

VICTORIA.



ANNO DECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 6849.

An Act to consolidate and amend the Law relating to
Town and Country Planning.

[19th December, 1961.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Town and Country Planning Act 1961* and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*, and is divided into Parts as follows:—

Short title
commence-
ment and
division.

Part I.—Town and Country Planning Board ss. 4-8.

Part II.—Planning Schemes—General ss. 9-52.

Part III.—Planning Schemes — Metropolitan Area ss.
53-59.

Part IV.—Regulations s. 60.

2. (1) The Acts mentioned in the First Schedule to this Act to the extent thereby expressed to be repealed are hereby repealed accordingly.

Repeal.
First
Schedule.

(2) Except

(2) Except as in this Act expressly or by necessary implication provided—

- (a) all persons things and circumstances appointed or created by or under the repealed Acts or existing or continuing under any of those Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if those Acts had not been repealed ;
- (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any regulation rule order appointment application notice certificate planning scheme agreement request consent permit authority recommendation determination objection appeal approval requirement report delegation rate direction liability or right made effected issued granted given presented fixed accrued incurred or acquired or existing or continuing by or under any of the repealed Acts before the commencement of this Act.

Interpretation,
Nos. 6396 s. 3,
6751 s. 2.

3. (1) In this Act unless inconsistent with the context or subject-matter—

“ Board.”

“ Board ” means the Town and Country Planning Board under this Act.

“ Board of Works.”

“ Board of Works ” means the Melbourne and Metropolitan Board of Works under the *Melbourne and Metropolitan Board of Works Act 1958*.

“ Metropolitan area.”

“ Metropolitan area ” means the area described in the Second Schedule to this Act and any other area which the Governor in Council pursuant to this section declares to be added to the metropolitan area.

“ Municipality.”
“ Municipal district.”

“ Municipality ” and “ municipal district ” respectively include the city of Melbourne and the city of Geelong.

“ Owner.”

“ Owner ” in respect of any land means the person for the time being entitled to receive or who if the same were let to a tenant at a rack-rent would be entitled to receive the rack-rent thereof.

“ Prescribed.”

“ Prescribed ” means prescribed by this Act or the regulations.

“ Public

“Public authority” means any corporation board commission trust or other body corporate or unincorporate established or constituted by or under any Act for any public purpose, but does not include any municipality or the council of any municipality. “Public authority.”

“Regulations” means regulations under this Act. “Regulations.”

“Responsible authority” means— “Responsible authority.”

(a) in respect of the preparation and submission for approval of any planning scheme—

- (i) the council of the municipality preparing the scheme ;
- (ii) in the case of a joint scheme, the committee preparing the scheme ;
- (iii) in the case of a scheme prepared by the Board at the request or with the consent of the Minister, the Board ; or
- (iv) in the case of a scheme prepared by the Board of Works, the Board of Works ; and

(b) in respect of the enforcement and carrying out of any planning scheme in any area—

- (i) in the case of a scheme prepared by the Board of Works, the Board of Works and any municipal council required or authorized by or pursuant to this Act or the scheme to enforce any provisions of the scheme within its municipal district ; or
- (ii) in any other case, the council of the municipality in whose municipal district the area is included or, where the area is not within any municipal district, the Board—

and the expression “responsible authority” in any corresponding previous enactment shall be deemed to have had the like meaning.

(2) The Governor in Council may from time to time by Order published in the *Government Gazette* declare any area of land contiguous with the area described in the Second Schedule to this Act, or with any area added under this Act to the metropolitan area, to be added to the metropolitan area for the purposes of this Act. No. 6396 s. 31
(2).
Second
Schedule.

(3) References

As to
references to
use of land.

(3) References in this Act or in any corresponding previous enactment to the use of land for any purpose shall for the purposes of this Act be deemed to include and always to have included references to the erection or construction on the land in question of any buildings improvements or works intended to be used for the purpose in question.

As to
references to
development
of land.

(4) References in this Act or in any corresponding previous enactment to the development of land shall for the purposes of this Act be deemed to include and always to have included references to the subdivision of the land for the purpose of the sale of separate allotments thereof.

As to
references
to coming
into operation
of orders
and schemes.

(5) References in this Act or in any corresponding previous enactment to the coming into operation of an interim development order or planning scheme shall, where there have been two or more such orders or schemes in operation in succession in relation to any area, be deemed and taken in relation to any prohibition regulation limitation or restriction to refer to the coming into operation of the order or scheme by which that prohibition regulation limitation or restriction was first imposed.

PART I.—TOWN AND COUNTRY PLANNING BOARD.

Appointment
and constitution
of Town
and Country
Planning
Board.

4. (1) For the purposes of this Act there shall be a Town and Country Planning Board consisting of three members appointed by the Governor in Council.

No. 6396 s. 4.

The Board shall be a body corporate by the name of the "Town and Country Planning Board" and by that name shall have perpetual succession and a common seal and shall be capable in law of suing and of being sued and of purchasing taking holding selling leasing exchanging or disposing of real and personal property for the purposes of and subject to this Act and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(2) The Governor in Council shall appoint one of the members skilled in town and country planning to be chairman of the Board who shall not during his continuance in office engage in any employment other than that in connexion with the duties of his office as such.

(3) A member of the Board shall be appointed for a term not exceeding five years.

(4) If any member of the Board is absent without permission of the Minister from four consecutive meetings of the Board or becomes bankrupt or compounds with his creditors or is convicted of any indictable offence or becomes insane or is removed or resigns or dies his seat shall thereupon become vacant.

(5) Any

(5) Any member shall be eligible for re-appointment.

(6) The Governor in Council may at any time remove any member of the Board and may from time to time as any vacancy occurs in the office of member of the Board appoint subject to this Act some person to fill the vacancy.

(7) In the event of the illness or absence of any member of the Board the Governor in Council may appoint a suitable person to act as deputy for that member during his illness or absence, and any person so appointed shall during his appointment exercise the powers and perform the duties of that member accordingly.

(8) During any vacancy in the Board the continuing members (subject to there being a quorum) may act as if no vacancy existed.

(9) A quorum of the Board shall consist of two members.

(10) The chairman shall receive such annual salary as is determined by the Governor in Council prior to his appointment.

(11) Each of the other members of the Board shall severally be entitled to receive such remuneration by way of fees or salary as is determined by the Governor in Council prior to his appointment.

(12) Each of the members of the Board shall be entitled to receive such travelling expenses as the Governor in Council determines.

(13) A member of the Board who at the date of his appointment was an officer of the public service shall, in the event of his office as a member of the Board being determined, be eligible on the recommendation of the Public Service Board to be appointed to an office in the public service with a classification and emolument corresponding with or higher than those which he held and received in the public service immediately prior to his appointment as a member of the Board as if the period of his service as such member had been service in the public service.

(14) A member of the Board who at the date of his appointment was an officer within the meaning of the *Superannuation Act 1958* or any corresponding previous enactment shall subject to the *Superannuation Act 1958* continue to be an officer within the meaning of that Act.

(15) Subject to this Act the Board may regulate its own proceedings.

5. (1) The Board shall report to and advise the Minister with regard to any matters or disputes arising out of any of the provisions of this Act or out of the administration thereof, and whenever so required by the Minister shall report to and advise him with regard to any matter relating to town or country planning.

(2) The

Annual report
to be laid
before
Parliament.
No. 6396
s. 5 (3).

(2) The Board shall on or before the thirtieth day of September in every year prepare and present to the Minister a report relating to the activities of the Board during the twelve months ended on the preceding thirtieth day of June ; and the Minister shall cause a copy of every such annual report to be laid before both Houses of Parliament as soon as practicable after the presentation thereof to him.

General powers
and duties
of Board.
No. 6396 s. 6.

6. (1) The Board may from time to time issue memoranda reports bulletins maps or plans relating to town and country planning and to other matters under this Act or incidental thereto.

(2) The Board may exercise such other powers functions and authorities and shall perform such duties as are conferred or imposed on it by this or any other Act.

Secretary and
officers of
Board.
No. 6396 s. 6.

7. (1) The Board may with the consent of the Minister—

- (a) appoint a secretary and such other officers and servants as are necessary for the purposes of the Board ;
- (b) pay to any person so appointed such salary or remuneration as is prescribed ; and
- (c) remove any person so appointed.

(2) Any officer of the Board who at the date of his appointment was an officer of the public service shall, in the event of his office under the Board being determined, be eligible on the recommendation of the Public Service Board to be appointed to an office in the public service with a classification and emolument corresponding with or higher than those which he held and received in the public service immediately prior to his appointment under the Board as if the period of his service under the Board had been service in the public service.

(3) Any officer of the Board who at the date of his appointment was an officer within the meaning of the *Superannuation Act 1958* or any corresponding previous enactment shall subject to the *Superannuation Act 1958* continue to be an officer within the meaning of that Act.

(4) The Board may—

- (a) with the consent of the Minister administering the Department concerned, make use of the services of any officer or employé of any Department of the public service ; or
- (b) with the consent of the council of the municipality concerned, make use of the services of any officer or employé of that municipality ; or
- (c) with the consent of any public authority concerned, make use of the services of any officer or employé of that authority.

(5) The

(5) The Board may enter into an agreement with any officer or servant of the Board and any person as surety for any such officer or servant in relation to any scholarship granted or to be granted by the Board to that officer or servant and, subject to any regulations made pursuant to this Act in that behalf, may determine the form of and the conditions to be contained in any such agreement and may make provision in any such agreement with respect to the amounts to be paid to the Board by any such officer or servant and by any such surety in the event of any breach of any such agreement.

8. For the purposes of holding any inquiry which it is empowered to hold under this Act or the regulations the Board shall have all the powers conferred by sections fourteen to sixteen of the *Evidence Act* 1958 upon a board appointed by the Governor in Council.

Inquiries by Board.
No. 6396 s. 7.

PART II.—PLANNING SCHEMES—GENERAL.

Preparation of Schemes, &c.

9. (1) A planning scheme may be made in accordance with the provisions of this Act with respect to any land.

Land in respect of which planning scheme may be made.

No. 6396 s. 8 (1).

(2) A planning scheme—

(a) may make provision for all or any of the matters referred to in the Third Schedule to this Act; and

Contents of planning scheme.

No. 6396 s. 16 (1).

(b) shall be prepared in accordance with the regulations.

Third Schedule.

10. (1) The Governor in Council may prescribe sets of general provisions for carrying out the general objects of planning schemes, and in particular for dealing with matters set out in the Third Schedule to this Act.

General provisions re schemes.
No. 6396 s. 20.
Third Schedule.

(2) Such general provisions may be adopted with such adaptations as are necessary or desirable in any planning scheme.

11. The council of any municipality—

(a) may, subject to this Act, prepare and submit for approval a planning scheme or schemes in respect of any area or areas of land within its municipal district; and

Preparation of planning schemes by council.
No. 6396 s. 10.

(b) shall within twelve months, or such longer period as the Minister authorizes, after being required in writing to do so by the Minister prepare and submit for approval a planning scheme or schemes in respect of such area or areas of land within its municipal district as are specified by the Minister.

12. (1) The

Preparation
of joint
scheme.
No. 6396 s. 11.

12. (1) The councils of any two or more municipalities the municipal districts of which form a continuous area—

(a) may, subject to this Act, prepare and submit for approval a joint planning scheme or schemes for the whole or any specified part of their municipal districts ; and

(b) shall within twelve months, or such longer period as the Minister authorizes, after being required in writing to do so by the Minister prepare and submit for approval a joint scheme or schemes in respect of such area or areas of land within their municipal districts as are specified by the Minister.

Committees
for joint
planning
schemes of
two or more
municipalities,
&c.

(2) For the purposes of this section the councils of the several municipalities concerned shall appoint one or more representatives to form a committee which shall be the responsible authority for the preparation and submission of the joint scheme.

(3) Every committee appointed under sub-section (2) of this section shall continue in existence for a period of twelve months after the date of the approval by the Governor in Council of the joint scheme for the preparation of which it was appointed and for such further period or periods (if any) as are determined by the councils of the several municipalities concerned, and during the existence of the committee no planning scheme which would alter or affect the joint scheme shall be prepared except by or with the approval of the committee.

(4) The councils of the several municipalities concerned may at any time appoint one or more representatives to form a further committee which after the termination of the existence of the committee aforesaid may advise the councils concerned with respect to planning matters generally and as to any proposed variation or revocation of the joint scheme or any part thereof.

Costs of
joint scheme.

(5) The costs and expenses incurred in or in relation to the preparation of a planning scheme by a committee under this section shall be borne by the municipalities concerned in such proportions as are agreed on or, in default of agreement, as are determined by the Governor in Council after consultation by the Minister with the Board.

Power to
Minister to
require
preparation of
scheme by
Board on
default by
municipality.
No. 6396 s. 12.

13. If the council of any municipality or the councils of two or more municipalities do not prepare and submit for approval any planning scheme or joint planning scheme within twelve months or such longer period as the Minister authorizes after having been required to do so by the Minister the Minister may require the Board to prepare the scheme and submit it for approval at the expense of the municipality or municipalities concerned and the cost of preparing the scheme shall be paid by the municipality or by the municipalities in such proportions as the Minister determines.

14. The

14. The Board shall at the request of the Minister prepare and submit for approval a planning scheme for any area or areas of land specified by the Minister whether or not a scheme or joint scheme has been or is being prepared for that area or areas or any part thereof by any other responsible authority.

Preparation of planning scheme by Board.

Nos. 6396 s. 5 (2), 6637 s. 2.

15. The Board may with the consent of the Minister enter into agreements with the council of any municipality or the councils of any two or more municipalities to prepare and submit for approval a planning scheme at the expense of the municipality or the municipalities for any area of land within the municipal district or districts of the municipality or municipalities (as the case may be).

Power of Board to enter into agreements with councils for preparation of schemes.

No. 6396 s. 13.

16. (1) Where a planning scheme for any area (no part of which is within ten miles of the Post Office situated at the corner of Bourke-street and Elizabeth-street in the city of Melbourne) is in course of preparation pursuant to this Act and it is shown to the satisfaction of the Governor in Council that it is expedient that the responsible authority should be empowered before the completion and approval of the planning scheme to purchase either by agreement or compulsorily any land within the said area in order to transfer or convey the same to some person or company for the establishment thereon or extension thereto of any industry in conformity with the proposed scheme, then the Governor in Council may, upon the joint request of the responsible authority and the said person or company and after consideration of a report by the Board, by Order authorize the responsible authority to purchase the said land either by agreement or compulsorily.

Power to Minister to authorize purchase of land for establishment &c. of industry.

No. 6396 s. 15.

(2) Subject to the next succeeding sub-section the responsible authority so authorized shall accordingly be entitled to purchase the said land either by agreement or compulsorily, and the provisions of this Act and of the *Lands Compensation Act 1958* shall apply to and with respect to any such purchase and to the purchase money or compensation to be paid therefor in the same manner in all respects as if the purchase were authorized by section forty of this Act.

Purchase of land by responsible authority.

(3) (a) Any person upon whom a notice to treat has been served by the responsible authority in respect of the said land may within twenty-one days after service appeal to a Judge of the Supreme Court on the ground that, in the circumstances, it is unreasonable or inequitable that the said land should be compulsorily purchased under or for the purposes of this Act.

(b) The Judge may hear and determine the appeal and may award costs therein, and if the Judge upholds the appeal the Order of the Governor in Council so far as the same authorizes compulsory purchase of the said land shall be of no further force or effect.

(c) The

(c) The Judges of the Supreme Court may make rules for or with respect to the practice and procedure in relation to appeals under this sub-section.

Payment of purchase money &c. by person establishing.

(4) The amount of the purchase money or compensation payable by the responsible authority upon the purchase of the land together with the expenses incurred or to be incurred by the responsible authority in and in connexion with the purchase of the land and the transfer or conveyance thereof as hereinafter provided shall become and be a debt due by the said person or company to the responsible authority and if not paid on demand may be recovered by the responsible authority in any court of competent jurisdiction.

Transfer of land.

(5) As soon as practicable after the payment of the said amount and expenses to the responsible authority by the said person or company the responsible authority shall transfer or convey the land or cause the land to be transferred or conveyed in fee simple to the said person or company.

"Responsible authority."

(6) In this section "responsible authority" (except where it means the Board of Works) means the council of the municipality or the councils of the several municipalities by which the planning scheme is being prepared or (in respect of any transfer or conveyance) the said municipality or municipalities.

Interim Development Orders.

Making and effect of interim development orders.
No. 6396 s. 14
(1) and (2).

17. (1) After a date determined and notified by the responsible authority in the manner prescribed as being the date of the commencement of the preparation of a planning scheme, and before the approval of the scheme, the responsible authority may with the approval of the Governor in Council (given after consideration by the Minister of a report by the Board thereon) make an interim development order regulating restricting restraining or prohibiting the use or development of any land or the erection construction or carrying out of any buildings or works on any land within any area to which the scheme relates :

Provided that—

- (a) the responsible authority may, in accordance with this Act, during the operation of any such order permit, subject to such conditions as are specified in the permit, any use or development of any land or the erection construction or carrying out of any buildings or works, which apart from the permit would be contrary to some provision of the interim development order ;
- (b) nothing in any interim development order shall prevent the continuance of the use of any land or of any existing building or works for the purposes for which the land or building or works was or were being lawfully used immediately before the coming into operation of the order ; and

(c) nothing

(c) nothing in any interim development order shall prevent any dealing or the registration of any dealing—

(i) with any land in any subdivision of which a plan has been sealed by a council and lodged with the Registrar of Titles pursuant to section five hundred and sixty-nine of the *Local Government Act 1958* before the coming into operation of the order ; or

(ii) with any land in a subdivision in any area which is not within the municipal district of any municipality which land as an allotment in that subdivision had been sold or agreed to be sold before the coming into operation of the order.

(2) Any provision in any interim development order (whether made before or after the commencement of this Act) whereby any land is expressed to be reserved or to be deemed to be reserved for any public purpose shall be deemed to be and, where the case so requires, always to have been a valid exercise of the power to regulate restrict restrain or prohibit (as the case requires) the use or development of that land during the operation of the order, and any land so expressed to be or to be deemed to be reserved for any public purpose shall in respect of the payment of compensation in relation thereto be deemed to be and, where the case so requires, always to have been so reserved as from the date of coming into operation of the order.

Effect of reservation of land in interim development order.

(3) After the approval of an interim development order by the Governor in Council the responsible authority shall publish in the *Government Gazette* and in two newspapers (of which one shall be a daily newspaper circulating generally throughout Victoria and one shall be a newspaper circulating in the neighbourhood of the land to which the order relates)—

(a) a copy of the interim development order ; or

(b) a notice of the approval of the interim development order giving a summary of its contents in a form approved by the Minister and stating that copies of the order and (where so required by the Minister) of a map or maps showing clearly the area affected by the order are available for inspection free of charge at the office of the responsible authority and at the office of the Board and also, where the responsible authority is not the council of a municipality, as to so much of the

order

order or maps as relates to land in the municipal district of any municipality, at the office of such municipality—

and the interim development order shall come into operation upon the date of publication in the *Government Gazette* of the copy of the order or (as the case may be) of the notice of the approval thereof.

Continuity
of orders
in respect
of offences
thereunder.

(4) Where an interim development order has been or is made whether before or after the commencement of this Act with respect to any area and subsequently another interim development order has been or is made by the same responsible authority in respect of that area or an area comprising the whole or any part of that area and such subsequent order provides for the prohibition restriction or regulation of the erection construction or carrying out of buildings or works upon any land or the use or development of any land substantially in the same manner and to the same extent as the former order, then if the former order has ceased to operate in respect of the land in question any act matter or thing done in contravention thereof or not in conformity therewith before the former order ceased so to operate shall be regarded as an act matter or thing done in contravention of or not in conformity with that subsequent order, and the provisions of this Act shall apply accordingly.

Permits under Orders.

Applications
for permits
under interim
development
order.

No. 6637 s. 3.

Notices of
application.

18. (1) Every application for a permit under an interim development order shall be made to the responsible authority in writing in the prescribed form.

(2) Where the responsible authority is of opinion that the grant of the permit may cause a substantial detriment to any person or persons other than the applicant the authority shall not determine to grant the permit unless it first does one or other of the following acts or things, namely :—

- (a) by writing requires the applicant to give notice of the application to such person or persons in such manner and within such time as the authority specifies or to publish notice of the application in such manner and within such time as the authority specifies or both to give and to publish notice as aforesaid ; or
- (b) at the expense of the applicant gives notice of the application to such person or persons or publishes notice of the application in such manner as the authority thinks fit or both gives and publishes notice as aforesaid—

and complies with the following provisions of this section in relation thereto.

(3) Every

(3) Every notice so given or published, whether by the applicant or the authority, shall be in the prescribed form and shall set out clearly the location of the land and the purpose and effect of the permit sought, and shall state that the application will be considered after the expiration of fourteen days after the giving or publication of the notice and shall notify all persons who may be affected by the grant of the permit that they may send in writing to the responsible authority statements in the prescribed form of any objections they may have to the grant of the permit and that all such statements received within the said period of fourteen days will be taken into consideration in the determination of the application.

Form and content of notice.

(4) Where the authority has required the giving or publication of notice or has given or published notice as aforesaid the application for the permit shall not be further considered until the authority is satisfied that such notice has been duly given or published and that at least fourteen days have elapsed after the giving or publication of the notice.

(5) In every case, whether notice was required to be given or published as aforesaid or not, the authority shall in determining the matter consider all objections in writing to the grant of the permit (if any) received by it up to that time, and upon making any determination shall cause notification in writing of the determination to be given to the applicant and to each person, if any, (hereinafter called an "objector") from whom an objection in writing was received by it up to that time and such notification shall—

Objections to be considered before application determined.

- (a) where the application is refused, include a short statement of the specific ground or grounds upon which the application is refused ; and
- (b) where it is determined to grant the permit subject to conditions, include a short statement of those conditions.

(6) Where there have been any such objections in writing to the grant of a permit and the authority determines to grant it the permit shall not come into force or be issued to the applicant until the expiration of seven days after the end of the period during which an objector may appeal or, if any appeal by an objector is received during that period, until the appeal has been determined by the Minister.

Stay of permits pending appeal.

(7) Where a responsible authority gives or publishes notice of an application pursuant to paragraph (b) of sub-section (2) of this section, the expense thereby incurred shall, if not paid by the applicant on demand, be recoverable from him by the authority in a court of petty sessions as for money paid.

Appeals

Appeals relating to Permits, &c.

Appeals
against
grant or
failure or
refusal to
grant permits
or against
condition of
permit, &c.
Nos. 6396
s. 14 (3),
6637 s. 3.

19. Any person—**(a) who feels aggrieved—**

(i) by a determination of the responsible authority refusing to grant to him a permit for any use or development of any land or for the erection construction or carrying out of any buildings or works on any land ; or

(ii) by the failure of a responsible authority to grant to him such a permit within a period of two months or, where notice of the application was given or published as aforesaid, three months after receipt by the authority of the application for the permit ;

(b) who feels aggrieved by any of the conditions specified in any permit determined to be granted to him by the authority pursuant to this section ;

(c) who feels aggrieved by any restriction on the use or development of any land or on the erection construction or carrying out of any building or works on any land (which use development erection construction or carrying out is permitted or not prohibited by the interim development order or is expressly authorized by a permit granted or determined to be granted to him by the authority under this section) where the restriction results from or arises under any by-law made by a council pursuant to sub-paragraph (a) of paragraph (xxxviii) of sub-section (1) of section one hundred and ninety-seven of the *Local Government Act 1958* ; or

(d) who, being an objector, feels aggrieved by a determination of the authority to grant any such permit—

may by notice of appeal served within the prescribed time and in the prescribed manner appeal to the Minister against the determination failure condition or restriction (as the case may be) and different prescriptions as to time and manner of appeal may be made in respect of different kinds of appellants.

Notices of
appeal.
No. 6637 s. 9.

20. (1) Every notice of appeal so served shall state shortly the grounds on which the appeal is based.

(2) Where notice of appeal is given by an applicant for a permit and notice of the application for the permit was not given or published as aforesaid the Minister may by writing require the appellant or the responsible authority at the expense of the

appellant

appellant to give further notification of the appeal to such person or persons and in such manner and within such time as the Minister directs or to publish further notification of the appeal in such manner and within such time as the Minister directs or both to give and to publish further notification as aforesaid.

(3) Every further notification of appeal given or published pursuant to the last preceding sub-section shall be in the prescribed form and shall set out clearly the location of the land, the purpose and effect of the permit sought, and the grounds, if any, upon which the application has been refused, and shall notify all persons who may be affected by the grant of the permit that they will be entitled to be heard upon the hearing of the appeal if before the date specified in that behalf in the notification they advise the Minister in writing that they wish to be heard.

(4) Where further notification of appeal is required to be given or published pursuant to sub-section (2) of this section the appeal shall not be heard until after the date so specified and any person who before that date advises the Minister that he wishes to be heard shall be entitled to be heard as an objector on the appeal.

(5) Where any objector appeals to the Minister in the prescribed manner and within the prescribed time against the determination to grant a permit, the Minister shall cause to be given to the responsible authority and to the applicant notification in writing of the receipt of the notice of appeal.

(6) Where the applicant and any one or more objectors appeal or where two or more objectors appeal as aforesaid the appeals shall be dealt with together as hereinafter provided.

(7) Where a responsible authority gives or publishes further notification of an appeal pursuant to sub-section (2) of this section, the expense thereby incurred shall, if not paid by the appellant on demand, be recoverable from him by the authority in a court of petty sessions as for money paid.

21. (1) The Minister shall in respect of any appeal or appeals give a reasonable opportunity to be heard to the responsible authority, to the council of the municipality concerned (where the council is not the responsible authority), to the applicant and to all objectors who appealed as aforesaid and (in the case of an appeal by the applicant) to all the objectors (including those who advised the Minister that they wished to be heard pursuant to the last preceding section) : Provided that where two or more objectors have appealed or would otherwise be entitled to be heard and in the opinion of the Minister the objectors have substantially the same interest the Minister shall be required to give an opportunity to be heard only to such one or more of those objectors as the Minister determines.

Hearing of
appeal.

(2) Upon

As to matters raised on appeal not stated in notice of appeal or notification of responsible authority's determination.

(2) Upon the hearing of any appeal the appellant shall not be restricted to the grounds stated in his notice of appeal nor shall the responsible authority be restricted to the grounds for a refusal to grant a permit stated in the notification of its determination, but where any new ground or matter not so stated is raised on the appeal the Minister shall, by adjournment or otherwise, ensure that the other parties or persons entitled to be heard have a reasonable opportunity of properly considering and replying to that ground or matter.

Determination of appeal.

22. (1) The Minister shall then determine the appeal and by that determination may direct that any permit shall or shall not be issued and that any permit issued shall or shall not contain any specified conditions and (whether the appeal is or is not against a restriction resulting from or arising out of the by-law) that any by-law referred to in paragraph (c) of section nineteen of this Act shall be of no force or effect to the extent that it purports to restrict the use or development of the land or the erection construction or carrying out of the building or works to which the appeal relates.

(2) The decision of the Minister in respect of any appeal shall be final and shall be given effect to by every responsible authority council and other person affected thereby.

(3) Where after the determination of any appeal a permit is issued the permit shall be deemed to have been issued on the date of the original determination of the responsible authority on the application except where the Minister for any reason directs that it be deemed to have been issued on some other date.

Continuity of Permits.

Continuity of permits under successive interim development orders or schemes.

23. Where any permit has under an interim development order or planning scheme been granted whether before or after the commencement of this Act in respect of the erection construction or carrying out of any building or other work or the use or development of any land and subsequently another interim development order or planning scheme has been or is made by the same responsible authority affecting the land in question and such subsequent order or scheme provides for the restriction or regulation of the erection construction or carrying out of buildings or works or the use or development of lands substantially in the same manner and to the same extent as the first-mentioned order or scheme, then if the former order or scheme has in any manner ceased to operate in respect of the land in question the permit granted under the former order or scheme and the conditions contained therein shall so far as consistent with the subsequent

order

order or scheme have and be deemed to have continued to have the same force effect and operation as they would have had if the permit had been granted pursuant to the subsequent order or scheme.

Revocation of Permits, &c.

24. (1) If it appears to a responsible authority that any permit granted by it under an interim development order should be revoked or modified on the ground of—

Provision for revocation or modification of permit upon the authority of Minister.

- (a) any material mis-statement or concealment of fact which was made in or in relation to the application for the permit ;
- (b) any substantial failure of compliance with the conditions of the permit ;
- (c) any material mistake which was made in or in relation to the grant of the permit ; or
- (d) any material change of circumstance which has occurred since the grant of the permit—

the responsible authority may, after giving to the person to whom the permit was granted and to the owner and the occupier of the land in question reasonable notice of its intention to do so and a reasonable opportunity to be heard by the authority in relation to the matter, submit to the Minister a recommendation in writing that the authority be authorized to revoke the permit or to modify it in the manner specified in the recommendation upon such one or more of the said grounds as is specified therein.

(2) After the submission of any such recommendation the Minister may, after giving to the person to whom the permit was granted and to the owner and the occupier of the land in question a reasonable opportunity to be heard by him in relation to the matter, authorize the responsible authority by writing to revoke or modify the permit either on the grounds and in the manner specified in the recommendation or on such other one or more of the said grounds or in such other manner as is stipulated by the Minister.

(3) The responsible authority may in its discretion, upon receipt of such an authority from the Minister, by notice in writing to the person to whom the permit was granted and to the owner and the occupier of the land in question, revoke the permit or modify it in accordance with and on the ground or grounds authorized by the Minister.

(4) The power conferred by any such authority to revoke or modify a permit may be exercised—

- (a) where the permit relates to the erection construction or carrying out of any building or other works, at any time before those operations have been completed ;
or

(b) where

(b) where the permit relates to the development of any land, at any time before that development is substantially effected ; or

(c) where the permit relates to the use of any land, at any time.

Right to compensation in certain cases.

(5) Any person who has incurred expenditure or liability for expenditure as a consequence of the grant of a permit shall upon the revocation or modification thereof be entitled to receive compensation in respect of so much of that expenditure or liability as is rendered abortive by reason of the revocation or modification and also (where applicable) for so much additional expenditure or liability as is necessarily incurred, because of the revocation or modification, in purchasing other land to use or develop in the required manner, but so that from any amount of additional expenditure or liability so incurred there shall be deducted the market value of the land in respect of which the permit was revoked or modified as at the date of its sale by the claimant for compensation or (if that land has not been sold by him) the market value of that land as at the time of the purchase by the claimant of the other land aforesaid.

Saving.

(6) No compensation shall be payable under this section where the permit is revoked or modified—

(a) on the ground that there has been a substantial failure of compliance with the conditions of the permit ; or

(b) on the ground that the permit was granted following an application in or in relation to which a material mis-statement or concealment of fact was made.

Application of No. 6299 Pt. XLIV.

(7) Part XLIV. of the *Local Government Act 1958* shall with such adaptations as are necessary extend and apply with respect to compensation under this section.

Effect of Orders on Public Works.

Effect of interim development orders on works of public authorities. No. 6396 s. 14 (4).

25. Where after the publication of an interim development order or notice of approval thereof in the *Government Gazette* and before the approval of the planning scheme any public authority or the council of any municipality proposes to carry out within the area to which the interim development order relates any works or undertakings which will not be in conformity with the scheme if duly approved, the public authority or council shall notify the responsible authority of its proposal and, if after consultation by the public authority or council with the responsible authority agreement with respect to the co-ordination of those works and undertakings with the scheme is not reached the matter shall be submitted by the responsible authority to the Minister for determination by the Governor in Council, and the Governor in Council may notwithstanding anything in any other Act by

Order

Order prohibit either absolutely or for such term as he thinks fit or restrict or regulate the carrying out of the works or undertakings or any part thereof specified in the Order.

Revocation of Orders, &c.

26. (1) The Governor in Council may at any time after consultation by the Minister with the responsible authority and the Board revoke amend or vary any interim development order in whole or in part and any such revocation amendment or variation shall come into operation upon publication of notice thereof in the *Government Gazette* and the order shall thereupon to the extent of the revocation cease to have any force or effect or (as the case may be) shall have effect subject to the amendment or variation and notice of every such revocation amendment or variation shall also be published in some newspaper generally circulating in the neighbourhood of the area affected thereby.

Revocation of interim development orders.
No. 6396 s. 14 (8).

(2) For the purposes of this section a notice of any amendment or variation of an interim development order shall be deemed a sufficient notice if the notice states that the order has been amended or varied and states where any relevant document or map showing the precise particulars of the amendment or variation may be inspected.

Permits under Schemes.

27. (1) Any planning scheme which provides for the restriction or regulation of the erection construction or carrying out of any building or works or for the restriction or regulation of the use or development of any land for specified purposes may authorize the grant by the responsible authority of permits for such erection construction carrying out use or development.

As to issue of permits under planning schemes.

(2) Any such permit may be granted subject to such conditions (if any) as are specified in the scheme and, where the scheme so provides, to such conditions as the responsible authority may in its discretion include in the permit.

(3) Where a planning scheme prepared under a corresponding previous enactment before the commencement of this Act contains provisions for the grant of permits by the responsible authority or the attachment of conditions thereto those provisions and all permits granted thereunder and the conditions thereof shall be deemed to have been and shall be as valid in every respect as if the provisions of this section had then been in operation.

(4) The provisions of this Act relating to applications for permits under interim development orders, for notices of such applications, for objections thereto, for appeals against the failure or refusal of the responsible authority to grant a permit or against any condition contained in any permit or against the grant of any permit pursuant to an interim development order, and the provisions

provisions of this Act relating to revocation or modification of any such permit and the payment of compensation in respect of any such revocation or modification shall so far as applicable and with the necessary adaptations and modifications extend and apply to and in respect of permits applied for under any scheme under this section or under any provision validated by this section.

Exhibition of proposed Planning Schemes.

28. (1) Before any planning scheme is submitted to the Minister as hereinafter provided—

Provision for objections to be made to scheme.

No. 6396 s. 16
(2)*, (3).

(a) copies thereof shall be deposited—

(i) at the office of the responsible authority ;
and

(ii) at the office of the Board ; and

(iii) (where the responsible authority is not the council of a municipality) as to so much of the scheme as relates to land in the municipal district of any municipality, at the office of such municipality—

and shall be kept open for inspection thereat during office hours by any person free of charge ;

(b) notice in writing of the preparation thereof shall be given—

(i) to every public authority affected by the scheme ; and

(ii) where the scheme is a scheme to amend or vary a scheme previously approved, to every person shown in the records of the municipality as the owner of land the potential use or development of which will in the opinion of the responsible authority be so changed, if the scheme is approved, as to cause substantial detriment to that person ;

(c) the responsible authority forthwith after the said copies have been so deposited shall cause to be published in the *Government Gazette* and twice in some newspaper generally circulating in the neighbourhood a notice—

(i) describing shortly the purport of the scheme ;

(ii) stating that a copy of the scheme is deposited for inspection as aforesaid ;

(iii) calling upon all persons affected by the scheme to set forth in writing addressed

to

to the person specified in the notice within three months from the publication of the notice in the *Government Gazette* all objections which they may have to the scheme and stating whether they wish to be heard in respect of their objections; and

(d) the responsible authority shall as soon as practicable take into consideration all objections made as aforesaid and, if the Minister so directs, any other objections in writing to the scheme but—

(i) no objection in respect of which the person making it has by writing to the authority stated that he wishes to be heard shall be disallowed unless the person making the objection has first been given a reasonable opportunity of being heard by the authority ; and

(ii) in all cases the decision on any objection shall be made by the responsible authority.

(2) The responsible authority may adopt the scheme for submission to the Governor in Council with or without modifications or alterations.

29. Where a planning scheme makes provision only for varying or amending an existing scheme and does not purport to reserve any new land for public purposes or to cancel the proposed reservation for public purposes of any land, the provisions of section twenty-eight of this Act shall apply to and in respect of the scheme as if in paragraph (c) of sub-section (1) of that section for the words "three months" there were substituted the words "one month".

Modification of provisions of this Act in case of certain scheme.
No. 6396 s. 17.

Submission and Approval of Schemes.

30. (1) Every planning scheme so adopted shall be submitted to the Minister accompanied by a copy of any written objections to the scheme and a statement of any other objections made as aforesaid.

Submission of planning schemes.
No. 6396 s. 18
(1)-(5).

(2) Except in the case of a scheme prepared by the Board, the Minister shall, before the scheme is approved by the Governor in Council, obtain and consider a report of the Board on every scheme so submitted.

(3) Where in the opinion of the Minister any modifications or alterations made by the responsible authority under section twenty-eight of this Act, or any modifications or alterations which

the

the Minister proposes to recommend to the Governor in Council are of such a substantial nature as to warrant such a course, the Minister, before submitting the scheme to the Governor in Council, may require the responsible authority to deposit the scheme, with such modifications and alterations, for public inspection for such period as he determines, and to cause appropriate notices to be published in the *Government Gazette* and in a newspaper circulating in the neighborhood of the area included in the scheme, and to afford an opportunity for any person affected by any such modification or alteration to notify the Minister in writing of any objections thereto.

(4) The Governor in Council may approve any scheme adopted by a responsible authority with or without modifications or alterations, and subject to such conditions as he shall think fit.

(5) Notice of the approval of a planning scheme shall be published in the *Government Gazette*, and in some newspaper generally circulating in the neighbourhood of the area included in the scheme, and shall state where a copy of such scheme will pursuant to this Act be open for inspection.

(6) No planning scheme shall have any force or effect until notice of the approval thereof is published in the *Government Gazette* as aforesaid.

Scheme not to be invalidated by certain irregularities.

(7) A planning scheme approved by the Governor in Council shall not be invalidated or affected by reason only that any omission defect failure irregularity or informality in or in relation to the preparation exhibition or submission thereof is subsequently discovered.

Right of Inspection of Approved Schemes.

Copy of scheme to be kept at office of Board, Office of Titles and Central Plan Office.
No. 6396 s. 22.

31. (1) A copy of every planning scheme shall within three months after publication of approval thereof in the *Government Gazette*, or within such further period as the Minister may in a particular case allow, be lodged by the Board, or if the Minister so directs by the responsible authority, at the office of the responsible authority and at the office of the Board and at the Office of Titles and at the Central Plan Office under the *Survey Co-ordination Act* 1958 and (where the responsible authority is not the council of a municipality), as to so much of the scheme as relates to land in the municipal district of any municipality, at the office of that municipality and the Board, or if the Minister so directs, the responsible authority, shall cause every such copy to be promptly endorsed with a reference to every instrument whereby the scheme is amended or revoked in whole or in part under this Act, and such copy shall while the scheme is in operation be kept open for inspection at each such place during office hours.

(2) Whenever

(2) Whenever the Minister so directs, the Board or the responsible authority (as the Minister directs) shall cause a new copy of any scheme, in which any amendments and variations so made shall be incorporated, to be substituted for the copy previously lodged and thereafter the provisions of this section shall apply in relation to that substituted copy.

Revocation and Amendment of Schemes.

32. (1) A copy of every planning scheme shall be laid before both Houses of Parliament as soon as may be after the approval thereof.

Schemes to be laid before Parliament.
No. 6396 s. 18
(6), (7), (8).

(2) Any planning scheme may be revoked by a resolution passed by either House of Parliament within twenty-four days after the laying of the scheme before that House.

Revocation by Parliament.

(3) Any planning scheme may be revoked as to the whole or any part thereof or amended or varied by a subsequent scheme or by successive subsequent schemes prepared and submitted in accordance with this Act and the regulations, and subject to this Act a responsible authority may prepare deposit for inspection adopt and submit to the Minister any such subsequent scheme at any time after the adoption of the first-mentioned scheme whether or not that scheme has been approved.

Revocation or amendment of scheme by subsequent scheme before approval.
No. 6637 s 4.

(4) The Governor in Council upon the application of the Board or the responsible authority or of any other person or body of persons appearing to him to be interested may revoke the whole or any part of any planning scheme if he thinks that under the special circumstances of the case the scheme or part should be so revoked and every revocation under this section shall come into operation upon publication of notice thereof in the *Government Gazette* and notice of every such revocation shall also be published in some newspaper generally circulating in the neighbourhood of the area affected by the revocation.

Revocation of scheme by Governor in Council.

(5) Where the Governor in Council revokes any planning scheme wholly or in part pursuant to the last preceding sub-section he may by the notice of revocation thereof or by a later notice so published prohibit the use or development of any land to which the revoked scheme or part related except with the consent of the responsible authority which prepared the scheme until such time as a further interim development order is made and any such prohibition shall be deemed to be an interim development order.

(6) The Governor in Council on the application of the responsible authority and after consideration by the Minister of a report thereon by the Board may, where he is satisfied that the

Amendment of scheme by Governor in Council.

circumstances

circumstances do not warrant the preparation of an amending scheme, amend a planning scheme and any amendment so made shall come into operation on the publication of notice thereof in the *Government Gazette* or at any later time referred to in the notice, and such notice shall also be published in a newspaper generally circulating in the neighbourhood of the area affected by the variation.

(7) Upon submission of any application for the amendment of a planning scheme under the last preceding sub-section the Minister may by writing require the responsible authority to give notice of the proposed amendment in such form and manner and to such persons as are directed in the writing and may further require that any person who may be affected by the proposed amendment shall be afforded an opportunity of notifying the Minister in writing of his objections to the proposed amendment.

Effect of Schemes, &c.

As to inconsistency between schemes and by-laws or regulations.
No. 6396 s. 19.

33. (1) Every planning scheme shall have full force and effect notwithstanding anything to the contrary in any by-law rule or regulation of any municipality or (unless the Governor in Council otherwise directs) of any public authority, whether made before or after the coming into operation of the scheme, and where any such by-law rule or regulation or any order permit or condition given or imposed under any such by-law rule or regulation is inconsistent with any such scheme or any order permit or condition made or imposed under the scheme the by-law rule or regulation or the permit or condition thereunder (as the case may be) shall (subject in the case of a by-law rule regulation permit or condition of a public authority to any contrary direction of the Governor in Council) to the extent of the inconsistency be invalid and the scheme shall (subject to any such contrary direction) prevail.

Effect of approval of scheme on interim development order over same land.

(2) Where notice of approval of a planning scheme made by a responsible authority in relation to any land affected by an interim development order made by that authority is published in the *Government Gazette* the interim development order shall so far only as relates to that land cease to have any further effect but without affecting any right liability penalty or legal proceeding accrued incurred or instituted by virtue of or in relation to the order.

34. Notwithstanding anything in this Act where any scheme includes land permanently reserved for any of the purposes specified in section fourteen of the *Land Act* 1958 the scheme, to the extent to which it is expressed or purports to deal with that land or any portion thereof in any manner inconsistent with

that

that reservation, shall not take effect unless and until the reservation of that land or portion is revoked by or pursuant to an Act of Parliament.

35. When a planning scheme has been approved by the Governor in Council—

- (a) it shall be the duty of the responsible authority to observe the requirements of the scheme and to enforce observance of the requirements of the scheme by every other person ;
- (b) thereafter all use and development of land, all erection construction and carrying out of buildings and works, and all alterations and modifications of existing buildings and works within the area included in the scheme shall be in conformity with the scheme ;
- (c) no person shall thereafter undertake and the responsible authority shall not thereafter undertake or permit—
 - (i) any use or development of land ;
 - (ii) any alteration or modification of any existing buildings or works ; or
 - (iii) the erection construction or carrying out of any new buildings or works—
 otherwise than in conformity with the scheme ; and
- (d) unless the Governor in Council on the recommendation of the Minister otherwise directs, the scheme shall be binding upon every public authority.

Duties of responsible authorities &c., after approval of schemes.
No. 6396 s. 21.

Effect of Schemes on Streets.

36. Where in relation to any planning scheme (whether the date of commencement of the preparation thereof was before or is after the commencement of this Act) land is or was reserved or deemed to be reserved for the provision of a street or road or for the widening of any street or road on private property which street or road had not previously been constructed pursuant to paragraph (e) of sub-section (10) of section five hundred and sixty-nine or Division ten of Part XIX. of the *Local Government Act 1958* or any corresponding previous enactment and by reason of the provision or widening of the street or road the subdivision of the land fronting on that street or road into allotments for sale is or was made practicable, then the land comprised in the street or road or (as the case may be) the widened street or road shall be deemed to be a private street and the provisions of the said Division ten shall apply thereto accordingly, except that—

Reserved additions to roads on private property deemed private streets under No. 6299 Part XIX. Div. 10.

- (a) if the total width of the private street is or becomes greater than fifty feet, the owners of premises fronting thereon shall not be liable to contribute in respect

of

of that part of the cost of construction of the private street which bears to the whole cost the same proportion as the excess over fifty feet bears to the whole width of the private street ; and

- (b) the owners of such premises shall not be liable to contribute in respect of any additional cost incurred by reason of the construction of the street to a standard in excess of that which would normally be adopted for the construction of such a street as a private street.

Application
of *Local
Government
Act 1958 re
widening of
streets.*
No. 6396 s. 9.

37. For the purposes of subdivisions (2) and (3) of Division fourteen of Part XIX. of the *Local Government Act 1958* where any planning scheme fixes an alignment or a new alignment of any street or of any side or part of a street the scheme shall be deemed to be a plan within the meaning of section six hundred and twenty-two of that Act and publication of the notice of approval of the scheme in the *Government Gazette* shall be deemed to be the notice of the fixing of the alignment referred to in sections six hundred and twenty-three to six hundred and twenty-six of that Act.

Evidentiary Provisions.

Certificates by
responsible
authorities as
to whether
land affected
by interim
orders or
schemes, &c.
No. 6396 s. 23.

38. (1) Upon receipt by any responsible authority of an application in writing giving the name and address of the applicant and the particulars of any land in respect of which information is required and upon payment of the prescribed fee, the responsible authority shall forthwith give or send by letter through the post to the applicant a certificate in the prescribed form signed by the secretary of such authority or by some other person on behalf of the authority stating—

- (a) whether at the date of the certificate any such land is or is not land to which an interim development order or planning scheme applies ; and
- (b) such other information with respect to the operation and effect of the said order or scheme at the date of the certificate as is prescribed by regulation under this Act.

(2) The production of a certificate purporting to be so signed shall for all purposes whatsoever be deemed conclusive proof that at the date of the certificate the facts stated therein were true and correct, and any person acting in pursuance of any such certificate who suffers loss or damage by reason of any error or mis-statement therein shall be entitled to recover compensation therefor from the responsible authority.

39. (1) In

39. (1) In any proceedings under or arising out of the provisions of this Act or in which the existence of an interim development order is in question the production of—

Proof of existence and contents of interim development order.

- (a) the *Government Gazette* containing a copy of the interim development order ; or
- (b) (i) the *Government Gazette* containing notice of approval of the order ; and
- (ii) a copy of the order or of the relevant part of the order purporting to be certified by or on behalf of the responsible authority to be a true copy thereof—

shall be *prima facie* proof of the valid making and publication of the order and of the contents of the order or the relevant part thereof.

(2) In any proceedings under or arising out of the provisions of this Act or in which the existence of an approved planning scheme is in question the production of—

Proof of existence and contents of approved planning scheme.

- (a) the *Government Gazette* containing notice of approval of the planning scheme ; and
- (b) a copy of the ordinance or of the relevant part of the ordinance and the map or maps or of the relevant part of the map or maps which together comprise the scheme, certified by or on behalf of the responsible authority to be a true copy of the scheme or of the relevant part of the scheme as approved—

shall be *prima facie* evidence of the valid making and publication of the scheme and of the contents of the approved planning scheme or of the relevant part thereof.

(3) The production of any instrument document map or plan purporting to be an instrument document map or plan made or issued in connexion with any interim development order or planning scheme or a true copy thereof and certified as such under the hand of the secretary of the responsible authority shall be evidence until the contrary is proved of the due making existence and approval of such instrument document map or plan and of all preliminary steps necessary to give full force and effect thereto and of the contents thereof.

Evidence of maps, &c.
No. 6396 s. 24.

Acquisition of Land.

40. (1) The responsible authority may purchase or with the approval of the Minister compulsorily take—

Acquisition and disposal of land.
No. 6396 s. 25.

- (a) any land or easement right or privilege in over or affecting any land which is required for the purposes of any planning scheme ; or
- (b) any

(b) any land which—

(i) is used for any purpose not in conformity with, though not actually prohibited by, the planning scheme ; or

(ii) is vacant and unoccupied—

if in the opinion of the authority to achieve the proper development of any area in accordance with the planning scheme it is desirable that such use should not be continued or (as the case requires) that such land should be put to appropriate use—

and may sell any such land to the Crown, the Minister of Education, any municipality or any public authority, or by public auction or public tender, subject to such terms and conditions as the responsible authority thinks fit.

(2) With the consent of the Minister, the responsible authority may purchase or compulsorily take any land which is reserved or proposed to be reserved for public purposes under a planning scheme, notwithstanding that the scheme may not have been adopted by the responsible authority or approved by the Governor in Council, and may sell any such land to the Crown, the Minister of Education, any municipality or any public authority subject to such terms and conditions as the responsible authority thinks fit.

Incorporation
of *Lands
Compensation
Act 1958.*

(3) The *Lands Compensation Act 1958* is hereby incorporated with this Act and subject to and so far as is consistent with this Act shall be read and construed as one therewith and shall take effect with regard to any purchase or taking of land under the foregoing provisions of this section ; and for the purposes of this Act in the construction of the *Lands Compensation Act 1958* unless inconsistent with the context or subject-matter—

(a) “ the Board of Land and Works ” and “ the Board ” shall mean the responsible authority ;

(b) “ land ” includes any easement right or privilege in over or affecting any land ; and

(c) “ the special Act ” shall mean this Act.

Compensation for Loss or Damage.

41. (1) Subject to this Act compensation shall be payable by the responsible authority to the owner or occupier of any land or the owner of any interest therein for all loss or damage suffered by or as a result of the operation of any interim development order or of any planning scheme under this Act.

(2) Part

Compensation
for damage
resulting
from
schemes and
interim
orders.
No. 6396 s. 27
(1), (2).

(2) Part XLIV. of the *Local Government Act 1958* shall with such adaptations as are necessary extend and apply with respect to any such compensation (except in relation to the purchase or taking of land, as to which the *Lands Compensation Act 1958* applies by virtue of sub-section (3) of section forty of this Act.

Limitations on Payment of Compensation, &c.

42. (1) No compensation shall be payable under any provision of this Act in respect of—

Cases in which
no
compensation
payable.
No. 6396 s 27
(3)-(6).

- (a) any matter or thing done by any person or on his behalf after the date upon which a copy of or the notice of approval of the interim development order or planning scheme or of the relevant amendment or variation thereof is published in the *Government Gazette*, unless the matter or thing was done pursuant to and in accordance with a permit granted by the responsible authority and that permit did not contain a notice to the effect that compensation would not be payable in respect of anything done thereunder: Provided that, where the matter or thing was done pursuant to and in accordance with a permit granted by the responsible authority and that permit contained a provision relating to the amount or the method of ascertainment of the amount of compensation to be paid in such circumstances as are specified therein, compensation shall be paid in accordance with that provision;
- (b) the operation of any provision in a planning scheme or interim development order which requires or enables to be required, in relation to the use of any land for any purpose or in relation to the erection or construction of any building or the carrying out of any work the provision of accommodation for parking loading unloading or fuelling vehicles with a view to preventing obstruction of vehicular traffic;
- (c) any provision in an interim development order or planning scheme which specifies or enables to be specified the purposes for which land may be used or which prohibits restricts or regulates the use of land for specified purposes, except where—
- (i) the land is pursuant to the order or scheme reserved or deemed to be reserved for a public purpose; or

(ii) application

- (ii) application is made for a permit to use the land for any purpose and the application is refused on the ground that the land is or will be required for a public purpose ; or
- (iii) the order or scheme or any action taken thereunder closes stops up diverts limits or prohibits access to any existing street road or way—

but nothing in this section shall exempt a responsible authority from the payment of compensation under this Act in any case where the responsible authority pursuant to an approved scheme—

requires the removal or substantial alteration of any building or works which was or were lawfully in existence on any land before the publication in the *Government Gazette* of the notice of approval of the scheme ; or

prohibits the continuance of the use of any land or of any existing building or works for any purpose for which the land or building or works was or were being lawfully used immediately before the said publication.

(2) Except in the circumstances referred to in sub-paragraph (iii) of paragraph (c) of the last preceding sub-section, no liability for compensation shall arise under section forty-one of this Act out of the operation of any interim development order or planning scheme until after—

- (a) a specific application for a permit for the use or development of the land or the erection construction or carrying out of buildings or works in relation to the land the subject-matter of the claim has been made to the responsible authority and the responsible authority refuses or fails within a period of two months or, where notice of the application was required to be published or given, three months after the date of the application to permit such use or development of land or such erection construction or carrying out of buildings or works or permits the same subject to conditions which are not acceptable to the applicant ; and
- (b) an appeal against the refusal or failure or unacceptable condition brought pursuant to this Act is disallowed by the Minister.

(3) Where any loss or damage results from any provision in an interim development order or planning scheme and immediately before the approval of the interim development order or planning scheme such provision or a provision substantially to the same

effect

effect was in force by or under any Act or could have been validly included in any regulation by-law order declaration or other instrument issued under any Act—

- (a) if no compensation would have been payable pursuant to that Act or as a result of that inclusion, no compensation shall be payable as a result of such provision in the interim development order or planning scheme ;
- (b) if compensation would have been payable pursuant to that Act or as a result of that inclusion—
 - (i) the amount payable by reason of that provision shall not exceed the amount that would have been payable pursuant to that Act or as a result of that inclusion ; and
 - (ii) subject to the foregoing, compensation as a result of that provision shall be payable and paid in the same circumstances and manner as it would have been pursuant to that Act or as a result of that inclusion.

(4) Where compensation in respect of any matter relating to any land is to be paid either under section forty or section forty-one of this Act regard shall be had—

Compensation previously paid to be taken into account.

- (a) to any amount already paid or payable in respect of the land by way of compensation under either or both of those sections or any corresponding previous enactments (whether by the same responsible authority or not) ; and
- (b) to any amount already paid or payable in respect of the land by way of compensation under any other Act.

(5) If the Minister is satisfied—

- (a) that under an interim development order or a planning scheme any land or any part of any land—
 - (i) on which buildings or other substantial improvements are erected ; or
 - (ii) which is the subject of a building subdivision within the meaning of the *Transfer of Land Act 1958*—

Saving as to compensation for losses on certain sales.

has been reserved or is proposed to be reserved for public purposes ;

- (b) that the owner of the land or any part of the land, including any stratum estate in the said subdivision, has sold the land owned by him at a lesser price

than

than he might reasonably have expected to receive had there been no reservation or proposed reservation as aforesaid ;

- (c) that the said owner before selling the land gave notice in writing to the responsible authority of his intention to sell the land owned by him and to seek a direction of the Minister pursuant to this sub-section ; and
- (d) that the owner sold the land in good faith and took all reasonable steps to obtain the best possible price for the land—

then the Minister may direct that notwithstanding anything to the contrary in sub-section (2) of this section compensation shall be payable pursuant to section forty-one of this Act for any loss or damage suffered by the owner :

Provided that the Minister may make a direction pursuant to this sub-section notwithstanding that sub-paragraph (c) has not been complied with if he is of opinion that undue hardship would otherwise be caused to the owner.

Measure of compensation in respect of lands not acquired.

(6) Subject to this section the compensation payable for loss or damage in respect of any land where no part of that land is purchased or acquired by the authority shall not exceed the difference between—

- (a) the value of the land as affected by the existence of or any provision in a planning scheme (whether approved or not) or an interim development order made by the responsible authority ; and
- (b) the value of the land as not so affected.

Lands for which Compensation Previously Paid.

Provision for transfer or conveyance to responsible authority of land for which full compensation paid.

43. (1) Where before the commencement of this Act—

- (a) a responsible authority pursuant to the enactment then in force corresponding to section forty-one of this Act paid compensation (whether in one or more amounts) for loss or damage in respect of any land which the authority was not then empowered to acquire by agreement or compulsorily ; and
- (b) the person or each of the persons to whom that compensation was paid executed an acknowledgment in writing that the compensation so paid represented the full amount of the value of the land at that time—

the land shall on the commencement of this Act vest in the responsible authority in fee simple without any further transfer or conveyance thereof and without the payment of any further

consideration

consideration, but nevertheless the responsible authority may by writing require the person or persons in whom the land was vested to transfer or convey the same to the responsible authority in consideration of the provisions of this section, and any person who when so required refuses or fails within a reasonable time to so transfer or convey the land shall be guilty of an offence against this Act.

(2) Where compensation has been paid in respect of any land reserved or proposed to be reserved under a scheme for public purposes and thereafter the reservation or proposed reservation is revoked or ceases to be operative, the responsible authority shall nevertheless be authorized to acquire the land pursuant to this Act unless the owner repays to the authority the amount of the compensation so paid.

(3) Where before the commencement of this Act compensation has been paid in respect of a provision in an interim development order relating to land proposed or intended to be reserved for public purposes that compensation shall be deemed to have been validly paid.

Saving as to compensation already paid.

Removal of Buildings, &c.

44. (1) A responsible authority may at any time after giving such notice as is prescribed and in accordance with the provisions of this Act—

Power of council to remove certain buildings, &c., and to execute certain works.
No. 6396 ss. 14 (5), (6) and 26.

(a) require the owner of any land to show cause within a specified period why he should not be required to remove pull down take up or alter any building road or other work which has been commenced or continued after publication in the *Government Gazette* of notice of the approval of an interim development order or planning scheme and which is such as to contravene the order or scheme or the conditions of any permit thereunder or in the erection construction or carrying out of which any provision of the order or scheme or any condition of a permit thereunder has not been complied with ;

(b) if the said owner fails within the specified time to show cause as aforesaid to the satisfaction of the authority, the authority may require him within a specified time to remove pull down take up or alter the building road or work as aforesaid and if he fails to comply with such a requirement he shall be guilty of an offence against this Act, without prejudice to any offence committed in respect of the erection

construction

construction or carrying out of the building or work, and the authority may itself do any of the things so required ; and

- (c) execute any work which it is the duty of any person to execute under a scheme in any case where it appears to the authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by the responsible authority under this section may be recovered from the person in default in a court of competent jurisdiction as a debt.

Borrowing for Works under Schemes.

45. (1) Any works and undertakings carried out or executed or to be carried out or executed by any responsible authority under or pursuant to any approved planning scheme shall be deemed to be permanent works and undertakings authorized by the *Local Government Act 1958* within the meaning of Part XV. thereof.

Works and undertakings carried out under town planning schemes to be deemed works and undertakings under *Local Government Act Part XV, No. 6396 s. 28.*

(2) The provisions of this section so far as applicable and with such adaptations as are necessary shall extend and apply to the city of Melbourne and the city of Geelong ; and for the purposes of this section the corporation of either of the said cities may subject to and in the manner provided by the Acts applicable to the said cities respectively borrow money.

Extension of provisions to Melbourne and Geelong.

Application of Statutory Provisions.

46. Subject to this Act the provisions of section seven hundred and fifty-four of the *Local Government Act 1958* so far as applicable shall extend and apply with respect to any works and undertakings of a responsible authority under this Act subject to the modification that for the references in sub-section (1) thereof to certain specified public corporations there shall be substituted a reference to "any public statutory corporation" and such other modifications as are necessary.

Application of No. 6299 s. 754.

Works, &c., affecting public corporations. No. 6396 s. 29.

47. (1) The provisions of sections eight hundred and seventy-one, eight hundred and seventy-five, eight hundred and seventy-six and eight hundred and seventy-seven of the *Local Government Act 1958*, without limiting the generality thereof, shall extend and apply with the necessary adaptations (and, in particular with the adaptation that references therein to a municipality or council shall be read as references to a responsible authority) to and in relation to the

Application of No. 6299 ss. 871, 875, 876, 877. Proof of service of documents.

service

service of notices orders instruments and documents by a responsible authority under this Act and to the proof of such service and to the proof of ownership or occupation of land.

(2) The provisions of section nine hundred and thirty-one of the *Local Government Act* 1958 shall with such adaptations as are necessary extend and apply to and in respect of powers and duties conferred or imposed on any council by or under this Act.

Application
of No. 6299
s. 931.

Enforcement,
&c., by
Minister of
duties of
councils.

No. 6396 s. 37.

Procedural.

48. (1) Where under this Act a responsible authority is authorized or required to hear any person or to give to any person an opportunity to be heard before making any determination on any matter that authority may designate any two or more persons, who may include any member of the authority, to hear that person or his solicitor or agent on behalf of the authority and to report on that hearing to the authority and make any recommendation, and such hearing shall for the purposes of this Act be deemed a hearing of that person by the authority, but the final determination of the matter shall be made by the authority.

Hearings by
responsible
authority.

(2) Where under this Act the Minister is authorized or required to hear any person or to give to any person an opportunity to be heard before making any determination on any matter the Minister may designate some person or persons to hear that person or his solicitor or agent on behalf of the Minister and to report on that hearing to the Minister and make any recommendation, and such hearing shall for the purposes of this Act be deemed a hearing of that person by the Minister, but the final determination of the matter shall be made by the Minister.

Hearings by
Minister.

Offences.

49. (1) Any person who contravenes or fails to comply with any provision of this Act or of any interim development order or planning scheme or any condition of a permit under such an order or scheme and the owner of any land in relation to which any such contravention or failure occurs shall, without prejudice to any other consequences which arise under this Act by reason of such contravention or failure, be guilty of an offence against this Act and severally liable to a penalty of not more than One hundred pounds and, where the contravention or failure is of a continuing nature, to a further penalty of not more than Ten pounds for every day during which the contravention or failure continues after conviction.

Offences and
penalties.

(2) Whether or not proceedings are instituted for an offence against this Act a responsible authority may by summons apply to the Supreme Court or a Judge thereof for an injunction

Provision for
grant of
injunctions
restraining
breaches of or
compelling
compliance
with this
Act, &c.

restraining

restraining any person from contravening this Act or any interim development order or planning scheme or the conditions of any permit thereunder or compelling compliance with this Act or any such order scheme or condition.

Cost of Works.

Apportionment
of cost
of works.
No. 6396 s. 30.

50. The Governor in Council may after consultation by the Minister with the Board apportion the cost of any work included in a planning scheme between the municipalities and public authorities benefiting from the scheme.

Continuation of Preparation of Schemes in Altered Municipal Districts.

Power to
Governor in
Council
by Order
to authorize
continuation
of schemes
when municipal
district altered.
No. 6751 s. 2.

51. (1) Where by reason of the exercise of any power contained in section sixteen of the *Local Government Act 1958* any part of any land which is within the area of a planning scheme in course of preparation becomes the whole or a part of any new or different municipal district the Governor in Council on the application of the council of any municipality concerned may by Order published in the *Government Gazette* make provision for the preparation of the scheme to be continued as hereinafter provided.

Matters
to be
provided
for in
Order

(2) Any such Order may make provision for or with respect to—

- (a) the division of the scheme into two or more parts or the variation of the area of the scheme ;
- (b) the continuance of the preparation of the scheme by a joint planning committee or committees constituted by the councils of the municipalities concerned or by the Board or the continuance of the preparation of any part of the scheme by the council of any municipality within whose municipal district that part of the scheme lies ; and
- (c) any other matter or thing which in the opinion of the Governor in Council is necessary or expedient for or with respect to the continuance of the preparation of the scheme or any part thereof.

Effect of
Order
on scheme.

(3) Where any council joint planning committee or the Board is authorized to continue the preparation of a planning scheme or any part thereof pursuant to this section, the council or joint planning committee or the Board shall be deemed always to have been the responsible authority in relation to the scheme or the relevant part of the scheme (as the case requires), and the scheme or the relevant part of the scheme shall subject to the terms of any Order made pursuant to this section continue to have the same operation and effect as if anything previously

done

done for or with respect to the preparation of the scheme or the relevant part thereof had been done by the council joint planning committee or the Board which is charged with the continuation of the preparation of the scheme or the relevant part thereof, and no act matter or proceeding relating to the preparation of the scheme or the relevant part thereof shall be affected or abated by reason of the alteration in the municipal district.

(4) For the purposes of this section a planning scheme is in course of preparation until it has been approved by the Governor in Council and "preparation" in relation to a scheme includes the adoption and submission of a scheme and the doing of any thing for or with respect to a scheme before it is approved.

52. (1) Any interim development order which is in force immediately before any alteration in a municipal district and all acts matters and things made or done under or in relation to the interim development order shall continue to have the same operation force and effect as they respectively would have had if that alteration had not been made but the responsible authority for the purpose of the subsequent operation and effect of any such interim development order or any such act matter or thing shall be—

As to interim development orders under continued schemes.

- (a) until an Order is made pursuant to the last preceding section, the council of the municipality in whose municipal district is situated the relevant part of the land to which the interim development order or the act matter or thing (as the case may be) relates; and
- (b) after any such Order is made, the joint planning committee or committees, the council or councils or the Board (as the case may be) specified for that purpose in the Order.

PART III.—PLANNING SCHEMES—METROPOLITAN AREA.

53. (1) Notwithstanding anything in this Act but subject to this Part, for the purposes of this Act the Board of Works shall be a responsible authority for the metropolitan area as regards the preparation and submission for approval of any planning scheme and the making of any interim development order and the enforcement and carrying out of any such scheme or order.

Board of Works as authority for metropolitan planning.
No. 6396 s. 32.

(2) In the preparation of any planning scheme the Board of Works shall have regard to any directions of the Minister as to the extent to which or the detail in which the Board should plan.

(3) In

(3) In the preparation of any planning scheme and before the making of any interim development order the Board of Works shall as far as practicable consult with the council of each municipality whose municipal district or any part thereof may be affected by the scheme or order.

Functions of councils under planning schemes of Board of Works.
No. 6396 s. 33.

54. (1) Any planning scheme of the Board of Works may require or may authorize the Board of Works to require the council of any municipality to enforce the observance within its municipal district of any specified provisions of the scheme.

(2) The Governor in Council in approving any planning scheme of the Board of Works may insert delete or alter any such requirement or authority.

(3) The council of a municipality—

(a) shall observe the provisions of any planning scheme of the Board of Works which affects any part of its municipal district ; and

(b) shall, so far as it is so required by or under any such scheme, enforce the observance of the scheme or any specified provision thereof within its municipal district, and if the council fails so to enforce such observance then, without limiting the generality of section forty-nine of this Act, the Board of Works may enforce such observance.

(4) The council of any municipality shall not be a responsible authority with respect to any planning scheme of the Board of Works except so far as relates to the enforcement of the observance of the scheme when so required or authorized by or under this Act or the scheme.

As to interim development orders in the metropolitan area.
No. 6396 s. 34
(2).

55. (1) Every interim development order relating to any part of the metropolitan area whether made before or after the commencement of this Act shall be re-submitted by the responsible authority in accordance with this Act for the approval of the Governor in Council not more than twelve months after the date upon which it was last approved.

(2) Unless within a period of three months after such re-submission the order is again approved by the Governor in Council after consideration of a report by the Board and a copy or notice of that approval thereof is re-published as provided in sub-section (3) of section seventeen of this Act the order shall on the expiration of the said period of three months cease to have any force or effect.

(3) Any

(3) Any interim development order again approved pursuant to this sub-section may incorporate such modifications of any previous order as are proposed by the responsible authority and approved by the Governor in Council after consideration of the report of the Board.

56. (1) No planning scheme in respect of any area in whole or in part within the metropolitan area (other than a planning scheme prepared by the Board of Works) shall be approved pursuant to this Act unless a report by the Board of Works in respect of so much of the area as lies within the metropolitan area has first been obtained by the Minister.

As to approval of planning schemes of other authorities in metropolitan area.
No. 6396.

(2) After the publication in the *Government Gazette* of notice of approval of a planning scheme prepared by the Board of Works any planning scheme adopted by a council as responsible authority in respect of any land included in the planning scheme of the Board of Works shall be referred by the Minister to the Board of Works for report.

(3) The Minister may by writing after consideration of the report of the Board of Works and after consultation with the Board direct the Board of Works to prepare and submit to the Minister within a specified time an amendment or variation of the scheme of the Board of Works to give effect to all or any of the provisions included in the scheme adopted by the council subject to such modifications as the Minister may direct.

(4) The Board of Works shall prepare and submit to the Minister a scheme embodying the necessary amendment or variation of its scheme within the time specified by the Minister and notwithstanding anything in this Act the Governor in Council may forthwith approve such scheme with or without modifications.

(5) The provisions of sections twenty-eight and twenty-nine and sub-sections (1) to (4) of section thirty of this Act shall not apply in respect of the preparation and submission by the Board of Works of a scheme for the purposes of this section.

57. (1) For the purposes of any planning scheme under this Act the Board of Works shall in the metropolitan area have all the powers of a council of a city under the *Local Government Act* 1958 (including, without limiting the generality of the foregoing, the provisions of section six hundred and five of that Act) or any Act relating to the city of Melbourne except any power of any such city to make and levy rates or borrow money, and every such Act shall with such adaptations as are necessary extend and apply accordingly.

Board of Works to have power of city council for purposes of this Act, &c.
No. 6396 s. 35.

(2) This

Application of this Act to schemes prepared by Board of Works.

(2) This Act in respect of its application to the Board of Works as a responsible authority shall take effect with such modifications as are necessary and, in particular, as if the Board of Works were the council of a city and the metropolitan area were the municipal district of that city and the Secretary of the Board of Works were the municipal clerk.

Additional powers.

(3) In addition to the powers conferred by the foregoing provisions of this Act—

(a) where after consultation with any public authority person or body concerned the Board of Works is satisfied that any land which under any planning scheme of the Board of Works has been or is to be reserved for some public purpose is no longer required therefor, the Board of Works may subject to this Act grant a permit for the use of such land for any purpose or purposes ;

Power to Board of Works to sell lands no longer required for public purposes.

(b) where any land which is no longer required for a public purpose has already been acquired by the Board of Works, the Board of Works or, where the land has further been conveyed or transferred to any public authority person or body, such authority person or body—

(i) may by agreement sell that land to the person from whom it was acquired at a price not exceeding the price (including any compensation) paid or payable by the Board of Works or such other authority person or body therefor or in relation thereto, together with such other sums as the Board of Works or the authority person or body whilst owner of the land has been required to pay in relation thereto ; or

(ii) failing such agreement, may sell such land by public tender or public auction—

and in any such case the Board of Works may subject to this Act grant a permit for the use of such land for any purpose or purposes ;

Power to Board to sell lands acquired for Crown, &c., and not purchased within three years.

(c) where pursuant to this section the Board of Works has acquired any land for conveyance or transfer to any public authority or the Crown or the Minister of Education or any municipality, unless such authority or the Crown or the Minister of Education or such municipality purchases such land from the

Board

Board of Works within three years after it has been acquired by the Board of Works the Board of Works—

- (i) may by agreement sell such land to the person from whom it was acquired at a price not exceeding the price, including any compensation, paid by the Board of Works therefor or in relation thereto, together with such other sums as the Board of Works whilst owner of the land has been required to pay in relation thereto ; or
- (ii) failing such agreement may sell such land by public tender or public auction—

and in any such case the Board of Works may subject to this Act grant a permit for the use of such land for any purpose or purposes.

(4) Any permit applied for for a purpose referred to in the last preceding sub-section shall for the purposes of this Act be deemed a permit under an interim development order or planning scheme (as the case requires).

58. (1) In respect of any interim development order or planning scheme of the Board of Works the Board of Works may delegate to the council of any municipality such powers authorities and responsibilities as it thinks fit in relation to its municipal district or any part thereof.

Delegation
to councils.
No. 6396 s. 36.

(2) The Board of Works may at any time revoke any such delegation, and no such delegation shall in any way derogate from any powers authorities or responsibilities of the Board of Works as a responsible authority.

59. The Board of Works shall when so requested by the Minister report to the Minister with such particularity as the Minister requests on any project for the development or improvement of any portion of the metropolitan area.

Reports by
Board of
Works on
particular
projects.
No. 6396 s. 38.

PART IV.—REGULATIONS.

60. (1) The Governor in Council may make regulations for or with respect to—

Regulations.
No. 6396 s. 39.

- (a) the preparation submission and approval of planning schemes, and the submission and consideration of objections to planning schemes ;
- (b) the appointment by municipal councils of representatives to form committees to be responsible authorities, meetings of responsible authorities so constituted and the conduct and carrying out of the business thereof ;

(c) inquiries

- (c) inquiries reports notices applications appeals or other matters required in connexion with the preparation or approval of planning schemes or preliminary thereto or in connexion with interim development orders or with permits under such orders and schemes or in relation to the carrying out of such schemes or enforcing the observance of the provisions or to the variation or revocation of such schemes ;
- (d) prescribing reasonable fees to be charged in respect of schemes submitted for approval in accordance with this Act and for the inspection of copies of planning schemes and for certificates given or sent under section thirty-eight of this Act ;
- (e) the enforcement and observance of the requirements of planning schemes ;
- (f) prescribing penalties, not in any case exceeding Fifty pounds, for contraventions of or failures to comply with the regulations ; and
- (g) generally, prescribing all such matters and things as are authorized or required to be prescribed or as are necessary or convenient to be prescribed for carrying into effect the purposes of this Act.

Publication.

(2) All regulations under this Act shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament ; and a copy of all such regulations shall be posted or delivered to each member of Parliament.

Revocation of regulations.

(3) Any such regulation may be revoked by a resolution passed by either House of Parliament within twenty-four days after the regulation has been laid before that House.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Repeals.

Number of Act.	Title of Act.	Extent of Repeal.
6396	<i>Town and Country Planning Act 1958</i> ..	The whole
6505	<i>Statute Law Revision Act 1959</i> ..	Item in Schedule relating to <i>Town and Country Planning Act 1958</i>
6526	<i>Town and Country Planning (Amendment) Act 1959</i>	The whole
6637	<i>Town and Country Planning (Amendment) Act 1960</i>	The whole
6751	<i>Town and Country Planning (Amendment) Act 1961</i>	The whole

SECOND SCHEDULE.

Section 3.
No. 6396.
Third
Schedule

The Metropolitan Area consists of the following areas :—

- (a) The municipal districts of the cities of Box Hill, Brighton, Broadmeadows, Brunswick, Camberwell, Caulfield, Chelsea, Coburg, Collingwood, Dandenong, Essendon, Fitzroy, Footscray, Hawthorn, Heidelberg, Kew, Malvern, Melbourne, Moorabbin, Mordialloc, Northcote, Nunawading, Oakleigh, Port Melbourne, Prahran, Preston, Richmond, Ringwood, Sandringham, South, Melbourne, Springvale, St. Kilda, Sunshine, Waverley, and Williamstown and of the shires of Altona and Doncaster and Templestowe.
- (b) So much as lies within a distance of fifteen miles from the post office situate at the corner of Bourke-street and Elizabeth-street in the city of Melbourne of the municipal districts of the shires of Bulla, Eltham, Werribee, and Whittlesea.
- (c) So much as lies within a distance of twenty-six miles from the said post office of the municipal district of the shire of Frankston.
- (d) The following portions of the shires of Berwick and Cranbourne :—

See *Gov. Gaz.*
26.5.54
p. 3496.

Commencing at a point on the boundary of the shire of Cranbourne being the south-east angle of Crown allotment 54, parish of Lyndhurst ; thence westerly, northerly, and easterly along that boundary to the boundary of the shire of Berwick ; thence northerly along that boundary to the south-west corner of a Public Purposes Reserve in the parish of Narree Worrان ; thence easterly along the southern boundary and northerly along the eastern boundary of the said Reserve to the south-west angle of Crown allotment 73 ; thence easterly along the southern boundaries of that allotment and allotments 72, 71, 60, 54, and 53 to the south-east angle of allotment 53 ; thence southerly along the western boundaries of allotments 1 and 3, section 21, and the eastern boundary of the parish of Eumemmering to the south-east angle of the said parish ; thence westerly along the southern boundary of the parish to the north-east angle of Crown allotment 45, parish of Lyndhurst ; thence southerly to

SECOND

SECOND SCHEDULE—*continued.*

the north-east angle of allotment 47 ; thence westerly to the north-east angle of allotment 48 ; thence southerly to the south-east angle of allotment 48 ; thence westerly to the south-east angle of allotment 49 ; thence southerly to the north-east angle of allotment 52 ; thence westerly to the north-east angle of allotment 54 ; thence southerly along the eastern boundary of the said allotment to the point of commencement.

(e) The following portion of the shire of Melton :—

Commencing on the southern boundary of the parish of Derrimut at the south-western angle of Crown section 5 ; thence northerly by Robinson-road to the Kororoit Creek at the north-western corner of section 21 ; thence northerly and westerly by that creek to the western boundary of the parish of Derrimut ; thence southerly by that boundary and easterly by the southern boundary of the parish to the south-western angle of section 5, being the point of commencement.

(f) The following portion of the shire of Fern Tree Gully :—

All that piece of land in the parish of Scoresby, county of Mornington, commencing at the south-western corner of Crown allotment 14B ; thence easterly along the southern boundary of that allotment for a distance of 895 links ; thence south-westerly by a line across High Street-road to the north-western corner of Crown allotment 13A ; thence southerly along the western boundary and westerly along the northern boundary of the last-mentioned allotment for a distance of 303 links ; thence southerly by lines bearing 180 degrees 929 links and 135 degrees 735 links to the northern boundary of lot 10, lodged plan No. 3723 ; thence easterly along the last-mentioned boundary for a distance of 750 links ; thence southerly by a line west of and parallel to the eastern boundaries of lots 10, 11, and 12 to the northern boundary of lot 13 ; thence easterly along the northern boundary and southerly along the eastern boundary of the last-mentioned lot to the northern boundary of Crown allotment 9 ; thence easterly along the last-mentioned boundary to the western boundary of creation of easement No. 1098188 in favour of the State Electricity Commission ; thence southerly along the last-mentioned boundary to the centre of Dandenong Creek ; thence generally northerly along the centre of Dandenong Creek to a point on the continuation of the southern boundary of Crown allotment 14B ; thence easterly by a line to the commencing point.

See *Gov. Gaz.*
14.5.58
p. 1308.

THIRD SCHEDULE.

Matters which may be provided for in Schemes.

Sections 9 (2),
10.

No. 6396.
Second
Schedule

1. Land to be reserved for public purposes, including streets and roads, and the location of buildings or works to be used for public purposes.
2. Closing stopping up or diverting or limiting or prohibiting access to streets roads and other ways, and creating imposing extinguishing or varying private rights of way and other easements restrictions or encumbrances.
3. Providing for the design and location of pedestrian or vehicular ways and of tree plantations, gardens, refuges and structures in streets and roads.
4. Prescribing areas in which land or buildings are to be used for specified purposes, or prohibiting restricting or regulating the erection of any buildings or works or the use of land or buildings in such areas for specified purposes, and prescribing within such areas the minimum size or dimensions of allotments into which land may be subdivided and the portions of such allotments which may be built over by any buildings which may be prescribed or permitted in such areas.

THIRD SCHEDULE—*continued.*

5. Prohibiting restricting or regulating the construction erection and use of advertising signs or hoardings whether illuminated or not and whether attached to buildings or other structures or not.

6. The provision of accommodation for parking, loading, unloading and fuelling vehicles upon any land and the specifying or enabling to be specified the extent to which and the situation in which such accommodation is to be provided including the setting back of the buildings or works thereon from any boundary of the land abutting on any street or road.

7. Drainage, fuel, light and power production and supply, sewerage, water supply, transport, and other utility service structures or works.

8. The preservation of objects and areas of scientific historical or architectural interest or natural beauty.

9. Dealing with or disposal of land acquired by the responsible authority.

10. Power of entry and inspection.

11. Power of the responsible authority to make agreements with owners.

12. Carrying out and supplementing the provisions of this Act for enforcing schemes.

13. Provisions for ascertaining whether and by what amount (if any) the value of any land is increased by the planning scheme, the levying of a betterment rate for the recovery of one-half of such amount, and for those purposes applying with any necessary adaptations the provisions of any enactments relating to those matters.

14. Works ancillary to or consequential on any of the preceding matters.