways or land in which those authorities have an interest.

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Wardens.

65.—(1) An authority to which this section applies may appoint such number of persons as may appear to the authority to be expedient to act as wardens as respects any land or waterway in relation to which byelaws made by the authority are in force under or by virtue of this Act, or in relation to which the authority have power to make such byelaws.

(2) The purposes for which wardens may be appointed by an authority under this section as respects any land or waterway are—

(*a*) to advise and assist the public as to any matter relating to the use of the land or waterway;

(*b*) to secure compliance with any such byelaws as are described in the foregoing subsection; and

(*c*) to perform such other duties in relation to the land or waterway as the authority may determine.

(3) For the purpose of exercising any function conferred on him by or under this section a warden appointed thereunder may enter upon any land, or go on any waterway, comprised in an access agreement or order in force under Part II of this Act.

(4) Any two or more authorities to which this section applies may agree to share the expenses of appointing wardens under subsection (1) above as respects any land or waterway on such terms as may be specified in the agreement.

(5) This section applies to the following authorities—

(*a*) the Secretary of State;

(*b*) the Commission;

(*c*) local authorities;

(*d*) local planning authorities;

(*e*) the Forestry Commissioners constituted under the Forestry Acts 1919 to 1945;

(*f*) local water authorities within the meaning of the Water (Scotland) Act 1946; 1946 c. 42.

(*g*) water development boards within the meaning of the Water (Scotland) Act 1967; 1967 c. 78.

(*h*) the North of Scotland Hydro-Electric Board;

(*i*) the South of Scotland Electricity Board.

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GENERAL, FINANCIAL AND SUPPLEMENTARY

Conservation of natural beauty.

66. In the exercise of their functions relating to land under any enactment every Minister, government department and public body shall have regard to the desirability of conserving the natural beauty and amenity of the countryside.

Grants to local authorities.

67.—(1) Subject to the provisions of this section the Secretary of State may, with the consent of the Treasury, pay to local authorities grants of such amounts and payable at such times and

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subject to such conditions as he may from time to time determine, either generally or in the case of any particular authority, in respect of expenditure incurred by those authorities in relation to the countryside in or in connection with—

(*a*) the exercise of the powers conferred on them by this Act;

(*b*) the exercise of their powers under section 24 of the Caravan Sites and Control of Development Act 1960 (which relates to the provision of caravan sites by local authorities);

1960 c. 62.

(*c*) the exercise of their powers under section 2 of the Local Government (Development and Finance) (Scotland) Act 1964 (which empowers local authorities to develop land in certain circumstances);

1964 c. 67.

(*d*) the payment of compensation under section 25 or an order made under section 26 of the Act of 1947 (which respectively relate to compensation in respect of the control of the use of land and to tree preservation orders);

(*e*) the exercise of their powers of acquiring land, whether by agreement or compulsorily, under or by virtue of any of the enactments referred to in the preceding paragraphs of this subsection.

(2) The amount of the grant which may be paid to a local authority under this section in respect of any expenditure shall not exceed three-quarters of the amount of that expenditure.

(3) The Commission may make recommendations to the Secretary of State as respects the making of grants under this section, and the Secretary of State may consult with the Commission either as to the making of such grants generally or in any particular case.

(4) In this section "local authority" includes a local planning authority.

Power of Secretary of State to defray expenditure on long-distance routes.

68. Subject to such conditions as the Treasury may determine, the Secretary of State may defray or contribute towards expenditure incurred for the purposes of approved proposals relating to a long-distance route.

Acquisition, appropriation, disposal, etc. of land.

1947 c. 42.

69.—(1) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory acquisition of land under this Act as if this Act had been in force immediately before the commencement of that Act, and in relation to such acquisition of land—

(*a*) by the Secretary of State, as if section 1(1)(*b*) of that Act included a reference to the Secretary of State, and

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(*b*) by the Commission or by a local planning authority, as if they were a local authority within the meaning of that Act.

(2) No land may be compulsorily acquired under this Act unless the acquisition is authorised by the Secretary of State.

(3) For the purposes of this Act a local planning authority shall have the powers conferred on a local authority by sections 156, 157, 163 and 165 to 167 and section 340 of the Local Government (Scotland) Act 1947 (acquisition, appropriation and disposal of land and gifts of land) and sections 158 and 356 of that Act (application of Lands Clauses Acts etc. and enforcement of duty) shall apply to a local planning authority as they apply to a local authority. 1947 c. 43.

Supplementary provisions as to compensation under ss. 20, 37 and 62.

70.—(1) The following provisions shall have effect in respect of compensation under sections 20, 37 and 62 of this Act.

(2) Any dispute arising on a claim for any such compensation shall be determined by the Lands Tribunal for Scotland, but until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland, any such dispute shall be determined by an official arbiter appointed under Part I of the Land Compensation (Scotland) Act 1963. 1949 c. 42. 1963 c. 51.

(3) Subject to the provisions of this section the said Act of 1963, so far as appropriate, shall apply in relation to any question of disputed compensation referred to in subsection (1) above as it applies to any such question referred to in section 2(1) of that Act, with the substitution for references to the acquiring authority of references to the authority from whom the compensation in question is claimed.

(4) Rules 2 to 4 of the rules contained in section 12 of the said Act of 1963 (rules for assessing compensation) shall apply to the calculation of any compensation referred to in subsection (1) above, in so far as it is calculated by reference to the depreciation of the value of an interest in land.

(5) In the case of an interest in land subject to a heritable security—

(*a*) compensation referred to in subsection (1) above in respect of the depreciation of that interest shall be calculated as if the interest were not subject to the heritable security;

(*b*) a claim or application for the payment of any such compensation, or an application for the recording of a claim in respect of the interest under section 22(1) of this Act, may be made by any person who when the order giving rise to the compensation was made was the heritable creditor, or by any person claiming

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under such a person, but without prejudice to the making of a claim or application by any other person;

(*c*) a heritable creditor shall not be entitled to any such compensation in respect of his interest as such; and

(*d*) any compensation payable in respect of the interest subject to the heritable security shall be paid to the heritable creditor or, where there is more than one heritable creditor, to the creditor whose heritable security has priority over any other heritable securities secured on the land, and shall in either case be applied by him as if it were proceeds of sale.

(6) In this section "heritable security" has the same meaning as in the Conveyancing (Scotland) Act 1924 except that it includes a security constituted by ex facie absolute disposition or assignation, and "heritable creditor" shall be construed accordingly.

1924 c. 27.

Accounts and reports of the Commission.

71.—(1) The Commission shall keep proper accounts and other records in relation to the accounts and shall prepare in respect of each of their financial years a statement of account in such form as the Secretary of State may, with the approval of the Treasury, determine.

(2) The statement of account prepared by the Commission for each financial year shall be submitted to the Secretary of State at such time as he may, with the approval of the Treasury, direct.

(3) The Secretary of State shall, on or before 30th November in any year, transmit to the Comptroller and Auditor General the statement of account prepared by the Commission under this section for the financial year last ended.

(4) The Comptroller and Auditor General shall examine and certify the statement of account transmitted to him under this section and lay before Parliament copies of the statement of account together with his report thereon.

(5) The Commission shall provide the Secretary of State with such information relating to their activities or proposed activities as he may from time to time require, and for that purpose shall permit any person authorised in that behalf by the Secretary of State to inspect and make copies of their accounts, books, documents or papers and shall afford to that person such explanation thereof as he may reasonably require.

(6) The Commission shall as soon as possible after the end of each calendar year subsequent to 1967 make to the Secretary of State a report as respects that year on the exercise and performance of their functions under this Act, and every such report shall be laid by the Secretary of State before each House of Parliament.

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(7) In this section, " financial year " means the period beginning with the commencement of this Act and ending with 31st March 1968 and each subsequent period of twelve months ending with 31st March.

Exemption of Commission from betterment levy.

72. Section 56 of the Land Commission Act 1967 (exemption of public bodies from levy) shall apply to the Commission, and accordingly after subsection (4)(*c*) of that section there shall be inserted the following words:—

" (*c*)(i) the Countryside Commission for Scotland; ". 1967 c. 1.

Crown land.

73.—(1) If the appropriate authority consent thereto, the power to carry out work, provide services or facilities conferred on the Commission, local authorities and local planning authorities by this Act or by section 2 of the Local Government (Development and Finance) (Scotland) Act 1964 may be exercised on Crown land. 1964 c. 67.

(2) Parts II and III of this Act shall apply to Crown land, but subject to the following modifications—

(*a*) no access order, public path creation order, public path extinguishment order or public path diversion order shall be made as respects such land except with the consent of the appropriate authority;

(*b*) no such land shall be acquired under the said Part II or III except with such consent;

(*c*) if any land comprised in an access agreement or order, not being excepted land as defined for the purposes of the said Part II, becomes Crown land while it is so comprised, the access agreement or order shall cease to apply to the land unless the appropriate authority consent to the continued application thereto of the agreement or order.

(3) An access agreement made by any government department shall be of no effect unless it is approved by the Treasury, and in considering whether to make or approve an access agreement 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.

(4) Byelaws made under this Act shall apply to Crown land if the appropriate authority consent to their application thereto.

(5) In this section " Crown land " and " the appropriate authority " have the same meanings as in section 83 of the Act of 1947, and the provisions of subsection (6) of that section as to the determination of questions shall apply for the purposes of this section.

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Expenses.

74.—(1) The Secretary of State may pay such sums in respect of the expenses of the Commission as he may, with the consent of the Treasury, determine.

(2) There shall be paid out of moneys provided by Parliament—

(*a*) any expenses incurred by the Secretary of State under this Act; and

(*b*) any increase in the sums payable out of moneys so provided under any enactment relating to local government in Scotland or under the Forestry Act 1967.

1967 c. 10.

Powers of entry.

75.—(1) For the purpose of surveying land in connection with—

(*a*) the exercise or proposed exercise of any of the functions of the Commission under this Act in relation to land,

(*b*) the acquisition under this Act of the land or of any interest therein whether by agreement or compulsorily,

(*c*) the making of an access order with respect thereto, or

(*d*) the making of a public path creation order, public path extinguishment order or public path diversion order,

any person duly authorised in writing by the Secretary of State, the Commission or other authority having power so to exercise functions, or to acquire land or to make the order, as the case may be, may, at any reasonable time, enter upon the land.

(2) For the purpose of surveying land, or of estimating its value, in connection with any claim for compensation payable by virtue of this Act by the Secretary of State, the Commission or other authority in respect of that or any other land, any person being an officer of the Valuation Office or a person duly authorised in writing by the authority from whom the compensation is claimed may, at any reasonable time, enter upon the land.

(3) A person authorised under this section to enter upon any land, shall, if so required by the occupier or anyone acting on his behalf, produce evidence of his authority, and shall not demand admission as of right to any land which is occupied unless at least fourteen days' notice in writing of the intended entry has been given to the occupier.

(4) The power conferred on the Commission to survey land in connection with the exercise of their functions under section 5 or 6 of this Act 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:

Provided that a person shall not carry out any works authorised by this subsection unless notice of his intention so to do has been included in the notice required by subsection (3) above,

PART V

and if the land in question is held by any statutory undertakers and those undertakers object to the proposed works on the ground 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.

In this subsection " the appropriate Minister " has the same meaning as in section 113(1) of the Act of 1947.

(5) A person entering upon any land by virtue of this section may take with him such other persons as may be necessary, and on leaving any premises which he has so entered, being either unoccupied premises, or premises of which the occupier is temporarily absent, shall leave them as effectively secured against unauthorised entry as he found them.

(6) A person who wilfully obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £20.

Inquiries and service of notices.

76.—(1) Section 50 of the Town and Country Planning (Scotland) Act 1945 (which provides for the holding by a Minister of local inquiries) shall apply for the purposes of this Act. 1945 c. 33.

(2) Section 101 of the Act of 1947 (which provides for the service of notices and other documents) shall apply to notices and other documents required or authorised to be served or given under this Act:

Provided that this subsection shall not apply to the service of any notice required or authorised to be served under Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as applied by this Act. 1947 c. 42.

Orders.

77. Any order under this Act may be varied or revoked by a subsequent order made in the like manner and subject to the like provisions:

Provided that, without prejudice to the making of a new access order under Part II of this Act, an access order under the said Part II shall not be varied so as to comprise land not comprised in the original order.

Interpretation.

78.—(1) In this Act unless the context otherwise requires—

" the Act of 1947 " means the Town and Country Planning (Scotland) Act 1947; 1947 c. 53.

" agricultural land " means land used for the purposes of agriculture within the meaning of section 86(3) of the Agriculture (Scotland) Act 1948 and " agricultural purposes " shall be construed accordingly; 1948 c. 45.

PART V

"area of special planning control" has the meaning assigned to it by section 9 of this Act;

"boat" includes any hover vehicle or craft being a vehicle or craft designed to be supported on a cushion of air and which is used on or over water;

"the countryside" has the meaning assigned to it by section 2 of this Act;

"district council" has the same meaning as in section 39 of the Local Government (Scotland) Act 1947; 1947 c. 43.

"enactment" has the same meaning as in the Act of 1947;

"function" includes power and duty;

"interest", in relation to land, includes any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting and fishing rights;

"land" includes land covered by water and, in relation to the acquisition or disposal of land by virtue of this Act, any right or interest in or over land;

"livestock rearing land" has the meaning assigned to it by section 1(3) of the Livestock Rearing Act 1951; 1951 c. 18.

"local authority" has the meaning assigned to it by section 379(1) of the Local Government (Scotland) Act 1947;

"local planning authority" has the meaning assigned to it by section 2 of the Act of 1947;

"open country" has the meaning assigned to it by section 10(2) of this Act;

"owner", in relation to land, means the person who, for the time being, receives, or, if the land were let, would be entitled to receive the rent of the land, or who, in the case of land which is unlet, is entitled to occupy the land, and includes any trustee, tutor, curator, factor, agent or other person receiving the rent on behalf of any other person, and also a joint owner;

"prescribed" means prescribed by regulations made by statutory instrument by the Secretary of State subject to annulment in pursuance of a resolution of either House of Parliament;

"public body" includes any local authority, local planning authority or statutory undertaker, and any trustees, commissioners, board or other persons who as a public body and not for their own profit act under any enactment for the improvement of any place or the production or supply of any commodity or service;

" refreshments " includes exciseable liquor within the meaning of the Licensing (Scotland) Act 1959; PART V 1959 c. 51.

" road " has the meaning assigned to it by section 257(1) of the Road Traffic Act 1960; 1960 c. 16.

" statutory undertakers " and " statutory undertaking " have the meanings assigned to them by section 113 of the Act of 1947;

" waterway " means any loch, lake, river, reservoir, canal or other waters, being (in any case) water suitable, or which can reasonably be rendered suitable, for sailing, boating, bathing, fishing or other water sport or recreation.

(2) References in this Act to the conservation of natural beauty of an area shall be construed as including references to the conservation of features of geological or physiographical interest therein and of the flora and fauna thereof.

(3) References in this Act to any enactment are references to that enactment as amended by or under any subsequent enactment including this Act.

79.—(1) This Act may be cited as the Countryside (Scotland) Act 1967. Short title and extent.

(2) This Act, except in so far as it relates to the amendment of the House of Commons Disqualification Act 1957, shall extend to Scotland only. 1957 c. 20.

SCHEDULES

Section 1.

SCHEDULE 1

CONSTITUTION AND PROCEEDINGS OF THE COMMISSION

1. The Commission shall be a body corporate and shall have a common seal.

2.—(1) Subject to the provisions of this paragraph, a member of the Commission, and the chairman shall hold and vacate office as such in accordance with the terms of his appointment.

(2) A member may by notice in writing addressed to the Secretary of State resign his membership, and the chairman may by the like notice resign his office as such.

(3) The Secretary of State may remove a person from membership if satisfied that he—

(*a*) has had his estate sequestrated or has made a trust deed for behoof of his creditors or a composition contract;

(*b*) is incapacitated by physical or mental illness;

(*c*) has been absent from meetings of the Commission for a period longer than six consecutive months otherwise than for a reason approved by the Secretary of State; or

(*d*) is otherwise unable or unfit to discharge the function of a member, or is unsuitable to continue as a member.

(4) If the chairman ceases to be a member of the Commission he shall cease to be chairman.

(5) A person who ceases to be a member or ceases to be chairman shall be eligible for re-appointment.

3.—(1) The Commission may pay to any of the members of the Commission such remuneration and such reasonable allowances in respect of—

(*a*) expenses properly incurred in the performance of their duties,

(*b*) loss of remunerative time, or

(*c*) additional expenses (other than as aforesaid) necessarily incurred by them for the purpose of enabling them to perform their duties, being expenses to which they would not otherwise have been subject,

as the Secretary of State may, with the approval of the Treasury, determine.

(2) The Commission may pay such pension, allowance or gratuity to or in respect of any member of the Commission on his retirement or death, or make such payments towards the provision of such a pension, allowance or gratuity, as the Secretary of State may, with the approval of the Treasury, determine.

SCH. 1

4. The Commission—

(*a*) may appoint such officers and servants and pay to them such remuneration and allowances as the Commission may, with the approval of the Secretary of State and the Treasury, determine, and

(*b*) shall, in the case of such of their officers and servants as may be determined by the Commission with the approval of the Secretary of State, pay to or in respect of them such pensions or gratuities, or provide and maintain for them such pension schemes (whether contributory or not) as may be so determined.

5. Subject to the following provisions of this Schedule, the Commission shall have power to regulate their own procedure (including the manner in which matters subject to the determination of the Commission are to be determined by or on behalf of the Commission), and that of any committee appointed by them.

6. The quorum at meetings of the Commission shall be four or such larger number as the Commission may from time to time determine, and if at any meeting of the Commission the votes are equally divided on any question, the person acting as chairman of the meeting shall have a second or casting vote.

7. The proceedings of the Commission shall not be invalidated by any vacancy in the membership of the Commission or by any defect in the appointment of any member thereof.

8.—(1) If a member of the Commission has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the Commission at which the matter is the subject of consideration, he shall disclose the fact, and he shall not take part in the consideration or discussion of, or vote on, any question with respect to the matter, but he may nevertheless be taken into account for the purpose of constituting a quorum.

(2) A general notice given in writing by a member of the Commission to the officer designated by the Commission to receive it, stating that he is a member of or in the employment of a specified company or other body, or that he is a partner or in the employment of a specified person, or that he has an interest in any specified land, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any matter relating to that company, body or person or land which may be the subject of consideration after the date of the notice.

(3) Any disclosure made under sub-paragraph (1) of this paragraph shall be recorded in the minutes of the meeting at which it is made; and any notice given under sub-paragraph (2) thereof shall be recorded in a book to be kept for the purpose.

9. The application of the seal of the Commission to any document shall be attested by at least one member of the Commission and

SCH. 1 by the person for the time being acting as secretary of the Commission.

10. Every document purporting to be an instrument issued by the Commission and to be sealed and attested as aforesaid or to be signed on behalf of the Commission shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

Section 11.

SCHEDULE 2

GENERAL RESTRICTIONS TO BE OBSERVED BY PERSONS HAVING ACCESS BY VIRTUE OF PART II OF THIS ACT TO LAND WHICH IS OR WHICH GIVES OR FORMS PART OF ACCESS TO OPEN COUNTRY

Section 11(1) of this Act shall not apply to a person who, upon the land in question, commits any crime or offence, or who without lawful authority,—

(*a*) drives or rides any vehicle ;

(*b*) lights any fire or does any act which is likely to cause a fire ;

(*c*) takes, or allows to enter or remain, any dog not under proper control ;

(*d*) wilfully kills, takes or molests any animal, bird or fish or takes or injures any eggs or nests ;

(*e*) bathes in any non-tidal water in contravention of a notice displayed near the water prohibiting bathing, being a notice displayed, and purporting to be displayed, with the approval of the local planning authority ;

(*f*) engages in any operations of or connected with hunting, shooting, fishing, snaring, taking or destroying of animals, birds or fish, or brings or has any engine, instrument or apparatus used for hunting, shooting, fishing, snaring, taking or destroying animals, birds or fish ;

(*g*) wilfully damages the land or anything thereon or therein ;

(*h*) obstructs the flow of any drain or watercourse, opens, shuts or otherwise interferes with any sluice-gate or other apparatus, or neglects to shut any gate or to fasten it if any means of so doing is provided ;

(*i*) affixes or writes any advertisement, bill, placard or notice ;

(*j*) deposits any rubbish or leaves any litter ;

(*k*) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation.

SCHEDULE 3

Sections 14, 31, 34 and 35.

PROVISIONS AS TO MAKING, CONFIRMATION, COMING INTO OPERATION AND VALIDITY OF CERTAIN ORDERS

PART I

Provisions for Making and Confirming Access Orders and Certain Orders relating to Public Paths

1.—(1) Before an access order, a public path creation order, a public path extinguishment order or a public path diversion order is submitted to the Secretary of State for confirmation, the authority by whom the order was made shall give notice in the prescribed form—

(*a*) stating the general effect of the order and that it has been made and is about to be submitted for confirmation,

(*b*) naming a place in the area in which the land to which the order relates is situated where a copy of the order and of the map referred to therein may be inspected free of charge at all reasonable hours, and

(*c*) specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.

(2) Before the Secretary of State makes an access order, a public path creation order, a public path extinguishment order or a public path diversion order, he shall prepare a draft of the order and shall give notice—

(*a*) stating that he proposes to make the order and the general effect thereof,

(*b*) naming a place in the area in which the land to which the draft order relates is situated where a copy of the draft order and of the map referred to therein may be inspected free of charge at all reasonable hours, and

(*c*) specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the draft order may be made.

(3) The notices to be given under either of the two foregoing sub-paragraphs shall be given—

(*a*) in the case of an access order or a public path creation order, by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated, and by serving a like notice on every owner, occupier and tenant (except tenants for a month or any period less than a month and statutory tenants within the meaning of Part II of the Housing (Repairs and Rents) (Scotland) Act 1954) of any of that land, so however that— 1954 c. 50.

(i) except in the case of an owner, occupier or tenant being a local authority, local planning authority or statutory undertaker, the Secretary of State may in any

SCH. 3

particular case direct that it shall not be necessary to serve notice as aforesaid if in his opinion it is not reasonably practicable to do so, but

(ii) if the Secretary of State so directs in the case of any land, then in addition to publication the notice shall be addressed to " the owners and any occupiers " of the land (describing it) and a copy or copies of it shall be affixed to some conspicuous object or objects on the land;

(*b*) in the case of a public path extinguishment order or a public path diversion order, by publication and the service of notices as mentioned in head (*a*) of this sub-paragraph and also—

(i) by serving such a notice as is therein mentioned on every local authority and local planning authority whose area includes any of the land to which the order relates, and

(ii) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any public path as is to be closed or diverted by virtue of the order.

2.—(1) If no representations or objections are duly made, or if any so made are withdrawn, the Secretary of State may, if he thinks fit, confirm or make the order, as the case may be, with or without modifications or conditions.

(2) If any representation or objection duly made is not withdrawn, the Secretary of State shall, before confirming or making the order, either—

(*a*) cause a local inquiry to be held, or

(*b*) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose,

and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm or make the order, as the case may be, with or without modifications or conditions:

Provided that in the case of a public path creation order or a public path diversion order, if objection is made by statutory undertakers on the ground that the order provides for the creation of a right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(3) Notwithstanding anything in the foregoing provisions of this paragraph, the Secretary of State shall not confirm or make an order so as to affect land not affected by the order as submitted to him or the draft order prepared by him, as the case may be, except after—

(*a*) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less

than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made,

(*b*) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose, and

(*c*) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be,

and, in the case of a public path creation order or a public path diversion order, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

3.—(1) Subject to the provisions of this Part of this Schedule, the procedure on the submission and confirmation of orders to which this Schedule applies shall be such as may be prescribed.

(2) Provision may be prescribed for enabling proceedings preliminary to the confirmation of a public path extinguishment order to be taken concurrently with proceedings preliminary to the confirmation of a public path creation order or a public path diversion order.

PART II

Validity and Date of Operation of Orders to which this Schedule applies

4. As soon as may be after an order to which this Schedule applies has been confirmed or made by the Secretary of State, the authority by whom the order was made, or, in the case of an order made by the Secretary of State, the Secretary of State, shall publish, in the manner required in relation to the class of order in question by paragraph 1(3) of this Schedule, a notice in the prescribed form describing the general effect of the order, stating that it has been confirmed or made, and naming a place where a copy thereof as confirmed or made may be inspected free of charge at all reasonable hours, and—

(*a*) where under the said sub-paragraph (3) notice was required to be served, shall serve a like notice and a copy of the order as confirmed or made on any persons on whom notices were required to be served under that sub-paragraph ; and

(*b*) where under the said sub-paragraph (3) a notice was required to be displayed, shall cause a like notice to be displayed in the like manner as the notice required to be displayed under that sub-paragraph :

Provided that no such notice or copy need be served on a person unless he has sent to the authority or the Secretary of State (according

SCH. 3 as the notice or copy would require to be served by an authority or by the Secretary of State) a request in that behalf specifying an address for service.

5. If a person aggrieved by an order to which this Schedule applies desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or on the ground that any requirement of this Act or of regulations made thereunder has not been complied with in relation thereto, he may, within six weeks from the date on which the notice required by the last foregoing paragraph is first published, make an application for the purpose to the Court of Session.

6. On any such application as aforesaid, the Court—

(*a*) may by interim order suspend the operation of the order, 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 ; and

(*b*) if satisfied that the order, 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 failure to comply with any such requirement as aforesaid, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.

7. Subject to the provisions of the last foregoing paragraph, an order to which this Schedule applies shall not, either before or after it has been made or confirmed, be questioned in any legal proceedings whatever, and shall become operative on the date on which the notice required by paragraph 4 above is first published, or on such later date as may be specified in the order.

8. In relation to any order to which this Schedule applies, being an order which is subject to special parliamentary procedure, the foregoing provisions of this Schedule shall have effect subject to the following modifications—

(*a*) if the order is confirmed by Act of Parliament under section
1945 c. 18. six of the Statutory Orders (Special Procedure) Act 1945, paragraphs 5 to 7 shall not apply ; and

(*b*) in any other case, paragraph 5 shall have effect as if, for the reference therein to the date on which the notice required by paragraph 4 is first published, there were substituted a reference to the date on which the order becomes operative under the said Act of 1945, and paragraph 7 shall have effect as if the words from " and shall become operative " to the end of the paragraph were omitted.

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