
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 268 (C.25)

TOWN AND COUNTRY PLANNING

**The Planning and Compulsory Purchase Act 2004
(Commencement No. 3) (Scotland) Order 2006**

Made - - - -

17th May 2006

The Scottish Ministers, in exercise of the powers conferred by section 121(4) of the Planning and Compulsory Purchase Act 2004⁽¹⁾ hereby make the following Order:

Citation and extent

1.—(1) This Order may be cited as the Planning and Compulsory Purchase Act 2004 (Commencement No. 3) (Scotland) Order 2006.

(2) This Order extends to Scotland only.

Interpretation

2. In this Order “the 1997 Act” means the Town and County Planning (Scotland) Act 1997⁽²⁾.

Appointed day

3. The following provisions of the Planning and Compulsory Purchase Act 2004, in so far as they are not yet in force, shall come into force on 12th June 2006—

- (a) section 90;
- (b) sections 94 to 97;
- (c) section 117(8);
- (d) in so far as relating to the 1997 Act, section 118(2) and Schedule 7;
- (e) in so far as relating to the 1997 Act, to the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997⁽³⁾ or to the Planning (Hazardous Substances) (Scotland) Act 1997⁽⁴⁾, section 120 and Schedule 9;
- (f) Schedule 5.

(1) 2004 c. 5.
(2) 1997 c. 8.
(3) 1997 c. 9.
(4) 1997 c. 10.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

St Andrew's House,
Edinburgh
17th May 2006

MALCOLM CHISHOLM
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order brings into force on 12th June 2006 certain provisions of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) so far as they are not yet in force in Scotland.

Section 90 makes each of the planning Acts bind the Crown, subject to certain provisions and exceptions. The planning Acts are the Town and Country Planning Act (Scotland) 1997 (“the principal Act”), the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (“the listed buildings Act”) and the Planning (Hazardous Substances) (Scotland) Act 1997 (“the hazardous substances Act”). Section 90 also introduces Schedule 5, which amends the planning Acts to take account of Crown application.

Section 94 makes amendments to Scottish planning legislation, introducing new sections 245A (Enforcement in relation to the Crown) and 245B (References to an interest in land) to the principal Act. It also introduces similar amendments to the hazardous substances Act (new sections 30B and 30C). Equivalent amendments to the listed buildings Act (new sections 73D and 73E) in subsection (4) were commenced by [S.S.I. 2006/ 243](#).

Section 95 amends section 162 of the principal Act to provide that any tree preservation orders made on land placed at the disposal of the Forestry Commission do not apply to prevent forestry operations undertaken by the Commission.

Section 96 amends section 172 of the principal Act to prohibit the Crown from doing any act to a tree in a conservation area which might be prohibited by a tree preservation order, unless certain conditions are met.

Section 97 makes changes to the principal Act dealing with old mining permission to enable Crown bodies holding such permissions to have the opportunity, like other mine operators, to register such permissions and apply for the determination of new conditions.

Section 117(8) makes provision for interpretation. Section 118 introduces Schedule 7, which amends various enactments. Section 120 introduces Schedule 9 which deals with repeals.

Schedule 5 makes amendments to apply the planning Acts to the Crown.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement orders made before the date of this Order:

| <i>Provision</i> | <i>Date of Commencement</i> | <i>No.</i> |
|---|-----------------------------|---------------------------|
| Sections 1 to 3 (partially) | 6th August 2004 | 2004/2097 |
| Sections 1 to 3 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Section 4 as to England | 28th September 2004 | 2004/2202 |
| Section 5 (partially) | 6th August 2004 | 2004/2097 |

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| <i>Provision</i> | <i>Date of Commencement</i> | <i>No.</i> |
|---|-----------------------------|---------------------------|
| Section 5 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Sections 6 and 7 as to England | 28th September 2004 | 2004/2202 |
| Section 8 (partially) | 6th August | 2004/2097 |
| Section 8 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Section 9 as to England | 28th September 2004 | 2004/2202 |
| Sections 10 to 15 (partially) | 6th August 2004 | 2004/2097 |
| Sections 10 to 15 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Section 16 (partially) | 6th August 2004 | 2004/2097 |
| Section 16 as to England (in so far as not already in force) | 28th September | 2004/2202 |
| Section 17 (partially) | 6th August 2004 | 2004/2097 |
| Section 17 as to England (in so far as not yet already in force) | 28th September 2004 | 2004/2202 |
| Section 18 as to England | 28th September 2004 | 2004/2202 |
| Sections 19 to 22 (partially) | 6th August 2004 | 2004/2097 |
| Sections 19 to 22 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Section 23 as to England | 28th September 2004 | 2004/2202 |
| Sections 24 to 26 (partially) | 6th August 2004 | 2004/2097 |
| Sections 24 to 26 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Section 27 as to England | 28th September 2004 | 2004/2202 |
| Sections 28 and 29 (partially) | 6th August 2004 | 2004/2097 |
| Section 28 and 29 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Section 30 as to England | 28th September 2004 | 2004/2202 |
| Section 31 (partially) | 6th August 2004 | 2004/2097 |
| Section 31 as to England (in so far as not yet already in force) | 28th September 2004 | 2004/2202 |
| Section 32 to 34 as to England | 28th September 2004 | 2004/2202 |
| Sections 35 and 36 (partially) | 6th August 2004 | 2004/2097 |

| <i>Provision</i> | <i>Date of Commencement</i> | <i>No.</i> |
|--|-----------------------------|---------------------------|
| Sections 35 and 36 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Sections 37 to 39 as to England | 28th September 2004 | 2004/2202 |
| Sections 40 to 42 (partially) | 6th August 2004 | 2004/2097 |
| Section 43 (partially) | 24th August 2005 | 2005/2081 |
| Section 44 (partially) | 6th August 2004 | 2004/2097 |
| Section 44 (in so far as not already in force) | 24th August 2005 | 2005/2081 |
| Sections 46 to 50 (partially) | 6th August 2004 | 2004/2097 |
| Section 51 | 24th August 2005 | 2005/2081 |
| Sections 52 to 54 (partially) | 6th August 2004 | 2004/2097 |
| Sections 52 and 53 as to England (in so far as not already in force) | 7th March 2005 | 2005/204 |
| Section 54 (in so far as not already in force) | 25th August 2005 | 2005/2081 |
| Sections 55 as to England (in so far as not already in force) | 1st April 2005 | 2005/204 |
| Section 56 as to England and Wales | 28th September 2004 | 2004/2202 |
| Section 57 (partially) | 6th August 2004 | 2004/2097 |
| Section 57 as to England and Wales (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Section 58 as to England and Wales | 28th September 2004 | 2004/2202 |
| Section 59 (partially) | 6th August 2004 | 2004/2097 |
| Section 59 as to England and Wales (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Sections 79 to 83 (partially) | 6th August 2004 | 2004/2097 |
| Section 88 (partially) | 6th August 2004 | 2004/2097 |
| Section 91 (partially) | 6th August 2004 | 2004/2097 |
| Section 92 (partially) as to Scotland | 20th March 2006 | 2006/101 |
| Section 92 as to Scotland (in so far as not already in force) | 11th May 2006 | 2006/243 |
| Section 93 (partially) as to Scotland | 20th March 2006 | 2006/101 |

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| <i>Provision</i> | <i>Date of Commencement</i> | <i>No.</i> |
|---|-----------------------------|---------------------------|
| Section 93 as to Scotland (in so far as not already in force) | 11th May 2006 | 2006/243 |
| Section 94(4) as to Scotland | 11th May 2006 | 2006/243 |
| Section 98 as to Scotland | 20th March 2006 | 2006/101 |
| Sections 100 and 101 (partially) | 6th August 2004 | 2004/2097 |
| Sections 99 to 110 as to England and Wales (in so far as not already in force) | 31st October 2004 | 2004/2593 |
| Section 111(2) as to England and Wales | 31st October 2004 | 2004/2593 |
| Section 113 as to England | 28th September 2004 | 2004/2202 |
| Section 114 as to England (partially) | 28th September 2004 | 2004/2202 |
| Section 116 (partially) | 6th August 2004 | 2004/2097 |
| Section 116 (in so far as not already in force) | 25th August 2005 | 2005/2081 |
| Section 117(1) to (7) (partially) | 6th August 2004 | 2004/2097 |
| Section 117(1) to (7) as to England and Wales (in so far as not in force) | 28th September 2004 | 2004/2202 |
| Section 118 except subsection (2) in so far as it relates to the Town and Country Planning (Scotland) Act 1997 (partially) | 6th August 2004 | 2004/2097 |
| Section 118 except subsection (2) in so far as it relates to the Town and Country Planning (Scotland) Act 1997 (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Section 119(1) (partially) | 6th August 2004 | 2004/2097 |
| Section 119(1) as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Section 119(2) as to Scotland | 20th March 2006 | 2006/101 |
| Section 120 except in so far as it relates to the Town and Country Planning (Scotland) Act 1997, to the Planning (Hazardous Substances) (Scotland) Act 1997 or to the | 6th August 2004 | 2004/2097 |

| <i>Provision</i> | <i>Date of Commencement</i> | <i>No.</i> |
|--|-----------------------------|---------------------------|
| Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (partially) | | |
| Section 120 except in so far as it relates to the Town and Country Planning (Scotland) Act 1997, to the Planning (Hazardous Substances) (Scotland) Act 1997 or to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 | 28th September 2004 | 2004/2202 |
| Schedule 1 (partially) | 6th August 2004 | 2004/2097 |
| Schedule 2 paragraph 3 (partially) | 6th August 2004 | 2004/2097 |
| Schedule 2 as to England (in so far as not already in force) | 1st April 2005 | 2005/204 |
| Schedule 3 paragraph 6 to 8 and 10 to 12 (partially) | 6th August 2004 | 2004/2097 |
| Schedule 5 paragraphs 6 to 8, paragraphs 10, 11 and 13 (partially) as to Scotland | 20th March 2006 | 2006/101 |
| Schedule 6 paragraphs 1, 3, 14, 16, 19, 20, 23, 24, 26 and 27 (partially) | 6th August 2004 | 2004/2097 |
| Schedule 6 paragraphs 1, 8 to 13, 15, 16(1) and (2), 17 to 19, 21, 22 and 25 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Schedule 6 paragraph 7 as to England and Wales | 31st October 2004 | 2004/2593 |
| Schedule 6 paragraph 16(4) (in so far as not already in force) | 25th July 2005 | 2004/2081 |
| Schedule 6 paragraphs 20, 23, 24 and 26 as to England and Wales (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Schedule 7 paragraph 19 (partially) | 6th August 2004 | 2004/2097 |
| Schedule 7 paragraphs 2, 3, 6, 8, 11(1) to (3), 16, 17, 19(2), 22 and 23 as to England (in so far as not already in force) | 28th September 2004 | 2004/2202 |
| Schedule 7 paragraphs 4, 5, 7, 9, 10(1) to (6), 11(4) and | 31st October 2004 | 2004/2593 |

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|---|-----------------------------|---------------------------|
| (5), 12 to 15, 18 and 21 as to England and Wales | | |
| Schedule 8 paragraph 4,9,17 and 18 (partially) | 6th August 2004 | 2004/2097 |
| Schedule 8 as to England (so far as not already in force) | 28th September 2004 | 2004/2202 |
| Schedule 9 as to England (partially) | 28th September 2004 | 2004/2202 |
| Schedule 9 as to England and Wales (partially) | 28th September 2004 | 2004/2202 |
| Schedule 9 as to England and Wales (partially) | 31st October 2004 | 2004/2593 |