

SCHEDULES

SCHEDULE 7

Section 93.

PART I

CONSENT TO DEMOLITION OF LISTED BUILDINGS IN HOUSING ACTION AREAS, ETC

Buildings subject to compulsory purchase orders for demolition subsequently listed

- 1 (1) In this paragraph, references to a compulsory purchase order are to a compulsory purchase order made under the provisions of Part IV in so far as the order relates to a building acquired for demolition under those provisions.
- (2) Where a building to which a compulsory purchase order applies is (at any time after the making of the order) included in a list of buildings of special architectural or historic interest under section 52 of the Town and Country Planning (Scotland) Act 1972 or under any corresponding enactment repealed by that Act, the local authority making the order or its successor in the exercise of its functions relating to the order may, subject to sub-paragraph (3), apply to the Secretary of State (and only to him) under section 53 of the said Act of 1972 for consent to the demolition of the building.
- (3) No such application may be made by virtue of sub-paragraph (2) after the expiry of the period of 3 months beginning with the date on which the building is included on the said list.
- (4) The following provisions of this paragraph shall have effect where—
- (a) an application for consent has been made under the said section 53, by virtue of sub-paragraph (2), and has been refused, or
 - (b) the period of 3 months mentioned in sub-paragraph (3) has expired without the authority having made such an application,
- and in this paragraph "relevant date" means the date of the refusal or, as the case may be, of the expiry of the period of 3 months.
- (5) If, at the relevant date—
- (a) the building has not vested in the authority, and
 - (b) no notice to treat has been served by the authority under section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, in respect of any interest in the building,
- the compulsory purchase order shall cease to have effect in relation to the building and, where applicable, the building shall cease to be comprised in a housing action area.
- (6) Where a compulsory purchase order ceases to have effect, by virtue of sub-paragraph (5), in relation to a house which does not meet the tolerable standard, the authority concerned shall, in respect of the house, forthwith—

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- (a) serve a notice under section 108 (power of local authority to secure repair of house in state of serious disrepair), or
 - (b) make a closing order under Part VI,
- whichever is appropriate.
- (7) Where sub-paragraph (5) does not apply, the authority shall cease to be subject to the duty to demolish the building, and in relation to any interest in the building which at the relevant date has not vested in the authority the compulsory purchase order shall have effect as if—
- (a) in the case of a house, it had been made and confirmed under Part I, and
 - (b) in any other case, it had been made and confirmed under Part VI of the Town and Country Planning (Scotland) Act 1972.
- (8) If the building, or any interest in the building, was vested in the authority at the relevant date, it shall be treated—
- (a) in the case of a house, as appropriated to the purposes of Part I, and
 - (b) in any other case, as appropriated to the purposes of Part VI of the said Act of 1972.
- (9) As respects a building falling within sub-paragraph (2), where no notice to treat has, at the date on which the building is included in the list referred to in that sub-paragraph, been served under section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, the authority shall not serve such a notice until after the relevant date.

Buildings acquired by agreement for demolition subsequently listed

- 2 (1) Where Part IV applies to a building purchased by a local authority by agreement, and at any time the building is included in a list of buildings of special architectural or historic interest under section 52 of the Town and Country Planning (Scotland) Act 1972 or under any corresponding enactment repealed by that Act, the authority or its successor in the exercise of the powers conferred by Part IV may, subject to sub-paragraph (2), apply to the Secretary of State (and only to him) under the said section 53 for consent to the demolition of the building.
- (2) No such application may be made by virtue of sub-paragraph (1) after the expiry of the period of 3 months beginning with the date on which the building is included on the said list.
- (3) Where—
- (a) an application for consent has been made under the said section 53, by virtue of sub-paragraph (1), and has been refused, or
 - (b) the period of 3 months mentioned in sub-paragraph (2) has expired without the authority having made such an application,
- the authority shall cease to be subject to the duty imposed by Part IV to demolish the building, which shall be treated—
- (i) in the case of a house, as appropriated to the purposes of Part I of this Act, and
 - (ii) in any other case, as appropriated to the purposes of Part VI of the Town and Country Planning (Scotland) Act 1972.

PART II

REHABILITATION ORDERS

Application and effect of rehabilitation orders

- 3 (1) This Part of this Schedule applies to any house which—
- (a) is included in a clearance area under Part III of the Act of 1966, or
 - (b) is included in a housing treatment area under Part I of the Act of 1969, where the resolution for the area provides for the demolition of the house,
- being a house which—
- (i) has been purchased by agreement or compulsorily at any time before 2nd December 1974 under section 38 of the Act of 1966 or section 7 of the Act of 1969 (provisions regarding acquisition of land in such areas), or
 - (ii) is subject to a compulsory purchase order which was made under the said section 38 or under the said section 7 (but not confirmed) before 2nd December 1974 and which, before 2nd March 1975, has been confirmed in accordance with Schedule 3 to the Act of 1966 or (as the case may be) in accordance with Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as applied by the said section 7, or
 - (iii) has been included in the area by virtue of section 41 of the Act of 1966 or section 9 of the Act of 1969 (land already belonging to the local authority).
- (2) Where any house to which this Part of this Schedule applies in terms of sub-paragraph (1) does not comply with the full standard as denned in paragraph 12 and, in the opinion of the local authority, it is capable of being and ought to be improved to that standard, the authority may make and submit to the Secretary of State an order (in this Part of this Schedule referred to as a "rehabilitation order") in relation to the house.
- (3) In addition to applying to any house to which this Part of this Schedule applies in terms of sub-paragraph (1), a rehabilitation order may, if the local authority think fit, be made to apply to any other relevant land, as denned in paragraph 12.
- (4) On the date on which a rehabilitation order becomes operative, the local authority shall cease to be subject to any duty to demolish or secure the demolition of buildings on any land included in the order, imposed by Part III of the Act of 1966 or Part I of the Act of 1969.
- (5) Where by virtue of sub-paragraph (4) a local authority are freed from the duty to demolish or secure the demolition of a house which does not comply with the full standard, the authority shall take such steps as are necessary—
- (a) to bring the house up to the full standard, or
 - (b) where it is not vested in the authority, to ensure that it is brought up to that standard.
- (6) A local authority may accept undertakings for the purpose of sub-paragraph (5)(b) from the owner of a house, or any other person who has or will have an interest in a house, concerning works to be carried out to bring it up to the full standard and the time within which they are to be carried out.
- (7) Any reference in sub-paragraph (2), (5) or (6) to a house being improved or brought up to the full standard shall be construed as including a reference to a house, after

integration with any other house to which this Part of this Schedule applies and which does not comply with the full standard, being improved or brought up to the full standard.

Miscellaneous provisions relative to rehabilitation orders

- 4 —Where the owner of a house to which this Part of this Schedule applies in terms of paragraph 3(1), and which does not comply with the full standard, requests the local authority to make a rehabilitation order in respect of the house, and the authority refuse to make the order, they shall give him in writing their reasons for so refusing.
- 5 —Where a local authority have made a rehabilitation order they shall not, until after the date on which the order becomes operative or on which confirmation of the order is refused—
- (a) serve notice to treat, under section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, in respect of any land included in a compulsory purchase order made and confirmed by virtue of section 38 of the Act of 1966 or section 7 of the Act of 1969 which includes notice land as defined in paragraph 12; or
 - (b) demolish, without the consent of the Secretary of State, any building on notice land.
- 6 (1) Where—
- (a) land included in a compulsory purchase order, made and confirmed by virtue of the said section 38 or the said section 7, is comprised in a rehabilitation order, and
 - (b) the rehabilitation order becomes operative in respect of that land, and
 - (c) no interest in the land has vested in the local authority before the date on which the rehabilitation order becomes operative, and
 - (d) neither the local authority nor a previous local authority entitled to serve a notice to treat in respect of any interest in the land under section 17 of the said Act of 1845 have done so before that date,
- the compulsory purchase order shall cease to have effect in relation to that land on that date, and if the land is included in a clearance area or housing treatment area, it shall cease to be so included.
- (2) On and after the date on which a rehabilitation order becomes operative, in a case where sub-paragraph (1) does not apply in relation to an area of land comprised in that order, any compulsory purchase order relating to that land and confirmed by virtue of the said section 38 or the said section 7 shall have effect in relation to any interest in that land which at the said date was not vested in the authority—
- (a) in so far as it relates to a house, as if it had been made and confirmed under Part I of this Act, and
 - (b) in so far as it relates to land other than a house, as if it had been made and confirmed under Part VI of the Town and Country Planning (Scotland) Act 1972.
- (3) Where a rehabilitation order becomes operative in respect of an area of land and any interest in that land is vested in the local authority at the date when the order becomes operative—
- (a) any such interest in a house shall be treated as appropriated to the purposes of Part I of this Act, and

- (b) any such interest in land other than a house shall be treated as appropriated to the purposes of Part VI of the said Act of 1972.

7 —A rehabilitation order may be made and confirmed notwithstanding that the effect of the order in excluding any land from a clearance area or from a housing treatment area is to sever that area into two or more parts; and in any such case the provisions applicable to the area in Part III of the Act of 1966 or in Part I of the Act of 1969, relating to the effect of a compulsory purchase order when confirmed and to the proceedings to be taken after confirmation of such an order, shall apply as if those parts formed one clearance area or housing treatment area, as the case may be.

Procedure for making and confirming rehabilitation orders

8 —A rehabilitation order shall be made in the prescribed form and shall describe, by reference to a map—

- (a) the house to which, in terms of paragraph 3(1), it applies, and
- (b) the other land to which, in terms of paragraph 3(3), it applies.

9 (1) Before submitting a rehabilitation order to the Secretary of State for confirmation, the local authority, except in so far as the Secretary of State directs otherwise—

- (a) shall publish in one or more newspapers circulating within their district a notice in the prescribed form stating that such an order has been made and describing the land to which it applies, and naming a place where a copy of the order and its accompanying map may be seen at all reasonable hours, and
- (b) shall serve on any such person as is specified in sub-paragraph (2) a notice in the prescribed form stating—
 - (i) the effect of the rehabilitation order,
 - (ii) that it is about to be submitted to the Secretary of State for confirmation, and
 - (iii) the time within which and the manner in which objections to the order can be made.

(2) The persons mentioned in sub-paragraph (1)(b) are—

- (a) every person on whom notice was served of the making by virtue of section 38 of the Act of 1966 or section 7 of the Act of 1969 of any compulsory purchase order which, at the date of its confirmation, included any land subsequently comprised in the rehabilitation order;
- (b) every successor in title of such a person;
- (c) every owner, lessee and occupier of the relevant land other than a tenant for a month or a period less than a month;
- (d) creditors in heritable securities over relevant land, so far as it is reasonably practicable to ascertain such persons; and
- (e) every person on whom notice would have been required to be served under head (c) or (d) whose interest has been acquired under the said section 38 since the clearance area was declared to be such an area or (as the case may be) under the said section 7 since the housing treatment area was declared to be such an area.

(3) A notice under this paragraph shall be accompanied by a statement of the grounds on which the local authority are seeking confirmation of the rehabilitation order.

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- (4) A notice under this paragraph shall be served in accordance with section 5(3) of and paragraph 19 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.
- 10 (1) If no objection is duly made by any of the persons on whom notices are to be served under paragraph 9, or if all objections so made are withdrawn, the Secretary of State may confirm the order with or without modifications.
- (2) If any objection duly made is not withdrawn, the Secretary of State, before confirming the order, shall cause a public local inquiry to be held or afford to any person by whom an objection has been duly made and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) After considering any objection not withdrawn and the report of the person who held the inquiry or of the person appointed under sub-paragraph (2), the Secretary of State may confirm the order with or without modifications.
- (4) The Secretary of State may require any person who has made an objection to state the grounds of the objection in writing, and may disregard the objection if he is satisfied that it relates exclusively to matters which can be dealt with by the tribunal by whom any compensation is to be assessed.
- (5) The Secretary of State's power to modify a rehabilitation order includes power, subject to sub-paragraph (6), to extend it to any notice land.
- (6) The Secretary of State shall not extend the application of a rehabilitation order to any land unless he has served on the following persons, namely—
- (a) the local authority who made the rehabilitation order,
 - (b) every owner, lessee and occupier of that land, except a tenant for a month or a period less than a month, and
 - (c) so far as it is reasonably practicable to ascertain such persons, on the creditor in every heritable security over any such land,
- a notice stating the effect of his proposals, and has afforded them an opportunity to make their views known.
- 11 —Paragraphs 6, 15 and 16 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (notification, challenge of validity and date of operation of orders) shall apply in relation to rehabilitation orders as if—
- (a) any reference to a compulsory purchase order were a reference to a rehabilitation order and any reference to compulsory purchase were a reference to rehabilitation under this Part of this Schedule;
 - (b) any reference to the acquiring authority were a reference to the local authority;
 - (c) the reference in the said paragraph 6 to paragraph 3 of that Schedule were a reference to paragraph 9 of this Schedule;
 - (d) the reference in the said paragraph 15 to any such enactment as is mentioned in section 1 (1) of that Act were a reference to this Part of this Schedule;
 - (e) the references in the said paragraph 15 to any requirement of that Act and to any requirement of that Schedule thereof were references to any requirement of this Part of this Schedule and of any provision of that Act (or that Schedule, as the case may be) applicable to the rehabilitation order;

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- (f) the references in the said paragraphs 15 and 16 to a certificate under Part III of that Schedule were deleted.

Interpretation of this Part of this Schedule

- 12 —In this Part of this Schedule, unless the context otherwise requires—
- "clearance area" means a clearance area under Part III of the Housing (Scotland) Act 1966;
- "full standard", in relation to a house, means the standard of a house which—
- (a) meets the tolerable standard;
 - (b) is in a good state of repair (disregarding the state of internal decorative repair) having regard to the age, character and locality of the house; and
 - (c) is provided with all of the standard amenities;
- "housing treatment area" means a housing treatment area under Part I of the Housing (Scotland) Act 1969;
- "notice land" means land in relation to which a notice is to be served under paragraph 9;
- "relevant land" means—
- (a) land in the clearance area or housing treatment area (as the case may be), including land which has been included in that area by virtue of section 41 of the Act of 1966 or section 9 of the Act of 1969 (land already belonging to the local authority); or
 - (b) land surrounded by or adjoining that area, which the local authority or a previous local authority entitled to purchase the land under section 37 of the Act of 1966 or under section 6 of the Act of 1969 have determined to purchase (whether or not it has been so purchased).

PART III

APPLICATION OF ENACTMENTS RELATING TO
COMPENSATION ON COMPULSORY PURCHASE, ETC.,
TO CASES UNDER PART I OR PART II OF THIS SCHEDULE

Compensation

- 13 (1) Where, under Part I or II of this Schedule, a compulsory purchase order is to be treated as made under Part I of this Act or Part VI of the Town and Country Planning (Scotland) Act 1972, compensation for the compulsory acquisition of the land comprised in the compulsory purchase order is to be assessed in accordance with the provisions applying to a compulsory acquisition under Part I of this Act or, as the case may be, Part VI of the Act of 1972.
- (2) Where, under Part I or II of this Schedule, land or any interest in land within any area is to be treated as appropriated by a local authority to the purposes of Part I of this Act, compensation for its compulsory acquisition shall (where it increases the amount) be assessed or re-assessed in accordance with the provisions applying to a compulsory acquisition under those Parts respectively.
- (3) Where, under paragraph 2 of Part I of this Schedule, or under Part II, any interest in land acquired by a local authority by agreement (after the declaration of a housing

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action area which relates to that land) is to be treated as appropriated for the purposes of Part I of this Act—

- (a) compensation shall (where sub-paragraph (2) would have increased the amount) be assessed and paid as if the acquisition were a compulsory acquisition, under Part I of this Act or Part II of Schedule 8 (as the case may be), to which the said sub-paragraph (2) applied; but
 - (b) there shall be deducted from the amount of compensation so payable any amount previously paid in respect of the acquisition of that interest by the authority.
- (4) Where sub-paragraph (2) or (3) applies, the local authority shall serve on the person entitled to the compensation a notice in the prescribed form giving particulars of the amount of compensation payable in accordance with the provisions applying to a compulsory acquisition under Part I of this Act, and if the person served does not, within 21 days from service of the notice, accept the particulars, or if he disputes the amount stated, the question of disputed compensation shall be referred to the Lands Tribunal.
- (5) The notice shall be served not later than 6 months after—
- (a) the relevant date, as defined in paragraph 1(4) of this Schedule, or
 - (b) the date on which the rehabilitation order becomes operative for the purposes of Part II of this Schedule,
- (as the case may be), and paragraph 19 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (service of notices) shall apply to the notice.
- (6) Sub-paragraph (2) shall be left out of account in considering whether, under sections 117 and 118 of the Lands Clauses Consolidation (Scotland) Act 1845, compensation has been properly paid for the land; and accordingly sub-paragraph (2) shall not prevent an acquiring authority from remaining in undisputed possession of the land.
- (7) Where sub-paragraph (2) makes an increase in compensation to be assessed in accordance with sections 56 to 60 and 63 of the said Act of 1845 (absent and untraced owners)—
- (a) a notarial instrument executed under section 76 of that Act before the latest date for service of a notice under sub-paragraph (4) shall not be invalid because the increase in compensation has not been paid, and
 - (b) it shall be the duty of the local authority, not later than 6 months after the said date, to proceed under the said sections and pay the proper additional amount into the bank.
- (8) Any sum payable by virtue of this paragraph shall carry interest at the rate prescribed under section 40 of the Land Compensation (Scotland) Act 1963 from the time of entry by the local authority on the land, or from vesting of the land or interest, whichever is the earlier, until payment.
- (9) In this paragraph, references to an increase in compensation shall be read as if any payments under—
- (a) section 49 of the Act of 1966, section 11 of the Act of 1969 or section 30 of the Act of 1974 or section 305 of this Act (payments in respect of well-maintained houses and payments to owner-occupiers),
 - (b) section 160 of the Act of 1966 or section 38 of the Land Compensation (Scotland) Act 1963 (allowances to persons displaced),

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- (c) sections 18 to 20 of the Act of 1969 or sections 308 to 311 of this Act (payments to owner-occupiers and others in respect of houses not meeting the tolerable standard purchased or demolished), and
 - (d) section 34 of the Land Compensation (Scotland) Act 1973 (disturbance payments for persons without compensatable interests),
- were, to the extent that they were made to the person in question, compensation in respect of the compulsory purchase.

Extension of time limits for exercising powers under certain compulsory purchase orders

- 14 —In section 116 of the Lands Clauses Consolidation (Scotland) Act 1845 (time limits for exercising powers under compulsory purchase orders) there shall be added at the end the following paragraph—

“For the purposes of this section no account shall be taken of any period during which an authority are, by virtue of Schedule 7 to the Housing (Scotland) Act 1987 (which relates to buildings in housing action areas) prevented from serving notice to treat under section 17 of this Act.”.