

CAP. 84
TOWN AND COUNTRY PLANNING ACT, 1945
ARRANGEMENT OF SECTIONS

Preliminary

SECTION

1. Transfer of functions of the Board to the Minister.

Declaration of Planning Areas and Powers of Minister

2. Declaration of planning area.
3. Prohibition of development.
4. Vesting of powers in local authority.
5. *Omitted.*
6. Appointment of planning committee.
7. Functions of committee.

Preparation and Approval of Schemes

8. Preparation of scheme.
9. Scope, contents and effect of schemes.
10. Obligation to give information.
11. Powers of entry, examination and survey.
12. Deposit of scheme and notice of deposit.
13. Approval by the Minister.
14. Deposit of scheme.

Execution of Schemes

15. Provision for execution of scheme.
16. Power to enforce and carry into effect schemes.
17. Powers of entry.
18. Penalty for obstruction.
19. Penalty for contravention of a scheme.
20. Acquisition of land.

Compensation and Betterment

21. Provisions as to compensation.
22. No compensation in certain classes of cases.
23. Compensation where local authority not liable.
24. Claims for compensation.
25. Recovery of betterment from owners of property.
26. Determination of claims and recovery of amounts due.
27. Moneys received and expenses incurred.

Miscellaneous

SECTION

- 28. Revocation or modification of scheme.
- 29. Decision of Minister to be final.
- 30. Protection from personal liability.
- 31. Regulations.
- 32. Interpretation.

SCHEDULE

CAP 84

TOWN AND COUNTRY PLANNING ACT, 1945'

AN ACT provided for the orderly and progressive development of land, towns and other areas, to preserve and improve their amenities and for related matters.

Preliminary

1. Transfer of functions of the Board to the Minister²

(I) The Minister shall be the authority for town and country planning instead of the Town and Country Planning Board and shall perform all the functions now performed by the Board.

(2) The Minister may delegate any of the functions of the Minister concerning town and country planning to any other person, and in so doing may impose on the person to whom the functions are delegated the appropriate conditions, exceptions and qualifications in the performance of any of the delegated functions³

(3) *Repealed⁴*

Declaration of Planning Areas and Powers of Minister

2. Declaration of planning area

(I) Where the Minister, after consultation with the relevant local governing authority, is of the opinion that a scheme should be made for an area the Minister may by executive instrument declare that area as a planning areas

1. This Act was enacted as the Town and Country Planning Ordinance, 1945 (No. 13 of 1945). It came into force on 21st April, 1945. It has been amended by Ordinance No. 13 of 1947 and, among other amendments, drastically amended by the Town and Country Planning Act, 1958 and Act 33 of 1960.
2. Part II of the 1945 Ordinance deleted by section 2 of the Town and Country Planning (Amendment) Act, 1960 (Act 33).
3. Amended by section 2 and the Schedule to the Town and Country Planning Act, 1958 (Act 30 of 1958). The amendment saved the relevant subsidiary legislation.
4. By the Schedule to the Town and Country Planning Act, 1958 (No. 30 of 1958), sections 3 to 8 of No. 13 of 1945, and repealed by Act 33 of 1960.
5. Amended by section 2 and the Schedule to the Town and Country Planning Act, 1958 (Act 30 of 1958).

(2) The executive instrument shall come into operation on the day of its publication in the *Gazette* and shall cease to have effect if within three years from that date a scheme in respect of the planning area or a part of it has not been approved under section 13.

(3) A copy of the instrument shall also be posted at the places within the planning area as directed by the Minister.

(4) When an area has been declared a planning area under this section, the value of a building or land in the area shall, for the purposes of determining the amount of compensation or betterment payable under this Act, be deemed to be the value of the building or land on the day twelve months immediately prior to the declaration or in the case of a building erected after that day but before the date on which the area was declared a planning area, the value of the building at the time of completion.⁶

3. Prohibition of development

(I) When an instrument declaring a planning area has been published under section 2, a person shall not within the planning area carry out a development of land or a construction, demolition, an alteration, extension, a repair or renewal of a building until a final scheme is approved under section 13 for the area containing the land or building; but the Minister may grant to a person applying in writing a permission in writing, subject to the conditions that the Minister may impose, to develop land or to construct, demolish, alter, extend, repair or renew a particular building lying within the planning area.

(1A) Despite anything to the contrary in subsection (I), the Minister may, in an executive instrument under section 7 declaring an area to be a planning area or by a subsequent instrument under that section, declare that the provisions of that subsection shall not apply to a part of that planning area or the matters relating to land or building referred to in that subsection and specified in the instrument; and where the declaration has been made those provisions shall not apply in respect of that part or matters.⁷

(2) A person who contravenes a provision of this section is liable, on summary conviction, to a fine of two hundred and fifty penalty units, together with, in the case of a continuing offence, a further fine of twenty-five penalty units for every day during which the offence continues.⁸

4. Vesting of powers in the local authority

(1) When an instrument declaring a planning area in respect of an area lying wholly or partly within a municipal area is published under section 2,

(a) the powers to undertake any of the matters described in the Schedule which are vested in the relevant local government authority by virtue of the Local Government Act, 1993 (Act 462) if the Minister so directs, shall be subject to a delegation by the Minister, and shall be performed exclusively by the authority in respect of the area contained in the planning area; but a power vested in the relevant local authority to undertake road transport services or public utility services within the area shall remain vested in that authority;

6. Amended by section 3 of No. 33 of 1947.

7. Added by section 1 of the Town and Country Planning (Amendment) Act, 1960

(Act 33). 8. Amended by section 1 of the Town and Country Planning (Amendment) Act, 1960 (Act 33).

- (b) the Minister is empowered exclusively to administer the Regulations relating to town planning and building operations made by the relevant local government authority; and
- (c) in respect of that part of the planning area which lies wholly outside the municipal area, the functions dealt with under the Towns Act, 1892, shall become vested in the Minister and shall be exercised exclusively by the Minister, including the administration of any Regulations made by the Director of Public Works.

(2) When an instrument declaring a planning area in respect of an area lying wholly outside a municipal is published under section 2, the functions dealt with under the Towns Act 1982, shall become vested in the Minister and shall be performed exclusively by the Minister, including the administration of any Regulations made by the Director of Public Works.

5. *Omitted*⁹

6. Appointment of planning committee

(1) When an instrument declaring a planning area is published under section 2, the Minister shall appoint a planning committee for the area concerned.¹⁰

(2) The committee shall consist of not less than five persons appointed by the Minister for the period determined by the Minister; but where the planning area lies wholly or in part within a municipal area, the committee shall include among its members the medical officer of health, the town engineer, or in the absence of the town engineer, the district engineer, and not less than two members of the relevant local authority nominated by that authority.

(3) The chairman of the committee shall be appointed by the Minister from among the members of the committee and the chairman or the member presiding at a meeting of the committee shall have a casting vote if on a question the votes are equal.

(4) The acts authorised or required to be done by the committee shall be done and decided by the majority of votes; but the committee is not competent to act unless there are present at and throughout the meeting three members at least, of whom one is the chairman or one of the members appointed in writing by the chairman to preside.

7. Functions of committee

(1) The committee shall furnish the Minister with the particulars and information that the Minister may require with regard to the present and future planning needs of, and the probable direction and nature of, the development of its area.

(2) The committee shall perform the functions delegated to it by the Minister.

9. By section I and the Schedule to the Town and Country Planning Act, 1958 (Act 30 of 1958). The section was section 12 of the 1945 Ordinance.

10. The Schedule to the Town and Country Planning Act, 1958 (No. 30 of 1958) amended sections 13 to 18 of the Ordinance by substituting for the "Board" the "Minister". Consequential amendments have thus been made.

Preparation and Approval of Schemes

8. Preparation of scheme

The Minister shall, in consultation with the committee, name a scheme for the planning area or a part of the planning area.

9. Scope, contents and effect of schemes

(1) A scheme may be made under this Act with respect to land, in an urban or a rural area whether or not there are buildings on it with the general object

- (a) of controlling the development of the land comprised in the area to which the scheme applies,
- (b) of securing proper sanitary conditions and conveniences, and the co-ordination of roads and public services,
- (c) of protecting and extending the amenities, and
- (d) of conserving and developing the resources of the area.

(2) A scheme made under this Act shall, where the context so permits, be called "a preliminary scheme", "a supplementary scheme" or "a final scheme."

(3) A preliminary scheme may contain one or more of the provisions of the contents of a final scheme.

(4) A supplementary scheme means a scheme made for the purpose of converting a preliminary scheme or part of it into a final scheme.

(5) A final scheme means the complete and detailed scheme for an area.

(6) A scheme shall specify and define clearly the area to which it relates and shall include a plan in which shall be shown the extent of the scheme and any other matters as can conveniently be included in it.

(7) A final scheme shall contain the provisions that are necessary or expedient or prohibiting or regulating the development of land in the area to which the scheme applies, and generally for carrying out any of the objects for which the scheme is made, and in particular for dealing with any matters mentioned in the Schedule.

(8) A scheme may provide for the redistribution of lands or for the readjustment of the boundaries and areas of any of those lands.

(9) A law relating to development, road construction, or building operations inconsistent with the provisions of a scheme or the application of which would tend to hinder the carrying out of the scheme shall not apply to the area to which the scheme relates.

10. Obligation to give information

(1) The Minister may, in relation to the making, enforcement or carrying out of a scheme, by notice in writing require the owner of a land or building in the area to which the scheme relates or is intended to relate, to state in writing and deliver or forward by registered post to the Minister within thirty days of the date of the notice, particulars of the estate, interest in or right over or in respect of the land or building of that owner, and the name and address, and the estate, interest or right, so far as they are known to the

owner, of every person who to the knowledge of that owner has an estate or interest in or right over or in respect of that land or building.

(2) A person required to make and deliver or forward a statement under this section who wilfully makes and delivers or forwards a false statement, or fails or refuses to make and deliver or forward a statement, is liable, on summary conviction, to a fine not exceeding seven hundred and fifty penalty units.

11. Powers of entry, examination and survey

(1) The Minister may at any time cause the whole or a part of a land to be entered on, examined and surveyed and its circumstances and requirements investigated for the purpose of deciding whether or not a scheme should be made in respect of that land or that part and of making a scheme if decided upon.

(2) A person authorised in that behalf in writing by the Minister may, for the purpose of an entry, examination, a survey or an investigation which the Minister is authorised by this section to cause to be made, and on production of the written authority, enter and there do anything which that person reasonably considers to be necessary.

(3) A person who wilfully obstructs or interferes with any other person in the exercise by the other person of a power vested in that person by virtue of this section commits an offence and is liable, on summary conviction, to a fine not exceeding seven hundred and fifty penalty units.

12. Deposit of scheme and notice of deposit

(1) When a scheme is framed it shall be deposited in a place that the Minister shall decide.

(2) Notice of the deposit and of the period in which a person may inspect and make representations respecting the scheme shall be published by the Minister in the *Gazette* and two local daily newspapers.

(3) A person may within two months of the date of the notice of the deposit, inspect and make representations to the Minister respecting the scheme, and on the expiration of that period the Minister shall take the recommendations into consideration. 11

13. Approval by the Minister

(1) A scheme in respect of the whole or part of a planning area shall not have effect until it is approved by the Minister and before giving approval the Minister may make the appropriate modifications.

(2) A scheme when so approved shall have effect as if enacted in this Act, subject to section 28.

14. Deposit of scheme

When a scheme is approved by the Minister in respect of the whole or part of a planning area, a copy of it shall be deposited for inspection in an office within the planning area as directed by the Minister.

11. Amended by the Schedule to the Town and Country Planning Act, 1958 (No. 30 of 1958).

*Execution of Schemes***15. Provision for execution of scheme**

Where a scheme is approved in respect of a planning area, the Minister shall be the authority responsible for executing and enforcing the scheme.

16. Power to enforce and carry into effect schemes

(1) Subject to this section, the Minister may, at any time,

(a) remove, pull down or alter, so as to bring into conformity with the scheme, a building or any other work which does not conform to the scheme, or the removal, demolition or alteration of which is necessary for carrying the scheme into effect, or in the erection or carrying out of which a provision of the scheme has not been complied with;

(b) where a building or land is being used in a manner that contravenes a provision of the scheme, prohibit it from being so used;

(c) where a land has been, since the date when the instrument declaring a planning area under section 2 is published, put to a use which contravenes a provision of the scheme, reinstate the land;

(d) execute a work which it is the duty of a person to execute under the scheme where a delay in the execution of the work has occurred and the efficient operation of the scheme has been or will be thereby prejudiced.

(2) Before taking an action under this section the Minister shall serve a notice on the owner and on the occupier of the building or land in respect of which the action is proposed to be taken and on any other person who may be affected, specifying the nature of and the grounds on which the Minister proposes to take action.

(3) The date stated in a notice served under this section as the date on or after which the intended exercise of the power is intended to be begun shall be not less than three months where a building is affected, and in any other case not less than one month after the date of service of the notice, and the Minister shall not do any act or thing in exercise of a power in relation to the building or land mentioned in the notice before that date.

(4) A person who uses a building or land in a manner prohibited under this section commits, in addition to any civil liability, an offence and is liable, on summary conviction, to a fine not exceeding seven hundred and fifty penalty units.

17. Powers of entry

A person authorised in that behalf in writing by the Minister may, on production of the written authority, enter on a land in a planning area to which a scheme relates and there make the necessary inspection, survey, examination and investigation and there carry out the work for the purposes of the enforcement of carrying out of a scheme.

18. Penalty for obstruction

A person who wilfully obstructs or interferes with a person in the lawful exercise of a power conferred by this Act commits an offence and is liable, on summary conviction, to a fine not exceeding seven hundred and fifty penalty units.

19. Penalty for contravention of a scheme

A person who wilfully does an act, whether of commission or omission, which is a contravention of a provision contained in a scheme is liable, on summary conviction, to a fine not exceeding one thousand five hundred penalty units, and in the case of a continuing offence, to a further fine of one hundred and fifty penalty units for every day during which the offence continues.

20. Acquisition of land

(1) The Minister may acquire the land or buildings that are necessary or expedient for carrying into effect the provisions of a scheme.

(2) Where the Minister is unable to purchase by agreement a land or building required for carrying a scheme into effect the land or building may be acquired under the State Lands Act, 1962 (Act 125) or the State Property and Contracts Act, 1960 (CA. 6).

(3) The lands and building acquired under this section for carrying a scheme into effect shall be used only for, or in connection with, the scheme for which they were so acquired.

*Compensation and Betterment***21. Provisions as to compensation**

Subject to the provisions of this Act, a person

- (a) whose property is injuriously affected by the coming into operation of a provision contained in a scheme or by the execution of a work under a scheme, or
- (b) who for the purpose of complying with a provision contained in a scheme or in making or resisting a claim under the provisions of this Act relating to compensation and betterment, has incurred expenditure which is rendered abortive by a subsequent revocation or modification of the scheme,

is entitled, if a claim is made within the time limited for the purpose by this Act, to recover as compensation from the Minister the amount by which the property is decreased in value, or, so far as it was reasonably incurred, the amount of the abortive expenditure.

22. No compensation in certain classes of cases

(1) Compensation is not payable in respect of the prohibition imposed by subsection (1) of section 3 on development of land or construction, demolition, alteration, extension, repair or renewal of buildings.

(2) Compensation is not payable in respect of a building the erection of which was begun after the date of the publication of the executive instrument declaring a planning area under section 2, unless that erection was begun under and erected in accordance with the permission of the Minister.

(3) Compensation is not payable in respect of a condition imposed by the Minister in respect of permission granted under subsection (1) of section 2 to develop land or to construct, demolish, alter, extend, repair or renew buildings.

(4) Compensation is not payable in respect of any of the following provisions in a scheme, namely, a provision which

- (a) prescribes the location of buildings, the extent of the yards, gardens and curtilage of buildings;
- (b) imposes sanitary conditions in connections with buildings;
- (c) limits the number of buildings or the number of buildings of a specified class which may be constructed, erected on or made in or under an area;
- (d) prohibits or regulates the subdivision of land;
- (e) regulates or empowers the Minister to regulate the size, height, spacing, design, colour and materials of buildings;
- (f) controls, restricts or prohibits the objects which may be affixed to buildings;
- (g) prohibits or restricts building operations permanently on the ground that by reason of the situation or nature of the land the erection of buildings would be likely to involve danger or injury to health or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services;
- (h) prohibits, otherwise than by way of prohibition of building operations, the use of land for a purpose likely to involve danger or injury to health, or detriment to the neighbourhood, or restricts, otherwise than by way of restriction of building operations, the use of land so far as may be necessary for preventing the danger, injury or detriment;
- (i) restricts the purposes for and the manner in which land or buildings may be used or occupied, or reserves or allocates a particular land or all land in a particular area for buildings of a specified class or classes or to be used for a specified purpose;
- (j) in the interests of safety regulates or empowers the Minister to regulate the height and position of proposed walls, fences or hedges near the corners or bends of roads or a railway level-crossings;
- (k) limits the number or prescribes the sites of new roads entering a road or the site of a proposed road;
- (l) fixes in relation to a road or an intended road a line beyond which a building in that road or intended road shall not project unless, within a period of two years immediately preceding the publication of an executive instrument under section 2 declaring the planning area within which the scheme lies, the land was or formed the site of a building;
- (m) in the case of the erection of a building intended to be used for purposes of business or industry, requires the provision of accommodation for parking, loading, unloading or fuelling vehicles, with a view to preventing obstruction of traffic on a road;
- (n) prohibits, restricts or controls, generally or in particular places, the exhibition, whether on the ground, on a building or a temporary erection, or on a vehicle, boat, an aircraft or any other movable object, whether on land or on or in water or in the air, of all or any particular forms of advertisements or any other public notices; or

- (0) prevents, remedies or removes injury to amenities arising from the ruinous or neglected condition of a building or by the objectionable or neglected condition of a land attached to a building or abutting on a road or situate in a residential area.

(5) Where a provision of a scheme is revoked or modified by a later scheme, compensation is not payable in respect of property on the ground that it has been injuriously affected by a provision contained in the later scheme if and in so far as that later provision is the same, or substantially the same, as the earlier provision so revoked or modified; but if at the date when the revocation or modification of that earlier provision becomes operative,

(a) there is still outstanding a claim for compensation duly made, or

(b) the time originally limited for making the claim has not expired,

the outstanding claim and the claim made within the time so limited shall be entertained and determined, and may be enforced, in the same manner in all respects as if all the provisions of the earlier scheme had continued in operation, unless the claim is in respect of a restriction removed by the later scheme.

(6) Subsection (4) does not preclude an owner from claiming compensation for loss or injury arising from

(a) being prevented by the operation of a scheme from maintaining a building which was in existence on the date of the publication of an executive instrument declaring a planning area under section 2 or from continuing to use that building for the purpose for which it was used on that date; or

(b) where a permanent building which was in existence within two years immediately before the date of the publication of an executive instrument declaring a planning area under section 2 has been demolished or been destroyed by fire or otherwise, being prevented by the operation of a final scheme from erecting on the site of the demolished or destroyed building a new building which substantially replaces the demolished or destroyed building or from using the new building for the purpose for which the demolished or destroyed building was last used.

23. Compensation where local authority not liable

Compensation is not payable in respect of a provision of a scheme if the provision could have been made and enforced without liability to pay compensation by the relevant local government authority under any other enactment. 12

24. Claims for compensation

(1) A claim for compensation shall be made by serving on the Minister a notice in writing stating the grounds of the claim and the amount claimed.

(2) Subject to subsection (3) a claim for compensation shall not be entertained unless the written notice has been served on the Minister within three months after the date on which the provision giving rise to the claim came into operation or within a longer period specified in the scheme or, in respect of expenditure rendered abortive by the revocation

12. Added by section 5 of No. 36 of 1947.

or modification of a scheme, within three months after the date on which the revocation or modification of the scheme became operative.

(3) Where it is alleged that property has been injuriously affected by the execution of a work, the period within which a claim in respect of that injurious affection may be made is a period of three years after completion of the work.

25. Recovery of betterment from owners of property

(1) Where by the coming into operation of a provision contained in a scheme, or by the execution of a work under a scheme, property within the area to which the scheme applies is increased in value, the Minister, if the Minister makes a claim for the purpose within three years after the date on which the provision came into operation, or within three years after the completion of the work, shall be entitled to recover from a person whose property is so increased in value the amount of that increase.

(2) A claim in respect of an increase in the value of property shall be made by serving on the person from whom the amount alleged to be payable is claimed a notice in writing stating the grounds of the claim and the amount claimed.

(3) A sum of money recoverable under this section may be set off against a claim to compensation.

(4) Where a provision of a scheme is revoked or modified by a later scheme, property shall not be deemed to be increased in value by a provision contained in the later scheme if and in so far as that provision is the same, or substantially the same, as a provision contained in the scheme so revoked or modified; but if at the date when the revocation or modification of the scheme becomes operative, there is still outstanding a claim in respect of an increase in the value of property duly made, or the time originally limited for making a claim has not expired, the outstanding claim, and the claim made within the time so limited, shall be entertained and determined and may be enforced in the like manner in all respects as if all the provisions of the earlier scheme had continued in operation.

26. Determination of claims and recovery of amounts due

(1) A dispute arising under this Act as to

- (a) the right of a claimant to recover compensation,
- (b) (b) the right of the Minister to recover betterment, or
- (c) the amount and manner of payment of recoverable compensation or betterment, shall, on the application of a party concerned, be heard and determined by the High Court.¹³

(2) A dispute referred to the High Court under subsection (1) shall be by way of a suit by or against the Minister.

(3) An award of compensation by the High Court is not enforceable until the lapse of three months from the date of the award.

13. The reference to the finality of the decision of the High Court has been omitted in view of jurisdiction of the Court of Appeal in relation to appeals from the High Court under article 137 of the Constitution.

27. Moneys received and expenses incurred

(1) The sums received by the Minister in respect of the betterment or otherwise shall be paid into the Consolidated Fund.

(2) The expenses incurred by the Minister in the performance of the functions and the amounts due by the Minister under this Act shall be defrayed from the Consolidated Fund.

*Miscellaneous***28. Revocation or modification of scheme**

(1) The Minister may at any time revoke or modify a scheme which has been approved under section 13 on any of the following grounds:

(a) on account of the amount of the compensation which has been awarded or is likely to be awarded in respect of provisions contained in the scheme;

(b) on account of practical difficulties in the execution or enforcement of the scheme;

(c) on account of events which have occurred since the making of the scheme.

(2) *Omitted.*¹⁴

(3) When the Minister modifies or revokes a scheme, the Minister shall within one month of the date of the modification or revocation give notice to the owner of a property affected and a compensation already awarded by the High Court shall on payment by the Minister of the costs awarded by the Court to the owner, be discharged but without prejudice to the right of the owner to make a further claim for compensation in respect of a later scheme, but subject nevertheless to subsection (4) of section 22.

29. Decision of Minister to be final

A decision by the Minister as to whether a building or work contravenes or fails to comply with a provision of scheme shall be final.

30. Protection from personal liability

A matter or thing done by an officer or employee of the Minister shall not, if the matter or thing is done bona fide for the purpose of executing a provision of this Act, subject the officer or employee, or a person acting by the direction of the that officer, personally to an action, a liability, claim or demand.

31. Regulations

(1) The Minister may by legislative instrument make Regulations with respect to any or all of the following matters:

(a) the determination and adjustments of the limits of plots or estates within planning areas;

14. As incorporated under subsection (1).

- (b) the procedure generally in connection with the Minister and schemes, and in particular, but not so as to exclude others, with respect to,
 - (i) the submission of claims for compensation, and
 - (ii) permission to develop an area and to carry out building operations between the date of the publication of an executive instrument declaring a planning area under section 2 and coming into operation of the scheme for that area;
- (c) the preparation, deposit, publication and submission of schemes;
- (d) the grant and exercise of the necessary powers in connection with schemes and with the preparation of schemes;
- (e) the further, better or more convenient effectuation of the provisions and purposes of schemes or of a particular scheme;
- (f) the modification and revocation of schemes;
- (g) for obtaining without charge, information which may be required for the purposes of, or in connection with, the preparation or making or carrying into effect of schemes by inspection of or obtaining copies from assessment rolls, valuation rolls, rate books and any other similar documents;
- (h) prescribing the form and manner of service of notices and forms.¹⁵

(2) The Regulations may impose a fine not exceeding seven hundred and fifty penalty units or in default of payment, imprisonment not exceeding two months for the breach of a provision of the Regulations, and in the case of a continuing offence, a further penalty not exceeding twenty-five penalty units for each day after written notice of the offence has been served on the offender.

(3) *Omitted*¹⁶

(4) The Regulations made under subsection (1) shall be published in the *Gazette*.¹⁷

32. Interpretation

(1) In this Act, unless the context otherwise requires,

"building" includes a building, an erection, a structure or any other building erected on or made on, in or under any lands and the land on, in or under which the building is situate;

"building operations" includes any road works preliminary or incidental to the erection of buildings;

"development" in relation to land includes a building or re-building operations and the use of the land or a building on it for a purpose which is different from the purpose for which the land or building was last being used;

15. Added by section 7 of No. 36 of 1947.

16. By the Schedule to the Town and Country Planning Act, 1958 (No. 30 of 1958). Consequent on the substitution of the "Minister" for the "Board" the subsection is not applicable.

17. But *see* clause (7) of article II of the Constitution.

"**existing building**" means a building erected or constructed before the date of the instrument declaring a planning area under section 2;

"**fence**" includes a hoarding or paling used as such, and also banks and walls;

"**functions**" includes powers and duties;

"**hedge**" includes a tree or shrub forming a part of a hedge;

"**land**" includes land covered with water and incorporeal as well as corporeal hereditaments of every tenure or description, and an interest in it, and an undivided share of land;

"**Minister**" means the Minister responsible for Local Government;

"**municipal area**" means the area within the authority of a District Assembly, a Municipal or a Metropolitan Assembly;

"**owner**" includes joint owner, lessee, tenant for life, and any other person in the actual possession of premises or entitled to receive the rents of premises of any tenure or description, and the agent or attorney of any of these persons or any of them, and any other person who has an interest in or draws the rents;

"**relevant local government authority**" includes a District Assembly, a Municipal, a Metropolitan Assembly and any other local government authority under the Local Government Act, 1993 (Act 462);

"**road**" includes a road whether public or private and a street, square, court, an alley, a lane, bridge, footway, trace, bridle path, passage or highway, whether a thoroughfare or not;

"**scheme**" means a scheme made under this Act;

"**site**" in relation to any buildings includes offices, out-buildings, yards, courts or gardens occupied or intended to be occupied therewith.

(2) For the purposes of this Act the placing or keeping on a land of a shed, tent or any other object, whether fixed or movable or collapsible, which is not a building shall be a use of the land.

SCHEDULE

[Section 9]

PART ONE

Roads

- I. Providing for the reservation of land for roads, the construction of new roads, improvement of existing roads, establishment of public rights of way.
2. Providing for the closing or diversion of existing roads and public and private rights of way and traces.
3. Restricting and controlling the construction of new roads and the alteration of existing roads whether by the Minister or owners.

4. Regulating the line, width, level, construction and general dimensions and character of roads whether new or existing.
5. Enabling the Minister to require an owner of land as a condition of the developing of the land in any manner
 - (a) to reserve land for the roads the Minister thinks necessary;
 - (b) contribute to the cost of the construction of new roads or the improvement of existing roads by the Minister.
6. Providing for and generally regulating the construction or execution whether by the Minister or by owners of works incidental to the making or improvement of a road including the erection of shelters, provision of seats, planting or protecting of grass, trees and shrubs on or adjoining the road.

PART TWO

Buildings and Other Structures

1. Regulating and controlling generally or in particular areas, all or any of the following matters:
 - (a) the size, height, spacing and building line of buildings;
 - (b) the objects which may be affixed to buildings;
 - (c) the location of buildings, the extent of yards, gardens and curtilage of buildings;
 - (d) the purpose for and the manner in which buildings may be used or occupied including, in the case of dwelling-houses, the letting thereof in separate tenements;
 - (e) the prohibition of building operations on any land, or regulating such operations.
2. Regulating and controlling or enabling the Minister to regulate and control the design, colour and materials of building and fences.
3. Reserving or allocating a particular land or all land in a particular area for buildings of a specified class or classes, or prohibiting or restricting, permanently or temporarily, the making of any buildings or any particular class or classes of buildings on a specified land.
4. Reserving or allocating a particular land or all land in a particular area for the purpose of any industrial or trade purpose or for a specified undertaking.
5. Limiting the number of buildings or the number of buildings, or a specified class which may be constructed, erected or made on, in or under an area.
6. Providing for the removal, demolition or alteration of buildings or works which are inconsistent with or obstruct the operation of a scheme.
7. Providing for the reservation of sites for places of religious worship, schools and public buildings and for places required for public services.
8. Providing for sanitary conditions.
9. Providing for the reservation of sites for housing schemes.
10. Providing for slum clearance in specified areas.

PART THREE

Amenities

- I. Providing for the reservation of lands as open spaces, whether public or private, and for burial grounds.
2. Providing for the preservation of views and prospects and of the amenities of places and features of natural beauty or interest.
3. Providing for the preservation of buildings and objects of artistic, architectural, archaeological or historical interest.
4. Providing for the preservation or protection of forests, woods, trees, shrubs, plants and flowers.
5. Prohibiting, restricting or controlling generally or in particular places, the exhibition, whether on the ground, on a building or temporary erection, on any vehicle, boat, aircraft or other movable object, whether on land, or on or in water or in the air, of all or any particular forms of advertisement or other public notices.
6. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of a building or fence, or by the objectionable or neglected condition of a land attached to a building or fence or abutting on a road or situate in a residential area.
7. The prohibition, regulation and control of the deposit or disposal of waste materials and refuse.

PART FOUR

Public Utility Services

Facilitating the construction of works in relation to lighting, water supply, sewerage, drainage, sewerage disposal and refuse disposal or other public utility services.

PART FIVE

Transport and Communication

- I. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.
2. Allocating sites for use in relation to transport and providing for the reservation of land for that purpose.
3. Providing for the establishment, extension and improvement of telegraphic, telephonic or wireless communication, allocating sites for use in relation to the communication and providing for the reservation of land for that purpose.

PART SIX

Miscellaneous

- I. Declaring the persons by whom and the manner in which the cost of the execution of works (whether of construction, demolition, removal or alteration) in pursuance of the scheme is to be borne.
2. Subject to the provisions of this Act, declaring the notices to be served for the purposes of the scheme by the Minister and the persons on whom, the manner in which and the times at or within which the notices are to be served.
3. Subject to the provisions of this Act, declaring the manner in which and the times at or within which notice for the purposes of the scheme may be served on the Minister by other persons.
4. Providing for and regulating the making of agreements for the purpose of a scheme by the Minister with owners and other persons and by those person with one another.
5. Dealing with the use or disposal of land acquired under the provisions of this Act.
6. Prohibiting the subdivision of land until a plan showing the subdivision and proposed access to the land has been approved.
7. Making provisions necessary for
 - (a) adjusting and altering the boundaries and areas of lands, roads, rights of way or traces;
 - (b) effecting the exchanges of land or cancellation of existing subdivisions that are necessary or convenient for the purposes mentioned.
8. Providing for and regulating the construction, alteration, removal and use of railways, pipe lines, telegraph and telephone lines, electric current transmission lines, drainage or irrigation channels, aerial cableways and their ancillary structures.
9. Preventing the pollution of streams, water courses, rivers, wells, lagoons and harbours.
10. Works ancillary to or consequent on a scheme.
- II. Any other matter necessary or incidental to a scheme or its administration.

The mention of particular matters in this Schedule shall not be held to prejudice or affect the generality of any other matter.