



Land Compensation (Scotland) Act 1963

1963 CHAPTER 51

PART VI

MISCELLANEOUS AND GENERAL

45 Interpretation.

(1) In this Act, except where the context otherwise requires,—

“acquiring authority”, in relation to an interest in land, means the person or body of persons by whom the interest is, or is proposed to be, acquired;

“authority possessing compulsory purchase powers”, where it occurs otherwise than in relation to a transaction, means any person or body of persons who could be or have been authorised to acquire an interest in land compulsorily, and, in relation to any transaction, means any person or body of persons who could be or have been so authorised for the purposes for which the transaction is or was effected:

Provided that in relation to any such transaction to which an executive council or a joint committee constituted by virtue of section 32 of the National Health Service (Scotland) Act 1947 are a party in the exercise of their statutory functions, the said expression shall be construed as including that council or joint committee;

“building” includes any structure or erection and any part of a building as so defined, but does not include plant or machinery comprised in a building;

“the current development plan”, in relation to any land, means a development plan comprising that land, in the form in which (whether as originally approved or made ^{F1} or as for the time being amended) that plan is in force on the date of service of the notice to treat;

“development” has the meaning assigned to it by [^{F2}section 26 of the Town and Country Planning (Scotland) Act 1997], and “develop” shall be construed accordingly;

“development order” means an order under [^{F3}section 30 of the Town and Country Planning (Scotland) Act 1997];

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[^{F4}“development plan” shall be construed in accordance with section 24 of the Town and Country Planning (Scotland) Act 1997;]

“enactment” includes an enactment in any local or private Act of Parliament and an order, rule, regulation, byelaw or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;

“land” includes land covered with water and any building as defined by this section, and includes any interest or right in or over land;

“local enactment” means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

“local planning authority” has the meaning assigned to it by Town and Country Planning (Scotland) Act [^{F5}1997];

“outline application” means an application for planning permission subject to subsequent approval on any matters;

“owner”, in relation to any land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking;

“planning decision” means a decision made on an application under [^{F6}Part III of the Town and Country Planning (Scotland) Act 1997];

“planning permission” means permission under [^{F7}Part III of the Town and Country Planning (Scotland) Act 1997];

“special enactment” means a local enactment, or a provision contained in an Act other than a local or private Act, being a local enactment or provision authorising the compulsory acquisition of land specifically identified therein.

[^{F8}(1A) Any reference in this Act to an “interest” in land shall be construed as a reference to a right in land and as including a reference to ownership of land.]

- (2) In this Act, in relation to a compulsory acquisition in pursuance of a notice to treat, “the relevant interest” means the interest acquired in pursuance of that notice, “the relevant land” means the land in which the relevant interest subsists, and “the notice to treat” means the notice to treat in pursuance of which the relevant interest is acquired.
- (3) As respects references in this Act to planning decisions—
 - (a) in relation to a decision altered on appeal by the reversal or variation of the whole or any part thereof, such references shall be construed as references to the decision as so altered;
 - (b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the local planning authority and not to the decision of the Secretary of State on the appeal;
 - (c) in relation to a decision given on an appeal made by virtue of [^{F9}section 47(2) of the Town and Country Planning (Scotland) Act 1997] in default of a decision by the local planning authority, such references shall be construed as references to the decision so given;
 - (d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the local planning authority, whether or not that decision is or was altered as aforesaid on that appeal, or, in the case of such a decision as is mentioned in paragraph (c) of this subsection, the time when by virtue of [^{F10}section 47(4) and (5) of the Town and Country Planning (Scotland) Act 1997] the

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notification of a decision by the local planning authority is deemed to have been given.

- (4) References in this Act to the local planning authority in relation to any land are references to the local planning authority for the district in which the land is situated.
- (5) For the purposes of this Act, a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—
 - (a) to both of them beneficially, or
 - (b) to both of them as trustee of one particular trust, or
 - (c) to both of them as personal representative of one particular person;and in this subsection “trustee” has the same meaning as in the ^{M1}Trusts (Scotland) Act 1921.
- (6) For the purposes of this Act development of land shall be taken to be initiated—
 - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
 - (b) if the development consists of a change in use, at the time when the new use is instituted;
 - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.
- (7) References in this Act to a notice to treat include references to a notice to treat which, under any enactment, is deemed to have been served, and references to the service of such a notice and to the date of service shall be construed accordingly.

^{F11}(8)

^{F11}(9)

- (10) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment.

Textual Amendments

- F1** Words repealed by [Town and Country Planning \(Scotland\) Act 1969 \(c. 30\)](#), **Sch. 11**
- F2** Words in definition of “development” in s. 45(1) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 9(9)(a)(i)**
- F3** Words in definition of “development order” in s. 45(1) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 9(9)(a)(ii)**
- F4** Definition of “development plan” in s. 45(1) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 9(9)(a)(iii)**
- F5** Words in definition of “local planning authority” substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 9(9)(a)(iv)**
- F6** Words in definition of “planning decision” substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 9(9)(a)(v)**
- F7** Words in definition of “planning permission” substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 9(9)(a)(vi)**
- F8** [S. 45\(1A\)](#) inserted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), **sch. 12 para. 25(7)(a)** (with ss. 58, 62, 75); [S.S.I. 2003/456](#), art. 2
- F9** Words in s. 45(3)(c) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 9(9)(b)(i)**
- F10** Words in s. 45(3)(d) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 9(b)(ii)**

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F11 S. 45(8)(9) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), sch. 12 para. 25(7)(b), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

C1 Definition in s. 45(1) applied (25.9.1991) by [London Compensation \(Scotland\) Act 1973](#) (c. 56, SIF 28:2), **s. 28(7)** (as substituted by [Planning and Compensation Act 1991](#) (c. 34, SIF 28:2), **s. 71(3)(9)**; S.I. 1991/2092, **art. 3**)

C2 The text of the proviso, now spent, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C3 S. 45(2) modified by [Local Government, Planning and Land Act 1980](#) (c. 65), s. 141, **Sch. 27 para. 25**

C4 S. 45(2) modified by [Housing \(Scotland\) Act 1987](#) (c. 26, SIF 61), s. 77(3)(4), 335, **Sch. 6 para. 9**

Marginal Citations

M1 1921 c. 58.

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