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Town and Country Planning (Scotland) Act 1972

1972 CHAPTER 52

An Act to consolidate certain enactments relating to town and country planning in Scotland with amendments to give effect to recommendations of the Scottish Law Commission. [27th July 1972]

Extent Information

E1 Act, except so far as it provides for Joint Planning Inquiry Commissions, extends to Scotland only, see s. 281(3)

Modifications etc. (not altering text)

C1 Act extended by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 32 para. 17(7)**

C2 Act modified by Town and Country Planning Act 1984 (c. 10, SIF 123:1, 2), **ss. 5(2)(3)(5)**, 6(4)

C3 Power to apply provisions of the Act conferred by Town and Country Planning Act 1984 (c. 10, SIF 123:1, 2), **s. 3(9)**

C4 Act extended by Airports Act 1986 (c. 31, SIF 9), s. 58, **Sch. 2 para. 1(1)**

C5 Act modified by Airports Act 1986 (c. 31, SIF 9), s. 58, **Sch. 2 para. 1(2)**

C6 Act (except Pt. VII and XII) applied by the Electricity Act 1989 (c. 29, SIF 44:1), s. 36(8), **Sch. 8 para. 7(3)** (with s. 112(3), Sch. 17 para. 35(1))

C7 Act modified (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), **Sch. 8 para. 17(2)**
Act modified (27.5.1997) by 1997 c. 8, ss. 24(4), 278(2), **Sch. 1 para. 4**

C8 Act applied (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), **Sch. 8 para. 17(3)**

C9 Act amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. I para. 11**

C10 Act applied (with modifications) (30.10.1994) by S.I. 1994/2716, **reg. 58(4)(b)**

C11 Act construed (S.) (30.10.1994) as one with S.I. 1994/2716, **regs. 54-67** by virtue of S.I. 1994/2716, **reg. 68(b)**

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PART I

1—3. [F1] . . . . . .

Textual Amendments

F1 Ss. 1–3, 9(1)(2) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

PART II

DEVELOPMENT PLANS

Modifications etc. (not altering text)

C12 Pt. II amended by Local Government (Scotland) Act 1973 (c. 65), **s. 174(1)**

Survey and structure plan

4 Survey of planning districts.

(1) It shall be the duty of the . . . [F2] planning authority to institute a survey of their district, in so far as they have not already done so, examining the matters which may be expected to affect the development of that district or the planning of its development and in any event to keep all such matters under review.

(2) Notwithstanding that the . . . [F2] planning authority have carried out their duty under subsection (1) of this section, the authority may, if they think fit, . . . [F3] institute a fresh survey of their district examining the matters mentioned in that subsection.

(3) Without prejudice to the generality of the preceding provisions of this section, the matters to be examined and kept under review thereunder shall include the following, that is to say—

(a) the principal physical and economic characteristics of the district of the authority (including the principal purposes for which land is used) and, so far as they may be expected to affect that district, of any neighbouring districts;

(b) the size, composition and distribution of the population of that district (whether resident or otherwise);

(c) without prejudice to paragraph (a) of this subsection, the communications, transport system and traffic of that district and, so far as they may be expected to affect that district, of any neighbouring districts;

(d) any considerations not mentioned in any of the preceding paragraphs which may be expected to affect any matters so mentioned;

(e) such other matters as may be prescribed . . . [F3];

(f) any changes already projected in any of the matters mentioned in any of the preceding paragraphs and the effect which those changes are likely to have on the development of that district or the planning of such development.

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(4) A . . . [F2] planning authority shall, for the purpose of discharging their functions under this section of examining and keeping under review any matters relating to the district of another such authority, consult with that other authority about those matters.

(5) Subsection (1) of this section shall, as respects any period during which this section is in operation in part only of the district of a . . . [F2] planning authority, be construed as requiring a . . . [F2] planning authority to institute a survey of that part of that district and to keep under review matters affecting only that part of that district; and subsection (2) of this section shall, whether or not this section is in operation in the whole of such a district, have effect as if the power thereby conferred included power for a . . . [F2] planning authority to institute . . . [F3] a fresh survey of part only of their district; and references in subsection (3) of this section to the district of a . . . [F2] planning authority or any neighbouring districts shall be construed accordingly.

Textual Amendments

F2 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F3 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

Modifications etc. (not altering text)

C13 S. 4 extended by Local Government (Scotland) Act 1973 (c. 65), **s. 173(3)**

VALID FROM 01/04/1996

[[F4]4A Structure plans.

(1) The Secretary of State may by order designate areas ("structure plan areas") in respect of which planning authorities are to prepare structure plans.

(2) The district of every planning authority in Scotland shall be included in a structure plan area.

(3) A structure plan area may extend to the district of more than one planning authority, and may extend to only part of the district of a planning authority.

(4) Where a structure plan area extends to the district of more than one planning authority, the planning authorities concerned shall jointly carry out the functions conferred upon them under sections 4, 5, 6, 6A and 8 of this Act in accordance with such arrangements as they may agree for that purpose under sections 56 (discharge of functions by local authorities), 57 (appointment of committees) and 58 (expenses of joint committees) of the [M1]Local Government (Scotland) Act 1973.

(5) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F4 S. 4A inserted (1.4.1996) by 1994 c. 39, **ss. 7(2)**, 33(1); S.I. 1995/702, **art. 6(b)**

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Marginal Citations
M1 1973 c. 65.

5 Preparation of structure plans.

(1) The . . . [F5] planning authority shall, within such period from the commencement of this section within their district as the Secretary of State may direct, prepare and send the Secretary of State a report of their survey under section 4 of this Act and at the same time prepare and submit to him for his approval a structure plan for their district complying with the provisions of subsection (3) of this section.

(2) The said report shall include an estimate of any changes likely to occur **[**[F6], during such period as the planning authority consider appropriate, in the matters mentioned in section 4(3) of this Act.**]**

(3) The structure plan for any district shall be a written statement—
- (a) formulating the . . . [F5] planning authority's policy and general proposals in respect of the development and other use of land in that district (including measures for the improvement of the physical environment and the management of traffic);
- (b) stating the relationship of those proposals to general proposals for the development and other use of land in neighbouring districts which may be expected to affect that district; and
- (c) containing such other matters as may be prescribed . . . [F7].

(4) In formulating their policy and general proposals under subsection (3)(a) of this section, the . . . [F5] planning authority shall secure that the policy and proposals are justified by the results of their survey under section 4 of this Act and by any other information which they may obtain and shall have regard—
- (a) to current policies with respect to the economic planning and development of the region as a whole;
- (b) to the resources likely to be available for the carrying out of the proposals of the structure plan . . . [F8]
- (c) . . . [F8]

(5) A . . . [F5] planning authority's general proposals under this section with respect to land in their district shall indicate any part of that district (in this Act referred to as an "action area") which they have selected for the commencement during a prescribed period of comprehensive treatment, in accordance with a local plan prepared for the selected area as a whole, by development, redevelopment or improvement of the whole or part of the area selected, or partly by one and partly by another method, and the nature of the treatment selected.

(6) A structure plan for any district shall contain or be accompanied by such diagrams, illustrations and descriptive matter as the . . . [F5] planning authority think appropriate for the purpose of explaining or illustrating the proposals in the plan, or as may be prescribed . . . [F7]; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.

(7) At any time before the Secretary of State has under section 7 of this Act approved a structure plan with respect to the whole of the district of a . . . [F5] planning authority, the authority may with his consent, and shall, if so directed by him, prepare and submit to him for his approval a structure plan relating to part of that district; and where the

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Secretary of State has given a consent or direction for the preparation of a structure plan for part of such a district, references in this Part of this Act to such a district shall, in relation to a structure plan, be construed as including references to part of that district.

Textual Amendments

F5 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F6 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 17(a)**

F7 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

F8 Word and s. 5(4)(c) repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

Modifications etc. (not altering text)

C14 S. 5(3) extended by Local Government (Scotland) Act 1973 (c. 65), **s. 173(3)**

6 Publicity in connection with preparation of structure plans.

(1) When preparing a structure plan for their district and before finally determining its content for submission to the Secretary of State, the . . . [F9] planning authority shall take such steps as will in their opinion secure—

(a) that adequate publicity is given in their district to the report of the survey under section 4 of this Act and to the matters which they propose to include in the plan;

(b) that persons who may be expected to desire an opportunity of making representations to the authority with respect to those matters are made aware that they are entitled to an opportunity of doing so; and

(c) that such persons are given an adequate opportunity of making such representations;

and the authority shall consider any representations made to them within the prescribed period.

(2) Not later than the submission of a structure plan to the Secretary of State, the . . . [F9] planning authority shall make copies of the plan as submitted to the Secretary of State available for inspection at their office and at such other places as may be prescribed; and each copy shall be accompanied by a statement of the time within which objections to the plan may be made to the Secretary of State.

(3) A structure plan submitted by the . . . [F9] planning authority to the Secretary of State for his approval shall be accompanied by a statement containing such particulars, if any, as may be prescribed—

(a) of the steps which the authority have taken to comply with subsection (1) of this section; and

(b) of the authority's consultations with, and consideration of the views of, other persons with respect to those matters.

(4) If after considering the statement submitted with, and the matters included in, the structure plan and any other information provided by the . . . [F9] planning authority, the Secretary of State is satisfied that the purposes of paragraphs (a) to (c) of subsection (1) of this section have been adequately achieved by the steps taken by the authority in compliance with that subsection, he shall proceed to consider whether to approve the

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structure plan; and if he is not so satisfied, he shall return the plan to the authority and direct them—

(a) to take such further action as he may specify in order better to achieve those purposes; and

(b) after doing so, to resubmit the plan with such modifications, if any, as they then consider appropriate and, if so required by the direction, to do so within a specified period.

(5) Where the Secretary of State returns the structure plan to the . . . [F9] planning authority under subsection (4) of this section, he shall inform the authority of his reasons for doing so and, if any person has made to him an objection to the plan, shall also inform that person that he has returned the plan.

(6) A . . . [F9] planning authority who are given directions by the Secretary of State under subsection (4) of this section shall forthwith withdraw the copies of the plan made available for inspection as required by subsection (2) of this section.

(7) Subsections (2) to (6) of this section shall apply, with the necessary modifications, in relation to a structure plan resubmitted to the Secretary of State in accordance with directions given by him under subsection (4) as they apply in relation to the plan as originally submitted.

Textual Amendments

F9 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

VALID FROM 01/04/1996

[[F10]6A Consultation with other planning authorities.

Before submitting a structure plan or proposals for alteration thereof to the Secretary of State, a planning authority shall consult every other planning authority who are likely to be affected by the plan or proposals.**]**

Textual Amendments

F10 S. 6A inserted (1.4.1996) by 1994 c. 39, s. 33(2), **Sch. 4 para. 5**; S.I. 1995/702, **art. 6(b)**; S.I. 1996/323, art. 4(1)(a), **Sch. 1**

7 Approval or rejection of structure plan by Secretary of State.

(1) The Secretary of State may, after considering a structure plan submitted (or resubmitted) to him, either approve it (in whole or in part and with or without modifications or reservations) or reject it.

(2) In considering any such plan the Secretary of State may take into account any matters which he thinks are relevant, whether or not they were taken into account in the plan as submitted to him.

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[[F11](3) Where on taking any such plan into consideration the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—

(a) consider any objections to the plan, so far as they are made in accordance with regulations under this Part of this Act, and

[[F12](b) if, but only if, it appears to him that an examination in public should be held of any matter affecting his consideration of the plan, cause a person or persons, appointed by him for the purpose, to hold such an examination.**]**

(4) The Secretary of State may make regulations with respect to the procedure to be followed at any examination under subsection (3) of this section.

(5) The Secretary of State shall not be required to secure to any planning authority or other person a right to be heard at any examination under the said subsection (3), and the bodies and persons who may take part therein shall be such only as he may, whether before or during the course of the examination, in his discretion invite to do so:

Provided that the person or persons holding the examination shall have power, exercisable either before or during the course of the examination, to invite additional bodies or persons to take part therein if it appears to him or them desirable to do so.

(6) An examination under subsection (3)(b) of this section shall constitute a statutory inquiry for the purposes of section 1(1)(c) of the [M2]Tribunals and Inquiries Act 1971, but shall not constitute such an inquiry for any other purpose of that Act.

(7) On considering a structure plan the Secretary of State may consult with, or consider the views of, any planning authority or other person, but shall not be under any obligation to do so.

(8) On exercising his powers under subsection (1) of this section in relation to any structure plan, the Secretary of State shall give such statement as he considers appropriate of the reasons governing his decision.**]**

Textual Amendments

F11 S. 7(3)–(8) substituted for s. 7(3)(4) by Local Government (Scotland) Act 1973 (c. 65), **s. 175(1)**

F12 S. 7(3)(b) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 36**.

Marginal Citations

M2 1971 c. 62.

8 Alteration of structure plans.

(1) At any time after the approval of a structure plan for their district a . . . [F13] planning authority may submit to the Secretary of State and shall, if so directed by the Secretary of State, submit to him within a period specified in the direction, proposals for such alterations to that plan **[**[F14](which may include proposals for repeal and replacement)**]** as appear to them to be expedient or as the Secretary of State may direct, as the case may be, and any such proposals may relate to the whole or to part of that district **[**[F15]and may provide for the repeal of two or more structure plans and their replacement with one structure plan.**]**

(2) The . . . [F13] planning authority shall send with the proposals submitted by them under this section a report of the results of their review of the relevant matters under section 4

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of this Act together with any other information on which the proposals are based, and sections 6 **[**[F16](2)**]** and 7 of this Act shall apply, with any necessary modifications, in relation to the proposals as they apply in relation to a structure plan.

[[F17](3) Before a planning authority submit proposals under this section they shall give such publicity (if any) to, and undertake such consultation (if any) about, the said proposals as they think fit, and shall consider any representations timeously made to them about such proposals.

(4) The planning authority shall send with any proposals submitted by them under this section a statement of the steps they have taken to comply with subsection (3) above and, if they have not publicised or have not consulted under that subsection, the statement shall explain the absence of such publicity or as the case may be consultation.

(5) If the Secretary of State is not satisfied with the steps taken by the planning authority to comply with subsection (3) above, or as the case may be if he is not satisfied with the terms of any explanation provided by them under subsection (4) above, he may return the proposals to the authority, and may direct them—

(a) to take such steps or further steps as he may specify; and

(b) after they have done so, to resubmit the proposals with such modification, if any, as they consider appropriate.

(6) Where, under subsection (5) above, the Secretary of State returns proposals, he shall inform the authority of his reasons for doing so and, if any person has made to him an objection to the proposals, shall also inform that person that he has returned the proposals.

(7) A planning authority who are given directions under subsection (5) of this section shall forthwith withdraw the copies which have, under section 6(2) of this Act (as applied by subsection (2) above) been made available for inspection.

(8) The said section 6(2) and subsections (3) to (7) above shall apply, in relation to proposals resubmitted in accordance with directions given under subsection (5) above, as they apply in relation to proposals submitted under subsection (1) above.**]**

Textual Amendments

F13 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F14 Words inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 37(a)(i)**

F15 Words added by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 37(a)(ii)**

F16 Word inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 37(b)**

F17 S. 8(3)—(8) added by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 37(c)**

Local plans

9 Preparation of local plans.

(1) . . . . . [F18]

(3) A local plan shall consist of a map and a written statement and shall—

(a) formulate in such detail as the authority think appropriate the authority's proposals for the development and other use of land in that part of their district

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or for any description of development or other use of such land (including in either case such measures as the authority think fit for the improvement of the physical environment and the management of traffic); and

(b) contain such matters as may be prescribed . . . [F19].

(4) Different local plans may be prepared for different purposes for the same part of any district.

[[F20](4A) It shall be the duty of the planning authority—

(a) for the purpose of preparing a local plan, to institute a survey of their district or any part thereof, in so far as they have not already done so, taking into account the matters which the authority think necessary for the formulation of their proposals, and

(b) to keep those matters under review during and after the preparation of the local plan.**]**

(5) A local plan shall contain, or be accompanied by, such diagrams, illustrations and descriptive matter as the . . . [F21] planning authority think appropriate for the purpose of explaining or illustrating the proposals in the plan, or as may be prescribed . . . [F19]; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.

(6) Where an area is indicated as an action area in a structure plan which has been approved by the Secretary of State, the . . . [F21] planning authority shall (if they have not already done so), as soon as practicable after the approval of the plan, prepare a local plan for that area.

(7) Without prejudice to the preceding provisions of this section, the . . . [F21] planning authority shall, if the Secretary of State gives them a direction in that behalf with respect to a part of a district for which a structure plan has been, or is in course of being, prepared as soon as practicable prepare for that part a local plan of such nature as may be specified in the direction.

(8) Directions under subsection (7) of this section may be given by the Secretary of State **[**[F22]only before**]** he approves the structure plan . . . [F19].

(9) In formulating their proposals in a local plan the . . . [F21] planning authority shall secure that **[**[F23]where a structure plan has been prepared under section 5 of this Act**]** the proposals conform generally to the structure plan as it stands for the time being (whether or not it has been approved by the Secretary of State) and shall have regard to any information and any other considerations which appear to them to be relevant, or which may be prescribed . . . [F19].

(10) Before giving a direction under the preceding provisions of this section to a . . . [F21] planning authority, the Secretary of State shall consult the authority with respect to the proposed direction.

(11) Where a . . . [F21] planning authority are required by this section to prepare a local plan, they shall take steps for the adoption of the plan.

Textual Amendments

F18 Ss. 1–3, 9(1)(2) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F19 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

F20 S. 9(4A) inserted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 2(1)(a)**

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F21 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
F22 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 18** (c)(i)
F23 Words inserted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 2(1)(b)**

10 Publicity in connection with preparation of local plans.

(1) A . . . [F24] planning authority who propose to prepare a local plan shall take such steps as will in their opinion secure—

(a) that adequate publicity is given in their district to any relevant matter arising out of a survey of the district **[**[F25]or part of the district carried out under sections 4 or 9 of this Act**]** and to the matters proposed to be included in the plan;

(b) that persons who may be expected to desire an opportunity of making representations to the authority with respect to those matters are made aware that they are entitled to an opportunity of doing so; and

(c) that such persons are given an adequate opportunity of making such representations;

and the authority shall consider any representations made to them within the prescribed period.

(2) When the . . . [F24] planning authority have prepared a local plan, they shall, before adopting it or submitting it for approval under section 12(4) of this Act . . . [F26], make copies of the local plan available for inspection at their office and at such other places **[**[F27]as appear to them to be appropriate**]** and send a copy to the Secretary of State; and each copy made available for inspection shall be accompanied by a statement of the time within which objections to the local plan may be made to the authority.

(3) A copy of a local plan sent to the Secretary of State **[**[F28], or made available for inspection,**]** under subsection (2) of this section shall be accompanied by a statement containing such particulars, if any, as may be prescribed—

(a) of the steps which the authority have taken to comply with subsection (1) of this section; and

(b) of the authority's consultations with, and their consideration of the views of, other persons.

(4) . . . . . [F29]

Textual Amendments

F24 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
F25 Words substituted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 2(2)**
F26 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**
F27 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 19(a)**
F28 Words inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 15**
F29 S. 10(4)(5) repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

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11 Inquiries, etc. with respect to local plans.

(1) For the purpose of considering objections made to a local plan the . . . [F30] planning authority may, and shall **[**[F31]if**]** in the case of objections so made in accordance with regulations under this Act **[**[F32]an objector so requires,**]** cause a local inquiry or other hearing to be held by a person appointed by the Secretary of State or, in such cases as may be prescribed by regulations under this Act, by the authority themselves, and—

(a) subsections (4) to (6) of section 267 of this Act shall apply to an inquiry held under this section as they apply to an inquiry held under that section;

(b) the [M3]Tribunals and Inquiries Act 1971 shall apply to a local inquiry or other hearing held under this section as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a local authority.

(2) Regulations made for the purposes of subsection (1) of this section may—

(a) make provision with respect to the appointment and qualifications for appointment of persons to hold a local inquiry or other hearing under that subsection, including provision enabling the Secretary of State to direct a . . . [F30] planning authority to appoint a particular person, or one of a specified list or class of persons;

(b) make provision with respect to the remuneration and allowances of a person appointed for the said purpose.

Textual Amendments

F30 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F31 Word inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 38(a)**

F32 Words inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 38(b)**

Marginal Citations

M3 1971 c. 62.

12 Adoption and approval of local plans.

(1) After the expiry of the period afforded for making objections to a local plan or, if such objections have been duly made during that period, after considering the objections so made, the . . . [F33] planning authority may, subject to . . . [F34] subsections **[**[F35](2), (2A), (2B) and (3)**]** of this section, by resolution adopt the plan either as originally prepared or as modified so as to take account of **[**[F36]—

(a) any such objections (whether or not they have been the subject of a local inquiry or other hearing);

(b) any matters arising out of such objections; or

(c) any drafting or technical matters, if these are of a minor nature.**]**

[[F37](2) Where for any area the Secretary of State has approved a structure plan under section 7 of this Act the planning authority shall not adopt a local plan unless it conforms . . . [F38] to that structure plan.**]**

[[F39](2A) After copies of a local plan have been sent to the Secretary of State and before it has been adopted by the planning authority, the Secretary of State may, if it appears to him that any part of it is unsatisfactory, and without prejudice to his power to make

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a direction under subsection (3) below, direct the authority to consider modifying the plan in such respects as are indicated in the direction.

(2B) An authority to whom a direction is given shall not adopt the plan unless they satisfy the Secretary of State that they have made the modifications necessary to confirm with the direction or the direction is withdrawn.**]**

(3) After copies of a local plan have been sent to the Secretary of State and before the plan has been adopted by the . . . [F33] planning authority, the Secretary of State may direct that the plan shall not have effect unless approved by him.

[[F40](4) Where the Secretary of State gives a direction under subsection (3) of this section, the planning authority shall submit the plan accordingly to him for his approval, and—

(a) the Secretary of State may, after considering the plan, either approve it (in whole or in part and with or without modifications or reservations) or reject it;

(b) in considering the plan, the Secretary of State may take into account any matters which he thinks are relevant, whether or not they were taken into account in the plan as submitted to him;

(c) subject to paragraph (d) of this subsection, where on taking the plan into consideration the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—

(i) consider any objections to the plan, so far as they are made in accordance with regulations under this Part of this Act;

(ii) afford to any persons whose objections so made are not withdrawn an opportunity of appearing before, and being heard by, a person appointed by him for the purpose; and

(iii) if a local inquiry or other hearing is held, also afford the like opportunity to the authority and such other persons as he thinks fit;

(d) before deciding whether or not to approve the plan the Secretary of State shall consider any objections thereto which have been considered by the authority, but he shall not be obliged to cause an inquiry or other hearing to be held into the plan if any such inquiry or hearing has already been held at the instance of the authority;

(e) without prejudice to paragraph (c) of this subsection, on considering the plan the Secretary of State may consult with, or consider the views of, any planning authority or other persons, but shall not be under an obligation to consult with, or consider the views of, any other authority or persons, or except as provided by that paragraph, to afford an opportunity for the making of any objections or other representations, or to cause any local inquiry or other hearing to be held; and

(f) after the giving of the direction the authority shall have no further power or duty to hold a local inquiry or other hearing under section 11 of this Act in connection with the plan.**]**

Textual Amendments

F33 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F34 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

F35 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 28(2)**

F36 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 39**

F37 S. 12(2) substituted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 2(3)**

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F38 Word repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**
F39 S. 12(2A)(2B) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 28(1)**
F40 S. 12(4) substituted by Local Government (Scotland) Act 1973 (c. 65), **s. 175(2)**

13 Alteration of local plans.

[[F41](1) A planning authority shall keep under review any local plan adopted by them, or approved by the Secretary of State, and may at any time make proposals for the alteration, repeal or replacement of such plan; and any such proposals may include proposals for the repeal of two or more local plans and their replacement with one local plan:

Provided that where a local plan has been approved by the Secretary of State they shall not make such proposals in relation to that plan without his consent.**]**

(2) Without prejudice to subsection (1) of this section, a . . . [F42] planning authority shall, if **[**[F43]before**]** the Secretary of State **[**[F44]approves the structure plan for their district he**]** gives them a direction in that behalf with respect to a local plan adopted by them or approved by him, as soon as practicable prepare proposals of a kind specified in the direction, being proposals for the alteration, repeal or replacement of the **[**[F45]local**]** plan.

(3) **[**[F46]Subject to subsection (4) below**]** The provisions of sections 9(9) to (11), 10, 11 and 12 of this Act shall apply in relation to the making of proposals for the alteration, repeal or replacement of a local plan under this section, and to alterations to a local plan so proposed, as they apply in relation to the preparation of a local plan under section 9 of this Act and to a local plan prepared thereunder, . . . [F47].

[[F48](4) If a planning authority do not consider it appropriate to take the steps required by section 10(1) of this Act in relation to proposals made by them under subsection (1) of this section for alteration of a local plan, they may instead include, with the copies of those proposals made available for inspection and with the copy sent to the Secretary of State under section 10(2) of this Act, a statement of their reasons for not taking such steps.

(5) In carrying out their duty under subsection (1) above the authority shall have regard to any structure plan approved for the area by the Secretary of State.**]**

Textual Amendments

F41 S. 13(1) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 40(a)**
F42 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
F43 Word inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 20(a)**
F44 Words inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 20(b)**
F45 Word inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 20(c)**
F46 Words inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 40(b)**
F47 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**
F48 S. 13(4)(5) added by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 40(c)**

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Supplementary provisions

14 Disregarding of representations with respect to development authorised by or under other enactments.

Notwithstanding anything in the preceding provisions of this Act, neither the Secretary of State nor a . . . [F49] planning authority shall be required to consider representations or objections with respect to a structure plan, a local plan or any proposal to alter, repeal or replace any such plan if it appears to the Secretary of State or the authority, as the case may be, that those representations or objections are in substance representations or objections with respect to things done or proposed to be done in pursuance of—

(a) an order or scheme under section **[**[F50]5, 7, 9 or 12 of the Roads (Scotland) Act 1984**]** (trunk road orders, special road schemes and ancillary orders);

(b) an order under section 1 of the [M4]New Towns Act 1946 or section 1 of the [M5]New Towns (Scotland) Act 1968 (designation of sites of new towns).

Textual Amendments

F49 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F50 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(2)** (with s. 128(1))

Marginal Citations

M4 1946 c. 68.

M5 1968 c. 16.

15 Default powers of Secretary of State.

(1) Where, by virtue of any of the preceding provisions of this Part of this Act, **[**[F51]or of the provisions of Part IX of the [M6]Local Government (Scotland) Act 1973**]** any survey is required to be carried out, or any structure or local plan or proposals for the alteration, repeal or replacement thereof are required to be prepared or submitted to the Secretary of State, or steps are required to be taken for the adoption of any such plan or proposals, then—

(a) if at any time the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the . . . [F52] planning authority are not carrying out the survey or are not taking the steps necessary to enable them to submit or adopt such a plan or proposals within a reasonable period; or

(b) in a case where a period is specified for the submission or adoption of any such plan or proposals, if no such plan or proposals have been submitted or adopted within that period,

[[F53]the Secretary of State may direct the planning authority to carry out their functions in relation to the matters mentioned in this subsection and may specify in the direction the factors to be taken into account or objectives to be achieved by the planning authority in so doing, or**]** the Secretary of State may carry out the survey or prepare and make a structure plan or local plan or, as the case may be, alter repeal or replace it, as he thinks fit.

(2) Where under subsection (1) of this section the Secretary of State has power to do anything which should have been done by a . . . [F52] planning authority, he may, if he thinks fit, authorise any other . . . [F52] planning authority who appear to the Secretary

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of State to have an interest in the proper planning of the district of the first-mentioned authority to do that thing.

(3) Where under this section anything which ought to have been done by a . . . [F52] planning authority is done by the Secretary of State or another such authority, the preceding provisions of this Part of this Act shall, so far as applicable, apply with any necessary modifications in relation to the doing of that thing by the Secretary of State and the latter authority and the thing so done.

(4) Where the Secretary of State incurs expenses under this section in connection with the doing of anything which should have been done by a . . . [F52] planning authority, so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by that authority to the Secretary of State.

(5) Where under this section anything which should have been done by one . . . [F52] planning authority is done by another such authority, any expenses reasonably incurred in connection with the doing of that thing by the latter authority, as certified by the Secretary of State, shall be repaid to the latter authority by the former authority.

Textual Amendments

F51 Words inserted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 17(a)**

F52 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F53 Words inserted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 17(b)**

Marginal Citations

M6 1973 c. 65.

16 Supplementary provisions as to structure and local plans.

(1) Without prejudice to the powers conferred on him by the preceding provisions of this Part of this Act, the Secretary of State may make regulations with respect to the form and content of structure and local plans and with respect to the procedure to be followed in connection with their preparation, submission, withdrawal, approval, adoption, making, alteration, **[**[F54]modification,**]** repeal and replacement; and in particular any such regulations may—

(a) provide for the publicity to be given to the report of any survey carried out by a . . . [F55] planning authority under section 4 of this Act;

(b) provide for the notice to be given of, or the publicity to be given to, matters included or proposed to be included in any such plan, and the approval, adoption or making of any such plan or any alteration, **[**[F54]modification,**]** repeal or replacement thereof or to any other prescribed procedural step, and for publicity to be given to the procedure to be followed as aforesaid;

(c) make provision with respect to the making and consideration of representations with respect to matters to be included in, or objections to, any such plan or proposals for its alteration, **[**[F54]modification,**]** repeal or replacement;

(d) without prejudice to paragraph (b) of this subsection, provide for notice to be given to particular persons of the approval, adoption, **[**[F54]modification**]** or alteration of any plan, if they have objected to the plan and have notified the . . .

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[F55] planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge for receiving it;

(e) require or authorise a . . . [F55] planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;

(f) require a . . . [F55] planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request in that behalf with copies of any plan or document which has been made public for the purpose mentioned in section 6(1)(a) or 10(1)(a) of this Act or has been made available for inspection under section 6(2) or 10(2) of this Act, subject (if the regulations so provide) to the payment of a reasonable charge therefor;

(g) provide for the publication and inspection of any structure plan or local plan which has been approved, adopted or made, or any document approved, adopted or made altering, repealing or replacing any such plan, and for copies of any such plan or document to be made available on sale.

(2) Regulations under this section may extend throughout Scotland or to specified areas only and may make different provisions for different cases.

(3) Subject to the preceding provisions of this Part of this Act and to any regulations under this section, the Secretary of State may give directions to any . . . [F55] planning authority, or to . . . [F55] planning authorities generally,—

(a) for formulating the procedure for the carrying out of their functions under this Part of this Act;

(b) for requiring them to give him such information as he may require for carrying out any of his functions under this Part of this Act.

(4) Subject to the provisions of section 231 of this Act, a structure plan or local plan or any alteration, repeal or replacement thereof shall become operative on a date appointed for the purpose in the relevant notice of approval, resolution of adoption or notice of the making, alteration, repeal or replacement of the plan.

Textual Amendments

F54 Word inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 1**

F55 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

17 Meaning of "development plan".

(1) For the purposes of this Act, any other enactment relating to town and country planning and the [M7]Land Compensation (Scotland) Act 1963, the development plan for any area (whether the whole or part of the district of a . . . [F56] planning authority) shall be taken as consisting of—

(a) the provisions of the structure plan for the time being in force for that district or the relevant part of that district, together with the Secretary of State's notice of approval of the plan;

(b) any alterations to that plan, together with the Secretary of State's notices of approval thereof;

(c) any provisions of a local plan for the time being applicable to the area, together with a copy of the authority's resolution of adoption or, as the case may be, the Secretary of State's notice of approval of the local plan; and

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(d) any alterations to that local plan, together with a copy of the authority's resolutions of adoption or, as the case may be, the Secretary of State's notices of approval thereof.

(2) References in subsection (1) of this section to the provisions of any plan, notices of approval, alterations and resolutions of adoption shall, in relation to an area forming part of the district to which they are applicable, be respectively construed as references to so much of those provisions, notices, alterations and resolutions as is applicable to the area.

(3) References in subsections (1) and (2) of this section to notices of approval shall in relation to any plan or alteration made by the Secretary of State under section 15 of this Act be construed as references to notices of the making of the plan or alteration.

(4) This section has effect subject to Schedule 5 and Part I of Schedule 21 to this Act.

Textual Amendments

F56 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Marginal Citations

M7 1963 c. 51.

18 Commencement of Part II and interim provisions.

(1) The preceding provisions of this Part of this Act (other than section 16 and except so far as they enable any matter or thing to be prescribed), and Part I of Schedule 21 to this Act, shall come into operation on a day appointed by an order made by the Secretary of State.

[[F57](2) Schedules 3 and 4 to this Act shall have effect as respects any area, until (a) a structure plan relating to that area has been ap- proved under section 7 of this Act or (b) a local plan for that area has been adopted or approved under section 12 of this Act or (c) they are repealed by an order made by the Secretary of State.**]**

(3) Schedule 5 to this Act shall have effect as respects the transition from the said Schedules 3 and 4 to the preceding provisions of this Part of this Act.

(4) Different days may be appointed under this section for different purposes and, in particular, different days may be so appointed for the coming into operation or repeal of the same provisions in different areas.

(5) Any reference in this Part of this Act to the commencement of any provision thereof shall be construed as a reference to the day appointed for the coming into operation of that provision or, in the case of a provision which comes into operation on different days in different areas, shall, in relation to any area, be construed as a reference to the day appointed for the coming into operation of that provision in that area.

(6) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation or repealed, including such adaptation of those provisions or of any other provision of this Act then in force as appears to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).

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(7) The Secretary of State shall maintain and keep up to date a register showing the effect of orders made under this section in such a way as enables members of the public to inform themselves—

(a) as to the provisions which have come, or are to be brought, into operation or have been, or are to be, repealed, and on which dates and in relation to which areas; and

(b) as to whether, in the case of a particular area, any transitional provision has been made by such an order.

(8) The register maintained under this section by the Secretary of State shall be kept at his principal offices in Edinburgh and shall be available for inspection by the public at all reasonable hours.

Textual Amendments

F57 S. 18(2) substituted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(1)**

Modifications etc. (not altering text)

C15 Power of appointment conferred by s. 18(1) fully exercised: S.I. 1975/379, 380

VALID FROM 07/03/1994

[F58 General]

Textual Amendments

F58 S. 18A and crossheading inserted (7.3.1994) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.58** (with s. 84(5)); S.I. 1994/398, **art. 2**

[F59F59 18A Status of development plans.

—Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.**]**

Textual Amendments

F59 S. 18A and crossheading inserted (7.3.1994) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.58** (with s. 84(5)); S.I. 1994/398, **art. 2**

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PART III

GENERAL PLANNING CONTROL

Modifications etc. (not altering text)

C16 Pt. III excluded by Local Government, Planning and Land Act 1980 (c. 65), **s. 149(6)(9)**

C17 Pt. III (ss. 19-51) extended (1.1.1997) by 1995 c. 25, **s. 96(3)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

Meaning of development and requirement of planning permission

19 Meaning of "development" and "new development".

(1) In this Act, except where the context otherwise requires, "development", subject to the following provisions of this section, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land, that is to say—

(a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building and (in either case) are not works for making good war damage or works begun after 7th December, 1969 for the alteration of a building by providing additional space therein below ground;

(b) the carrying out by a local **[**[F60]roads**]** authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;

(c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any **[**[F60]road**]** or other land for that purpose;

(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, **[**[F61]the use of the buildings or other land or, subject to the provisions of the order, of any part thereof**]** for any other purpose of the same class.

(3) For the avoidance of doubt it is hereby declared that for the purposes of this section—

(a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used;

(b) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if either the superficial area of the deposit is thereby

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extended, or the height of the deposit is thereby extended and exceeds the level of the land adjoining the site.

[[F62](3A) For the purposes of this Act mining operations include—

(a) the removal of material of any description—

(i) from a mineral-working deposit;

(ii) from a deposit of pulverised fuel ash or other furnace ash or clinker; or

(iii) from a deposit of iron, steel or other metallic slags; and

(b) the extraction of minerals from a disused railway embankment.**]**

(4) Without prejudice to any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

[F63](5) . . . . . .

Textual Amendments

F60 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(3)** (with s. 128(1))

F61 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53, **Sch. 11 Pt. II para. 29**

F62 S. 19(3A) inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 19(1)**, 35

F63 S. 19(5) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34), ss. 60(6), 84(6), Sch. 12 para. 7, **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, art. 3, **Sch.1**.

Modifications etc. (not altering text)

C18 S. 19 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2**. para 4; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 10(2)(d)**

C19 S. 19 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(1)(xxv)** (with Sch. 8 para. 33)

C20 S. 19 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

20 Development requiring planning permission.

(1) Subject to the provisions of this section, planning permission is required for the carrying out of any development of land.

(2) Where on 1st July 1948 (in this Act referred to as "the appointed day") land was being temporarily used for a purpose other than the purpose for which it was normally used, planning permission is not required for the resumption of the use of the land for the last-mentioned purpose before 8th December 1969.

(3) Where on the appointed day land was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required—

(a) in respect of the use of the land for that other purpose on similar occasions before 8th December 1969; or

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(b) in respect of the use of the land for that other purpose on similar occasions on or after that date if the land has been used for that other purpose on at least one similar occasion since the appointed day and before the beginning of 1969.

(4) Where land was unoccupied on the appointed day, but had before that day been occupied at some time on or after 7th January 1937, planning permission is not required in respect of any use of the land begun before 8th December 1969 for the purpose for which the land was last used before the appointed day.

(5) Where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.

(6) In determining, for the purposes of subsection (5) of this section, what were the purposes for which land was normally used before the grant of planning permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part of this Act or in contravention of previous planning control.

(7) Notwithstanding anything in subsections (2) to (4) of this section, the use of land as a caravan site shall not, by virtue of any of those subsections, be treated as a use for which planning permission is not required, unless the land was so used on one occasion at least during the period of two years ending with 9th March 1960.

(8) Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is the normal use of that land, unless the last-mentioned use was begun in contravention of the provisions of this Part of this Act or in contravention of previous planning control.

(9) Where an enforcement notice has been served in respect of any development of land, planning permission is not required for the use of that land for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.

(10) For the purposes of this section a use of land shall be taken to have been begun in contravention of previous planning control if it was begun in contravention of the provisions of Part II of the Act of 1947.

Development orders

21 Development orders.

[[F64](1) The Secretary of State shall by regulations under this Act or by order provide for the granting of planning permission.

(2) An order under this section (in this Act referred to as a "development order") may itself grant planning permission for development specified in the order, or for development of any class so specified, and may be made either—

(a) as a general order applicable, except so far as it otherwise provides, to all land, but which may make different provision with respect to different descriptions of land; or

(b) as a special order applicable only to such land or descriptions of land as may be specified in the order.

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(3) In respect of development for which planning permission is not granted by a development order, regulations under this Act or an order may provide for the granting of planning permission by the planning authority (or, in the cases hereinafter provided for, by the Secretary of State) on an application in that behalf made to the planning authority in accordance with the regulations or the order.**]**

(4) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.

(5) Without prejudice to the generality of subsection (4) of this section—

(a) where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the. . . [F65] planning authority to be obtained with respect to the design or external appearance of the buildings;

(b) where planning permission is granted by a development order for development of a specified class, the order may enable the Secretary of State or the. . . [F65] planning authority to direct that the permission shall not apply either in relation to development in a particular area or in relation to any particular development.

(6) Any provision of a development order whereby permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision shall (without prejudice to the generality of references in this Act to limitations) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall not be used for any one purpose in pursuance of that provision on more than that number of days in that period.

(7) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any enactment passed before 13th August 1947 or any regulations, orders or byelaws made at any time under any such enactment, shall not apply to any development specified in the order, or shall apply thereto subject to such modifications as may be so specified.

Textual Amendments

F64 S. 21(1)-(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13 para. 5** (with s. 84(5)); S.I. 1991/2092, **art.3**

F65 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C21 S. 21 extended by Local Government, Planning and Land Act 1980 (c. 65), **s. 148(2)**

C22 S. 21 amended by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(2), **Sch. 5 para. 45**

[F66 Simplified planning zone schemes]

Textual Amendments

F66 Ss. 21A–21E inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 26(1)**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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[F67 21A Simplified planning zones.

(1) A simplified planning zone is an area in respect of which a simplified planning zone scheme is in force.

(2) The adoption or approval of a simplified planning zone scheme has effect to grant in relation to the zone, or any part of it specified in the scheme, planning permission for development specified in the scheme or for development of any class so specified.

(3) Planning permission under a simplified planning zone scheme may be unconditional or subject to such conditions, limitations or exceptions as may be specified in the scheme.

(4) Every planning authority—

(a) shall consider, as soon as practicable after this section comes into operation, the question for which part or parts of their district a simplified planning zone scheme is desirable, and shall thereafter keep that question under review; and

(b) shall prepare a scheme for any such part for which they decide, as a result of their original consideration or of any such review, that it is desirable to do so.

(5) The provisions of Schedule 6A to this Act have effect with respect to the making and alteration of simplified planning zone schemes and other related matters.**]**

Textual Amendments

F67 Ss. 21A-21E inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 26(1)**

[F68 21B Simplified planning zone schemes: conditions and limitations on planning permission.

(1) The conditions and limitations on planning permission which may be specified in a simplified planning zone scheme may include—

(a) conditions or limitations in respect of all development permitted by the scheme or in respect of particular descriptions of development so permitted, and

(b) conditions or limitations requiring the consent, agreement or approval of the planning authority in relation to particular descriptions of permitted development;

and different conditions or limitations may be specified for different cases or classes of case.

(2) Nothing in a simplified planning zone scheme shall affect the right of any person—

(a) to do anything not amounting to development, or

(b) to carry out development for which planning permission is not required or for which permission has been granted otherwise than by the scheme;

and no limitation or restriction subject to which permission has been granted otherwise than under the scheme shall affect the right of any person to carry out development for which permission has been granted under the scheme.**]**

Textual Amendments

F68 Ss. 21A–21E inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 26(1)**

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[F69 21C Duration of simplified planning zone scheme.

(1) A simplified planning zone scheme shall take effect on the date of its adoption or approval and shall cease to have effect at the end of the period of ten years beginning with that date.

(2) Upon the scheme's ceasing to have effect planning permission under the scheme shall also cease to have effect except in a case where the development authorised by it has been begun.

(3) The provisions of section 41(2) to (6) of this Act (which provide for the termination of planning permission if the completion of development is unreasonably delayed) apply to planning permission under a simplified planning zone scheme where development has been begun but not completed by the time the area ceases to be a simplified planning zone.

(4) The provisions of section 40(1) to (3) of this Act apply in determining for the purposes of this section when development shall be taken to be begun.**]**

Textual Amendments

F69 Ss. 21A–21E inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 26(1)**

[F70 21D Alteration of simplified planning scheme.

(1) The adoption or approval of alterations to a simplified planning zone scheme has effect as follows.

(2) The adoption or approval of alterations providing for the inclusion of land in the simplified planning zone has effect to grant in relation to that land or such part of it as is specified in the scheme planning permission for development so specified or of any class so specified.

(3) The adoption or approval of alterations providing for the grant of planning permission has effect to grant such permission in relation to the simplified planning zone, or such part of it as is specified in the scheme, for development so specified or development of any class so specified.

(4) The adoption or approval of alterations providing for the withdrawal of relaxation of conditions, limitations or restrictions to which planning permission under the scheme is subject has effect to withdraw or relax the conditions, limitations or restrictions forthwith.

(5) The adoption or approval of alterations providing for—

(a) the exclusion of land from the simplified planning zone,

(b) the withdrawal of planning permission, or

(c) the imposition of new or more stringent conditions, limitations or restrictions to which planning permission under the scheme is subject,

has effect to withdraw permission, or to impose the conditions, limitations or restrictions, with effect from the end of the period of twelve months beginning with the date of the adoption or approval.

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(6) The adoption or approval of alterations to a scheme does not affect planning permission under the scheme in any case where the development authorised by it has been begun.

The provisions of section 40(1) to (3) of this Act apply in determining for the purposes of this subsection when development shall be taken to be begun.**]**

Textual Amendments
F70 Ss. 21A–21E inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 26(1)**

[[F71]21E Exclusion of certain descriptions of land or development.

(1) The following descriptions of land may not be included in a simplified planning zone—
- (a) land in a conservation area;
- (b) land in a National Scenic Area;
- (c) land identified in the development plan for the area as part of a green belt;
- (d) land in respect of which a notification or order is in force under section 28 or 29 of the Wildlife and Countryside Act [M8]1981 (areas of special scientific interest).

(2) Where land included in a simplified planning zone becomes land of such a description, subsection (1) does not have effect to exclude it from the zone.

(3) The Secretary of State may by order provide that no simplified planning zone scheme shall have effect to grant planning permission—
- (a) in relation to an area of land specified in the order or to areas of land of a description so specified, or
- (b) for development of a description specified in the order.

(4) An order under subsection (3) has effect to withdraw such planning permission under a simplified planning zone scheme already in force with effect from the date on which the order comes into force, except in a case where the development authorised by the permission has been begun.

The provisions of section 40(1) to (3) of this Act apply in determining for the purposes of this subsection when development shall be taken to be begun.**]**

Textual Amendments
F71 Ss. 21A–21E inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 26(1)**

Marginal Citations
M8 1981 c.69**(4:5).**

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Applications for planning permission

22 Form and content of applications.

[[F72](1)**]** Any application to a. . . [F73] planning authority for planning permission shall be made in such manner as may be prescribed by regulations under this Act **[**[F74]or by a development order**]**, and shall include such particulars, and be verified by such evidence, as may be required **[**[F75]by—

(a) the regulations; or

(b) the development order; or

(c) directions given by the planning authority under the said regulations or the said development order.**]**

[[F76](2) In subsection (1) above "planning authority" includes a regional planning authority.**]**

Textual Amendments

F72 Word inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 2(a)**

F73 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F74 Words inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 2(b)**

F75 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2**, para. 2(c)

F76 S. 22(2) added by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 2(d)**

[[F77]23 Publication of notices of applications.

(1) Subject to subsection (2) below, **[**[F78]regulations under this Act or**]**a development order may provide, either in relation to applications generally or in relation to applications of a class or classes prescribed in the order, that—

(a) any such application shall have been notified to such persons or classes of person, and in such manner, as may be so prescribed;

(b) any such application shall have been advertised, either in a local newspaper or on the land to which the application relates, or both, in such a manner and for such a period or on such a number of occasions as may be so prescribed;

(c) any newspaper advertisement required by virtue of paragraph (b) above shall be placed by the planning authority to whom the application is made;

(d) the planning authority may recover from the applicant the cost incurred by them in arranging any such advertisement;

(e) any such application shall be accompanied by such certificates as to compliance with the requirements of provisions made under paragraphs (a) and (b) above as may be so prescribed;

(f) the applicant shall furnish, at such time and to such persons as may be so prescribed, such information with respect to the application as may be so prescribed;

(g) no such application shall be entertained unless such further conditions as to payment as may be so prescribed have been complied with;

(h) no such application shall be determined until after the expiry of any period which may be so prescribed.

(2) The applications mentioned in subsection (1) above are—

(a) applications for planning permission;

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(b) applications for an approval required by a development order; or

(c) applications for any consent, agreement or approval required by a condition imposed on a grant of planning permission.

(3) If any person knowingly or recklessly—

(a) issues a notification; or

(b) makes advertisement (other than newspaper advertisement); or

(c) supplies a certificate,

which purports to comply with provisions made under subsection (1) above but which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding **[**[F79]level 3 on the standard scale**].]**

[[F80](4) A planning authority shall not entertain any application for planning permission unless any requirements imposed by virtue of this section have been satisfied.

(5) Proceedings for an offence under this section may be brought at any time within the period of two years following the commission of the offence.**]**

Textual Amendments

F77 S. 23 substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **ss. 41**, 69(2)

F78 Words in s. 23(1) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13 para. 6(a)** (with s. 84(5)); S.I. 1991/2092, **art.3**

F79 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F80 S. 23(4)(5) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13 para. 6(b)** (with s. 84(5)); S.I. 1991/2092, **art.3**

Modifications etc. (not altering text)

C23 S. 23 applied (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 7(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
S. 23 applied (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 14 para. 6(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

C24 S. 23 extended (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

C25 S. 23(3) extended (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 7(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
S. 23(3) extended (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
S. 23(3) extended (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 14 para. 6(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

24 Notification of applications to owners and agricultural tenants.

(1) Without prejudice to section 23 of this Act, a. . . [F81] planning authority shall not entertain any application for planning permission unless it is accompanied by one or other of the following certificates signed by or on behalf of the applicant, that is to say—

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[[F82](a) a certificate stating that at the beginning of a period of 21 days ending with the date of the application, no person (other than the applicant) was the owner of any of the land to which the application relates;**]**

(b) a certificate stating that the applicant has given the requisite notice of the application to all the persons (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, were owners of any of the land to which the application relates, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice;

(c) a certificate stating that the applicant is unable to issue a certificate in accordance with either of the preceding paragraphs, that he has given the requisite notice of the application to such one or more of the persons mentioned in the last preceding paragraph as are specified in the certificate (setting out their names, the addresses at which notice of the application was given to them respectively, and the date of the service of each such notice), that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the remainder of those persons and that he has been unable to do so;

[[F83](cc) in the case of an application for planning permission for development consisting of the winning and working of minerals by underground mining operations, a certificate stating—

(i) that the applicant has given the requisite notice of the application to such one or more of the persons mentioned in paragraph (b) of this subsection as are specified in the certificate, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice;

(ii) that there is no person mentioned in paragraph (b) of this subsection whom the applicant knows to be such a person and whose name and address is known to the applicant but to whom he has not given the requisite notice of the application; and

(iii) that he has complied with subsection (2A) of this section and when he did so;**]**

(d) a certificate stating that the applicant is unable to issue a certificate in accordance with paragraph (a) of this subsection, that he has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the persons mentioned in paragraph (b) of this subsection and that he has been unable to do so.

[[F84](1A) Subject to subsection (1B) of this section, subsection (1) of this section shall have effect as respects notice of an application for planning permission for development consisting of the winning and working of minerals as if any person entitled to an interest in a mineral in the land to which the application relates were an owner of the land.

(1B) Subsection (1) of this section shall not have effect as provided by subsection (1A) of this section in relation to a person entitled to an interest in—

(a) oil, gas or coal; or

(b) gold or silver.**]**

(2) Any such certificate as is mentioned in paragraph (c) **[**[F85], paragraph (cc)**]** or paragraph (d) of subsection (1) of this section shall also contain a statement that the requisite notice of the application, as set out in the certificate, has on a date specified

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in the certificate (being a date not earlier than the beginning of the period mentioned in paragraph (b) of that subsection) been published in a local newspaper circulating in the locality in which the land in question is situated.

[[F86](2A) In an order to comply with this subsection—

(a) the applicant must post the requisite notice of the application, sited so as to be easily visible to and legible by members of the public, in at least one place in the district of the planning authority to which the application is being made; and

(b) the notice must be in position for not less than 7 days during the period of 21 days prior to the making of the application.

(2B) At any time before **[**[F87]determining**]** an application for planning permission for development consisting of the winning and working of minerals the planning authority dealing with the application may in writing direct the applicant to post copies of the said notice in such places in its district not exceeding 4 in number as may be specified in the direction.

(2C) Where any such direction as is mentioned in subsection (2B) above has been given the planning authority shall not grant the application until the applicant has furnished to the authority a certificate stating—

(a) that he has complied with the direction; and

(b) that any notice required by the direction has been in position for not less than 7 days in the period of 21 days prior to the date on which he lodged the certificate with the planning authority.

(2D) The applicant shall not be treated as unable to comply with subsection (2A) or (2C) of this section if the notice or, as the case may be, any copy thereof is, without any fault or intention of his, removed, obscured or defaced before the seven days referred to in subsections (2A)(b) or (2C)(b) of this section have elapsed, so long as he has taken reasonable steps for its protection and, if need be, replacement; and if he has cause to rely on this subsection, his certificate under subsection (1)(cc) of this section shall state the relevant circumstances.

(2E) The notice required by subsection (2A) of this section shall (in addition to any other matters required to be contained in it) name a place within the area of the planning authority to whom the application is made where a copy of the application for planning permission, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during such period as may be specified in the notice, being a period of not less than 21 days beginning with the date on which the notice is first posted.**]**

(3) In addition to any other matters required to be contained in a certificate issued for the purposes of this section, every such certificate shall contain one or other of the following statements, that is to say—

(a) a statement that none of the land to which the application relates constitutes or forms part of an agricultural holding;

(b) a statement that the applicant has given the requisite notice of the application to every person (other than the applicant) who, at the beginning of the period of twenty-one days ending with the date of the application, was a tenant of any agricultural holding any part of which was comprised in the land to which the application relates, and setting out the name of each such person, the address at which notice of the application was given to him, and the date of service of that notice.

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(4) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(*b*), (*c*) **[**[F88], (*cc*) or (*d*) or (2C)**]** of this section, or by a certificate containing a statement in accordance with subsection 3(*b*) of this section, the. . . [F81] planning authority shall not determine the application before the end of the period of twenty-one days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or the date of publication **[**[F89]or, as the case may be, posting**]** of a notice as therein mentioned, whichever is the later.

(5) If any person issues any certificate which purports to comply with the requirements of this section and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F90]level 3 on the standard scale**]**.

(6) Any certificate issued for the purposes of this section shall be in such form as may be prescribed by a development order; and any reference in any provision of this section to the requisite notice, where a form of notice is prescribed by a development order for the purposes of that provision, is a reference to a notice in that form.

(7) In this section "owner" in relation to any land means any person **[**[F91]who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of **[**[F92]an undertaking**]** and any person entitled to possession of the land as lessee under a lease the unexpired period of which is not less than seven years**]**, and "agricultural holding" has the same meaning as in the [M9]Agricultural Holdings (Scotland) Act 1949.

Textual Amendments

F81 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F82 S. 24(1)(a) substituted by Local Government, Planning and Land Act 1980 (c. 65), **s. 92(1)(3)** except in relation to an application for planning permission made before 13.11.1980

F83 S. 24(1)(cc) inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **s. 21(1)**

F84 S. 24(1A)(1B) inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **s. 21(2)**

F85 Words inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **s. 21(3)**

F86 S. 24(2A)—(2E) added by Town and Country Planning (Minerals) Act 1981 (c. 36), **s. 21(4)**

F87 Word substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 3(a)**

F88 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 3(b)(i)**

F89 Words inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 3(b)(ii)**

F90 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F91 Words substituted by Local Government, Planning and Land Act 1980 (c. 65), **s. 92(2)(3)** except in relation to an application for planning permission made before 13.11.1980

F92 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 3(c)**

Modifications etc. (not altering text)

C26 S. 24 modified by S.I. 1984/996, art. 2, **Sch.**

Marginal Citations

M9 1949 c. 75.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

25 Publicity for applications affecting conservation areas.

(1) This section applies where an application for planning permission for any development of land is made to a. . . [F93] planning authority and either—

(a) the development would, in the opinion of the authority, affect the character or appearance of a conservation area;. . . [F94]

[[F95](aa) the development would, in the opinion of the authority, affect the selling of a listed building; or**]**

(b) . . . [F96]

(2) The. . . [F93] planning authority shall—

(a) publish in a local newspaper circulating in the locality in which the land is situated; and

(b) for not less than seven days display on or near the land,

a notice indicating the nature of the development in question and naming a place within the locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of twenty-one days beginning with the date of publication of the notice under paragraph (a) of this subsection.

(3) The application shall not be determined by the. . . [F93] planning authority before both the following periods have elapsed, namely—

(a) the period of twenty-one days referred to in subsection (2) of this section; and

(b) the period of twenty-one days beginning with the date on which the notice required by that subsection to be displayed was first displayed.

[[F97](4) Where an application for planning permission is dealt with by a regional planning authority by virtue of section 179 of the [M10]Local Government (Scotland) Act 1973, subsection (3) above shall apply as if the reference therein to "the planning authority" were a reference to the regional planning authority.**]**

Textual Amendments

F93 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F94 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F95 S. 25(1)(aa) inserted by Town and Country Amenities Act 1974 (c. 32), **s. 4(2)**

F96 S. 25(1)(b) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F97 S. 25(4) added by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 4**

Marginal Citations

M10 1973 c. 65.

Determination by. . . [F98] planning authorities of applications for planning permission

Textual Amendments

F98 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

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26 Determination of applications.

(1) Subject to the provisions of sections 23 to 25 of this Act, and to the following provisions of this Act, where an application is made to a. . . [F99] planning authority for planning permission, that authority, in dealing with the application, shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations, and—

(a) subject to **[**[F100]sections 38 and 39**]** of this Act, may grant planning permission, either unconditionally or subject to such conditions as they think fit; or

(b) may refuse planning permission.

(2) In determining any application. . . [F101] to which section 23 of this Act applies, the. . . [F99] planning authority shall take into account any representations relating to that application which are received by them before **[**[F102]the expiry of any period prescribed under subsection (1)(h) of that section.**]**

(3) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(b), (c) or (d) of section 24 of this Act, or by a certificate containing a statement in accordance with subsection (3)(b) of that section, the. . . [F99] planning authority—

(a) in determining the application, shall take into account any representations relating thereto which are made to them, before the end of the period mentioned in subsection (4) of that section, by any person who satisfies them that he is an owner of any land to which the application relates or that he is the tenant of an agricultural holding any part of which is comprised in that land; and

(b) shall give notice of their decision to every person who has made representations which they were required to take into account in accordance with the preceding paragraph.

(4) In determining any application for planning permission to which section 25 of this Act applies, the. . . [F99] planning authority shall take into account any representations relating to the application which are received by them before the periods mentioned in subsection (3) of that section have elapsed.

[[F103](4A) When granting an application for planning permission as regards any building or premises in relation to which a duty is imposed by any of sections 4, 5 and 7 to 8A of the [M11]Chronically Sick and Disabled Persons Act 1970 (facilities at premises open to the public to include, where reasonable and practicable, provision for the needs of the disabled etc.) the planning authority shall ensure that the applicant is aware of such duty.**]**

(5) Before a. . . [F99] planning authority grant planning permission for the use of land as a caravan site, they shall, unless they are also the authority having power to issue a site licence for that land, consult the local authority having that power.

(6) In this section "site licence" means a licence under Part I of the [M12]Caravan Sites and Control of Development Act 1960 authorising the use of land as a caravan site and "owner" and "agricultural holding" have the same meanings as in section 24 of this Act.

Textual Amendments

F99 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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F100 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 54**
F101 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 4 Pt. I**
F102 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 5**
F103 S. 26(4A) inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **s. 36**

Marginal Citations
M11 1970 c. 44.
M12 1960 c. 62.

[F104 26A Power of planning authority to decline to determine applications.

(1) A planning authority may decline to determine an application for planning permission for the development of any land if—
  (a) within the period of two years ending with the date on which the application is received, the Secretary of State has refused a similar application referred to him under section 32 of this Act or has dismissed an appeal against the refusal of a similar application; and
  (b) in the opinion of the authority there has been no significant change since the refusal or, as the case may be, dismissal mentioned in paragraph (a) of this subsection in the development plan, so far as material to the application, or in any other material considerations.

(2) For the purposes of this section an application for planning permission for the development of any land shall only be taken to be similar to a later application if the development and the land to which the applications relate are in the opinion of the planning authority the same or substantially the same.

(3) The reference in subsection (1)(a) of this section to an appeal against the refusal of an application includes an appeal under section 34 in respect of an application.**]**

Textual Amendments
F104 S. 26A inserted (25.9.1991 subject to limitations as mentioned in S.I. 1991/2092, art. 4, **Sch. 2 Pt. II**) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 47(1)** (with s. 84(5)); S.I. 1991/2092, **art.3**

[F105 26B Assessment of environmental effects.

(1) The Secretary of State may by regulations under this Act make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects of the proposed development.

(2) The regulations—
  (a) may make the same provision as, or provision similar or corresponding to, any provision made, for the purposes of any Community obligation of the United Kingdom about the assessment of the likely effects of development on the environment, under section 2(2) of the M13 European Communities Act 1972; and

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(b) may make different provisions for different classes of development.

(3) Where a draft of regulations made in exercise both of the power conferred by this section and the power conferred by section 2(2) of the European Communities Act 1972 is approved by resolution of each House of Parliament, no statutory instrument containing such regulations shall be subject to annulment by virtue of subsection (2) of section 273 (regulations and orders) of this Act.**]**

Textual Amendments

F105 S. 26B expressed to be inserted after s. 26 (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.48** (with s. 84(5)); S.I. 1991/2092, **art.3**

Marginal Citations

M13 1972 c. 68.

27 Conditional grant of planning permission.

(1) Without prejudice to the generality of section 26(1) of this Act, conditions may be imposed on the grant of planning permission thereunder—

(a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the. . . [F106] planning authority to be expedient for the purposes of or in connection with the development authorised by the permission;

(b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period:

Provided that conditions may not be imposed by a. . . [F106] planning authority under paragraph (a) of this subsection for regulating the development or use of any land within the area of another. . . [F106] planning authority except with the consent of that authority.

(2) **[**[F107]Subject to section 41A(6) of this Act, any**]** planning permission granted subject to such a condition as is mentioned in subsection (1)(b) of this section is in this Act referred to as "planning permission granted for a limited period".

(3) Where—

(a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition (not being a condition attached to the planning permission by or under section 38 or 39 of this Act); and

(b) any building or other operations are commenced after the time so specified,

the commencement and carrying out of those operations do not constitute development for which that permission was granted.

Textual Amendments

F106 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

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F107 Words substituted by Town and Country Planning (Minerals) Act 1981 (c. 36), **Sch. 2 para. 1**

Modifications etc. (not altering text)
C27 S. 27(1)(*a*) modified by S.I. 1984/996, art. 2, **Sch.**

[F108 27A Aftercare conditions on permission for winning and working of minerals.

(1) Where planning permission for development consisting of the winning and working of minerals is granted subject to a restoration condition, it may be granted subject also to any such aftercare condition as the planning authority think fit.

(2) In this Act—

"restoration condition" means a condition requiring that after operations for the winning and working of minerals have been completed, the site shall be restored by the use of any or all of the following, namely, subsoil, topsoil and soil-making material; and

"aftercare condition" means a condition requiring that such steps shall be taken as may be necessary to bring land to the required standard for whichever of the following uses is specified in the condition, namely—

(a) use for agriculture;
(b) use for forestry; or
(c) use for amenity.

(3) An aftercare condition may either—

(a) specify the steps to be taken; or
(b) require that the steps be taken in accordance with a scheme (in this section referred to as an "aftercare scheme") approved by the planning authority.

(4) A planning authority may approve an aftercare scheme in the form in which it is submitted to them or may modify it and approve it as modified.

(5) The steps that may be specified in an aftercare condition or an aftercare scheme may consist of planting, cultivating, fertilising, watering, draining or otherwise treating the land.

(6) Where a step is specified in a condition or a scheme, the period during which it is to be taken may also be specified, but no step may be required to be taken after the expiry of the aftercare period.

(7) In subsection (6) of this section "the aftercare period" means a period of five years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed; and in respect of any part of a site, the aftercare period shall commence on compliance with the restoration condition in respect of that part.

(8) The power to prescribe maximum periods conferred by subsection (7) of this section includes power to prescribe maximum periods differing according to the use specified.

(9) In a case where—

(a) the use specified is a use for agriculture; and
(b) the land was in use for agriculture at the time of the grant of the planning permission or had previously been used for that purpose and had not at the time

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of the grant been used for any authorised purpose since its use for agriculture ceased; and

(c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

(10) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.

(11) Where the use specified is a use for forestry, the land is brought to the required standard when it is reasonably fit for that use.

(12) Where the use specified is a use for amenity, the land is brought to the required standard when it is suitable for sustaining trees, shrubs or plants.

(13) Before imposing an aftercare condition in a case where the use specified in the condition is for forestry, the planning authority shall consult the Forestry Commission as to whether it is appropriate to specify that use.

(14) Where after consultations required by subsection (13) of this section the planning authority are satisfied that the use that they ought to specify is a use for forestry, they shall consult the Forestry Commission with regard to whether the steps to be taken should be specified in the aftercare condition or in an aftercare scheme.

(15) The planning authority shall also consult the Forestry Commission—

(a) as to the steps to be specified in an aftercare condition which specifies a use for forestry; and

(b) before approving an aftercare scheme submitted in accordance with an aftercare condition which specifies such a use.

(16) The planning authority shall also, from time to time as they consider expedient, consult the Commission as to whether the steps specified in an aftercare condition or an aftercare scheme are being taken.

(17) On the application of any person with an interest in land in respect of which an aftercare condition has been imposed the planning authority, if they are satisfied that the condition has been complied with, shall issue a certificate to that effect.

(18) A person who has complied with an aftercare condition but who has not himself carried out any operations for the winning and working of minerals in, on or under the land shall be entitled, subject to any condition to the contrary contained in a contract which is enforceable against him by the person who last carried out such operations, to recover from that person any expenses reasonably incurred by him in complying with the aftercare condition.

(19) In this section "authorised" means authorised by planning permission and "forestry" means the growing of a utilisable crop of timber.**]**

Textual Amendments

F108 S. 27A inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **s. 22**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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28 Directions, etc. as to method of dealing with applications.

(1) Subject to the provisions of section 26(2) to (5) of this Act, provision may be made by **[**[F109]regulations under this Act or**]** a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by. . . [F110] planning authorities, and in particular—

(a) for enabling the Secretary of State to give directions restricting the grant of planning permission by the. . . [F110] planning authority, either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;

(b) for authorising the. . . [F110] planning authority, in such cases and subject to such conditions as may be prescribed by **[**[F111]such regulations or the order**]**, or by directions given by the Secretary of State thereunder, to grant planning permission for development which does not accord with the provisions of the development plan;

(c) for requiring the. . . [F110] planning authority, before granting or refusing planning permission for any development, to consult with such authorities or persons as may be prescribed by **[**[F111]such regulations or the order**]** or by directions given by the Secretary of State thereunder;

(d) for requiring the. . . [F110] planning authority to give to any applicant for planning permission, within such time as may be prescribed by **[**[F111]such regulations or the order**]**, such notice as may be so prescribed as to the manner in which his application has been dealt with;

[[F112](dd) for requiring the planning authority to give any applicant for any consent, agreement or approval required by a condition imposed on a grant of planning permission notice of their decision on his application, within such time as may be so prescribed;**]**

(e) for requiring the. . . [F110] planning authority to give to the Secretary of State and to such other persons as may be prescribed by or under **[**[F111]such regulations or the order**]**, such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.

[[F113](2) The provisions of paragraphs (d) and (e) of subsection (1) above shall apply in relation to applications for an approval required by **[**[F114]regulations under this Act or**]**a development order as they apply in relation to applications for planning permission.**]**

[[F115](3) In this section "planning authority" includes a regional planning authority.**]**

Textual Amendments

F109 Words in s. 28(1) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 61, 84(6), **Sch. 13**, para. 7(a)(ii), (with s. 84(5)); S.I. 1991/2092, **art.3**

F110 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F111 Words in s. 28(1) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 61, 84(6), **Sch. 13**, para. 7(a)(iii), (with s. 84(5)); S.I. 1991/2092, **art.3**

F112 S. 28(dd) inserted by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 2 para. 6(a)**

F113 S. 28(2) as originally enacted repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and a new s. 28(2) added by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 2 para. 6(b)**

F114 Words in s. 28(2) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 61, **Sch. 13**, para. 7(b) (with s. 84(5)); S.I. 1991/2092, **art.3**

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F115 S. 28(3) as originally enacted repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and a new s. 28(3) added by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 2 para. 6(c)**

Modifications etc. (not altering text)

C28 S. 28 extended by S.I. 1988/1221, **art. 5**

[F116 28A Permission to develop land without compliance with conditions previously attached.

(1) This section applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

(2) Special provision may be made with respect to such applications—

(a) by regulations under section 22 of this Act as regards the form and content of the application, and

(b) by a development order as regards the procedure to be followed in connection with the application.

(3) On such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

(4) This section does not apply where the application is made after the previous planning permission has become time-expired, that is to say, the previous permission having been granted subject to a condition as to the time within which the development to which it related was to have begun, that time has expired without the development having been begun.**]**

Textual Amendments

F116 S. 28A inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 31**

29 Permission to retain buildings or works or continue use of land.

(1) An application for planning permission may relate to buildings or works constructed or carried out, or a use of land instituted, before the date of the application, whether **[**F117—

(a)**]** the buildings or works were constructed or carried out, or the use instituted, without planning permission or in accordance with planning permission granted for a limited period **[**F118; or

(b) the application is for permission to retain the buildings or works, or continue the use of land, without complying with some condition subject to which a previous planning permission was granted.**]**

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(2) Any power to grant planning permission to develop land under this Act shall include power to grant planning permission for the retention on land of buildings or works constructed or carried out, or for the continuance of a use of land instituted, as mentioned in subsection (1) of this section; and references in this Act to planning permission to develop land or to carry out any development of land, and to applications for such permission, shall be construed accordingly:

Provided that this subsection shall not affect the construction of section 23, 25, 26(2) or (4), or 57,. . . [F119] or of Part VII of this Act.

(3) Any planning permission granted in accordance with subsection (2) of this section may be granted so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or (in the case of buildings or works constructed or carried out or a use instituted in accordance with planning permission granted for a limited period) so as to take effect from the end of that period, as the case may be.

Textual Amendments

F117 Word inserted by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 2 para. 7(a)**

F118 Words added by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 2 para. 7(b)**

F119 Words repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

30 Provisions as to effect of planning permission.

(1) Without prejudice to the provisions of this Part of this Act as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein.

(2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

[[F120]30A Date of planning permission.

The date of the granting or of the refusal of any such application as is mentioned in section 23(2) of this Act shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.**]**

Textual Amendments

F120 S. 30A inserted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 8**

31 Information regarding, and registers of, applications and decisions.

(1) . . . . . [F121]

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(2) Every. . . [F122] planning authority shall keep, in such manner as may be prescribed **[**[F123]by such regulations or the order**]**, a register containing such information as may be so prescribed with respect to applications for planning permission made to that authority, including information as to the manner in which such applications have been dealt with. . . [F124]**[**[F125]and also containing such information as may be so prescribed with respect to simplified planning zone schemes relating to zones in the authority's area**]**.

(2A) . . . . . [F126]

(3) **[**[F127]Regulations under this Act or a development order**]** make provision for the register to be kept in two or more parts, each part containing such information relating to applications for planning permission made to the authority as may be prescribed by **[**[F128]such regulations or the order**]**, and may also make provision—

(a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted therewith; and

(b) for the entry relating to any application, and every thing relating thereto, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of, without prejudice to the inclusion of any different entry relating thereto in another part of the register.

(4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

[[F129](5) The provisions of this section shall apply in relation to applications for an approval required **[**[F123]by such regulations or the order**]** as they apply in relation to applications for planning permission.**]**

Textual Amendments

F121 S. 31(1) repealed by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 4 Pt. I**

F122 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F123 Words in s. 31(2)(5) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 9(c) (with s. 84(5)); S.I. 1991/2092, **art.3**

F124 Words repealed by Local Government, Planning and Land Act 1980 (c.65), **Sch. 34 Pt. XI**

F125 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), 26(3), Sch. 6 Pt. IV para. 1

F126 S. 31(2A) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. XI**

F127 Words in s. 31(3) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 9(a) (with s. 84(5)); S.I. 1991/2092, **art.3**

F128 Words in s. 31(3) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 9(b) (with s. 84(5)); S.I. 1991/2092, **art.3**

F129 S. 31(5) added by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 9**

[[F130]31A Power of planning authorities to vary planning permission.

Notwithstanding any other provision of this Part of this Act, a planning authority may, at the request of the grantee or of a person acting with his consent, vary any planning permission granted by them, if it appears to them that the variation sought is not material.**]**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F130 S. 31A inserted by Local Government and Planning (Scotland) Act 1982 (c.43), **s. 46**

Secretary of State's powers in relation to planning applications and decisions

32 Reference of applications to Secretary of State.

(1) The Secretary of State may give directions requiring, **[**[F131]any such application as is mentioned in section 23(2) of this Act**]**, to be referred to him instead of being dealt with by. . . [F132] planning authorities.

(2) a direction under this section—

(a) may be given either to a particular. . . [F132] planning authority or to. . . [F132] planning authorities generally; and

(b) may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

(4) Subject to subsection (5) of this section, where an application. . . [F133] is referred to the Secretary of State under this section, the following provisions of this Act, that is to say, sections 23 **[**[F134](1)(f) and (h)**]**, 24 **[**[F135](2B), (2C), (2D) and (4)**]**, 26 [F133]. . . **[**[F136], 27(1) **[**[F137]27A and 28A**]]**, shall apply, with any necessary modifications, as they apply to an application. . . [F133] which falls to be determined by the. . . [F132] planning authority.

(5) Before determining an application referred to him under this section, other than an application for planning permission referred to a Planning Inquiry Commission under section 45 of this Act, the Secretary of State shall, if either the applicant or the. . . [F132] planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) The decision of the Secretary of State on any application referred to him under this section shall be final.

[[F138](7) In this section "planning authority" includes a regional planning authority.**]**

Textual Amendments

F131 Words substituted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 10**(*a*)

F132 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F133 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 4 Pt. I**

F134 Words substituted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 10**(*b*)(ii)

F135 Words inserted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 10**(*b*)(iii)

F136 Words substituted by Town and Country Planning (Minerals) Act 1981 (c.36), **Sch. 2 para. 2**

F137 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 55**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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F138 S. 32(7) added by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 10(c)**

Modifications etc. (not altering text)

C29 S. 32(1)—(5) extended by Local Government (Scotland) Act 1973 (c. 65), **s. 179(1)**

33 Appeals against planning decisions.

(1) Where an application is made to a. . . [F139] planning authority

[[F140](a) for planning permission to develop land;

(b) for an approval of that authority required under a development order; or

(c) for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission,

and that permission, consent, agreement**]** or approval is refused by that authority or is granted by them subject to conditions, the applicant, if he is aggrieved by their decision, may by notice under this section appeal to the Secretary of State.

(2) Any notice under this section shall be served within such time (not being less than twenty-eight days from the date of notification of the decision to which it relates) and in such manner as may be prescribed by **[**[F141]regulations under this Act or**]** a development order.

(3) Where an appeal is brought under this section from a decision of a. . . [F139] planning authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the. . . [F139] planning authority, whether the appeal relates to that part thereof or not, and may deal with the application as if it had been made to him in the first instance.

Provided that where the Secretary of State proposes to reverse or vary any part of the decision of the. . . [F139] planning authority to which the appeal does not relate, he shall give notice of his intention to the. . . [F139] planning authority and to the applicant and shall afford to them an opportunity to make representations in regard thereto.

(4) Before determining an appeal under this section, other than an appeal referred to a Planning Inquiry Commission under section 45 of this Act, the Secretary of State shall, if either the applicant or the. . . [F139] planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) Subject to subsection (4) of this section, the following provisions of this Act, that is to say, sections **[**[F142]23,**]** 24, 26(1) and (3) **[**[F143], 27(1) **[**[F144] 27A and 28A**]]** shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under this section as they apply in relation to an application for planning permission which falls to be determined by the. . . [F139] planning authority.

(6) The decision of the Secretary of State on any appeal under this section shall be final.

(7) If before or during the determination of an appeal under this section in respect of an application for planning permission to develop land, the Secretary of State forms the opinion that, having regard to the provisions of sections 26(1), **[**[F145]and 27(1)**]** of this Act **[**[F146],any regulations made under this Act in that regard and of any development order**]** and to any directions given **[**[F146]under such regulations or such order**]**, planning permission for that development—

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(a) could not have been granted by the. . . [F139] planning authority; or

(b) could not have been granted by them otherwise than subject to the conditions imposed by them,

he may decline to determine the appeal or to proceed with the determination.

[[F147](7A) If at any time before or during the determination of an appeal under this section it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—

(a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and

(b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.**]**

(8) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section, including appeals under this section as applied by or under any other provision of this Act.

Textual Amendments

F139 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F140 Words substituted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 11(a)**

F141 Words in s. 33(2) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 11(a) (with s. 84(5)); S.I. 1991/2092, **art.3**

F142 Word inserted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 69(2), **Sch 2 para. 11(b)**

F143 Words substituted by Town and Country Planning (Minerals) Act 1981 (c.36), **Sch. 2 para. 3**

F144 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 55**

F145 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt II para. 56**

F146 Words in s. 33(7) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 11(c)(i)(ii) (with s. 84(5)); S.I. 1991/2092, **art.3**

F147 S. 33(7A) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 50(1)** (with s. 84(5)); S.I. 1991/2092, **art.3**.

Modifications etc. (not altering text)

C30 S. 33 restricted by S.I. 1988/1221, **art. 14(3)(4)**

C31 S. 33(2) amended by Local Government (Scotland) Act 1973 (c. 65), **s. 180**

34 Appeal in default of planning decision.

Where **[**[F148]any such application as is mentioned in section 33(1) of this Act is made to a planning authority**]**, then unless within such period as may be prescribed by **[**[F149]regulations under this Act or a development order**]**, or within such extended period as may at any time be agreed upon in writing between the applicant and the. . . [F150] planning authority, the. . . [F150] planning authority [F151]. . . —

(a) give notice to the applicant of their decision on the application; or

[[F152](ab) give notice to the applicant that they have exercised their power under section 26A of this Act to decline to determine the application; or**]**

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(b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 32 of this Act,

the provisions of section 33 of this Act shall apply in relation to the application as if the permission or approval to which it relates had been refused by the. . . [F150] planning authority, and as if notification of their decision had been received by the applicant at the end of the period prescribed by **[**[F149]regulations under this Act or a development order**]**, or at the end of the said extended period, as the case may be.

Textual Amendments

F148 Words substituted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 12**

F149 Words in s. 34 substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 61, **Sch. 13**, para.12 (with s. 84(5)); S.I. 1991/2092, **art.3**

F150 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F151 Word in s. 34 omitted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 47(2)(a)** (with s. 84(5)); S.I. 1991/2092, **art.3**.

F152 S. 34(ab) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **ss. 47(2)(b)** (with 84(5)); S.I. 1991/2092, **art.3**.

Modifications etc. (not altering text)

C32 S. 34 modified by S.I. 1988/1221, **reg. 20(4)**

[F153]**35** . . . . . .

Textual Amendments

F153 S. 35 repealed (25. 9. 1991, subject to limitations referred to in S.I. 1992/2092, art. 4, **Sch. 2**, Pt. II) by Planning and Compensation Act 1991 (c. 34), ss. 60, 84(6), Sch. 12 para. 8, **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, art. 3, **Sch.1**

[F154]**36** . . . . . .

Textual Amendments

F154 S. 36 repealed (25. 9. 1991, subject to limitations referred to in S.I. 1991/2092, art. 4, **Sch. 2**, Pt. II) by Planning and Compensation Act 1991 (c. 34), ss. 60, 84(6), Sch. 12 para. 8, **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, art. 3, **Sch.1**

Deemed planning permission

37 Development by local authorities and statutory undertakers with sanction of government department.

(1) Where the sanction of a government department. . . [F155] is required by virtue of an enactment in respect of development to be carried out by a local authority, or by statutory undertakers not being a local authority, that department may, on granting that

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sanction, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the directions.

(2) The provisions of this Act (except **[**[F156]Part**]**XII thereof) shall apply in relation to any planning permission deemed to be granted by virtue of directions under this section as if it had been granted by the Secretary of State on an application referred to him under section 32 of this Act.

(3) For the purposes of this section development shall be taken to be sanctioned by a government department if—

(a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;

(b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;

(c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;

(d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable; or

(e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants,

and references in this section to the sanction of a government department shall be construed accordingly.

Textual Amendments

F155 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

F156 Words in s. 37(2) substituted (25. 9. 1991, subject to limitations referred to in S.I. 1991/2092, art. 4, **Sch. 2**, Pt. II) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para.9 (with s. 84(5)); S.I. 1991/2092, **art.3**

Modifications etc. (not altering text)

C33 S. 37 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

C34 S. 37 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(1)(xxv)** (with Sch. 8 para. 33)

C35 S. 37 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

Duration of planning permission

38 Limit of duration of planning permission.

(1) Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—

(a) five years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or

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(b) such other period (whether longer or shorter) beginning with the said date as the authority concerned with the terms of the planning permission may direct, being a period which the authority considers appropriate having regard to the provisions of the development plan and to any other material considerations.

(2) If planning permission is granted without the condition required by subsection (1) of this section, it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.

(3) Nothing in this section applies—

(a) to any planning permission granted by a development order;

[[F157](aa) to any planning permission granted by an enterprise zone scheme;**]**

[[F158](ab) to any planning permission granted by a simplified planning zone scheme;**]**

(b) to any planning permission granted for a limited period;

[[F159](bb) to any planning permission for development consisting of the winning and working of minerals which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after the completion of other development consisting of the winning and working of minerals which is already being carried out by the applicant for the planning permission.**]**

(c) to any planning permission granted under section 29 of this Act on an application relating to buildings or works completed, or a use of land instituted, before the date of the application; or

(d) to any outline planning permission, as defined by section 39 of this Act.

Textual Amendments

F157 S. 38(3)(aa) inserted by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 32 para. 19(2)**

F158 S. 38(3)(*ab*) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(3), **Sch. 6 Pt. IV para. 2**

F159 S. 38(3)(bb) inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **s. 23**

39 Outline planning permission.

(1) In this section and section 38 of this Act "outline planning permission" means planning permission granted, in accordance with the provisions of **[**[F160]regulations under this Act or**]**a development order, with the reservation for subsequent approval by the. . . [F161] planning authority or the Secretary of State of matters (referred to in this section as "reserved matters") not particularised in the application.

(2) Subject to the provisions of this section, where outline planning permission is granted for development consisting in or including the carrying out of building or other operations, it shall be granted subject to conditions to the following effect—

(a) that, in the case of any reserved matter, application for approval must be made **[**[F162]before—

(i) the expiration of 3 years from the date of the grant of outline planning permission; or

(ii) the expiration of 6 months from the date on which an earlier application for such approval was refused; or

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(iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed, whichever is the latest:

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (i) above**]**; and

(b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates—

(i) the expiration of five years from the date of the grant of outline planning permission; or

(ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

(3) If outline planning permission is granted without the conditions required by subsection (2) of this section, it shall be deemed to have been granted subject to those conditions.

(4) The authority concerned with the terms of an outline planning permission may, in applying subsection (2) of this section, substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as they consider appropriate.

(5) The said authority may, in applying the said subsection, specify, or direct that there be specified, separate periods under paragraph (a) of the subsection in relation to separate parts of the development to which the planning permission relates; and, if they do so, the condition required by paragraph (b) of the subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.

(6) In considering whether to exercise their powers under subsections (4) and (5) of this section, the said authority shall have regard to the provisions of the development plan and to any other material considerations.

Textual Amendments

F160 Words in s. 39 inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para.14 (with s. 84(5)); S.I. 1991/2092, **art.3**

F161 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F162 Words substituted by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 2 para. 13**

40 Provisions supplementary to ss. 38 and 39.

(1) For the purposes of sections 38 and 39 of this Act, development shall be taken to be begun on the earliest date on which any specified operation comprised in the development begins to be carried out.

(2) In subsection (1) of this section "specified operation" means any of the following, that is to say—

(a) any work of construction in the course of the erection of a building;

(b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

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(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph;

(d) any operation in the course of laying out or constructing a road or part of a road;

(e) any change in the use of any land, where that change constitutes material development.

(3) In subsection (2)(e) of this section "material development" means any development other than—

(a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;

[[F163](b) development of a class specified in paragraph 1 or 2 of Schedule 6 to this Act;**]**

(c) development of any class prescribed for the purposes of this subsection;

and in this subsection "general development order" means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in Scotland.

(4) The authority referred to in sections 38(1)(b) and 39(4) of this Act is the. . . [F164] planning authority or the Secretary of State, in the case of planning permission granted by them, and—

(a) in the case of planning permission under section 37 of this Act is the department on whose direction planning permission is deemed to be granted; and

(b) in the case of planning permission granted on an appeal determined, under paragraph 1 or 4 of Schedule 7 to this Act, by a person appointed by the Secretary of State to determine the appeal, is that person.

(5) For the purposes of section 39 of this Act, a reserved matter shall be treated as finally approved when an application for approval is granted or, in a case where the application is made to the. . . [F164] planning authority and there is an appeal to the Secretary of State against the authority's decision on the application and the Secretary of State or a person appointed by him under paragraph 1 or 4 of Schedule 7 to this Act to determine the appeal grants the approval, on the date of the determination of the appeal by the Secretary of State or that person.

(6) Where a. . . [F164] planning authority grant planning permission, the fact that any of the conditions of the permission are required by the provisions of sections 38 or 39 of this Act to be imposed, or are deemed by those provisions to be imposed, shall not prevent the conditions being the subject of an appeal under section 33 of this Act against the decision of the authority.

(7) In the case of planning permission (whether outline or other) having conditions attached to it by or under section 38 or 39 of this Act—

(a) development carried out after the date by which the conditions of the permission require it to be carried out shall be treated as not authorised by the permission; and

(b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.

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Textual Amendments

F163 S. 40(3)(b) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para.10 (with s. 84(5)); S.I. 1991/2092, **art.3**

F164 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

41 Termination of planning permission by reference to time limit.

(1) The following provisions of this section shall have effect where, by virtue of section 38 or 39 of this Act, a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period and that development has been begun within that period but the period has elapsed without the development having been completed.

(2) If the. . . [F165] planning authority are of opinion that the development will not be completed within a reasonable period, they may serve a notice (in this section referred to as a "completion notice") stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice, being a period of not less than twelve months after the notice takes effect.

(3) a completion notice—

(a) shall be served on the owner and on the occupier of the land and on any other person who in the opinion of the. . . [F165] planning authority will be affected by the notice; and

(b) shall take effect only if and when it is confirmed by the Secretary of State, who may in confirming it substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.

(4) If, within such period as may be specified in a completion notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the notice, shall afford to that person and to the. . . [F165] planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) If a completion notice takes effect, the planning permission therein referred to shall at the expiration of the period specified in the notice, whether the original period specified under subsection (2) of this section or a longer period substituted by the Secretary of State under subsection (3) of this section, be invalid except so far as it authorises any development carried out thereunder up to the end of that period.

(6) The. . . [F165] planning authority may withdraw a completion notice at any time before the expiration of the period specified therein as the period at the expiration of which the planning permission is to cease to have effect; and if they do so they shall forthwith give notice of the withdrawal to every person who was served with the completion notice.

Textual Amendments

F165 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F166 41A Limit of duration of planning permission for winning and working of minerals.

(1) Every planning permission for development consisting of the winning and working of minerals shall be subject to a condition as to the duration of the development.

(2) Except where a condition is specified under subsection (3) of this section the condition in the case of planning permission granted or deemed to be granted after the date of the commencement of section 24 of the M14 Town and Country Planning (Minerals) Act 1981 is that the development must cease not later than the expiration of the period of sixty years beginning with the date of the permission.

(3) An authority granting planning permission after the date of the commencement of the said section 24 or directing after that date that planning permission shall be deemed to be granted may specify a longer or shorter period than sixty years, and if they do so, the condition is that the development must cease not later than the expiration of a period of the specified length beginning with the date of the permission.

(4) A longer or shorter period than sixty years may be prescribed for the purposes of subsections (2) and (3) of this section.

(5) The condition in the case of planning permission granted or the commencement of section 24 of the M15 Town and Country Planning (Minerals) Act 1981 is that the development must cease not later than the expiration of the period of sixty years beginning with the date of the commencement of that section.

(6) A condition to which planning permission for development consisting of the winning and working of minerals is subject by virtue of this section is not to be regarded for the purposes of this Act as a condition such as is mentioned in subsection (1)(b) of section 27 of this Act.

(7) Where planning permission for development consisting of the winning and working of minerals is granted by the planning authority, any condition to which it is subject by virtue of this section is to be regarded for the purposes of section 33 of this Act as a condition imposed by a decision of the planning authority, and may accordingly be the subject of an appeal under that section.]

Textual Amendments

F166 S. 41A inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **s. 24**

Marginal Citations

M14 1981 c. 36.
M15 1981 c. 36.

Revocation or modification of planning permission

42 Power to revoke or modify planning permission.

(1) If it appears to the. . . F167 planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part of this Act, the authority, subject to the following provisions of this section, may by order revoke or modify the permission to such extent as (having regard to those matters) they consider expedient.

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(2) Except as provided in section 43 of this Act, an order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where a. . . [F167] planning authority submit an order to the Secretary of State for his confirmation under this section, the authority shall serve notice on the owner, on the lessee and on the occupier of the land affected and on any other person who in their opinion will be affected by the order; and if within such period as may be specified in that notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the. . . [F167] planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) The power conferred by this section to revoke or modify permission to develop land may be exercised—

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

(b) where the permission relates to a change of the use of any land, at any time before the change has taken place:

Provided that the revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been carried out before the date on which the order was confirmed as aforesaid.

[[F168](5) An order under this section may include any such aftercare condition as the planning authority think fit if—

(a) it also includes a restoration condition; or

(b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Act.

(6) Subsections (3) to (19) of section 27A of this Act shall apply in relation to an aftercare condition so imposed as they apply in relation to such a condition imposed under that section.**]**

Textual Amendments

F167 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F168 S. 42(5)(6) added by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 25**, 35

43 Unopposed revocation or modification.

(1) The following provisions shall have effect where the. . . [F169] planning authority have made an order under section 42 of this Act but have not submitted the order to the Secretary of State for confirmation by him, and—

(a) the owner, the lessee and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order;. . . [F170].

(2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—

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(a) the period (not being less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and

(b) the period (not being less than fourteen days from the expiration of the period referred to in paragraph (a) of this subsection) at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section and without being confirmed by the Secretary of State.

(3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(a) of this section,. . . [F170].

(4) The authority shall send a copy of any advertisement published under subsection (2) of this section to the Secretary of State, not more than three days after the publication.

(5) If within the period referred to in subsection (2)(a) of this section no person claiming to be affected by the order has given notice to the Secretary of State as aforesaid, and the Secretary of State has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in subsection (2)(b) of this section, take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 42(2) of this Act.

(6) This section does not apply to an order revoking or modifying a planning permission granted or deemed to have been granted by the Secretary of State under this Part of this Act or under Part IV or V thereof; nor does it apply to an order modifying any conditions to which a planning permission is subject by virtue of section 38 or 39 of this Act.

Textual Amendments

F169 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F170 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

Reference of certain matters to Planning Inquiry Commission or independent tribunal

44 Constitution of Planning Inquiry Commission.

(1) The Secretary of State may constitute a Planning Inquiry Commission to inquire into and report on any matter referred to them under section 45 of this Act.

(2) Any such commission shall consist of a chairman and not less than two nor more than four other members appointed by the Secretary of State.

(3) The Secretary of State may pay to the members of any such commission such remuneration and allowances as he may with the consent of **[**[F171]the Treasury**]** determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to him expedient to provide for the purpose of assisting the commission in the discharge of their functions.

(4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.

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(5) F172

Textual Amendments

F171 Words substituted by virtue of S.I. 1981/1670, **arts. 2(2)**, 3(5)

F172 Ss. 44(5), 47(5) repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3**

45 References to a Planning Inquiry Commission.

(1) The following matters may, in the circumstances mentioned in subsection (2) of this section, be referred to a Planning Inquiry Commission, that is to say—

(a) an application for planning permission which the Secretary of State has under section 32 of this Act directed to be referred to him instead of being dealt with by a. . . F173 planning authority;

(b) an appeal under section 33 of this Act (including that section as applied by or under any other provision of this Act);

(c) a proposal that a government department should give a direction under section 37 of this Act that planning permission shall be deemed to be granted for development by a local authority or by statutory undertakers which is required by any enactment to be authorised by that department;

(d) a proposal that development should be carried out by or on behalf of a government department.

(2) Any of the matters mentioned in subsection (1) of this section may be referred to any such commission under this section if it appears expedient to the responsible Minister or Ministers that the question whether the proposed development should be permitted to be carried out should be the subject of a special inquiry on either or both of the following grounds—

(a) there are considerations of national or regional importance which are relevant to the determination of that question and require evaluation, but a proper evaluation thereof cannot be made unless there is a special inquiry for the purpose;

(b) the technical or scientific aspects of the proposed development are of so unfamiliar a character as to jeopardise a proper determination of that question unless there is a special inquiry for the purpose.

(3) Two or more of the matters mentioned in subsection (1) of this section may be referred to the same commission under this section if it appears to the responsible Minister or Ministers that they relate to proposals to carry out development for similar purposes on different sites.

(4) Where a matter referred to a commission under this section relates to a proposal to carry out development for any purpose at a particular site, the responsible Minister or Ministers may also refer to the commission the question whether development for that purpose should instead be carried out at an alternative site.

(5) The responsible Minister or Ministers shall, on referring a matter to a commission under this section, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to him or them to be relevant to their inquiry.

(6) a commission inquiring into a matter referred to them under this section shall—

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(a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out and assess the importance to be attached to those considerations or aspects;

(b) thereafter, if the applicant, in the case of a matter mentioned in subsection (1)(a), (b) or (c) of this section, or the. . . [F173] planning authority in any case so desire, afford to each of them, and, in the case of an application or appeal mentioned in the said subsection (1)(a) or (b), to any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 26(2) or (3) of this Act, an opportunity of appearing before and being heard by one or more members of the commission;

(c) report to the responsible Minister or Ministers on the matter referred to them.

(7) Any such commission may, with the approval of the Secretary of State and at his expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to them to be relevant to a matter referred to them for inquiry and report.

(8) Schedule 8 to this Act shall have effect for the construction of references in this section and in section 46 of this Act to "the responsible Minister or Ministers".

Textual Amendments

F173 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C36 S. 45 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

C37 Ss. 45, 46 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(1)(xxv)** (with Sch. 8 para. 33)

C38 S. 45 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

46 Procedure on reference to a Planning Inquiry Commission.

(1) A reference to a Planning Inquiry Commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time and a reference of any other matter mentioned in section 45 of this Act may be made at any time before, but not after, the determination of the relevant application referred under section 32 of this Act or the relevant appeal under section 33 of this Act or, as the case may be, the giving of the relevant direction under section 37 of this Act, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.

(2) Notice of the making of a reference to any such commission shall be published in the prescribed manner, and a copy of the notice shall be served on the. . . [F174] planning authority for the area in which it is proposed that the relevant development shall be carried out, and—

(a) in the case of an application for planning permission referred under section 32 of this Act or an appeal under section 33 of this Act, on the applicant and any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 26(2) or (3) of this Act;

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(b) in the case of a proposal that a direction should be given under section 37 of this Act with respect to any development, on the local authority or statutory undertakers applying for sanction to carry out that development.

(3) A Planning Inquiry Commission shall, for the purpose of complying with section 45(6)(b) of this Act, hold a local inquiry; and they may hold such an inquiry, if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the. . . [F174] planning authority desire an opportunity of appearing and being heard.

(4) Where a Planning Inquiry Commission are to hold a local inquiry under subsection (3) of this section in connection with a matter referred to them, and it appears to the responsible Minister or Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this section to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, he or, as the case may be, they may direct that the two inquiries be held concurrently or combined as one inquiry.

(5) An inquiry held by such a commission under this section shall be treated for the purposes of the [M16]Tribunals and Inquiries Act 1971 as one held by a Minister in pursuance of a duty imposed by a statutory provision.

(6) Subsections (4) to (9) of section 267 of this Act (power to summon and examine witnesses, and expenses at inquiries) shall apply to an inquiry held under subsection (3) of this section as they apply to an inquiry held under that section.

(7) Subject to the provisions of this section and to any directions given to them by the responsible Minister or Ministers, a Planning Inquiry Commission shall have power to regulate their own procedure.

Textual Amendments

F174 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C39 S. 46 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**.

C40 Ss. 45, 46 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(1)(xxv)** (with Sch. 8 para. 33)

Marginal Citations

M16 1971 c. 62.

47 Commissions to inquire into planning matters affecting Scotland and England.

(1) The Ministers may constitute a Joint Planning Inquiry Commission to inquire into and report on any matter referred to them under this section; and the matters which may be so referred are those which may, under section 45 of this Act or **[**[F175]section 101 of the Town and Country Planning Act 1990**]**, be referred to a Planning Inquiry Commission but which appear to the Ministers to involve considerations affecting both Scotland and England.

(2) a Joint Planning Inquiry Commission shall consist of a chairman and not less than two nor more than four other members appointed by the Ministers.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(3) The Ministers may pay to the members of any such commission such remuneration and allowances as they may with the consent of **[**[F176]the Treasury**]** determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to them expedient to provide for the purpose of assisting the commission in the discharge of their functions.

(4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.

(5) . . . . . [F177]

(6) In this section "the Ministers" means the Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England acting jointly; but their functions under subsection (3) of this section may, by arrangements made between them, be exercised by either acting on behalf of both.

(7) Schedule 9 to this Act shall have effect with respect to the Joint Planning Inquiry Commissions and references to them under this section, and with respect to the proceedings of a commission on any such reference.

Textual Amendments

F175 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(1)**

F176 Words substituted by virtue of S.I. 1981/1670, **arts. 2(2)**, 3(5)

F177 Ss. 44(5), 47(5) repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3**

48 [F178]. . . . . .

Textual Amendments

F178 S. 48 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

Additional powers of control

49 Orders requiring discontinuance of use or alteration or removal of buildings or works.

(1) If it appears to a. . . [F179] planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity), regard being had to the development plan and to any other material considerations—

(a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance of a use of land; or

(b) that any buildings or works should be altered or removed,

the. . . [F179] planning authority may by order require the dicontinuance of that use, or impose such conditions as may be specified in the order on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be.

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[[F180](1A) For the purposes of this section development consisting of the winning and working of minerals in, on or under any land is to be treated as a use of that land.

(1B) Subsection (1) of this section shall have effect as if—

(a) the words

(c) that any plant or machinery used for the winning and working of minerals should be altered or removed,"were added at the end of paragraph (b); and

(b) the words "or plant or machinery" were inserted after the words "buildings or works", in the second place where those words occur.

(1C) Where development consisting of the winning and working of minerals is being carried out in, on or under any land, the conditions which an order under this section may impose include a restoration condition.

(1D) An order under this section may include any such aftercare condition as the planning authority think fit if—

(a) it also includes a restoration condition; or

(b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Act.

(1E) Subsections (3) to (8) and (11) to (19) of section 27A of this Act shall apply in relation to an aftercare condition imposed under this section as they apply in relation to such a condition imposed under that section.

(1F) In a case where—

(a) the use specified is a use for agriculture; and

(b) the land was in use for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on or under it or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased; and

(c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

(1G) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.**]**

(2) An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order; and the provisions of section 42 of this Act shall apply in relation to any planning permission granted by an order under this section as they apply in relation to planning permission granted by the. . . [F179] planning authority on an application made under this Part of this Act.

(3) The power conferred by subsection (2) of this section shall include power, by an order under this section, to grant planning permission, subject to such conditions as may be specified in the order—

(a) for the retention, on the land to which the order relates, of buildings or works constructed or carried out before the date on which the order was submitted to the Secretary of State; or

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(b) for the continuance of a use of that land constituted before that date;

and subsection (3) of section 29 of this Act shall apply to planning permission granted by virtue of this subsection as it applies to planning permission granted in accordance with subsection (2) of that section.

(4) An order under this section shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.

(5) Where a. . . [F179] planning authority submit an order to the Secretary of State for his confirmation under this section, that authority shall serve notice on the owner, on the lessee and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within the period specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the. . . [F179] planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) Where an order under this section has been confirmed by the Secretary of State, the. . . [F179] planning authority shall serve a copy of the order on the owner, on the lessee and on the occupier of the land to which the order relates.

(7) Where the requirements of an order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the. . . [F179] planning authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.

(8) In the case of planning permission granted by an order under this section, the authority referred to in sections 38(1)(b) and 39(4) of this Act is the. . . [F179] planning authority making the order.

Textual Amendments

F179 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F180 S. 49(1A)—(1G) inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 26**, 35

[[F181]49A Prohibition of resumption of winning and working of minerals.

(1) Where it appears to the planning authority—

(a) that development consisting of the winning and working of minerals has been carried out in, on or under any land; but

(b) that it has permanently ceased,

the planning authority may by order—

(i) prohibit the resumption of such development; and

(ii) impose, in relation to the site, any such requirement as is specified in subsection (3) of this section.

(2) The planning authority may assume that development consisting of the winning and working of minerals has permanently ceased only when—

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(a) no such development has been carried out to any substantial extent anywhere in, on or under the site of which the land forms part for a period of at least two years; and

(b) it appears to the planning authority on the evidence available to them at the time when they make the order, that resumption of such development in, on or under the land is unlikely.

(3) The requirements mentioned in subsection (1) of this section are—

(a) a requirement to alter or remove plant or machinery which was used for the purpose of the winning and working of minerals or for any purpose ancillary to that purpose;

(b) a requirement to take such steps as may be specified in the order, within such period as may be so specified, for the purpose of removing or alleviating any injury to amenity which has been caused by the winning and working of minerals, other than injury due to subsidence caused by underground mining operations;

(c) a requirement that any condition subject to which planning permission for development consisting of the winning and working of minerals was granted or which has been imposed by virtue of any provision of this Act shall be complied with; and

(d) a restoration condition.

(4) An order under this section may include any such aftercare condition as the planning authority think fit if—

(a) it also includes a restoration condition;

or

(b) a restoration condition has previously been imposed in relation to the site by virtue of any provision of this Act.

(5) Subsections (3) to (8) and (11) to (19) of section 27A of this Act shall apply in relation to an after-care condition imposed under this section as they apply in relation to such a condition imposed under that section.

(6) In a case where—

(a) the use specified is a use for agriculture; and

(b) the land was in use for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on or under it or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased; and

(c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,

the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

(7) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.

(8) An order under this section shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(9) Where a planning authority submit an order under this section to the Secretary of State for his confirmation under this section, that authority shall serve notice of the order on any person who is an owner or occupier of any of the land to which the order relates, and on any other person who in their opinion will be affected by the order; and if within the period specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.

(10) Where an order under this section has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice under subsection (9) of this section.

(11) On an order under this section taking effect any planning permission for the development to which the order relates shall cease to have effect but without prejudice to the power of the planning authority, on revoking the order, to make a further grant of planning permission for development consisting of the winning and working of minerals.**]**

Textual Amendments

F181 Ss. 49A—49G inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 27**, 35

[49B [F182]Orders after suspension of winning and working of minerals.

(1) Where it appears to the planning authority—

(a) that development consisting of the winning and working of minerals has been carried out in, on or under any land; but

(b) that it has been temporarily suspended,

the planning authority may by order (in this Act referred to as a "suspension order") require that steps shall be taken for the protection of the environment.

(2) The planning authority may assume that development consisting of the winning and working of minerals has been temporarily suspended only when—

(a) no such development has been carried out to any substantial extent anywhere in, on or under the site of which the land forms part for a period of at least twelve months; but

(b) it appears to the planning authority, on the evidence available to them at the time when they make the order, that a resumption of such development in, on or under the land is likely.

(3) In this Act "steps for the protection of the environment" means steps for the purpose—

(a) of preserving the amenities of the area in which the land in, on or under which the development was carried out is situated during the period while operations for the winning and working of minerals in, on or under it are suspended;

(b) of protecting that area from damage during that period; or

(c) of preventing any deterioration in the condition of the land during that period.

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(4) A suspension order shall specify a period, commencing with the date on which it is to take effect, within which any step required for the protection of the environment is to be taken, and may specify different periods for the taking of different steps.

(5) At any time when a suspension order is in operation the planning authority may by order (in this Act referred to as a "supplementary suspension order") direct—

(a) that steps for the protection of the environment shall be taken in addition to or in substitution for any of the steps which the suspension order or a previous supplementary suspension order specified as required to be taken; or

(b) that the suspension order or any supplementary suspension order shall cease to have effect.**]**

Textual Amendments

F182 Ss. 49A-49G inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss 27**, 35

[49C [F183]Confirmation and coming into operation of suspension orders.

(1) Without prejudice to section 49D of this Act, a suspension order or supplementary suspension order (other than a supplementary suspension order revoking a suspension order or a previous supplementary suspension order and not requiring that any fresh step shall be taken for the protection of the environment) shall not take effect until it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient

(2) Subsection (9) of section 49A of this Act shall have effect in relation to a suspension order or supplementary suspension order submitted to the Secretary of State for his confirmation as it has effect in relation to an order submitted to him for his confirmation under that section.

(3) Where a suspension order or supplementary suspension order has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice by virtue of subsection (2) of this section.**]**

Textual Amendments

F183 Ss. 49A-49G inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 27**,35

[49D [F184]Registration of suspension orders.

No order under section 49A or 49B of this Act shall take effect until it is registered either—

(a) in a case where the land affected by the order is registered in that Register, in the Land Register of Scotland, or

(b) in any other case, in the appropriate division of the General Register of Sasines.**]**

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Textual Amendments

F184 Ss. 49A-49G inserted by Town and Country Planning (Minerals) Act 1981 (c.36), **ss. 27**, 35

[49E [F185]Reviews of suspension orders.

(1) It shall be the duty of a planning authority—

(a) to undertake in accordance with the following provisions of this section reviews of suspension orders and supplementary suspension orders which are in operation in their area; and

(b) to determine whether they should make, in relation to any land to which a suspension order or supplementary suspension order applies—

(i) an order under section 49A of this Act; or

(ii) a supplementary suspension order.

(2) The first review of a suspension order shall be undertaken not more than five years from the date on which the order takes effect.

(3) Each subsequent review shall be undertaken not more than five years after the previous review.

(4) If a supplementary suspension order is in operation for any part of the area for which a suspension order is in operation, they shall be reviewed together.

(5) If a planning authority have made a supplementary suspension order which requires the taking of steps for the protection of the environment in substitution for all the steps required to be taken by a previous order under section 49B of this Act, the authority shall undertake reviews of the supplementary suspension order in accordance with subsections (6) and (7) of this section.

(6) The first review shall be undertaken not more than five years from the date on which the order takes effect.

(7) Each subsequent review shall be undertaken not more than five years after the previous review.

(8) The duty to undertake reviews imposed by this section is in addition to and not in substitution for the duties imposed by section 251A of this Act.**]**

Textual Amendments

F185 Ss. 49A-49G inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 27**, 35

[49F [F186]Resumption of winning and working of minerals after suspension order.

(1) Nothing in a suspension order or a supplementary suspension order shall prevent the recommencement of development consisting of the winning and working of minerals in, on, or under the land in relation to which the order is in effect; but no person shall recommence such development without first giving the planning authority notice of his intention to do so.

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(2) A notice under subsection (1) of this section shall specify the date on which the person giving the notice intends to recommence development consisting of the winning and working of minerals.

(3) The planning authority shall revoke the order if development consisting of the winning and working of minerals has recommenced to a substantial extent in, on or under the land in relation to which the order is in effect.

(4) If the authority do not revoke the order before the end of the period of two months from the date specified in the notice under subsection (1) of this section, the person who gave that notice may apply to the Secretary of State for the revocation of the order.

(5) Notice of an application under subsection (4) of this section shall be given by the applicant to the planning authority.

(6) If he is required to do so by the person who gave the notice or by the planning authority, the Secretary of State, before deciding whether or not to revoke the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(7) If the Secretary of State is satisfied that development consisting of the winning and working of minerals in, on or under the land has recommenced to a substantial extent, he shall revoke the order.

(8) If the Secretary of State revokes an order by virtue of subsection (7) of this section, he shall give notice of its revocation to the person who applied to him for the revocation and to the planning authority.**]**

Textual Amendments
F186 Ss. 49A-49G inserted by Town and Country Planning (Minerals) Act 1981 (c.36), **ss 27**, 35

[49G [F187]**Powers of regional planning authorities regarding orders under sections 49A or 49B.**

The provisions of section 181 of the [M17]Local Government (Scotland) Act 1973 shall apply in relation to the provisions of sections 49A and 49B of this Act as they apply in relation to the provisions of sections 42 and 49 of this Act.**]**

Textual Amendments
F187 Ss. 49A-49G inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 27**, 36

Marginal Citations
M17 1973 c. 65.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 24/01/1992

[F188 49H Old mining permissions.

(1) In this section and Schedule 10A to this Act, "old mining permission" means any planning permission for development—

(a) consisting of the winning and working of minerals, or

(b) involving the depositing of mineral waste,

which is deemed to have been granted by virtue of paragraph 77 of Schedule 22 to this Act (development authorised under interim development orders after 10th November 1943).

(2) An old mining permission shall, if an application under that Schedule to determine the conditions to which the permission is to be subject is finally determined, have effect as from the final determination as if granted on the terms required to be registered.

(3) If no such development has, at any time in the period of two years ending with 16th May 1991, been carried out to any substantial extent anywhere in, on or under the land to which an old mining permission relates, that permission shall not authorise any such development to be carried out after the coming into force of this section unless—

(a) the permission has effect in accordance with subsection (2) above; and

(b) the development is carried out after such an application is finally determined.

(4) An old mining permission shall—

(a) if no application for the registration of the permission is made under that Schedule, cease to have effect on the day following the last date on which such an application may be made, and

(b) if such an application is refused, cease to have effect on the day following the date on which the application is finally determined.

(5) An old mining permission shall, if—

(a) such an application is granted; but

(b) an application under that Schedule to determine the conditions to which the permission is to be subject is required to be served before the end of any period and is not so served,

cease to have effect on the day following the last date on which the application to determine those conditions may be served.

(6) Subject to subsection (3) above, this section—

(a) shall not affect any development carried out under an old mining permission before an application under that Schedule to determine the conditions to which the permission is to be subject is finally determined or, as the case may be, the date on which the permission ceases to have effect; and

(b) shall not affect any order made or having effect as if made under section 49 or 49A to 49F of this Act (discontinuance, etc., orders).**]**

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Textual Amendments

F188 S. 49H inserted (24.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 52** (with s. 84(5)); S.I. 1992/71, **art. 2**

50 Agreements regulating development or use of land.

(1) A. . . [F189] planning authority may enter into an agreement with any person interested in land in their area (in so far as the interest of that person enables him to bind the land) for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement; and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the. . . [F189] planning authority to be necessary or expedient for the purposes of the agreement.

(2) An agreement made under this section with any person interested in land, may, if the agreement shall have been recorded in the appropriate Register of Sasines, be enforceable at the instance of the. . . [F189] planning authority against persons deriving title to the land from the person with whom the agreement was entered into:

Provided that no such agreement shall at any time be enforceable against a third party who shall have in bona fide onerously acquired right (whether completed by infeftment or not) to the land prior to the agreement being recorded as aforesaid or against any person deriving title from such third party.

(3) Nothing in this section or in any agreement made thereunder shall be construed—

(a) as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by any Minister or authority under this Act so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Secretary of State as to the provisions to be included in such a plan; or

(b) as requiring the exercise of any such powers otherwise than as mentioned in paragraph (a) of this subsection.

[[F190](4) In this section "planning authority" includes a regional planning authority.**]**

Textual Amendments

F189 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F190 S. 50(4) added by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 14**

Determination whether planning permission required

51 Applications to determine whether planning permission required.

(1) If any person who proposes to carry out any operations on land, or to make any change in the use of land, wishes to have it determined whether the carrying out of those operations, or the making of that change, would constitute or involve development of the land **[**[F191]and, if so, whether an application for planning permission in respect thereof is required under this Part of this Act, having regard to the provisions of the

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development order and of any enterprise zone scheme **[**[F192]or simplified planning zone scheme**]**, he may, either as part of an application for planning permission, or without any such application, apply to the. . . [F193] planning authority to determine that question.

(2) The provisions of sections 21, 26(1), 28(1), 31(2) and (4) and 32 to 34 of this Act shall, subject to any necessary modifications, apply in relation to any application under this section, and to the determination thereof, as they apply in relation to applications for planning permission and to the determination of such applications.

(3) Where it is decided by the Secretary of State under any of the said provisions that any operations or use to which an application under this section relates would constitute or involve development, that decision shall not be final for the purposes of any appeal under the provisions of this Act relating to the enforcement of planning control, in relation to those operations or that use.

Textual Amendments

F191 Words inserted by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 32 para. 19(3)**

F192 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(3), **Sch. 6 Pt. IV para. 3**

F193 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C41 S. 51: power to modify or exclude conferred by Town and Country Planning Act 1984 (c. 10, SIF 123:2), **ss. 1(5)**, 4(1)

C42 S. 51 modified by Town and Country Planning Act 1984 (c. 10, SIF 123:2), **s. 1(1)(4)**

C43 S. 51 modified by S.I. 1984/996, art. 2, **Sch.**

PART IV

ADDITIONAL CONTROL IN SPECIAL CASES

Buildings of special architectural or historic interest

52 Lists of buildings of special architectural or historic interest.

(1) For the purposes of this Act and with a view to the guidance of. . . [F194] planning authorities in the performance of their functions under this Act in relation to buildings of special architectural or historic interest, the Secretary of State shall compile lists of such buildings, or approve, with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list so compiled or approved.

(2) In considering whether to include a building in a list compiled or approved under this section, the Secretary of State may take into account not only the building itself but also—

(a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and

(b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.

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(3) Before compiling or approving, with or without modifications, any list under this section, or amending any list thereunder the Secretary of State shall consult with such persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.

(4) As soon as may be after any list has been compiled or approved under this section, or any amendments of such a list have been made, a copy of so much of the list as relates to the district of **[**[F195]any regional, general or district planning authority within the meaning of Part IX of the [M18]Local Government (Scotland) Act 1973**]** or the local authority for the purposes of the Housing (Scotland) Acts 1966 to 1969, or of so much of the amendments as relates thereto, as the case may be, certified by or on behalf of the Secretary of State to be a true copy thereof, shall be deposited with the clerk of that authority.

(5) As soon as may be after the inclusion of any building in a list under this section, whether on the compilation or approval of the list or by the amendment thereof, or as soon as may be after any such list has been amended by the exclusion of any building therefrom, the. . . [F194] planning authority concerned in whose district the building is situated, on being informed of the fact by the Secretary of State, shall serve a notice in the prescribed form on every owner, lessee and occupier of the building, stating that the building has been included in, or excluded from, the list, as the case may be.

(6) The Secretary of State shall keep available for public inspection, free of charge at reasonable hours and at a convenient place, copies of all lists and amendments of lists compiled, approved or made by him under this section; and every authority with whose clerk copies of any list or amendments are deposited under this section shall similarly keep available copies of so much of any such list or amendment as relates to buildings within their area.

(7) In this Act "listed building" means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; **[**[F196]and, for the purposes of the provisions of this Act relating to listed buildings and building preservation notices, the following shall be treated as part of the building—

(a) any object or structure fixed to the building;

(b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so much before 1st July 1948.**]**

(8) Every building which immediately before 3rd August 1970 was subject to a building preservation order under section 27 of the Act of 1947 but was not then included in a list compiled or approved under section 28 of that Act, shall be deemed to be a listed building; but the Secretary of State may at any time direct, in the case of any building, that this subsection shall no longer apply to it and the. . . [F194] planning authority in whose district the building is situated, on being notified of the Secretary of State's direction, shall give notice of it to the owner, lessee and occupier of the building.

(9) Before giving a direction under subsection (8) of this section in relation to a building, the Secretary of State shall consult with the. . . [F194] planning authority and with the owner, lessee and occupier of the building.

Textual Amendments

F194 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F195 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 19**

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F196 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2),s. 50, Sch. 9 Pt. II para. 13(1)

Modifications etc. (not altering text)

C44 Definition of 'listed building' in s. 52 applied (30.11.1991) by Coal Mining Subsidence Act 1991 (c. 45), **s. 19(1)(c)** (with s. 37(4)); S.I. 1991/2508, **art.2**

Marginal Citations

M18 1973 c. 65.

53 Control of works for demolition, alteration or extension of listed buildings

(1) Subject to this Part of this Act, if a person executes or causes to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised under **[**[F197]subsection (2) of this section**]**, he shall be guilty of an offence.

(2) Works for the demolition of a listed building, or for its alteration or extension, are authorised under this Part of this Act only if—

(a) the. . . [F198] planning authority or the Secretary of State have granted written consent (in this Act referred to as "listed building consent") for the execution of the works and the works are executed in accordance with the terms of the consent and of any conditions attached to the consent under section 54 of this Act; and

(b) in the case of demolition, notice of the proposal to execute the works has been given to the Royal Commission and thereafter either—

(i) for a period of at least three months following the grant of listed building consent, and before the commencement of the works, reasonable access to the building has been made available to members or officers of the Commission for the purpose of recording it; or

(ii) the Commission have, by their Secretary or other officer of theirs with authority to act on the Commission's behalf for the purposes of this section, stated in writing that they have completed their recording of the building or that they do not wish to record it.

[[F199](2A) If written consent is granted by the planning authority or the Secretary of State for the retention of works for the demolition, alteration or extension of a listed building which have been executed without consent under subsection (2) of this section, the works are authorised under this Part of this Act from the grant of the consent under this subsection.**]**

(3) In subsection (2) of this section "the Royal Commission" means the Royal Commission on the Ancient and Historical Monuments of Scotland; but the Secretary of State may, by order provide that the said subsection shall, in the case of works executed or to be executed on or after such date as may be specified in the order, have effect with the substitution for the reference to the Royal Commission of a reference to such other body as may be so specified.

[[F200](3A) Consent under subsection (2) or (2A) of this section is referred to in this Part of this Act as "building consent".**]**

(4) Without prejudice to subsection (1) of this section, if a person executing or causing to be executed any works in relation to a listed building under a listed building consent

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fails to comply with any condition attached to the consent under section 54 of this Act, he shall be guilty of an offence.

[[F201](5) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £20,0, or both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;

and in determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.**]**

[[F202](6) In proceedings for an offence under this section it shall be a defence to prove the following matters—

(a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;

(b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter;

(c) that the works carried out were limited to the minimum measures immediately necessary, and

(d) that notice in writing justifying in detail the carrying out of the works was given to the planning authority as soon as reasonably practicable.**]**

Textual Amendments

F197 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II**, para. 14(1)

F198 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F199 S. 53(2A) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 14(2)**

F200 S. 53(3A) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 14(3)**

F201 S. 53(5) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 57, **Sch. 10**, para. 2 (with s. 84(5)); S.I. 1991/2092, **art. 3**

F202 S. 53(6) substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II**, para. 15(1)

Modifications etc. (not altering text)

C45 S. 53 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 93, Sch. 7 Pt. I paras. 1(2), **2(1)**

54 Provisions supplementary to s. 53.

(1) Section 53 of this Act shall not apply to works for the demolition, alteration or extension of—

(a) an ecclesiastical building which is for the time being used for ecclesiastical purposes or would be so used but for the works; or

[[F203](b) a building for the time being included in the Schedule of monuments compiled and maintained under section 1 of the [M19]Ancient Monuments and Archaeological Areas Act 1979**]**.

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For the purposes of this subsection, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.

(2) . . . . . [F204]

(3) In considering whether to grant planning Permission for development which **[**[F205]affects a listed building or its setting**]**, and in considering whether to grant listed building consent for any works, the. . . [F206] planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building **[**[F207]or its setting**]** or any features of special architectural or historic interest which it possesses.

[[F208](4) Listed building consent may be granted subject to conditions; and, without prejudice to the generality of the foregoing provisions of this subsection, the conditions may**]** include conditions with respect to—

(a) the preservation of particular features of the building, either as part of it or after severance therefrom;

(b) the making good, after the works are completed, of any damage caused to the building by the works;

(c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.

[[F209](4A) Listed building consent may be granted subject to a condition reserving specified details of the works (whether or not set out in the application) for subsequent approval by the planning authority or, in the case of consent granted by the Secretary of State, specifying whether the reserved details are to be approved by the planning authority or by him.**]**

[[F210](5) In granting a listed building consent a planning authority may attach to the consent a condition that no demolition of the listed building shall take place until either or both of the following requirements have been met—

(a) an agreement for the regulation of the development of the site of the listed building has been made and recorded under section 50 of this Act;

(b) the planning authority are satisfied that contracts have been placed either—

(i) for the redevelopment of the site; or

(ii) for its conversion to an acceptable open space,

in accordance with a current planning permission.**]**

(6) Part I of Schedule 10 to this Act shall have effect with respect to applications to. . . [F206] planning authorities for listed building consent, the reference of such applications to the Secretary of State and appeals against decisions on such applications; and Part II of that Schedule shall have effect with respect to the revocation of listed building consent by a. . . [F206] planning authority or the Secretary of State.

Textual Amendments

F203 S. 54(1)(b) substituted for S. 54(1)(b)(c) by Ancient Monuments and Archaeological Areas Act 1979 (c. 46), **Sch. 4 para. 12**

F204 S. 54(2) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

F205 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 15(a)(i)**

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F206 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
F207 Words inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 15** (a)(ii)
F208 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 15(b)**
F209 S. 54(4A) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 16(1)**
F210 S. 54(5) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 15(c)**

Marginal Citations
M19 1979 c. 46.

[F211 54A Limit on duration of listed building consent.

(1) Any listed building consent granted after the commencement of this section shall be granted subject to a condition that works permitted by that consent shall be commenced within such period as the planning authority may specify in the consent.

(2) If no time limit is specified in any grant of listed building consent under subsection (1) above, the grant shall be deemed to have been made subject to a condition that works in terms thereof shall be commenced with 5 years from the date of the grant.

(3) Any grant of listed building consent made prior to 1st January 1980 which does not contain such a condition as is mentioned in subsection (1) above shall be deemed to have been granted subject to a condition that works in terms thereof shall be commenced within 3 years of the commencement of this section.

(4) Any grant of listed building consent made on or after 1st January 1980 but before the commencement of this section which does not contain such a condition as is mentioned in subsection (1) above shall be deemed to have been made subject to a condition that works in terms thereof shall be commenced within 5 years of the commencement of this section.]

[F212(5) Nothing in this section applies to any consent to the retention of works granted under section 53(2A) of this Act.**]]**

Textual Amendments
F211 Ss. 54A, 54B inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 16**
F212 S. 54A(5) added by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 14(4)**

54B [F213 Date of listed building consent.

The date of the granting or of the refusal of an application for listed building consent shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.

Textual Amendments
F213 Ss. 54A, 54B inserted by Local Government and Planning (Scotland) Act (c. 43), Sch. 2 para. 16

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[F214 54C Intimation of notices etc. affecting listed buildings.

(1) Subject to subsection (2) below, where a local authority—

(a) have, under or by virtue of any enactment, served a notice requiring any person to show cause why a listed building should not conform to the building regulations; or

(b) have, under or by virtue of any enactment, served a notice or made an order requiring—

(i) the demolition of such a building; or

(ii) the carrying out of works affecting such a building; or

(c) propose (whether under or by virtue of any enactment or otherwise) to carry out emergency works or demolitions affecting such a building,

they shall forthwith give written intimation of the notice, order, or proposal, as the case may be, to the planning authority:

Provided that where the building is owned, leased or occupied by the planning authority, the local authority (whether or not they are the planning authority) shall also give such intimation to the Secretary of State.

(2) Where the safety of the public requires that any demolition or works be carried out without such delay as would result from compliance with the provisions of subsection (1) above, the intimation (which may, in such a case, initially be oral) shall be given as long before the commencement of the demolition or works as is consistent with that requirement.**]**

Textual Amendments

F214 S. 54C inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 42**

[F215 54D Application for variation or discharge of conditions.

(1) Any person interested in a listed building with respect to which listed building consent has been granted subject to conditions may apply to the planning authority for the variation or discharge of the conditions.

(2) The application shall indicate what variation or discharge of conditions is applied for and the provisions of Part I of Schedule 10 to this Act apply to such an application as they apply to an application for listed building consent.

(3) On such an application the planning authority or, as the case may be, the Secretary of State may vary or discharge the conditions attached to the consent, and may add new conditions consequential upon the variation or discharge, as they or he think fit.**]**

Textual Amendments

F215 S. 54D inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 17**

55 Acts causing or likely to result in damage to listed buildings.

(1) Where a building, not being a building excluded by section 54(1) of this Act from the operation of section 53 of this Act, is included in a list compiled or approved under

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section 52 of this Act, then, if any person who, but for this section, would be entitled to do so, does or permits the doing of any act which causes or is likely to result in damage to the building (other than an act for the execution of excepted works) and he does or permits it with the intention of causing such damage, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F216]level 3 on the standard scale**]**.

(2) In subsection (1) of this section "excepted works" means works authorised by planning permission granted or deemed to be granted in pursuance of an application under this Act and works for which listed building consent has been given under this Act.

(3) Where a person convicted of an offence under this section fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding **[**[F217]£40**]** for each day on which the failure continues.

Textual Amendments

F216 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F217 "£40" substituted by Housing and Planning Act (c. 63, SIF 123:2), s. 53(1), Sch. 11 Pt. II para. 44(1)(2)

56 Building preservation notice in respect of building not listed.

(1) If it appears to the. . . [F218] planning authority, in the case of a building in their district which is not a listed building, that it is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as such, they may (subject to subsection (2) of this section) serve on the owner, lessee and occupier of the building a notice (in this section referred to as a "building preservation notice")—

(a) stating that the building appears to them to be of special architectural or historic interest and that they have requested the Secretary of State to consider including it in a list compiled or approved under section 52 of this Act; and

(b) explaining the effect of subsections (3) and (4) of this section.

(2) a building preservation notice shall not be served in respect of an excepted building, that is to say—

(a) an ecclesiastical building which is for the time being used for ecclesiastical purposes; or

[[F219](b) a building for the time being included in the Schedule of monuments compiled and maintained under section 1 of the [M20]Ancient Monuments and Archaeological Areas Act 1979**]**.

For the purposes of this subsection, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.

(3) a building preservation notice shall come into force as soon as it has been served on the owner, lessee and occupier of the building to which it relates and shall remain in force for six months from the date when it is served or, as the case may be, last served; but it shall cease to be in force if, before the expiration of that period, the Secretary of State

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either includes the building in a list compiled or approved under section 52 of this Act or notifies the. . . [F218] planning authority in writing that he does not intend to do so.

(4) While a building preservation notice is in force with respect to a building, the provisions of this Act (other than section 55) shall have effect in relation to it as if the building were a listed building; and if the notice ceases to be in force (otherwise than by reason of the building being included in a list compiled or approved under the said section 52), the provisions of Part III of Schedule 10 to this Act shall have effect with respect to things done or occurring under the notice or with reference to the building being treated as listed.

(5) If, following the service of a building preservation notice, the Secretary of State notifies the. . . [F218] planning authority that he does not propose to include the building in a list compiled or approved under section 52 of this Act, the authority—

(a) shall forthwith give notice of the Secretary of State's decision to the owner, lessee and occupier of the building; and

(b) shall not, within the period of twelve months beginning with the date of the Secretary of State's notification, serve another such notice in respect of the said building.

(6) If it appears to the. . . [F218] planning authority to be urgent that a building preservation notice should come into force, they may, instead of serving the notice on the owner, lessee and occupier of the building to which it relates, affix the notice conspicuously to some object on the building; and this shall be treated for all the purposes of this section and of Schedule 10 to this Act as service of the said notice, in relation to which subsection (1)(b) of this section shall be taken to include a reference to this subsection.

Textual Amendments

F218 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F219 S. 56(2)(b) substituted for S. 56(2)(b)(c) by Ancient Monuments and Archaeological Areas Act 1979 (c. 46), **Sch. 4 para. 12**

Marginal Citations

M20 1979 c. 46

[F220 56A Power to restrict exemption of certain ecclesiastical buildings.

(1) The Secretary of State may by order provide for restricting or excluding in such cases as may be specified in the order the operation in relation to ecclesiastical buildings of sections 54(1) and 56(2) of this Act (buildings excepted from provisions relating to listed buildings and building preservation notices).

(2) An order under this section may—

(a) make provision for buildings generally, for descriptions of building or for particular buildings;

(b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or according to the use made of the building;

(c) make such provision in relation to a part of a building (including, in particular, an object or structure falling to be treated as part of the building by virtue of

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section 52(7) of this Act) as may be made in relation to a building and make different provision for different parts of the same building;

(d) make different provision with respect to works of different descriptions or according to the extent of the works;

(e) make such consequential adaptations or modifications of the operation of any other provision of this Act, or of any instrument made under this Act, as appear to the Secretary of State to be appropriate.

(3) This section is without prejudice to the Church of Scotland Act [M21]1921.**]**

Textual Amendments

F220 S. 56AA inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **sch. 9 Pt. II**, para. 18(1)

Marginal Citations

M21 1921 c.29 (22).

[[F221] Hazardous substances]]

Textual Amendments

F221 Ss. 56A–56O inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

56A [[F222]Hazardous substances.

(1) Subject to subsection (2) of this section **[**[F223]and to section 56B below**]**, it shall be the duty of the planning authority to control hazardous substances in accordance with the provisions of this Act.

(2) An urban development corporation shall control hazardous substances in their area if they are the planning authority in relation to all kinds of development.

Textual Amendments

F222 S. 56A inserted (prosp.) by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1))

F223 Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

[[F224]56B Hazardous substances—statutory undertakers.

(1) The appropriate Minister shall be the planning authority in respect of hazardous substances in relation to land to which this section applies.

(2) This section applies—

(a) to operational land of statutory undertakers;

(b) to land in which statutory undertakers hold, or propose to acquire, an interest with a view to the land being used as operational land.

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(3) For the purposes of this section any land to which this subsection applies but which is not operational land of statutory undertakers authorised to carry on a harbour shall be treated as if it were such operational land.

(4) Subsection (3) above applies—

(a) to a wharf; and

(b) to harbour land,

as defined in the [M22]Harbours Act 1964.

(5) Any question whether subsection (3) above applies to land shall be determined by the Secretary of State and the Minister who is the appropriate Minister in relation to operational land of statutory undertakers who are authorised to carry on harbour undertakings.**]**

Textual Amendments

F224 S. 56B inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*)) and repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 162(2), Sch. 13 para. 11(2), **Sch. 16 Pt. VII**

Marginal Citations

M22 1964 c.40**(58).**

[[F225]56C Requirement of hazardous substances consent.

(1) Subject to the provisions of this Part of this Act, the presence of a hazardous substance on, over or under land requires the consent of the planning authority (in this Act referred to as "hazardous substances consent") unless the aggregate quantity of the substance—

(a) on, under or over the land;

(b) on, under or over other land which is within 500 metres of it and controlled by the same person; or

(c) in or on a structure controlled by the same person any part of which is within 500 metres of it,

is less than the controlled quantity.

(2) The temporary presence of a hazardous substance while it is being transported from one place to another is not to be taken into account unless it is unloaded.

(3) The Secretary of State—

(a) shall by regulations specify—

(i) the substances that are hazardous substances for the purposes of this Act;

(ii) the quantity which is to be the controlled quantity of any such substance;

(b) may by regulations provide that hazardous substances consent is not required or is only required—

(i) in relation to land of prescribed descriptions;

(ii) by reason of the presence of hazardous substances in prescribed circumstances;

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(c) may by regulations provide that, except in such circumstances as may be prescribed, all hazardous substances falling within a group specified in the regulations are to be treated as a single substance for the purposes of this Act.

(4) Regulations which—

(a) are made by virtue of sub-paragraph (i) of subsection (3)(*a*) above; or

(b) are made by virtue of sub-paragraph (ii) of that paragraph and reduce the controlled quantity of a substance,

may make such transitional provision as appears to the Secretary of State to be appropriate.

(5) The power to make such transitional provision includes, without prejudice to its generality, power to apply section 38 of the Housing and Planning Act 1986 subject to such modifications as appear to the Secretary of State to be appropriate.

(6) Regulations under this section may make different provision for different cases or descriptions of cases.

(7) Bodies corporate which are inter-connected for the purposes of the Fair Trading Act 1973 are to be treated as being one person for the purposes of this section and sections 56D to 56L and 97B below.**]**

Textual Amendments

F225 S. 56C inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

[[F226]56D Applications for hazardous substances consent.

(1) Provision may be made by regulations with respect to—

(a) the form and manner in which applications **[**[F227]under this Act**]** for hazardous substances consent are to be made;

(b) the particulars which they are to contain and the evidence by which they are to be verified;

(c) the manner in which they are to be advertised; and

(d) the time within which they are to be dealt with.

(2) Regulations may provide that an application for hazardous substances consent, or an appeal against the refusal of such an application or against the imposition of a condition on such a consent, shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one or other of those described in section 24(1)(*a*) to (*d*) of this Act and any such regulations may—

(a) include requirements corresponding to those mentioned in sections 23(1), 24(2) and (4) and 26(3), of this Act; and

(b) make provision as to who is to be treated as the owner of land for the purposes of any provision of the regulations.

(3) If any person issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (2) above and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of

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an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Regulations—

(a) may require an applicant for hazardous substances consent or the planning authority or both to give publicity to an application for hazardous substances consent in such manner as may be prescribed;

(b) may require the planning authority to conduct appropriate consultations before determining applications for hazardous substances consent;

(c) may provide for the manner in which such a consultation is to be carried out and the time within which—

(i) such a consultation;

(ii) any stage in such a consultation,

is to be completed;

(d) may require the planning authority to determine applications for hazardous substances consent within such time as may be prescribed;

(e) may require the planning authority to give prescribed persons or bodies prescribed information about applications forhazardous substances consent including information as to the manner in which such applications have been dealt with.

(5) In subsection (4) above "appropriate consultations"**[**[F228]means—

(a) consultations—

(i) in the case of a planning authority other than the appropriate Minister, with the Health and Safety Executive; and

(ii) in the case of the appropriate Minister, with the Health and Safety Commission; and

(b) consultations with**][**[F228]means consultations with the Health and Safety Executive and with**]** such persons or bodies as may be prescribed.

(6) Regulations under this section may make different provision for different cases or descriptions of cases.**]**

Textual Amendments

F226 S. 56D inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F227 Words inserted (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 164(3), **Sch. 13 para. 11(3)**

F228 Words from "means consultations with" to "and with" substituted (*prosp.*) for the words from "means–" to "(b) consultations with" by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 164(3), **Sch. 13 para. 11(4)**

VALID FROM 18/02/1993

[[F229]**56DÆFees.**

(1) The Secretary of State may by regulations makeprovision for fees of the prescribed amount in respect of applications for, or for the continuation of, hazardous substances consent—

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(a) made to an urban development corporation under section 56A(2) above to be paid to the corporation;
(b) referred to him under section 32 above as having effect by virtue of section 56F below to be paid to him;
(c) deemed to have been made to him under section 85(7) below by virtue of regulations made under section 97B(10) below to be paid to him.

(2) Regulations made under this section may provide for—
(a) the transfer to the Secretary of State of any fee received by a planning authority in respect of an application referred to in paragraph (b) or (c) of subsection (1) above;
(b) the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances or in pursuance of a direction given by him;

and the regulations may make different provision for different areas or for different cases or descriptions of cases.**]**

Textual Amendments

F229 S. 56DA inserted (18.2.1993) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 144, **Sch. 13 para. 11(5)**; S.I. 1993/274, **art.2(1)**

Modifications etc. (not altering text)

C46 S. 56DA amended (27.8.1993) by 1993 c. 12, ss. 40(1), 51(2), **Sch. 3 Pt. II para.14** (with ss. 42, 46)

[F230 56E Determination of applications for hazardous substances consent.

(1) Subject to the following provisions of this Act, where an application is made to a planning authority for hazardous substances consent, that authority, in dealing with the application, shall have regard to any material considerations, and—
(a) may grant hazardous substances consent, either unconditionally or subject to such conditions as they think fit; or
(b) may refuse hazardous substances consent.

(2) Without prejudice to the generality of subsection (1) above, in dealing with an application the authority shall have regard—
(a) to any current or contemplated use of the land to which the application relates;
(b) to the way in which land in the vicinity is being used or is likely to be used;
(c) to any planning permission that has been granted for development of land in the vicinity;
(d) to the provisions of the development plan; and
(e) to any advice which the Health and Safety Executive **[**F231 or Health and Safety Commission**]** have given following consultations in pursuance of regulations under section 56D(4) above.

(3) If an application relates to more than one hazardous substance, the authority may make different determinations in relation to each.

(4) It shall be the duty of a planning authority, when granting hazardous substances consent, to include in that consent—
(a) a description of the land to which the consent relates;

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(b) a description of the hazardous substance or substances to which it relates; and

(c) in respect of each hazardous substance to which it relates, a statement of the maximum amount permitted by the consent to be present at any one time and of all conditions relating to that substance subject to which the consent is granted.

(5) Without prejudice to the generality of subsection (1) above, a planning authority may grant hazardous substances consent subject to conditions with respect to any of the following—

(a) how and where any hazardous substance to which the consent relates is to be kept or used;

(b) times between which any such substance may be present;

(c) the permanent removal of any such substance—

(i) on or before a date specified in the consent; or

(ii) before the end of a period specified in it and commencing on the date on which it is granted;

(d) the consent being conditional on the commencement or partial or complete execution of development on the land which is authorised by a specified planning permission,

but **[**[F232]a planning authority other than the appropriate Minister**][**[F232]they**]** may only grant consent subject to conditions as to how a hazardous substance is to be kept or used if the conditions are conditions to which the Health and Safety Executive have advised the authority that any consent they might grant should be subject.**]**

Textual Amendments

F230 S. 56E inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F231 Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

F232 Word "they" substituted (*prosp.*) for the words from "a planning authority" to "Minister" by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 164(3), **Sch. 13 para. 11(6)**

[[F233]**56F References to regional planning authority and Secretary of State and appeals.**

(1) Subject to subsections (2) **[**[F234]and (3)**]** below, sections 32 to 34 of this Act and section 179 (reference of applications to regional planning authority) of the Local Government (Scotland) Act [M23]1973 shall have effect in relation to applications for hazardous substances consent and to decisions on such applications as though they were applications for planning permission.

(2) In the application of sections 32 to 34 of this Act to hazardous substances consent—

(a) section 32(4) and section 33(5) and (7) shall be omitted;

(b) the words "and in such manner as may be prescribed" shall be substituted for the words in section 33(2) following "time";

(c) in section 34, the words "by the development order" shall be omitted from both places where they occur.

[F235]**[** (3) Subsections (1) and (2) above do not have effect in relation to applications for hazardous substances consent relating to land to which section 56B of this Act applies or to decisions on such applications.**]]**

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Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F233 S. 56F inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F234 Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

F235 S. 56F(3) repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

Marginal Citations

M23 1973 c.65**(81:2).**

[F236 56G Deemed hazardous substances consent by virtue of authorisation of government department.

(1) Where—

(a) the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority, or by statutory undertakers not being a local authority; and

(b) the development would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent,

the department may, on granting that authorisation, also direct that hazardous substances consent for that development shall be deemed to be granted subject to such conditions (if any) as may be specified in the directions.

(2) The department shall consult the Health and Safety Commission before issuing any such directions.

(3) The provisions of this Act (except **[**F237Part XII**]**) shall apply in relation to any hazardous substances consent deemed to be granted by virtue of directions under this section as if it had been granted by the Secretary of State on an application referred to him under section 32 of this Act, as applied by section 56F of this Act.

(4) The reference in subsection (1) above to the authorisation of a government department is to be construed in accordance with section 37(3) of this Act,

F238 **[** (5) A government department or the Secretary of State shall, as respects any hazardous substances consent deemed to be granted by virtue of directions under this section, send to the planning authority concerned any such information as appears to be required by them for the purposes of a register under section 56N.**]]**

Textual Amendments

F236 S. 56G inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F237 Words in s. 56G(3) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12 para.11** (with s. 84(5)); S.I. 1991/2092, **art.3**

F238 S. 56G(5) added (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 164(3), **Sch. 13 para. 11(7)**

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[F239 56H Grants of hazardous substances consent without compliance with conditions previously attached.

(1) This section applies to an application for hazardous substances consent without a condition subject to which a previous hazardous substances consent was granted or is deemed to have been granted.

(2) On such an application the planning authority shall consider only the question of the conditions subject to which hazardous substances consent should be granted, and—

(a) if they determine that hazardous substances consent should be granted subject to conditions differing from those subject to which the previous consent was granted, or that it should be granted unconditionally, they shall grant hazardous substances consent accordingly; and

(b) if they determine that hazardous substances consent should be granted subject to the same conditions as those subject to which the previous consent was granted, they shall refuse the application.

(3) Where—

(a) hazardous substances consent has been granted or is deemed to have been granted for the presence on, over or under land of more than one hazardous substance; and

(b) an application under this section does not relate to all the substances,

the planning authority shall only have regard to any condition relating to a substance to which the application does not relate to the extent that it has implications for a substance to which the application does relate.

(4) Where—

(a) more than one hazardous substances consent has been granted or is deemed to have been granted in respect of the same land; and

(b) an application under this section does not relate to all the consents,

the planning authority shall only have regard to any consent to which the application does not relate to the extent that it has implications for a consent to which the application does relate.

F240 **[** (5) Regulations may make provision in relation to applications under this section corresponding to any provision that may be made by regulations under section 56D of this Act in relation to applications for hazardous substances consent.**]]**

Textual Amendments

F239 S. 56H inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F240 S. 56H(5) repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 162(2), 164(3), Sch. 13 para. 11(8), **Sch. 16 Pt. VII**

[F241 56J Power to revoke or modify hazardous substance consent.

(1) If it appears to the planning authority that—

(a) there has been a material change of use of land to which a hazardous substances consent relates; or

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(b) planning permission has been granted for development the carrying out of which would involve a material change of use of such land and the development to which the permission relates has been commenced,

they may by order—

(i) if the consent relates only to one substance, revoke it;

(ii) if it relates to more than one, revoke it or revoke it so far as it relates to a specified substance.

(2) The planning authority may by order—

(a) revoke a hazardous substances consent which relates to only one substance if it appears to them that that substance has not for at least 5 years been present on, under or over the land to which the consent relates in a quantity equal to or exceeding the controlled quantity; and

(b) revoke a hazardous substances consent which relates to a number of substances if it appears to them that none of those substances has for at least 5 years been so present.

(3) The planning authority may by order revoke a hazardous substances consent or modify it to such extent as they consider expedient if it appears to them, having regard to any material consideration, that it is expedient to revoke or modify it.

(4) An order under this section shall specify the grounds on which it is being made.

(5) An order under this section, **[**[F242]other than an order relating to land to which section 56B of this Act applies**]**, shall not take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modification as he considers expedient.

(6) Where a planning authority submit an order under this section to the Secretary of State for his confirmation under this section, the authority shall serve notice of the order on—

(a) any person who is an owner, occupier or lessee of the whole or any part of the land to which the order relates; and

(b) any other person who in their opinion will be affected by the order;

and if within the period specified in that behalf in the notice (not being less than 28 days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.

(7) Where an order under this section has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice under subsection (6) of this section.

(8) Section 159 of this Act shall have effect where a hazardous substances consent is revoked or modified by an order made in the exercise of the power conferred by subsection (3) of this section as it has effect where an order is made under section 49 of this Act.**]**

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Textual Amendments

F241 S. 56J inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F242 Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

[F243 56K Provisions as to effect of hazardous substances consent and change of control of land.

(1) Without prejudice to the provisions of this Part of this Act, any hazardous substances consent shall (except in so far as it otherwise provides) enure for the benefit of the land to which it relates and of all persons for the time being interested in the land.

(2) A hazardous substances consent is revoked if there is a change in the person in control of part of the land to which it relates unless an application for the continuation of the consent has previously been made to the planning authority.

(3) Regulations may make provision in relation to applications under subsection (2) above corresponding to any provision that may be made by regulations under section 56D of this Act in relation to applications for hazardous substances consent.

(4) When such application is made, the authority, having regard to any material consideration—
   (a) may modify the consent in any way they consider appropriate; or
   (b) may revoke it.

(5) Without prejudice to the generality of subsection (4) above, in dealing with an application the authority shall have regard—
   (a) to the matters to which a planning authority are required to have regard by section 56E(2)(*a*) to (*d*) above; and
   (b) to any advice which the Health and Safety Executive **[**F244 or Health and Safety Commission**]** have given following consultations in pursuance of regulations under subsection (3) above.

(6) If an application relates to more than one consent, the authority may make different determinations in relation to each.

(7) If a consent relates to more than one hazardous substance, the authority may make different determinations in relation to each.

(8) It shall be the duty of a planning authority, when continuing hazardous substances consent, to attach to the consent one of the following—
   (a) a statement that is unchanged in relation to the matters included in it by virtue of section 56E(4) above;
   (b) a statement of any change in respect of those matters.

(9) The modifications which a planning authority may make by virtue of subsection (4)(*a*) above include, without prejudice to the generality of that paragraph, the making of the consent subject to conditions with respect to any of the matters mentioned in section 56E(5) above.

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(10) Subject to subsection (11) below, sections 32 to 34 of this Act and section 179 of the Local Government (Scotland) Act [M24]1973 shall have effect in relation to applications under subsection (2) above and to decisions on such applications as though they were applications for planning permission.

(11) In the application of sections 32 to 34 of this Act by virtue of subsection (10) above—

(a) section 32(4) and section 33(5) and (7) shall be omitted;

(b) the words "and in such manner as may be prescribed" shall be substituted for the words in section 33(2) following "time";

(c) in section 34—

(i) the words "by the development order" shall be omitted from the first place where they occur; and

(ii) the words "the application shall be deemed to have been granted" shall be substituted for the words following paragraph (*b*).

(12) Where the authority modify or revoke the consent, they shall pay to the person in control of the whole of the land before the change compensation in respect of any loss or damage sustained by him and directly attributable to the modification or revocation.**]**

Textual Amendments

F243 S. 56K inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F244 Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

Marginal Citations

M24 1973 c.65**(81:2).**

[[F245]56L Offences.

(1) Subject to this Part of this Act, if there is a contravention of hazardous substances control, the appropriate person shall be guilty of an offence.

(2) There is a contravention of hazardous substances control—

(a) if a quantity of a hazardous substance equal to or exceeding the controlled quantity is or has been present on, under or over land and either—

(i) there is no hazardous substances consent for the presence of the substance; or

(ii) there is hazardous substances consent for its presence but the quantity present exceeds the maximum quantity permitted by the consent;

(b) if there is or has been a failure to comply with a condition subject to which a hazardous substances consent was granted.

(3) In subsection (1) above

"the appropriate person" means—

(a) in relation to a contravention falling within paragraph (*a*) of subsection (2) above—

(i) any person knowingly causing the substance to be present on, over or under the land;

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(ii) any person allowing it to be so present; and

(b) in relation to a contravention falling within paragraph (*a*) or (*b*) of that subsection, the occupier of the land.

(4) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to a fine,

and if the contravention is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £200 for each day on which it continues or on conviction on indictment to a fine.

(5) In any proceedings for an offence under this section it shall be a defence for the accused to prove—

(a) that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence; or

(b) that commission of the offence could be avoided only by the taking of action amounting to a breach of a statutory duty.

(6) In any proceedings for an offence consisting of a contravention falling within subsection (2)(*a*) above, it shall be a defence for the accused to prove that at the time of the alleged commission of the offence he did not know, and had no reason to believe—

(a) if the case falls within paragraph (*a*)(i)

(i) that the substance was present; or

(ii) that it was present in a quantity equal to or exceeding the controlled quantity;

(b) if the case falls within paragraph (*a*)(ii), that the substance was present in a quantity exceeding the maximum quantity permitted by the consent.

(7) In any proceedings for an offence consisting of a contravention falling within subsection (2)(*b*) above, it shall be a defence for the accused to prove that he did not know, and had no reason to believe, that he was failing to comply with a condition subject to which hazardous substances consent had been granted.**]**

Textual Amendments

F245 S. 56L inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

Modifications etc. (not altering text)

C47 S. 56L. excluded (*temp.*) (*prosp.*) by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 38(1)**(*a*)

[[F246]56MEmergencies.

(1) If it appears to the Secretary of State—

(a) either—

(i) that the community or part of it is being or is likely to be deprived of an essential service or commodity; or

(ii) that there is or is likely to be a shortage of such a service or commodity affecting the community or part of it; and

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(b) that the presence of a hazardous substance on, over or under land specified in the direction in circumstances such that hazardous substances consent would be required, is necessary for the effective provision of that service or commodity,

he may direct that, subject to such conditions or exceptions as he thinks fit, the presence of the substance on, over or under the land is not to constitute a contravention of hazardous substances control so long as the direction remains in force.

(2) A direction under this section—

(a) may be withdrawn at any time;

(b) shall in any case cease to have effect at the end of the period of three months beginning with the day on which it was given, but without prejudice to the Secretary of State's power to give a further direction.

(3) **[**[F247]Subject to subsection (4) below,**]** the Secretary of State shall send a copy of any such direction to the planning authority in relation to the land.

[F248]**[** (4) Where the land is land to which section 56B of this Act applies, the Secretary of State shall send the copy to the authority which would be the planning authority in relation to that land but for that section.**]]**

Textual Amendments

F246 S. 56M inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F247 Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

F248 S. 56M(4) repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

[[F249]**56N Registers, etc.**

(1) Every planning authority shall keep, in such manner as may be prescribed, a register containing such information as may be so prescribed with respect—

(a) to applications for hazardous substances consent **[**[F250]—

(i) made to that authority, or

(ii) made to the appropriate Minister with respect to land in relation to which, but for section 56B of this Act, that authority would be the planning authority;

and including information as to the manner in which such applications have been dealt with;**][**[F250]made to that authority;

(aa) to applications under section 56K(2) above made to that authority;**]**

(b) to hazardous substances consent deemed to be granted under section 38 of the Housing and Planning Act 1986 with respect to land in relation to which that authority is **[**[F251]or but for section 56B of this Act would be**]**, the planning authority;

(c) to revocations or modifications of hazardous substances consent granted with respect to such land; and

(d) to directions under section 56M above sent to the authority by the Secretary of State, **[**[F252], and every such register shall also contain such information as may

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be prescribed as to the manner in which applications for hazardous substances consent have been dealt with**]**.

[F253(2) Where with respect to any land the appropriate Minister exercises any of the functions of a planning authority for the purposes of hazardous substances control he shall send to the authority which, but for section 56B of this Act, would be the planning authority for those purposes in relation to that land any such information as appears to him to be required by them for the purposes of maintaining a register under this section.**]**

(3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.**]**

Textual Amendments

F249 S. 56N inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F250 Words "made to that authority;" and paragraph (aa) substituted (*prosp.*) for the words in para (a) following the word "consent" by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 164(3), **Sch. 13 para. 11(9)(a)**

F251 Words repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

F252 Words inserted (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 164(3), **Sch. 13 para. 11(9)(b)**

F253 S. 56N(2) repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**

[F254**56O Health and safety requirements.**

(1) Nothing in—

(a) any hazardous substances consent granted or deemed to be granted under—

(i) the preceding provisions of this Act; or

(ii) section 38 of the Housing and Planning Act 1986; or

(b) any hazardous substances contravention notice issued under section 97B of this Act,

shall require or allow anything to be done in contravention of any of the relevant statutory provisions or any prohibition notice or improvement notice served under or by virtue of any of those provisions; and to the extent that such a consent or notice purports to require or allow any such thing to be done, it shall be void.

(2) Where it appears to a planning authority who have granted or are deemed to have granted a hazardous substances consent or who have issued a hazardous substances contravention notice that the consent or notice or part of it is rendered void by subsection (1) above, the authority shall, as soon as is reasonably practicable, consult the **[**F255appropriate body**][**F255Health and Safety Executive**]** with regard to the matter.

(3) If the **[**F255appropriate body**][**F255Health and Safety Executive**]** advise the authority that the consent or notice is rendered wholly void, the authority shall revoke it.

(4) If they advise that part of the consent or notice is rendered void, the authority shall so modify it as to render it wholly operative.

(5) In this section—

[F256"the appropriate body" means—

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(a) in relation to a planning authority other than the appropriate Minister, the Health and Safety Executive; and

(b) in relation to the appropriate Minister, the Health and Safety Commission; and**]**

"relevant statutory provisions",

"improvement notice" and

"prohibition notice" have the same meanings as in Part I of the Health and Safety at Work etc. Act [M25]1974.**]**

Textual Amendments

F254 Ss. 56A–56O inserted (*prosp.*) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(*a*))

F255 Words "Health and Safety Executive" substituted (*prosp.*) for the words "appropriate body" by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 164(3), **Sch. 13 para. 11(10)**

F256 The definition of "the appropriate body" and the word "and" immediately following repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), 164(3), **Sch. 16 Pt. VII**

Marginal Citations

M25 1974 c.37**(43:3).**

Trees

57 Planning permission to include appropriate provision for preservation and planting of trees.

It shall be the duty of the. . . [F257] planning authority—

(a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and

(b) to make such orders under section 58 of this Act as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

Textual Amendments

F257 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

58 Tree preservation orders.

(1) If it appears to a. . . [F258] planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their district, they may for that purpose make an order (in this Act referred to as a "tree preservation order") with respect to such trees, groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order—

(a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping; **[**[F259]uprooting, wilful

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damage] or wilful destruction of trees except with the consent of the. . . [F258] planning authority, and for enabling that authority to give their consent subject to conditions;

(b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;

(c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act falling within subsection (2) of this section, subject to such adaptations and modifications as may be specified in the order.

(2) References in this Act to provisions thereof falling within this subsection are references to—

(a) the provisions of Part III of this Act relating to planning permission and to applications for planning permission, except sections 22, 23, 24, 25, 26(2) to (6), 31(3), [F260] . . . 38 to 41 and 44 to 47 of this Act; and

(b) such of the provisions of Part IX of this Act as are therein stated to be provisions falling within this subsection;

(c) section 256 of this Act.

(3) a tree preservation order may be made so as to apply, in relation to trees to be planted pursuant to any such conditions as are mentioned in section 57(a) of this Act, as from the time when those trees are planted.

(4) [[F261]Subject to section 59 of this Act [[F262]and section 2 of the Town and Country Planning Act 1984 (tree preservation orders in anticipation of disposal of Crown land)], a tree preservation order shall not take effect until it is confirmed by the planning authority; and the planning authority may confirm any such order either without modification or subject to such modification as they consider expedient]. As soon as may be after a tree preservation order is so confirmed, it shall be recorded in the appropriate Register of Sasines by the. . . [F258] planning authority.

(5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in connection with the submission and confirmation of such orders; and the regulations may (without prejudice to the generality of this subsection) make provision as follows—

(a) that, before a tree preservation order is [[F263]confirmed by the planning authority], notice of the making of the order shall be given to the owners, lessees and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;

(b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the [[F263]planning authority];

(c) . . . [F264]

(d) that copies of the order, when confirmed by. . . [F265]the authority, shall be served on such persons as may be specified in the regulations.

(6) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, nothing in a tree preservation order shall prohibit the [[F266]uprooting,] felling or lopping of any tree if such [[F266]uprooting,] felling or lopping is urgently necessary in the interests of safety, or is necessary for the prevention or abatement of a nuisance, so long as notice in writing of the proposed operations is given to the. . . [F258] planning authority as soon as may be after the necessity for

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the operations arises, or if such **[**[F266]uprooting,**]** felling or lopping is carried out in compliance with any obligation imposed by or under any Act of Parliament.

(7) In relation to land in respect of which the Forestry Commissioners have made advances under section 4 of the [M26]Forestry Act 1967 or in respect of which there is in force a forestry dedication agreement entered into with the Commissioners under section 5 of that Act, a tree preservation order may be made only if—

(a) there is not in force in respect of the land a plan of operations or other working plan approved by the Commissioners under such an agreement; and

(b) the Commissioners consent to the making of the order.

(8) Where a tree preservation order is made in respect of land to which subsection (7) of this section applies, the order shall not have effect so as to prohibit, or to require any consent for, the cutting down of a tree in accordance with a plan of operations or other working plan approved by the Forestry Commissioners, and for the time being in force, under such an agreement as is mentioned in that subsection or under a woodlands scheme made under the powers contained in the said Act of 1967.

(9) In the preceding provisions of this section references to provisions of the [M27]Forestry Act 1967 include references to the corresponding provisions (replaced by that Act) in the Forestry Acts 1919 to 1951.

(10) The preceding provisions of this section shall have effect subject to the provisions—

(a) . . . . . [F267]

(b) of section 15 of the Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).

(11) . . . . . [F268]

Textual Amendments

F258 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F259 Words inserted by Town and Country Amenities Act 1974 (c. 32), **s. 11(1)(7)**

F260 Words in s. 58(2)(a) repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 12, **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

F261 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 22(1)(a)**, (2) except as regards a tree preservation order made before 11.6.1981

F262 Words inserted by Town and Country Planning Act 1984 (c. 10, SIF 123:1, 2), **ss. 2(6)**, 4(1)

F263 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 22(1)(b)**, (2) except as regards a tree preservation order made before 11.6.1981

F264 S. 58(5)(c) repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 22(1)(b)**, (2), Sch. 4 except as regards a tree preservation order made before 11.6.1981

F265 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 22(1)(b)**, (2) Sch. 4 except as regards a tree preservation order made before 11.6.1981

F266 Word inserted by Town and Country Amenities Act 1974 (c. 32), **s. 11(2)(a)**, (7)

F267 S. 58(10)(*a*) repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 39(4), **Sch. 12 Pt. II**

F268 Ss. 58(11), 59(4) repealed by S.I. 1975/1203, art. 3, **Sch.**

Modifications etc. (not altering text)

C48 S. 58 modified by Town and Country Planning Act 1984 (c. 10, SIF 123:1, 2), **ss. 2(4)**, 4(1)

C49 Reference in s. 58(7) to section 4 of the Forestry Act 1967 to be construed as reference to Forestry Act 1979 (c. 21), **s. 1**: Interpretation Act 1978 (c. 30), **s. 17(2)(a)**

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Marginal Citations

M26 1967 c. 10.

M27 1967 c. 10.

59 Provisional tree preservation orders.

(1) If it appears to a. . . [F269] planning authority that a tree preservation order proposed to be made by that authority should take effect immediately without previous confirmation, they may include in the order as made by them a direction that this section shall apply to the order.

(2) Notwithstanding section 58(4) of this Act, an order which contains such a direction shall take effect provisionally on such date as may be specified therein and shall continue in force by virtue of this section until—

(a) the expiration of a period of six months beginning with the date on which the order was made; or

(b) the date on which the order is confirmed. . . [F270],

whichever first occurs.

(3) Provision shall be made by regulations under this Act for securing—

(a) that the notices to be given of the making of a tree preservation order containing a direction under this section shall include a statement of the effect of the direction. . . [F271].

(b) . . . [F271]

(4) . . . . . [F272]

Textual Amendments

F269 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F270 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 23(1)(a)**, (2), Sch. 4 except as regards a tree preservation order made before 11.6.1981

F271 Word and s. 59(3)(b) repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 23(1)(b)**, (2), Sch. 4 except as regards a tree preservation order made before 11.6.1981

F272 Ss. 58(11), 59(4) repealed by S.I. 1975/1203, art. 3, **Sch.**

[[F273]59A Trees in conservation areas.

(1) Subject to the provisions of this section, any person who, in relation to a tree to which this section applies, does any act which might by virtue of section 58(1)(a) above be prohibited by a tree preservation order shall be guilty of an offence.

(2) Subject to the provisions of this section, this section applies to any tree in a conservation area but in respect of which no tree preservation order is for the time being in force.

(3) It shall be a defence for a person charged with an offence under subsection (1) above to prove—

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(a) that he served notice of his intention to do the act in question, with sufficient particulars to identify the tree, on the planning authority in whose district the tree is or was situated; and

(b) that he did the act in question—

(i) with the consent of the said planning authority, or

(ii) after the expiry of the period of six weeks from the date of the notice but before the expiry of the period of two years from that date.

(4) The Secretary of State may by regulations direct that this section shall not apply in such cases as may be specified in the regulations.

(5) Without prejudice to the generality of subsection (4) above, the regulations may be framed so as to exempt from the application of this section cases defined by reference to all or any of the following matters, namely—

(a) acts of such descriptions or done in such circumstances or subject to such conditions as may be specified in the regulations;

(b) trees in such conservation areas as may be so specified;

(c) trees of a size or species so specified; or

(d) trees belonging to persons or bodies of a description so specified;

and the regulations may, in relation to any matter by reference to which an exemption is conferred by them, make different provision for different circumstances.

(6) Regulations under subsection (4) above may in particular, but without prejudice to the generality of that subsection, exempt from the application of this section cases exempted from the application of section 58 above by subsection (6) of that section.

(7) It shall be the duty of every planning authority to compile and keep available for public inspection free of charge at all reasonable hours and at a convenient place a list, containing such particulars as the Secretary of State may determine of notices under this section affecting trees in their district.

(8) If any tree to which this section applies is removed, uprooted or destroyed in contravention of this section or is removed, uprooted or destroyed or dies at a time when its uprooting or felling is authorised only by virtue of the provisions of such regulations under subsection (4) above as are mentioned in subsection (6) above, it shall be the duty of the owner of the land, unless on his application the planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(9) The duty imposed by subsection (8) above on the owner of any land shall attach to the person who is from time to time the owner of he land and may be enforced as provided by section 99 of this Act and not otherwise.**]**

Textual Amendments

F273 S. 59A inserted by Town and Country Amenities Act 1974 (c. 32), **s. 9**

60 Replacement of trees.

(1) If any tree in respect of which a tree preservation order is for the time being in force,. . . [F274], is removed, **[**[F275]uprooted**]** or destroyed in contravention of the order or **[**[F276], except in the case of a tree to which the order applies as part of a woodland,**]** is

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removed, **[**[F275]uprooted**]** or destroyed or dies at a time when its **[**[F275]uprooting or**]** felling is authorised only by virtue of the provisions of section 58(6) of this Act relating to **[**[F275]uprooting or**]** felling where urgently necessary in the interests of safety, it shall be the duty of the owner of the land, unless on his application the. . . [F277] planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

[[F278](1A) In respect of trees in a woodland it shall be sufficient for the purposes of this section to replace the trees removed, uprooted or destroyed by planting the same number of trees either on or near the land on which the trees removed, uprooted or destroyed stood or on such other land as may be agreed between the planning authority and the owner of the land, and (in either case) in such places as may be designated by the planning authority.**]**

(2) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.

(3) The duty imposed by subsection (1) of this section on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 99 of this Act and not otherwise.

Textual Amendments

F274 Words repealed by Town and Country Planning (Amendment) Act 1985 (c. 52, SIF 123:1, 2), **ss. 2(1)**, 3(4)

F275 Words inserted by Town and Country Amenities Act 1974 (c. 32), **s. 11(2)(b)**, (7)

F276 Words inserted by the Town and Country Planning (Amendment) Act 1985 (c. 52, SIF 123:1, 2), **ss. 2(2)**, 3(4)

F277 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F278 S. 60(1A) inserted by Town and Country Planning (Amendment) Act 1985 (c. 52, SIF 123:1, 2), **ss. 2(3)**, 3(4)

Advertisements

61 Control of advertisements.

—(1)Subject to the provisions of this section, provision shall be made by regulations under this Act for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety.

(2) Without prejudice to the generality of subsection (1) of this section, any such regulations may provide—

(a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed, and the manner in which they are to be affixed to the land;

(b) for requiring the consent of the. . . [F279] planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations;

(c) for applying, in relation to any such consent and to applications for such consent, any of the provisions of this Act falling within section 58(2) thereof,

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subject to such adaptations and modifications as may be specified in the regulations;

(d) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed, by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.

[[F280](3) Regulations made for the purposes of this section may make different provision with respect to different areas, and in particular may make special provision—

(a) with respect to conservation areas; and

(b) with respect to areas defined for the purposes of the regulations as areas of special control, being either rural areas or areas other than rural areas which appear to the Secretary of State to require special protection on grounds of amenity;

and, without prejudice to the generality of this subsection, the regulations may prohibit the display in an area of special control of all advertisements except advertisements of such classes (if any) as may be prescribed.**]**

(4) Areas of special control for the purposes of regulations under this section may be defined by means of orders made or approved by the Secretary of State in accordance with the provisions of the regulations.

(5) Where the Secretary of State is authorised by the regulations to make or approve any such order as is mentioned in subsection (4) of this section, the regulations shall provide for the publication of notice of the proposed order in such manner as may be prescribed by the regulations, for the consideration of objections duly made thereto, and for the holding of such inquiries or other hearings as may be so prescribed, before the order is made or approved.

(6) Regulations made under this section may be made so as to apply to advertisements which are being displayed on the date on which the regulations come into force, or to the use for the display of the advertisements of any site which was being used for that purpose on that date; but any regulations made in accordance with this subsection shall provide for exempting therefrom—

(a) the continued display of any such advertisement; and

(b) the continued use for the display of advertisements of any such site,

during such period as may be prescribed in that behalf by the regulations, and different periods may be so prescribed for the purposes of different provisions of the regulations.

(7) . . . . . [F281]

(8) Nothing in this section or in any regulations made thereunder shall be construed as authorising the restriction or regulation of the display of any advertisement by reason only of the subject matter or wording thereof.

Textual Amendments

F279 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F280 S. 61(3) substituted by Town and Country Amenities Act 1974 (c. 32), **s. 3(2)**

F281 Ss. 61(7), 84(6) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

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62 Application for planning permission not needed for advertisements complying with regulations.

Where the display of advertisements in accordance with regulations made under section 61 of this Act involves development of land, planning permission for that development shall be deemed to be granted by virtue of this section, and no application shall be necessary in that behalf under Part III of this Act.

Waste land

63 Proper maintenance of waste land.

[F282][F283(1) If it appears to a planning authority that the amenity of any part of their district, or an adjoining district, is adversely affected by the condition of any land in their district, they may serve on the owner, lessee and occupier of the land a notice under this section requiring such steps for abating the adverse effect as may be specified in the notice to be taken within such period as may be so specified.]

(1A) Service under subsection (1) above shall be effected by the service of a copy of the notice. . . [F284]

(1B) Subject to section 63A of this Act, a [[F285]notice under this section] shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (1) above.

(1C) The planning authority may withdraw a [[F285]notice under this section] (without prejudice to their power to serve another) at any time before it takes effect; and if they so withdraw it, they shall forthwith give notice of the withdrawal to every person on whom the notice was served.]

(2) No notice may be served under subsection (1) of this section with reference to any building which is—

(a) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments, or

(b) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment as aforesaid.

(3) The provisions of [[F286]section 88] of this Act shall, subject to any necessary modifications, apply in respect of a notice served under this section as they apply in respect of an enforcement notice served under section 84 of this Act.

Textual Amendments

F282 S. 63(1)(1A)—(1C) substituted for s. 63(1) by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 17(a)**

F283 S. 63(1) substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 32**

F284 Words repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

F285 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 32(2)**

F286 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 17(b)**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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[F287 63A Appeals against waste land notices.

(1) A person on whom a [F288 notice under section 63 of this Act] is served, or any other person having an interest in the land to which the notice relates, may at any time before the date specified in the notice as the date on which it is to take effect appeal to the Secretary of State against the notice, on any of the following grounds—

[F289 (a) that neither the amenity of any part of the planning authority's district nor that of any adjoining district has been adversely affected;]

(b) that the steps required by the notice to be taken exceed what is necessary to remedy any such [F290 adverse effect];

(c) that the specified period for compliance with the notice falls short of what should reasonably be allowed;

(d) that the condition of the land is attributable to, and such as results in the ordinary course of events from, a continuing lawful use of the land or from continuing lawful operations carried out thereon; or

(e) that the notice was served other than in accordance with section 63 of this Act.

(2) An appeal under this section shall be made by notice in writing to the Secretary of State.

(3) The provisions of subsections (2A) to (2D) of section 85 of this Act shall apply to appeals under this section as they apply to appeals under that section.

(4) On an appeal under this section the Secretary of State—

(a) may correct any informality, defect or technical error in the notice if he is satisfied that it is not material; and

(b) may disregard the failure of the planning authority to serve the notice upon a person upon whom it should have been served, if it appears to him that neither that person nor the appellant has been substantially prejudiced by that failure.

(5) Where an appeal is brought under this section, the [F288 notice under section 63 of this Act] shall be of no effect pending the final determination, or the withdrawal, of the appeal.

(6) In determining an appeal under this section the Secretary of State shall give such directions as seem to him appropriate; and these may include directions for quashing the notice or for varying its terms in favour of the appellant.]

[F291 (7) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section.]

Textual Amendments

F287 S. 63A inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 18**

F288 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 33(1)**

F289 S. 63A(1)(*a*) substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 33(2)**

F290 Word substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 33(3)**

F291 S. 63A(7) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 34**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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64—83. [F292] . . . . . .

Textual Amendments

F292 Ss. 64–83 repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

PART V

ENFORCEMENT OF CONTROL UNDER PARTS III AND IV

Modifications etc. (not altering text)

C50 Pt. V excluded by Local Government, Planning and Land Act 1980 (c.65), **Sch. 17 para. 8(2)**

VALID FROM 26/03/1992

[[F293] Introductory]

Textual Amendments

F293 Ss. 83A, 83B and cross heading inserted (26.3.1992 except so far as relating to breach of condition notices, 25.9.1992 so far as not already in force) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 36(1)** (with s. 84(5)); S.I. 1992/334, **art.4** and S.I. 1992/1937, **art. 4** (with art. 5).

[[F294][F294]83A Expressions used in connection with enforcement.

(1) For the purposes of this Act—

(a) carrying out development without the required planning permission; or

(b) failing to comply with any condition or limitation subject to which planning permission has been granted,

constitutes a breach of planning control.

(2) For the purposes of this Act—

(a) the issue of an enforcement notice (defined in section 84 of this Act); or

(b) the service of a breach of condition notice (defined in section 87AA of this Act),

constitutes taking enforcement action.

(3) In this Part of this Act "planning permission" includes planning permission under Part III of the [M28]Town and Country Planning (Scotland) Act 1947.**]**

Textual Amendments

F294 Ss. 83A, 83B and cross heading inserted (26.3.1992 except so far as relating to breach of condition notices, 25.9.1992 so far as not already in force) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 36(1)** (with s. 84(5)); S.I. 1992/334, **art. 4** and S.I. 1992/1937, **art. 4** (with art.5).

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Marginal Citations

M28 1947 c. 53.

[F295F295 83B Time limits.

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the planning authority have taken or purported to take enforcement action in respect of that breach.]

Textual Amendments

F295 Ss. 83A, 83B and cross heading inserted (26.3.1992 except so far as relating to breach of condition notices, 25.9.1992 so far as not already in force) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 36(1)** (with s. 84(5)); S.I. 1992/334, **art. 4** and S.I. 1992/1937, **art.4** (with art. 5)

Modifications etc. (not altering text)

C51 S. 83B(3) excluded (20.2.1992 until 25.9.1992) by S.I. 1992/334, **art.5(1)(b)**

C52 S.83B(4)(b) restricted (temp.) (20.2.1992) by S.I. 1992/334, **art. 5(2)(3)**

VALID FROM 26/03/1992

[F296 *Planning contravention notices*]

Textual Amendments

F296 Ss. 83C, 83D and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.33** (with s. 84(5)); S.I. 1992/334, **art.4**.

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[F297F297 83 Power to require information about activities on land.

(1) Where it appears to the planning authority that there may have been a breach of planning control in respect of any land, they may serve notice to that effect (referred to in this Act as a "planning contravention notice") on any person who—
  (a) is the owner or occupier of the land or has any other interest in it; or
  (b) is carrying out operations on the land or is using it for any purpose.

(2) A planning contravention notice may require the person on whom it is served to give such information as to—
  (a) any operations being carried out on the land, any use of the land and any other activities being carried out on the land; and
  (b) any matter relating to the conditions or limitations subject to which any planning permission in respect of the land has been granted,

  as may be specified in the notice.

(3) Without prejudice to the generality of subsection (2) of this section, the notice may require the person on whom it is served, so far as he is able—
  (a) to state whether or not the land is being used for any purpose specified in the notice or any operations or activities specified in the notice are being or have been carried out on the land;
  (b) to state when any use, operations or activities began;
  (c) to give the name and address of any person known to him to use or have used the land for any purpose or to be carrying out, or have carried out, any operations or activities on the land;
  (d) to give any information he holds as to any planning permission for any use or operations or any reason for planning permission not being required for any use or operation;
  (e) to state the nature of his interest (if any) in the land and the name and address of any other person known to him to have an interest in the land.

(4) A planning contravention notice may give notice of a time and place at which—
  (a) any offer which the person on whom the notice is served may wish to make to apply for planning permission, to refrain from carrying out any operations or activities or to undertake remedial works; and
  (b) any representations which he may wish to make about the notice,

  will be considered by the authority, and the authority shall give him an opportunity to make in person any such offer or representations at that time and place.

(5) A planning contravention notice must inform the person on whom it is served—
  (a) of the likely consequences of his failing to respond to the notice and, in particular, that enforcement action may be taken; and
  (b) of the effect of section 166(6) of this Act.

(6) Any requirement of a planning contravention notice shall be complied with by giving information in writing to the planning authority.

(7) The service of a planning contravention notice does not affect any other power exercisable in respect of any breach of planning control.

(8) In this section references to operations or activities on land include operations or activities in, under or over the land.**]**

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Textual Amendments

F297 Ss. 83C, 83D and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.33** (with s. 84(5)); S.I. 1992/334, **art.4**.

[F298F298 83D Penalties for non-compliance with planning contravention notice.

(1) If at any time after the end of the period of twenty-one days beginning with the day on which a planning contravention notice has been served on any person, he has not complied with any requirement of the notice, he shall be guilty of an offence.

(2) An offence under subsection (1) of this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

(3) It shall be a defence for a person charged with an offence under subsection (1) of this section to prove that he had a reasonable excuse for failing to comply with the requirement.

(4) A person guilty of an offence under subsection (1) of this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) If any person—

(a) makes any statement purporting to comply with a requirement of a planning contravention notice which he knows to be false or misleading in a material particular; or

(b) recklessly makes such a statement which is false or misleading in a material particular,

he shall be guilty of an offence.

(6) A person guilty of an offence under subsection (5) of this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.**]**

Textual Amendments

F298 Ss. 83C, 83D and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.33** (with s. 84(5)); S.I. 1992/334, **art. 4**.

Development requiring planning permission

84 Power to serve enforcement notice.

(1) Where it appears to the. . . [F299] planning authority that there has been a breach of planning control after the end of 1964, then, subject. . . [F300] to the following provisions of this section, the authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may serve a notice under this section (in this Act referred to as an "enforcement notice") requiring the breach to be remedied.

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(2) There is a breach of planning control if development has been carried out, whether before or after the commencement of this Act, without the grant of planning permission required in that behalf in accordance with Part III of this Act, or if any conditions or limitations subject to which planning permission was granted have not been complied with.

(3) Where an enforcement notice relates to a breach of planning control consisting in—

(a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land; or

(b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land; or

(c) the making without planning permission of a change of use of any building to use as a single dwelling-house **[**[F301]; or

(d) the failure to comply with a condition which prohibits, or has the effect of preventing, a change of use of a building to use as a single dwelling-house,**]**

it may be served only within the period of four years from the date of the breach.

(4) If any dispute arises under subsection (3) of this section as to the date on which the breach of planning control occurred, the onus of proof as to that date shall rest on the person claiming the benefit of that subsection.

(5) An enforcement notice shall be served on the owner, lessee and occupier of the land to which it relates and on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.

[[F302](5A) Service under subsection (5) above shall be effected by the service of a copy of the notice; and references in this Act to service of enforcement notices shall be so construed.**]**

(6) . . . . . [F303]

[[F304](7) In an enforcement notice the planning authority shall specify the matters alleged to constitute a breach of planning control and the steps required to be taken to restore the land to its condition before the breach took place **[**[F305]or, (according to the particular circumstances of the breach) to secure compliance with the conditions or limitations subject to which planning permission was granted**]**; but may in addition specify, as an alternative, the steps required to be taken to bring the land to a condition acceptable to the planning authority, having regard to the development plan and any other material consideration.

(7A) The planning authority shall also specify in the enforcement notice—

(a) the period or periods within which any steps specified under subsection (7) above are to be carried out; and any such period shall begin with the date when the notice is to take effect; and

(b) such additional matters as may be prescribed under subsection (12) of this section.

(7B) Where a development in respect of which an enforcement notice has been served is altered in accordance with steps required by virtue of subsection (7) above, planning permission shall be deemed to have been granted in respect of the development as so altered.**]**

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(8) The steps which may be required by an enforcement notice to be taken include the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.

[[F306](9) Subject to section 85 of this Act, an enforcement notice shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (5) above.**]**

(10) The. . . [F299] planning authority may withdraw an enforcement notice (without prejudice to their power to serve another) at any time before it takes effect; and, if they do so, they shall forthwith give notice of the withdrawal to every person who was served with the notice.

(11) The validity of a notice purporting to be an enforcement notice shall not depend on whether any non-compliance to which the notice relates was a non-compliance with conditions, or with limitations, or with both; and any reference in such a notice to non-compliance with conditions or limitations (whether both expressions are used in the notice or only one of them) shall be construed as a reference to non-compliance with conditions, or with limitations, or both with conditions and limitations, as the case may require.

[[F307](12) The Secretary of State may prescribe matters, additional to those mentioned in subsections (7) and (7A) above, to be specified by planning authorities in enforcement notices; and without prejudice to the generality of the foregoing provisions of this subsection may require a planning authority to include in an enforcement notice—

(a) a note, in such terms as may be prescribed, explaining the rights of persons to appeal against the notice; and

(b) a note of the planning authority's reasons for serving the notice.**]**

Textual Amendments

F299 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F300 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F301 S. 84(3)(d) inserted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 19(a)**

F302 S. 84(5A) inserted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 19(b)**

F303 Ss. 61(7), 84(6) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

F304 S. 84(7)—(7B) substituted for s. 84(7) by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 19(c)**

F305 Words inserted by the Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 45**

F306 S. 84(9) substituted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 19**(*d*)

F307 S. 84(12) added by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 19**(*e*)

Modifications etc. (not altering text)

C53 S. 84(7A)(*b*)(10)(12), 85(10)(11), 86, 87, 87A, 89, 89A extended (with modifications) by S.I. 1984/995, reg. 2, **Sch.**

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VALID FROM 24/02/1992

[F308F308 84A Contents and effect of notice.

(1) An enforcement notice shall state—
- (a) the matters which appear to the planning authority to constitute the breach of planning control; and
- (b) the paragraph of section 83A(1) of this Act within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) of this section if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—
- (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
- (b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—
- (a) the alteration or removal of any buildings or works;
- (b) the carrying out of any building or other operations;
- (c) any activity on the land not to be carried on except to the extent specified in the notice; or
- (d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) An enforcement notice issued in respect of a breach of planning control consisting of demolition of a building may require the construction of a building (in this section referred to as a "replacement building") which, subject to subsection (7) of this section, is as similar as possible to the demolished building.

(7) A replacement building—
- (a) must comply with any requirement imposed by or under any enactment applicable to the construction of buildings;
- (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
- (c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b) of this subsection).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to section 85(3) of this Act, shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may

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specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part of this Act to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 84 of this Act to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 85 of this Act.

(11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted under section 29 of this Act in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted under section 29 of this Act in respect of development consisting of that construction.**]**

Textual Amendments

F308 Ss. 84, 84AA, 84AB substituted for s. 84 (24.2.1992 for purpose of enabling Secretary of State to make regulations under s. 84AA(10), otherwise 26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **ss.37**, 84(2) (with s. 84(5)); S.I. 1992/334, **arts. 3**, 4 .

Modifications etc. (not altering text)

C54 S. 84AA(10) extended (with modifications) (26.3.1992) by S.I. 1992/478, reg.2, **Sch.**

VALID FROM 24/02/1992

[F309F309 84AB Variation and withdrawal of enforcement notices.

(1) The planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 84AA(9) of this Act.

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

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(3) The planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the planning authority to issue a further enforcement notice.**]**

Textual Amendments

F309 Ss. 84, 84AA, 84AB substituted for s. 84 (24.2.1992 for purpose of enabling Secretary of State to make regulations under s. 84AA(10), otherwise 26.3.1992)) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **ss.37**, 84(2) (with s. 84(5)); S.I. 1992/334, **arts. 3**, 4.

Modifications etc. (not altering text)

C55 S. 84AB extended (with modifications) (26.3.1992) by S.I. 1992/478, reg.2, **Sch.**

[F310 84A Power of regional planning authority to take enforcement action.

(1) If a regional planning authority are of the opinion that a structure plan prepared by them and approved by the Secretary of State is materially prejudiced by a breach of planning control they may, after consultation with any district planning authority in whose district the breach has taken place, and subject to subsection (2) below, serve an enforcement notice under this subsection requiring the breach Ato be remedied.

(2) Where a regional planning authority serve a notice under subsection (1) above the provisions of sections 84 (except subsection (1)), 85, 86, 87, 88, 89, 89A, 166, 265(1)(c) and 265(2A) of this Act shall apply, with any necessary modifications, in relation to the regional planning authority and a notice under subsection (1) above as they apply in relation to a district planning authority and a notice under subsection (1) of the said section 84.**]**

Textual Amendments

F310 S. 84A inserted by Local Government and Planning (Scotland) Act 1982 (c.43), **s. 43**

85 Appeal against enforcement notice.

(1) a person on whom an enforcement notice is served, or any other person having an interest in the land may, at any time **[F311** before the date specified in the notice as the date on**]** which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds—

(a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;

(b) that the matters alleged in the notice do not constitute a breach of planning control;

[F312 (bb) that the breach of planning control alleged in the notice has not taken place;**]**

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(c) in the case of a notice which, by virtue of section 84(3) of this Act, may be served only within the period of four years from the date of the breach of planning control to which the notice relates, that that period has elapsed at the date of service;

(d) in the case of a notice not falling within paragraph (c) of this subsection, that the breach of planning control alleged by the notice occurred before the beginning of 1965;

(e) that the enforcement notice was not served as required by section 84(5) of this Act;

(f) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control;

(g) that the specified period for compliance with the notice falls short of what should reasonably be allowed.

[[F313](2) An appeal under this section shall be made by notice in writing to the Secretary of State.

(2A) A person who gives notice under subsection (2) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed under subsection (2B) of this section, a statement in writing—

(a) specifying the grounds on which he is appealing against the enforcement notice; and

(b) giving such further information as may be so prescribed.

(2B) The Secretary of State may prescribe the procedure to be followed on appeals under this section, and (without prejudice to the generality of the foregoing provisions of this subsection) in so prescribing—

(a) may specify the time within which an appellant is to submit a statement under subsection (2A) of this section and the matters on which information is to be given in such a statement;

(b) may require the planning authority to submit, within such time as may be specified, a statement indicating the submissions which they propose to put forward on the appeal;

(c) may specify the matters to be included in such a statement;

(d) may require the authority or the appellant to give such notice of an appeal under this section as may be specified, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated;

(e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be specified, a copy of the enforcement notice and a list of the persons on whom the notice has been served.

(2C) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with subsection (2A) above within the time prescribed under subsection (2B)(a) above; and

(b) may allow an appeal and quash the enforcement notice if the planning authority fail to comply with any requirement imposed by virtue of paragraph (b), (c) or (e) of subsection (2B) above.

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(2D) Subject to subsection (2C) above, the Secretary of State shall, if either the planning authority or the appellant so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.**]**

(3) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(4) On an appeal under this section—

(a) the Secretary of State may correct any informality, defect or error in the enforcement notice if he is satisfied that the informality, defect or error is not material;

(b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by section 84(5) of this Act to be served with the notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

(5) On the determination of an appeal under this section, the Secretary of State shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the enforcement notice or for varying the terms of the notice in favour of the appellant; and the Secretary of State may—

(a) grant planning permission for the development to which the enforcement notice relates or, as the case may be, discharge any condition or limitation subject to which planning permission for that development was granted;

[[F314](aa) grant planning permission for such other development on the land to which the enforcement notice relates as appears to him to be appropriate;**]**

(b) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use thereof and to any planning permission relating to the land.

(6) In considering whether to grant planning permission under subsection (5) of this section, the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject-matter of the enforcement notice, and to any other material considerations; and any planning permission granted by him under that subsection may—

(a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;

(b) be granted subject to such conditions as the Secretary of State thinks fit;

and where under that subsection he discharges a condition or limitation, he may substitute for it any other condition or limitation.

(7) Where an appeal against an enforcement notice is brought under this section, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (5) of this section, the following provisions shall have effect—

(a) any planning permission granted thereunder shall be treated as granted on the said application;

(b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and

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(c) for the purposes of section 31 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the. . . [F315] planning authority.

(8) . . . . . [F316]

(9) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.

(10) The validity of an enforcement notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds specified in paragraphs (b) to (e) of subsection (1) of this section.

(11) Subsection (10) of this section shall not apply to proceedings brought under section 86 of this Act against a person who—

(a) has held an interest in the land since before the enforcement notice was served under section 84 of this Act; and

(b) did not have the enforcement notice served on him thereunder; and

(c) satisfies the court that—

(i) he did not know and could not reasonably have been expected to know that the enforcement notice had been served; and

(ii) his interests have been substantially prejudiced by the failure to serve him.

Textual Amendments

F311 Words substituted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 20**(*a*)(i)

F312 S. 85(1)(*bb*) inserted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 20**(*a*)(ii)

F313 S. 85(2)—(2D) substituted for s. 85(2) by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 20**(*b*)

F314 S. 85(5)(*aa*) added by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 20**(*c*)

F315 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F316 S. 85(8) repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

Modifications etc. (not altering text)

C56 S. 84(2)–(5) extended by Town and Country Planning Act 1984 (c. 10, SIF 123:1, 2), **s. 3(9)**

C57 S. 84(7A)(*b*)(10)(12), 85(10)(11), 86, 87, 87A, 89, 89A extended (with modifications) by S.I. 1984/995, reg. 2, **Sch.** (which S.I. was revoked (26.3.1992) by S.I. 1992/478, **art. 3**)

86 Penalties for non-compliance with enforcement notices.

Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person, without the grant of planning permission, uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to

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a fine; and if the use is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding **[**[F317]£200**]** for each day on which the use is so continued, or on conviction on indictment to a fine.

Textual Amendments

F317 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 44(1)(2)**

Modifications etc. (not altering text)

C58 S. 84(7A)(*b*)(10)(12), 85(10)(11), 86, 87, 87A, 89, 89A extended (with modifications) by S.I. 1984/995, reg. 2, **Sch.**(which S.I. was revoked (26.3.1992) by S.I. 1992/478, **reg.3**)

[[F318]**87 Stop Notices.**

(1) Subject to the provisions of subsection (2) of this section, where a planning authority have served an enforcement notice, they may at any time before it takes effect serve a further notice (to be referred to as a "stop notice") referring to the enforcement notice, a copy of which shall be enclosed therewith, for the purpose of prohibiting the carrying out or continuing of any activity or part of any activity which either is alleged in the enforcement notice to constitute or involve a breach of planning control or is so closely associated therewith as to constitute substantially the same activity.

(2) A stop notice—

(a) shall not prevent any person from taking any steps necessary to comply or secure compliance with an enforcement notice;

(b) shall not prohibit any person from continuing to use any building or other land, or any caravan situated upon the land to which the relevant enforcement notice relates, as his permanent residence, whether as owner, occupier, tenant, patient, guest or otherwise.

(3) A stop notice shall specify the date when it is to come into effect, such date not being less than three nor more than 28 days from the date when it is first served (on whatever person) in accordance with the provisions of subsection (6) below.

(4) A stop notice shall cease to have effect—

(a) when it is withdrawn under the provisions of subsection (10) below;

(b) when the enforcement notice to which it relates is withdrawn or quashed; or

(c) when the period for compliance with that enforcement notice specified under section 84(7)(c) of this Act has expired;

whichever is the earlier.

(5) Where the enforcement notice to which a stop notice relates is varied so that it no longer relates to any activity prohibited by the stop notice, the stop notice shall cease to have effect in relation to that activity.

(6) A stop notice may be served by the planning authority on any person who appears to them to have an interest in the land or to be engaged in activities which constitute or involve the breach of planning control alleged in the enforcement notice.

(7) The planning authority may publicise a stop notice by displaying on the land a notice (to be referred to as a "site notice") which shall state—

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(a) the requirements of the stop notice;

(b) that the stop notice has been served on a particular person or persons; and

(c) the consequences under subsection (8) below of contravention of the stop notice.

(8) (a) Any person who wilfully removes, obscures or defaces a site notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine.

(b) If any person causes or permits any activity in contravention of a stop notice which has effect for the time being and which has been served on him or has been publicised in accordance with the provisions of subsection (7) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine; and if the offence is continued after conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding **[**[F319]£200**]** for each day on which the offence is continued, or on conviction on indictment to a fine.

(c) It shall be a defence in any proceedings under paragraph (b) above that the stop notice was not served on the accused and that he had no reasonable cause to believe that the activity was prohibited by a stop notice.

(9) A stop notice shall not be invalid by reason that the enforcement notice to which it relates was not served as required by section 84(5) of this Act if it is shown that the planning authority took all such steps as were reasonably practicable to effect proper service.

(10) The planning authority may at any time withdraw a stop notice (without prejudice to their power to serve another) by notice which—

(a) shall be served on all persons who were served with the stop notice; and

(b) shall be publicised by displaying it for seven days in place of all or any relative site notices.**]**

Textual Amendments

F318 S. 87 substituted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 4**

F319 Words substituted by Housing and Planning Act (c. 63, SIF 123:2), s. 53(1), Sch. 11 Pt. II para. 44(1)(2)

Modifications etc. (not altering text)

C59 S. 84(7A)(*b*)(10)(12), 85(10)(11), 86, 87, 87A, 89, 89A extended (with modifications) by S.I. 1984/995, reg. 2, **Sch.** (which S.I. was revoked (26.3.1992) by S.I. 1992/478, **reg.3**)

[[F320] *Breach of condition****]***

Textual Amendments

F320 S. 87AA and cross heading inserted before s. 87A (10.8.1992 in so far as the inserting section inserts into this Act a definition of a breach of condition notice, otherwise 25.9.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.34** (with s. 84(5)); S.I. 1992/1937, **arts.3**, 4 (with art. 5).

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 10/08/1992

[F321F321 87A Enforcement of conditions.

(1) This section applies where planning permission for carrying out any development has been granted subject to conditions.

(2) The planning authority may, if any of the conditions is not complied with, serve a notice (in this Act referred to as a "breach of condition notice") on—
   (a) any person who is carrying out or has carried out the development; or
   (b) any person having control of the land,

   requiring him to secure compliance with such of the conditions as are specified in the notice.

(3) References in this section to the person responsible are to the person on whom the breach of condition notice has been served.

(4) The conditions which may be specified in a notice served by virtue of subsection (2)(b) of this section are any of the conditions regulating the use of the land.

(5) A breach of condition notice shall specify the steps which the authority consider ought to be taken, or the activities which the authority consider ought to cease, to secure compliance with the conditions specified in the notice.

(6) The authority may by notice served on the person responsible withdraw the breach of condition notice, but its withdrawal shall not affect the power to serve on him a further breach of condition notice in respect of the conditions specified in the earlier notice or any other conditions.

(7) The period allowed for compliance with the notice is—
   (a) such period of not less than twenty-eight days beginning with the date of service of the notice as may be specified in the notice, or
   (b) that period as extended by a further notice served by the planning authority on the person responsible.

(8) If, at any time after the end of the period allowed for compliance with the notice.
   (a) any of the conditions specified in the notice is not complied with, and
   (b) the steps specified in the notice have not been taken or, as the case may be, the activities specified in the notice have not ceased,

   the person responsible is in breach of the notice.

(9) If the person responsible is in breach of the notice he shall be guilty of an offence.

(10) An offence under subsection (9) of this section may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

(11) It shall be a defence for a person charged with an offence under subsection (9) of this section to prove—
   (a) that he took all reasonable measures to secure compliance with the conditions specified in the notice; or

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(b) where the notice was served on him by virtue of subsection (2)(b) of this section, that he no longer had control of the land.

(12) A person who is guilty of an offence under subsection (9) of this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(13) In this section—

(a) "conditions" includes limitations; and

(b) references to carrying out any development include causing or permitting another to do so.**]**

Textual Amendments

F321 S. 87AA and cross heading inserted before s. 87A (10.8.1992 in so far as the inserting section inserts into this Act a definition of a breach of condition notice, otherwise 25.9.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.34** (with s. 84(5)); S.I. 1992/1937, **arts.3**, 4. (with art. 5)

[F322 87A Register of waste land, enforcement and stop notices.

(1) Every general and district planning authority shall, with respect to waste land notices, enforcement notices and stop notices which have been served in relation to land in their district, keep a register—

(a) in such manner; and

(b) containing such information,

as may be prescribed; and there may also be prescribed circumstances in which an entry in the register shall be deleted.

(2) Every register kept under this section shall be available for inspection by the public at all reasonable hours.**]**

Textual Amendments

F322 S. 87A inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **ss. 44**, 69(2)

Modifications etc. (not altering text)

C60 S. 87A extended (with modifications) by S.I. 1984/995, reg. 2, **Sch.** (which S.I. was revoked (26.3.1992) by S.I. 1992/478, **reg. 3**)
S. 87A extended (26.3.1992) by S.I. 1992/478, reg. 2, **Sch.**

88 Execution and cost of works required by enforcement notice.

(1) If, within the period specified in an enforcement notice for compliance therewith, or within such extended period as the. . . [F323] planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken, the. . . [F323] planning authority may enter on the land and take those steps, and may recover from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in doing so; and if that person, having been entitled to appeal to the Secretary of State failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken in accordance with the notice by the. . . [F323] planning authority.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F324](1A) In computing the amount of the expenses which may be recovered by them under subsection (1) above, a planning authority may include in that amount such proportion of their administrative expenses as seems to them to be appropriate.**]**

(2) Any expenses incurred by the owner, lessee or occupier of any land for the purpose of complying with an enforcement notice served in respect of any breach of planning control (as defined in section 84(2) of this Act) and any sums paid by the owner or lessee of any land under subsection (1) of this section in respect of expenses incurred by the. . . [F323] planning authority in taking steps required by such a notice to be taken, shall be recoverable from the person by whom the breach of planning control was committed.

[[F325](3) If on a complaint by the owner of any land it appears to the sheriff that the occupier of the land is proventing the owner from carrying out work required to be carried out by an enforcement notice, the sheriff may by warrant authorise the owner to go on to the land and carry out that work.

(4) A planning authority taking steps under subsection (1) above may sell any materials removed by them from the land unless those materials are claimed by the owner within 3 days of their removal by the planning authority; and where such materials have been sold the planning authority shall, after deducting therefrom any expenses recoverable by them from the owner, pay him the proceeds of such sale.

(5) Where a planning authority seek, under subsection (1) above, to recover any expenses from a person on the basis that he is the owner of any land, and such person proves that—

(a) he is receiving the rent in respect of that land merely as trustee, tutor, curator, factor or agent of some other person; and

(b) he has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid; but a planning authority who by reason of the foregoing provisions of this subsection have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.**]**

Textual Amendments

F323 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F324 S. 88(1A) added by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 23**(*a*)

F325 S. 88(3)—(5) substituted for s. 88(3)(4) by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 23(b)**

89 Enforcement notice to have effect against subsequent development.

(1) Compliance with an enforcement notice, whether in respect of—

(a) the demolition or alteration of any building or works; or

(b) the discontinuance of any use of land,

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or in respect of any other requirements contained in the enforcement notice, shall not discharge the enforcement notice.

(2) Without prejudice to subsection (1) of this section, any provision of an enforcement notice requiring a use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently, to the extent that it is in contravention of Part III of this Act; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(3) Without prejudice to subsection (1) of this section, if any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as it applied in relation to the buildings or works before they were demolished or altered.

(4) a person who, without the grant of planning permission in that behalf, carries out any development on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding **[**[F326]level 5 on the standard scale**]**.

Textual Amendments

F326 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **s. 289G** (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

Modifications etc. (not altering text)

C61 S. 84(7A)(*b*)(10)(12), 85(10)(11), 86, 87, 87A, 89, 89A extended (with modifications) by S.I. 1984/995, reg. 2, **Sch.** (which S.I.was revoked (26.3.1992) by S.I. 1992/478, **reg.3**)

[[F327]**89A Effect of subsequent planning permission on enforcement notice.**

—Notwithstanding subsections (1) to (3) of section 89 of this Act, an enforcement notice shall cease to have effect to the extent that its terms are inconsistent with the terms of any planning permission granted, or deemed to have been granted, subsequent to the service of the notice.**]**

Textual Amendments

F327 S. 89A added by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 25**

Modifications etc. (not altering text)

C62 S. 84(7A)(*b*)(10)(12), 85(10)(11), 86, 87, 87A, 89, 89A extended (with modifications) by S.I. 1984/995, reg. 2, **Sch.** (which S.I. was revoked (26.3.1992) by S.I. 1992/478, **reg. 3**)

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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[F328 Certificate of lawful use or development]

Textual Amendments

F328 Ss. 90-90C and cross heading substituted for s. 90 ((10.8.1992 for certain purposes under s. 90B, otherwise 25.9.1992)) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 42(1)** (with s. 84(5)); S.I. 1992/1937, **arts.3**, 4 (with art. 5).

90 Certification of established use.

(1) For the purposes of this Part of this Act, a use of land is established if—

(a) it was begun before the beginning of 1965 without planning permission in that behalf and has continued since the end of 1964; or

(b) it was begun before the beginning of 1965 under a planning permission in that behalf granted subject to conditions or limitations, which either have never been complied with or have not been complied with since the end of 1964; or

(c) it was begun after the end of 1964 as the result of a change of use not requiring planning permission and there has been, since the end of 1964, no change of use requiring planning permission.

(2) Where a person having an interest in land claims that a particular use of it has become established, he may apply to the. . . [F329] planning authority for a certificate (in this Act referred to as an "established use certificate") to that effect:

Provided that no such application may be made in respect of the use of land as a single dwellinghouse, or of any use not subsisting at the time of the application.

(3) An established use certificate may be granted (either by the. . . [F329] planning authority or, under section 91 of this Act, by the Secretary of State)—

(a) either for the whole of the land specified in the application, or for a part of it;

(b) in the case of an application specifying two or more uses, either for all those uses or for some one or more of them.

(4) On an application to them under this section, the. . . [F329] planning authority shall, if and so far as they are satisfied that the applicant's claim is made out, grant to him an established use certificate accordingly; and if and so far as they are not so satisfied, they shall refuse the application.

(5) Where an application is made to a. . . [F329] planning authority for an established use certificate, then unless within such period as may be prescribed by a development order, or within such extended period as may at any time be agreed upon in writing between the applicant and the. . . [F329] planning authority, the authority give notice to the applicant of their decision on the application, then, for the purposes of section 91(2) of this Act, the application shall be deemed to be refused.

(6) Schedule 12 to this Act shall have effect with respect to established use certificates and applications therefor and to appeals under section 91 of this Act.

(7) An established use certificate shall, as respects any matters state therein, be conclusive for the purposes of an appeal to the Secretary of State against an enforcement notice served in respect of any land to which the certificate relates, but only where the notice is served after the date of the application on which the certificate was granted.

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(8) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for an established use certificate or on an appeal arising out of such an application—

(a) knowingly or recklessly makes a statement which is false in a material particular; or

(b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any document which is false in a material particular; or

(c) with intent to deceive, withholds any material information,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

Textual Amendments

F329 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

VALID FROM 10/08/1992

[F330F330 90C Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether—

(a) any proposed use of buildings or other land; or

(b) any operations proposed to be carried out in, on, over or under land,

would be lawful, he may make an application for the purpose to the planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall—

(a) specify the land to which it relates;

(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 19(2)(f) of this Act, identifying it by reference to that class);

(c) give the reasons for determining the use or operations to be lawful; and

(d) specify the date of the application for the certificate.

(4) There shall be an irrefutable presumption as to the lawfulness of any use or operations for which a certificate is in force under this section unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.**]**

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Textual Amendments

F330 Ss. 90-90C and cross heading substituted for s. 90 (10.8.1992 for certain purposes under s. 90B, otherwise 25.9.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 42(1)** (with s. 84(5)); S.I. 1992/1937, **arts. 3**, 4 (with art. 5).

VALID FROM 10/08/1992

[F331F331 90C Certificates under sections 90 and 90A: supplementary provisions.

(1) An application for a certificate under section 90 or 90A of this Act shall be made in such manner as may be prescribed by regulations under this Act or a development order and shall include such particulars, and be verified by such evidence, as may be required by such regulations or such an order or by any directions given under such regulations or such an order or by the planning authority.

(2) Provision may be made by such regulations or a development order for regulating the manner in which applications for certificates under those sections are to be dealt with by planning authorities.

(3) In particular, such regulations or such an order may provide for requiring the authority—

(a) to give to any applicant within such time as may be prescribed by the regulations or the order such notice as may be so prescribed as to the manner in which his application has been dealt with; and

(b) to give to the Secretary of State and to such other persons as may be prescribed by or under the regulations or the order, such information as may be so prescribed with respect to such applications made to the authority, including information as to the manner in which any application has been dealt with.

(4) A certificate under either of those sections may be issued—

(a) for the whole or part of the land specified in the application; and

(b) where the application specifies two or more uses, operations or other things, for all of them or some one or more of them,

and shall be in such form as may be prescribed by such regulations or a development order.

(5) A certificate under section 90 or 90A shall not affect any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted unless that matter is described in the certificate.

(6) In section 31 of this Act references to applications for planning permission shall include references to applications for certificates under section 90 or 90A of this Act.

(7) A planning authority may revoke a certificate under either of those sections if, on the application for the certificate—

(a) a statement was made or document used which was false in a material particular; or

(b) any material information was withheld.

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(8) Provision may be made by such regulations or a development order for regulating the manner in which certificates may be revoked and the notice to be given of such revocation.**]**

Textual Amendments

F331 Ss. 90-90C and cross heading substituted for s. 90 (10.8.1992 for certain purposes under s. 90B, otherwise 25.9.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 42(1)** (with s. 84(5)); S.I. 1992/1937, **arts. 3**, 4 (with art. 5).

VALID FROM 10/08/1992

[F332F332 90C Offences.

(1) If any person, for the purpose of procuring a particular decision on an application (whether by himself or another) for the issue of a certificate under section 90 or 90A of this Act—

(a) knowingly or recklessly makes a statement which is false or misleading in a material particular;

(b) with intent to deceive, uses any document which is false or misleading in a material particular; or

(c) with intent to deceive, withholds any material information,

he shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) of this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.**]**

Textual Amendments

F332 Ss. 90-90C and cross heading substituted for s. 90 (10.8.1992 for certain purposes under s. 90B, otherwise 25.9.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 42(1)** (with s. 84(5)); S.I. 1992/1937, **arts.3**, 4 (with art. 5).

91 Grant of certificate by Secretary of State on referred application or appeal against refusal.

(1) F333

(2) Where an application is made to a. . . F334 planning authority for an estblished use certificateand is refused, or is refused in part, the applicant may by notice under this subsection appeal to the Secretary of State; and on any such appeal the Secretary of State shall—

(a) if and so far as he is satisfied that the authority's refusal is not well-founded, grant to the appellant an established use certificate accordingly or, as the case may be, modify the certificate granted by the authority on the application; and

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(b) if and so far as he is satisfied that the authority's refusal is well-founded, dismiss the appeal.

(3) On. . . [F335] an appeal to him under subsection (2) of this section, the Secretary of State may, in respect of any use of land for which an established use certificate is not granted (either by him or by the. . . [F334] planning authority), grant planning permission for that use or, as the case may be, for the continuance of that use without complying with some condition subject to which a previous planning permission was granted.

(4) Before determining an. . . [F335] appeal under this section the Secretary of State shall, if either the. . . [F335] appellant. . . [F335] or the. . . [F334] planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) In the case of any use of land for which the Secretary of State has power to grant planning permission under this section, the. . . [F335] appellant shall be deemed to have made an application for such planning permission; and any planning permission so granted shall be treated as granted on the said application.

(6) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section.

Textual Amendments

F333 Ss. 91(1), 111, 112 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

F334 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F335 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

VALID FROM 26/03/1992

[[F336] Rights of entry for enforcement purposes]

Textual Amendments

F336 Ss. 91A-91C and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **ss. 43(1)**, 84(2) (with s. 84(5)); S.I. 1992/334, **art.4**

[[F337][F337]91A Right to enter without warrant.

(1) Any person duly authorised in writing by a planning authority may at any reasonable hour enter any land—

(a) to ascertain whether there is or has been any breach of planning control on the land or any other land;

(b) to determine whether any of the powers conferred on a planning authority by sections 84 to 91 or 100 of this Act should be exercised in relation to the land or any other land;

(c) to determine how any such power should be exercised in relation to the land or any other land;

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(d) to ascertain whether there has been compliance with any requirement imposed as a result of any such power having been exercised in relation to the land or any other land,

if there are reasonable grounds for entering for the purpose in question.

(2) Any person duly authorised in writing by the Secretary of State may at any reasonable hour enter any land to determine whether an enforcement notice should be issued in relation to the land or any other land, if there are reasonable grounds for entering for that purpose.

(3) The Secretary of State shall not so authorise any person without consulting the planning authority.

(4) Admission to any building used as a dwellinghouse shall not be demanded as of right by virtue of subsection (1) or (2) of this section unless 24 hours' notice of the intended entry has been given to the occupier of the building.**]**

Textual Amendments

F337 Ss. 91A-91C and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 43(1)**, (with s. 84(5)); S.I. 1992/334, **art. 4**.

[F338F338 91B Right to enter under warrant.

(1) If the sheriff is satisfied —

(a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 91A(1) or (2) of this Act; and

(b) that—

(i) admission to the land has been refused, or a refusal is reasonably apprehended; or

(ii) the case is one of urgency,

he may issue a warrant authorising any person duly authorised in writing to enter the land.

(2) For the purposes of subsection (1)(b)(i) of this section admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.

(3) A warrant authorises entry on one occasion only and that entry must be—

(a) within one month from the date of the issue of the warrant; and

(b) at a reasonable hour, unless the case is one of urgency.**]**

Textual Amendments

F338 Ss. 91A-91C and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 43(1)** (with s. 84(5)); S.I. 1992/334, **art. 4**.

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[F339F339 91C Rights of entry: supplementary provisions.

(1) A person authorised to enter any land in pursuance of a right of entry conferred under or by virtue of section 91A or 91B of this Act (referred to in this section as "a right of entry")—

(a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;

(b) may take with him such other persons as may be necessary; and

(c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.

(2) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If any damage is caused to land or moveable property in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.

(4) The provisions of section 168 of this Act shall apply in relation to compensation under subsection (3) of this section as they apply in relation to compensation under Part VIII of this Act.

(5) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.

(6) Subsection (4) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.

(7) A person who is guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.**]**

Textual Amendments

F339 Ss. 91A-91C and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 43(1)** (with s. 84(5)); S.I. 1992/334, **art. 4**.

Listed buildings

92 Power to serve listed building enforcement notice.

(1) Where it appears to the. . . [F340] planning authority that any works have been, or are being, executed to a listed building in their district and are such as to involve a contravention of section 53(1) or (4) of this Act, then,. . . [F341], they may, if they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest, serve a notice—

(a) specifying the alleged contravention; and

[[F342](b) specifying one of the following sets of steps—

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(i) the steps required to restore the building to its former state;

(ii) the steps required to bring the building to the state it would have been in if the terms and conditions of any listed building consent for the works had been complied with;

(iii) subject to subsection (1A) below, the steps required to alleviate, in a manner acceptable to the planning authority, the effects of works executed without listed building consent; and

(c) specifying the period within which steps specified under paragraph (b) above are to be taken.**]**

[[F343](1A) A planning authority may specify steps under sub-paragraph (iii) of paragraph (b) of subsection (1) above, if, but only if, it appears to them either—

(a) that complete restoration of the building to its former state is not reasonably practicable; or

(b) that such restoration is undesirable, having regard to the desirability of preserving—

(i) the character of the building; or

(ii) its features of architectural or historical interest.**]**

(2) a notice under this section is in this Act referred to as a "listed building enforcement notice".

[[F344](2A) Where such steps as are mentioned in subsection (1)(b)(iii) above have been taken in relation to works carried out on a building, listed building consent shall be deemed to have been granted in respect of those works as alleviated.**]**

(3) a listed building enforcement notice shall be served on the owner, on the lessee and on the occupier of the building to which it relates and on any other person having an interest in the building, being an interest which in the opinion of the authority is materially affected by the notice.

[[F345](3A) Service under subsection (3) above shall be effected by the service of a copy of the notice; and references in this Act to service of listed building enforcement notices shall be so construed.**]**

[[F346](4) Subject to section 93 of this Act, a listed building enforcement notice shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (3) above.**]**

(5) The. . . [F340] planning authority may withdraw a listed building enforcement notice (without prejudice to their power to serve another) at any time before it takes effect; and if they do so, they shall forthwith give notice of the withdrawal to every person who was served with the notice.

(6) Every. . . [F340] planning authority shall keep available for public inspection free of charge at reasonable hours and at a convenient place a list containing particulars of any building in their district in respect of which a listed building enforcement notice has been served.

Textual Amendments

F340 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F341 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

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F342 S. 92(1)(*b*)(*c*) substituted for s. 92(1)(b) by Local Government and Planning (Scotland) Act 1982 (c, 43), s. 69(2), Sch. 2 para. 26(*a*)

F343 S. 92(1A) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 26**(*b*)

F344 S. 92(2A) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43),s. 69(2), Sch. 2 para. 26(*c*)

F345 S. 92(3A) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 26**(*d*)

F346 S. 92(4) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 26**(*e*)

93 Appeal against listed building enforcement notice.

(1) a person on whom a listed building enforcement notice is served, or any other person having an interest in the building to which it relates, may, at any time **[**[F347]before the date specified in the notice as the date on**]** which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds—

(a) that the building is not of special architectural or historic interest;

(b) that the matters alleged to constitute a contravention of section 53 of this Act do not involve such a contravention;

[[F348](c) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;**]**

(d) that listed building consent ought to be granted for the works, or that any relevent condition of such consent which has been granted ought to be discharged, or different conditions substituted;

(e) that the notice was not served as required by section 92(3) of this Act

(f) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;

(g) that the period specified in the notice as the period within which any steps required thereby are to be taken falls short of what should reasonably be allowed;

(h) that the steps required by the notice to be taken would not serve the purpose of restoring the character of the building to its former state.

[[F349](i) that the steps specified under sub-paragraph (ii) of section 92(1)(b) of this Act exceed what is necessary to bring the building to the state mentioned in that sub-paragraph;

(j) that the steps specified under sub-paragraph (iii) of the said section 92(1)(b) exceed what may reasonably be required in terms of that sub-paragraph;

(k) that the breach of listed building control alleged in the notice has not taken place.**]**

[[F350](2) An appeal under this section shall be made by notice in writing to the Secretary of State.

(2A) The provisions of subsections (2A) to (2D) of section 85 of this Act (which relates to appeals against enforcement notices) shall apply to appeals under this section as they apply to appeals under that section.**]**

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(3) Where an appeal is brought under this section the notice shall be of no effect pending the final determination or withdrawal of the appeal.

(4) On an appeal under this section,—

(a) the Secretary of State may correct any informality, defect or error in the notice if he is satisfied that the informality, defect or error is not material;

(b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by section 92(3) of this Act to be served with the notice was not served, the Secretary of State may disregard that fact if he is satisfied that the person has not been substantially prejudiced by the failure to serve him.

(5) On the determination of an appeal under this section the Secretary of State shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the listed building enforcement notice or for varying the terms of the notice in favour of the appellant, and the Secretary of State may—

(a) grant listed building consent for the works to which the notice relates or, as the case may be, discharge any condition subject to which such consent was granted and substitute any other condition, whether more or less onerous;

(b) . . . [F351]

(c) if he thinks fit, exercise his power under section 52 of this Act to amend any list compiled or approved thereunder by removing from it the building to which the appeal relates or his power under subsection (8) of that section to direct that that subsection shall no longer apply to the building.

[[F352](6) Any listed building consent granted by the Secretary of State under subsection (5) above shall be treated as granted on an application for such consent made under Part I of Schedule 10 to this Act.**]**

(7) The validity of a listed building enforcement notice shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds specified in paragraphs (b) or (e) of subsection (1) of this section.

(8) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section.

Textual Amendments

F347 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 27**(*a*)(i)

F348 S. 93(1)(*c*) substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II**, para. 15(2)

F349 S. 93(1)(i)-(k) added by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 27**(*a*)(ii)

F350 S. 93(2)(2A) substituted for s. 93(2) by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 27(b)**

F351 S. 93(5)(b) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

F352 S. 93(6) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 27**(*c*)

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94 Penalties for non-compliance with listed building enforcement notice.

(1) Subject to the provisions of this section, where a listed building enforcement notice has been served in respect of any building and any steps required by the notice to be taken have not been taken within the period allowed for compliance with the notice, the person responsible for the contravention mentioned in section 92(1) of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine.

(2) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and be liable—

(a) on summary conviction to a fine not exceeding **[**[F353]£200**]** for each day following his first conviction on which any of the requirements of the notice remain unfulfilled; or

(b) on conviction on indictment to a fine.

(3) Any reference in this or the next following section to the period allowed for compliance with a listed building enforcement notice is a reference to the period specified in the notice as that within which the steps specified in the notice are required thereby to be taken, or such extended period as the local planning authority may allow for taking them.

Textual Amendments

F353 Words substituted by Housing and Planning Act (c. 63, SIF 123:2), s. 53(1), Sch. 11 Pt. II para. 44(1)(2)

95 Execution and cost of works required by listed building enforcement notice.

(1) If, within the period allowed for compliance with a listed building enforcement notice, any steps required by the notice to be taken have not been taken, the authority may enter on the land and take those steps, and may recover from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in doing so.

(2) Any expenses incurred by the owner, lessee or occupier of a building for the purpose of complying with a listed building enforcement notice, and any sums paid by the owner or lessee of a building under subsection (1) of this section in respect of expenses incurred by the. . . [F354] planning authority in taking steps required by such a notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

(3) The provisions of section 88(3) and (4) of this Act shall apply in relation to a listed building enforcement notice as they apply in relation to an enforcement notice; and any regulations made by virtue of this subsection may provide for the charging on the land on which the building stands of any expenses recoverable by a. . . [F354] planning authority under subsection (1) of this section.

Textual Amendments

F354 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

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[F355 95A Effect of listed building consent on listed building enforcement

(1) If, after the issue of a listed building enforcement notice, consent is granted under section 53(2A) of this Act for the retention of any work to which the listed building enforcement notice relates, the notice shall cease to have effect in so far as it requires steps to be taken which would involve the works not being retained in accordance with the consent.

(2) If the consent is granted so as to permit the retention of works without complying with some condition subject to which a previous listed building consent was granted, the listed building enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.

(3) The preceding provisions of this section shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the listed building enforcement notice before the relevant provisions of that notice ceased to have effect.]

Textual Amendments

F355 S. 95A inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 19**

96 Enforcement by, or by direction of, the Secretary of State.

(1) If it appears to the Secretary of State, after consultation with the. . . F356 planning authority, to be expedient that a listed building enforcement notice should be served in respect of any land, he. . . F357 may himself serve such a notice; and any notice so served by the Secretary of State shall have the like effect as a notice served by the. . . F356 planning authority.

(2) In relation to a listed building enforcement notice served by the Secretary of State, the provisions of sections 94(3) and 95 of this Act shall apply as if for any reference therein to the. . . F356 planning authority there were substituted a reference to the Secretary of State.

Textual Amendments

F356 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F357 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

[F358 97 Urgent works to preserve building.

(1) Where it appears to the planning authority or the Secretary of State that works are urgently necessary for the preservation of—

(a) a listed building, or

(b) a building in respect of which a direction has been given by the Secretary of State that this section shall apply,

they or he may, subject to the following provisions of this section, execute the works, which may consist of or include works for affording temporary support or shelter for the building.

(2) The ground on which the Secretary of State may give a direction that this section shall apply to a building is that the building is in a conservation area and it appears to him

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that its preservation is important for maintaining the character or appearance of the conservation area.

(3) If the building is occupied works may be carried out only to those parts which are not in use; and no action may be taken in respect of an excepted building within the meaning of section 56(2) of this Act.

(4) The owner of the building shall be given not less than 7 days' notice in writing of the intention to carry out the works and the notice shall describe the works proposed to be carried out.**]**

Textual Amendments

F358 Ss. 97, 97A substituted for s. 97 by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 20**

[F359 97A Recovery of expenses of works under s. 97.

(1) This section has effect for enabling the expenses of works executed under section 97 of this Act to be recovered.

(2) The planning authority or, as the case may be, the Secretary of State may give notice to the owner of the building requiring him to pay the expenses of the works.

(3) Where the works consist of or include works for affording temporary support or shelter for the building—
   (a) the expenses which may be recovered include any continuing expenses involved in making available the apparatus or materials used, and
   (b) notices under subsection (2) in respect of any such continuing expenses may be given from time to time.

(4) The owner may within 28 days of the service of the notice represent to the Secretary of State—
   (a) that some or all of the works were unnecessary for the preservation of the building,
   (b) in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time, or
   (c) that the amount specified in the notice is unreasonable or that the recovery of it would cause him hardship,

   and the Secretary of State shall determine to what extent the representations are justified.

(5) The Secretary of State shall give notice of his determination, the reasons for it and the amount recoverable—
   (a) to the owner of the building, and
   (b) to the planning authority, if they carried out the works.**]**

Textual Amendments

F359 Ss. 97, 97A substituted for s. 97 by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 20**

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VALID FROM 26/03/1992

[F360 97AB F360 Further provision as to rights of entry in relation to listed buildings.

(1) The provisions of this section and of section 97AC of this Act shall apply, in place of the provisions of section 266 of this Act, to rights of entry exercised under section 265 of this Act in relation to listed buildings and listed buildings control.

(2) If the sheriff is satisfied—
- (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 265 of this Act; and
- (b) that—
  - (i) admission to the land has been refused, or a refusal is reasonably apprehended; or
  - (ii) the case is one of urgency,

he may issue a warrant authorising any person duly authorised in writing to enter the land.

(3) For the purposes of subsection (2)(b)(i) of this section admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.

(4) A warrant authorises entry on one occasion only and that entry must be—
- (a) within one month from the date of the issue of the warrant; and
- (b) at a reasonable hour, unless the case is one of urgency.**]**

Textual Amendments

F360 Ss. 97AB, 97AC inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF), s. 57, **Sch. 10 para. 10** (with s. 84(5)); S.I. 1992/334, **art. 4**

VALID FROM 26/03/1992

[F361 F361 97AC Rights of entry in relation to listed buildings: supplementary provisions.

(1) Subject to subsection (2) of this section, a person authorised to enter any land in pursuance of a right of entry conferred under or by virtue of section 265 or 97AB of this Act (referred to in this section as "a right of entry"),—
- (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
- (b) may take with him such other persons as may be necessary; and
- (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.

(2) Admission to any land which is occupied shall not be demanded as of right by virtue of section 265 of this section unless 24 hours' notice of the intended entry has been given to the occupier of the land.

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(3) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If any damage is caused to land or moveable property in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State; and section 168 of this Act shall apply in relation to compensation under this subsection as it applies in relation to compensation under Part VIII of this Act.

(5) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.

(6) Subsection (5) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.

(7) A person who is guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(8) No person shall carry out any works in exercise of a power conferred under section 97 of this Act unless notice of his intention to do so was included in the notice required by subsection (2) of this section.

(9) The authority of the appropriate Minister shall be required for the carrying out of works in exercise of a power conferred under section 97 of this Act if—

(a) the land in question is held by statutory undertakers; and

(b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking.

(10) Section 213(1) of this Act applies for the purposes of subsection (9) of this section as it applies for the purposes of section 266(6)(b) of this Act.**]**

Textual Amendments

F361 Ss. 97AB, 97AC inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF), s. 57, **Sch. 10 para.10** (with s. 84(5)); S.I. 1992/334, **art.4**

[F362 Hazardous substances]

Textual Amendments

F362 S. 97B and crossheading inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 36**; S.I. 1993/273, **arts.3**, 5

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[F363 97B Power to issue hazardous substances contravention notice.

(1) Subject to subsection (2) below, where it appears to the planning authority that there is or has been a contravention of hazardous substances control they may issue a hazardous substances contravention notice if they consider it expedient to do so having regard to any material consideration.

(2) A planning authority shall not issue a hazardous substances contravention notice where it appears to them that a contravention of hazardous substances control can be avoided only by the taking of action amounting to a breach of a statutory duty.

(3) In this Act "hazardous substances contravention notice" means a notice—
- (a) specifying an alleged contravention of hazardous substances control; and
- (b) requiring such steps as may be specified in the notice to be taken to remedy the contravention.

(4) A copy of a hazardous substances contravention notice shall be served—
- (a) on the owner, the lessee and the occupier of the land to which it relates; and
- (b) on such other persons as may be prescribed.

(5) A hazardous substances contravention notice shall also specify—
- (a) a date not less than 28 days from the date of service of copies of the notice as the date on which it is to take effect;
- (b) in respect of each of the steps required to be taken to remedy the contravention of hazardous substances control, the period from the notice taking effect within which the step is to be taken.

(6) Where a planning authority issue a hazardous substances contravention notice the steps required by the notice may, without prejudice to the generality of subsection (3) (*b*) above, if the authority think it expedient, include a requirement that the hazardous substance be removed from the land.

(7) Where a notice includes such a requirement, it may also contain a direction that at the end of such period as may be specified in the notice any hazardous substances consent for the presence of the substance shall cease to have effect or, if it relates to more than one substance, shall cease to have effect so far as it relates to the substance which is required to be removed.

(8) The planning authority may withdraw a hazardous substances contravention notice (without prejudice to their power to issue another) at any time before it takes effect.

(9) If they do so, they shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.

(10) The Secretary of State may by regulations—
- (a) specify matters which are to be included in hazardous substances contravention notices, in addition to those which are required to be included in them by this section;
- (b) provide—
  - (i) for appeals to him against hazardous substances contravention notices;
  - (ii) for the persons by whom, grounds upon which and time within which such an appeal may be brought;
  - (iii) for the procedure to be followed on such appeals;

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(iv) for the directions that may be given on such an appeal;

(v) for the application to such appeals, subject to such modifications as the regulations may specify, of any of the provisions of sections 85, 231(3) and 233 of this Act;

(c) direct that any of the provisions of sections 86 to 89A **[**[F364]and 166**]** of this Act shall have effect in relation to hazardous substances contravention notices subject to such modifications as he may specify in the regulations;

(d) make such other provision as he considers necessary orexpedient in relation to hazardous substances contravention notices.

(11) If any person appeals against a hazardous substances contravention notice, the notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(12) Regulations under this section may make different provisions for different cases or descriptions of cases.**]**

Textual Amendments

F363 S.97B inserted (*prosp.*) by Housing and Planning Act 1986 (c. 63, SIF 123:2), **s. 36**

F364 Words inserted (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 144, 162(2), **Sch. 13 para. 11(11)**

VALID FROM 01/05/1993

[[F365]**97BA**[F365]**Variation of hazardous substances contravention notices.**

(1) A planning authority may waive or relax any requirement of a hazardous substances contravention notice issued by them and, in particular, may extend any period specified in accordance with section 97B(5)(b) of this Act in the notice.

(2) The powers conferred by subsection (1) of this section may be exercised before or after the notice takes effect.

(3) The planning authority shall, immediately after exercising those powers, give notice of the exercise to every person who has been served with a copy of the hazardous substances contravention notice or would, if the notice were re-issued, be served with a copy of it.**]**

Textual Amendments

F365 Ss. 97BA-97BC inserted (1.5.1993) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 57, **Sch. 10 para.11** (with s. 84(5)); S.I. 1993/275, **art.3**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/05/1993

[F366F366 97BB Further provision as to rights of entry in relation to hazardous substances control.

(1) The provisions of this section and of section 97BC of this Act apply, in place of the provisions of section 266 of this Act, to rights of entry exercised under section 265 of this Act in relation to applications for hazardous substances consent and hazardous substances control.

(2) If the sheriff is satisfied—
- (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 265 of this Act; and
- (b) that—
  - (i) admission to the land has been refused, or a refusal is reasonably apprehended; or
  - (ii) the case is one of urgency,

he may issue a warrant authorising any person duly authorised in writing to enter the land.

(2) For the purposes of subsection (2)(b)(i) of this section admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.

(3) A warrant authorises entry on one occasion only and that entry must be—
- (a) within one month from the date of the issue of the warrant; and
- (b) at a reasonable hour, unless the case is one of urgency.**]**

Textual Amendments

F366 Ss. 97BA- 97BC inserted (1.5.1993) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 57, **Sch. 10 para.11** (with s. 84(5)); S.I. 1993/275, **art.3**

VALID FROM 01/05/1993

[F367F367 97BC Rights of entry in relation to hazardous substances control: supplementary provisions.

(1) A person authorised to enter any land in pursuance of a right of entry conferred under or by virtue of section 265 or 97BB of this Act (referred to in this section as "a right of entry")—
- (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
- (b) may take with him such other persons as may be necessary; and
- (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.

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(2) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If any damage is caused to land or moveable property in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State; and section 168 of this Act shall apply in relation to compensation under this subsection as it applies in relation to compensation under Part VIII of this Act.

(4) If any person who enters any land, in exercise of a right of entry, discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.

(5) Subsection (4) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.

(6) A person who is guilty of an offence under subsection (4) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(7) The authority of the appropriate Minister shall be required for the carrying out of works in exercise of a power conferred under section 265(8) of this Act if—

(a) the land in question is held by statutory undertakers; and

(b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking.

(8) Section 213(1) of this Act applies for the purposes of subsection (7) of this section as it applies for the purposes of section 266(6)(b) of this Act.**]**

Textual Amendments

F367 Ss. 97BA-97BC inserted after s. 97B (1.5.1993) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 57, **Sch. 10 para. 11** (with s. 84(5)); S.I. 1993/275, **art. 3**

Trees

98 Penalties for non-compliance with tree preservation order.

[[F368](1) If any person, in contravention of a tree preservation order, cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, he shall be guilty of an offence and shall be liable—

(a) on summary conviction to a fine not exceeding £400 or twice the sum which appears to the court to be the value of the tree, whichever is the greater; or

(b) on conviction on indictment, to a fine,

and, in determining the amount of any fine to be imposed on a person convicted on indictment, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.**]**

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(2) If any person contravenes the provisions of a tree preservation order otherwise than as mentioned in subsection (1) of this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F369]level 4 on the standard scale**]**.

(3) If, in the case of a continuing offence under this section, the contravention is continued after the conviction, the offender shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding **[**[F370]£100**]** for each day on which the contravention is so continued.

[[F371](4) This section shall apply to an offence under section 59A above as it applies to a contravention of a tree preservation order.**]**

Textual Amendments

F368 S. 98(1) substituted by Town and Country Amenities Act 1974 (c. 32), **s. 11(3)(7)**

F369 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F370 Words substituted by Housing and Planning Act (c. 63, SIF 123:2), s. 53(1), Sch. 11 Pt. II para. 44(1)(2)

F371 S. 98(4) added by Town and Country Amenities Act 1974 (c. 32), **s. 11(6)(7)**

99 Enforcement of duties as to replacement of trees.

(1) If it appears to the. . . [F372] planning authority that the provisions of section 60 of this Act, or any conditions of a consent given under a tree preservation order which require the replacement of trees, are not complied with in the case of any tree or trees, that authority may, at any time within two years from the date on which the failure to comply with the said provisions or conditions came to their knowledge, serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified.

(2) Subject to the following provisions of this section, a notice under this section shall take effect at the end of such period, not being less than twenty-eight days after the service of the notice, as may be specified in the notice.

(3) a person on whom a notice under this section is served may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Secretary of State against the notice on any of the following grounds—

(a) that the provisions of the said section 60 or the conditions aforesaid are not applicable or have been complied with;

(b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified therein;

(c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;

(d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose;

and the provisions of section 85(2) **[**[F373]to (2D)**]**, (3) and (4)(a) of this Act, and of so much of section 85(5) of this Act as enables the Secretary of State to give directions, shall apply in relation to any such appeal as they apply in relation to an appeal against an enforcement notice.

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(4) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under subsection (3) of this section.

(5) In section 88 of this Act, and in regulations in force under that section, references to an enforcement notice and an enforcement notice served in respect of any breach of planning control shall include references to a notice under this section; and in relation to such a notice the reference in subsection (2) of that section to the person by whom the breach of planning control was committed shall be construed as a reference to any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

Textual Amendments

F372 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F373 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 46**

VALID FROM 26/03/1992

[F374 Rights of entry]

Textual Amendments

F374 Ss. 99A-99C and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 54(3)** (with s. 84(5)); S.I. 1992/334, **art. 4**.

[F375F375 99A Rights to enter without warrant.

(1) Any person duly authorised in writing by a planning authority may enter any land for the purpose of—

(a) surveying it in connection with making or confirming a tree preservation order with respect to the land;

(b) ascertaining whether an offence under section 59A or 98 of this Act has been committed on the land; or

(c) determining whether a notice under section 99 should be served on the owner of the land,

if there are reasonable grounds for entering for the purpose in question.

(2) Any person duly authorised in writing by the Secretary of State may enter any land for the purpose of surveying it in connection with making, amending or revoking a tree preservation order with respect to the land if there are reasonable grounds for entering for that purpose.

(3) Any person who is duly authorised in writing by a planning authority may enter any land in connection with the exercise of any functions conferred on the authority by or under sections 57 to 60 and 99 of this Act.

(4) Any person who is an officer of the Valuation Office may enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for

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compensation in respect of any land which is payable by the planning authority under section 163 of this Act.

(5) Any person who is duly authorised in writing by the Secretary of State may enter any land in connection with the exercise of any functions conferred on the Secretary of State by or under section 58 or 99 of this Act.

(6) The Secretary of State shall not authorise any person as mentioned in subsection (2) without consulting the planning authority.

(7) Admission shall not be demanded as of right—

(a) by virtue of subsection (1) or (2) to any building used as a dwellinghouse; or

(b) by virtue of subsection (3), (4) or (5) to any land which is occupied,

unless 24 hours' notice of the intended entry has been given to the occupier.

(8) Any right to enter by virtue of this section shall be exercised at a reasonable hour.**]**

Textual Amendments

F375 Ss. 99A-99C and crossheading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 54(3)** (with s. 84(5)); S.I. 1992/334, **art. 4**

[F376F376 99B Right to enter under warrant.

(1) If the sheriff is satisfied—

(a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 99A(1) or (2) of this Act; and

(b) that—

(i) admission to the land has been refused, or a refusal is reasonably apprehended; or

(ii) the case is one of urgency,

he may issue a warrant authorising any person duly authorised in writing by a planning authority or, as the case may be, the Secretary of State to enter the land.

(2) For the purposes of subsection (1)(b)(i) of this section admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.

(3) A warrant authorises entry on one occasion only and that entry must be—

(a) within one month from the date of the issue of the warrant; and

(b) at a reasonable hour, unless the case is one of urgency.**]**

Textual Amendments

F376 Ss. 99A-99C and crossheading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 54(3)** (with s. 84(5)); S.I. 1992/334, **art.4**

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[F377F377 99C Rights of entry: supplementary provisions.

(1) Any power conferred under or by virtue of section 99A or 99B to enter land (referred to in this section as "a right of entry") shall be construed as including power to take samples from any tree and samples of the soil.

(2) A person authorised to enter land in the exercise of a right of entry—
- (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering;
- (b) may take with him such other persons as may be necessary; and
- (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.

(3) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) If any damage is caused to land or moveable property in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.**]**

Textual Amendments

F377 Ss. 99A-99C and crossheading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 54(3)** (with s. 84(5)); S.I. 1992/334, **art.4**

Other controls

[F378 100 Enforcement of orders under sections 49, 49A and 49B.

(1) Any person who, without the grant of planning permission in that behalf,—
- (a) uses land, or causes or permits land to be used,—
  - (i) for any purpose for which an order under section 49 of this Act has required that its use shall be discontinued; or(ii)in contravention of any condition imposed by such an order by virtue of subsection (1) of that section; or
- (b) resumes, or causes or permits to be resumed, development consisting of the winning and working of minerals the resumption of which an order under section 49A of this Act has prohibited; or
- (c) contravenes, or causes or permits to be contravened, any such requirement as is specified in section 49A(3) or (4) of this Act,

shall be guilty of an offence.

(2) Any person who contravenes any requirement of a suspension order or a supplementary suspension order or who causes or permits any requirement of such an order to be contravened shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment, to a fine.

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(4) If—

(a) any step required by an order under section 49 of this Act to be taken for the alteration or removal of any buildings or works or any plant or machinery; or

(b) any step required by an order under section 49A of this Act to be taken—

(i) for the alteration or removal of plant or machinery; or

(ii) for the removal or alleviation of any injury to amenity; or

(c) any step for the protection of the environment required to be taken by a suspension order or a supplementary suspension order,

has not been taken within the period specified in the order, or within such extended period as the planning authority may allow, the planning authority may enter the land and take that step, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(5) A planning authority taking any step in terms of subsection (4) of this section may sell any materials removed by them from any land unless those materials are claimed by the owner within three days of their removal by the planning authority; and where such materials have been sold the planning authority shall, after deducting therefrom any expenses recoverable by them from the owner, pay him the proceeds of such sale.

(6) It shall be a defence for a person charged with an offence under this section to prove that he took all reasonable measures and exercised all due diligence to avoid commission of the offence by himself or by any person under his control.

(7) If any person charged with an offence under this section alleges that the commission of the offence was due to the act or default of another person or due to reliance on information supplied by another person, the person charged shall not, without the leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.**]**

Textual Amendments

F378 S. 100 substituted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 28**, 35

101 Enforcement of control as to advertisements.

(1) The matters for which provision may be made by regulations under section 61 of this Act shall include provision for enabling the. . . [F379] planning authority to require the removal of any advertisement which is being displayed in contravention of the regulations, or the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations, and for that purpose for applying any of the provisions of this Part of this Act with respect to enforcement notices or the provisions of section 166 of this Act, subject to such adaptations and modifications as may be specified in the regulations.

(2) Without prejudice to any provisions included in regulations made under section 61 of this Act by virtue of subsection (1) of this section, if any person displays an advertisement in contravention of the provisions of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed by the regulations, not exceeding **[**[F380]level 3 on the standard scale**]** and,

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in the case of a continuing offence, **[**[F381]£40**]** for each day during which the offence continues after conviction.

(3) For the purposes of subsection (2) of this section, and without prejudice to the generality thereof, a person shall be deemed to display an advertisement if—

(a) the advertisement is displayed on land of which he is the owner or occupier; or

(b) the advertisement gives publicity to his goods, trade, business or other concerns:

Provided that a person shall not be guilty of an offence under that subsection by reason only that an advertisement is displayed on land of which he is the owner or occupier, or that his goods, trade, business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

Textual Amendments

F379 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F380 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F381 Words substituted by Housing and Planning Act (c. 63, SIF 123:2), s. 53(1), Sch. 11 Pt. II para. 44(1)(2)

Modifications etc. (not altering text)

C63 S. 101(2) extended by S.I. 1984/467, **reg. 7**

VALID FROM 26/03/1992

[[F382]**101A**[F382]**Power to remove or obliterate placards and posters.**

(1) Subject to the provisions of this section, a planning authority may remove or obliterate any placard or poster—

(a) which is displayed in their area; and

(b) which in their opinion is so displayed in contravention of regulations made under section 61 of this Act.

(2) Subsection (1) of this section does not authorise the removal or obliteration of a placard or poster displayed within a building to which there is no public right of access.

(3) Subject to subsection (4) of this section, where a placard or poster identifies the person who displayed it or caused it to be displayed, the planning authority shall not exercise any power conferred by subsection (1) of this section unless they have first given him notice in writing—

(a) that in their opinion it is displayed in contravention of regulations made under section 61 of this Act; and

(b) that they intend to remove or obliterate it on the expiry of a period specified in the notice.

(4) Subsection (3) of this section does not apply if—

(a) the placard or poster does not give his address; and

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(b) the authority do not know it and are unable to ascertain it after reasonable inquiry.

(5) The period specified in a notice under subsection (3) of this section must be not less than two days from the date of service of the notice.

(6) Any person duly authorised in writing by the planning authority may at any reasonable time enter any land for the purpose of exercising a power conferred by this section if—

(a) the land is unoccupied; and

(b) it would be impossible to exercise the power without entering the land.**]**

Textual Amendments

F382 S. 101A inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.56** (with s. 84(5)); S.I. 1992/334, **art.4**

PART VI

ACQUISITION AND APPROPRIATION OF LAND AND RELATED PROVISIONS

Modifications etc. (not altering text)

C64 Pt. VI (ss. 102–122) applied by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 93, **Sch. 7 Pt. III para. 13** (with s. 335)

Acquisition and appropriation of land

102 Compulsory acquisition of land in connection with development and for other planning purposes.

[[F383](1) A local authority to whom this subsection applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily—

(a) any land within their area which is suitable for and is required in order to secure the carrying out of one or more of the following activities, namely, development, redevelopment and improvement;

(b) any land which is in their area and which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

(1A) A local authority and the Secretary of State in considering for the purposes of subsection (1)(a) above whether land is suitable for development, re-development or improvement shall have regard—

(a) to the provisions of the development plan, so far as material;

(b) to whether planning permission for any development on the land is in force; and

(c) to any other consideration which, on an application for planning permission for development on the land, would be material for the purpose of determining that application.

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(1B) Where a local authority exercise their powers under subsection (1) above in relation to any land, they shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily—

(a) any land adjoining that land which is required for the purposes of executing works for facilitating its development or use; or

(b) where the land forms part of a common or open space, any land which is required for the purpose of being given in exchange for the land which is being acquired.

(1C) It is immaterial by whom the local authority propose any activity or purpose mentioned in subsection (1) or (1B)(a) above is to be undertaken or achieved (and in particular the local authority need not propose to undertake that activity or achieve that purpose themselves).**]**

(2) Where under subsection (1) of this section the Secretary of State has power to authorise a local authority to whom this section applies to acquire any land compulsorily he may, after the requisite consultation, authorise the land to be so acquired by another authority, being a local authority within the meaning of this Act.

(3) Before giving an authorisation under subsection (2) of this section, the Secretary of State shall—

(a) where the land is **[**[F384]in a region, consult with the regional council;

(b) where the land is in an islands area, consult with the islands council;

(c) where the land is in a district, consult with the district council.**]**

(4) The [M29]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act.

(5) The local authorities to whom this section applies are **[**[F385]regional, islands and district councils**]**

Textual Amendments

F383 S. 102(1)(1A)-(1C) substituted for S. 102(1) by Local Government, Planning and Land Act 1980 (c. 65), **s. 92(4)**

F384 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 21(a)**

F385 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 21(b)**

Modifications etc. (not altering text)

C65 S. 102 amended (1.4.1983) by Local Government (Scotland) Act 1973 (c. 65), **s. 154A(5)** (as inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 7**)

Marginal Citations

M29 1947 c. 42.

103 Compulsory acquisition of land by Secretary of State for the Environment.

(1) The Secretary of State for the Environment may acquire compulsorily any land necessary for the public service.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(2) The power of acquiring land compulsorily under this section shall include power to acquire a servitude or other right over land by the grant of a new right:

Provided that this subsection shall not apply to a servitude or other right over any land which would for the purposes of the [M30]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 form part of a common or open space.

(3) The said Act of 1947 shall apply to any compulsory acquisition by the Secretary of State for the Environment under this section as it applies to a compulsory acquisition by another Minister in a case falling within section 1(1) of that Act.

Modifications etc. (not altering text)

C66 S. 103 amended by Local Government, Planning and Land Act 1980 (c. 65), **s. 122**

Marginal Citations

M30 1947 c. 42.

104 Compulsory acquisition of listed building in need of repair.

(1) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, the Secretary of State may authorise the. . . [F386] planning authority for the district in which the building is situated to acquire compulsorily under this section the building and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

(2) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, he may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required for the purpose mentioned in subsection (1) of this section.

(3) This section applies to any listed building, not being an excepted building as defined in section 56(2) of this Act.

(4) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.

(5) [M31]The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect—

(a) as if this section had been in force immediately before the commencement of that Act; and

(b) as if references therein to the Minister of Transport and to the enactments specified in section 1(1)(b) of that Act included respectively references to the Secretary of State and to the provisions of this section.

(6) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the

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notice required to be served under paragraph 3(b) of Schedule 1 to the said Act of 1947, apply to the sheriff for an order prohibiting further proceedings on the compulsory purchase order; and, if the sheriff is satisfied that reasonable steps have been taken for properly preserving the building, he shall make an order accordingly.

(7) Any person aggrieved by the decision of the sheriff on an application under subsection (6) of this section may appeal against the decision to the Court of Session, but on a question of law only.

Textual Amendments
F386 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Marginal Citations
M31 1947 c. 42.

105 Repairs notice as preliminary to compulsory acquisition under s. 104.

(1) Neither a. . . [F387] planning authority nor the Secretary of State shall start the compulsory purchase of a building under section 104 of this Act unless at least two months previously they have served on the owner of the building, and not withdrawn, a notice under this section (in this section referred to as a "repairs notice")—

(a) specifying the works which they consider reasonably necessary for the proper preservation of the building; and

(b) explaining the effect of sections 104 to 107 of this Act.

(2) Where a. . . [F387] planning authority or the Secretary of State have served a repairs notice, the demolition of the building thereafter shall not prevent them from being authorised under section 104 of this Act to acquire compulsorily the site of the building, if the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished.

(3) A. . . [F387] planning authority or the Secretary of State may at any time withdraw a repairs notice served by them; and if they do so, they shall forthwith give notice of the withdrawal to the person who was served with the notice.

(4) For the purposes of this section a compulsory acquisition is started when the. . . [F387] planning authority or the Secretary of State, as the case may be, serve the notice required by paragraph 3(b) of Schedule 1 to the [M32]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

Textual Amendments
F387 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Marginal Citations
M32 1947 c. 42.

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106 Compensation on compulsory acquisition of listed building.

Subject to section 107 of this Act, for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which, immediately before the date of the compulsory purchase order, was listed, it shall be assumed that listed building consent would be granted for any works for the alteration or extension of the building.. . . [F388][F389] . . ..

Textual Amendments

F388 Words repealed with saving by Town and Country Amenities Act 1974 (c. 32), **s. 6**

F389 Words in s. 106 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 13, **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

107 Minimum compensation in case of listed building deliberately left derelict.

(1) A. . . [F390] planning authority proposing to acquire a building compulsorily under section 104 of this Act, if they are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or re-development of the site or any adjoining site, may **[**[F391]make a direction for minimum compensation.**]**

(2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 104 of this Act, he may, if he is satisfied as mentioned in subsection (1) of this section, include a direction for minimum compensation in the compulsory purchase order.

(3) The notice required to be served in accordance with paragraph 3(b) of Schedule 1 to the [M33]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (notices stating effect of compulsory purchase order or, as the case may be, draft order) shall, without prejudice to so much of that paragraph as requires the notice to state the effect of the order, include a statement that the authority have made. . . [F392] a direction for minimum compensation or, as the case may be, that the Secretary of State has included such a direction in the draft order prepared by him in accordance with paragraph 7 of that Schedule and shall in either case explain the meaning of the expression "direction for minimum compensation".

(4) a direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the [M34]Land Compensation (Scotland) Act 1963 or this Act, that planning permission would not be granted for any development or re-development of the site of the building and that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to, and maintaining it in, a proper state of repair; and if a compulsory purchase order is confirmed or made with the inclusion of such a direction, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.

(5) Where a. . . [F390] planning authority **[**[F393]make**]** a direction for minimum compensation, or the Secretary of State includes such a direction in a draft compulsory purchase order prepared by him, any person having an interest in the building may, within twenty-eight days after the service of the notice required by paragraph 3(b) of Schedule 1 to the said Act of 1947, apply to the sheriff for an order that the. . . [F390] planning

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authority's **[**[F394]direction for minimum compensation be reversed**]** or, as the case may be, that such a direction be not included in the compulsory purchase order as made by the Secretary of State; and if the sheriff is satisfied that the building has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1) of this section, he shall make the order applied for.

(6) a person aggrieved by the decision of the sheriff on an application under subsection (5) of this section may appeal against the decision to the Court of Session, but on a question of law only.

(7) The rights conferred by subsections (5) and (6) of this section shall not prejudice those conferred by section 104(6) and (7) of this Act.

Textual Amendments

F390 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
F391 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 22(a)**
F392 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**
F393 Word substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 22(c)**
F394 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 22(c)**

Marginal Citations

M33 1947 c. 42.
M34 1963 c. 51.

108 Extinguishment of rights over land compulsorily acquired.

(1) Subject to the provisions of this section, upon the completion by the acquiring authority of a compulsory acquisition of land under this Part of this Act, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land and all other rights or servitudes in or relating to that land shall be extinguished, and any such apparatus shall vest in the acquiring authority.

(2) Subsection (1) of this section shall not apply to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking **[**[F395]or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system.**]**

(3) In respect of any right or apparatus not falling within subsection (2) of this section, subsection (1) of this section shall have effect subject—

(a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) of this section shall not apply to any right or apparatus specified in the direction; and

(b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.

(4) Any person who suffers loss by the extinguishment of a right or servitude or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.

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(5) Any compensation payable under this section shall be determined in accordance with the [M35]Land Compensation (Scotland) Act 1963.

Textual Amendments

F395 Words inserted by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(3), **Sch. 5 para. 45**

Modifications etc. (not altering text)

C67 S. 108 extended by Offshore Petroleum Development (Scotland) Act 1975 (c.8), **s. 2(1)**

C68 S. 108(2) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c.38), **Sch. 3 para. 10(2)(d)**

C69 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 108(2), 117-119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C70 S. 108(2) amended by the Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

Marginal Citations

M35 1963 c. 51.

109 Acquisition of land by agreement.

(1) A. . . [F396] planning authority,. . . [F397] may acquire by agreement—

(a) any land which they require for any purpose for which a. . . [F396] planning authority may be authorised to acquire land under section 102 of this Act;

(b) any building appearing to them to be of special architectural or historic interest; and

(c) any land comprising or contiguous or adjacent to such a building which appears to **[**[F398]them**]** to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

(2) The Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections 120 to 125 of the [M36]Lands Clauses Consolidation (Scotland) Act 1845) and sections 6 and 70 of the [M37]Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act, as originally enacted and not as amended for certain purposes by section 15 of the [M38]Mines (Working Facilities and Support) Act 1923, shall be incorporated with this section, and in construing those Acts as so incorporated this section shall be deemed to be the special Act and references to the promoters of the undertaking or to the company shall be construed as references to the authority authorised to acquire the land under this section.

Textual Amendments

F396 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F397 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F398 Word substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 23**

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Modifications etc. (not altering text)

C71 S. 109 amended (1.4.1983) by Local Government (Scotland) Act 1973 (c.65), **s. 154A(5)** (as inserted by Local Government and Planning (Scotland) Act 1982 (c.43), **s. 7**)

C72 S. 109 restricted (30.10.1995 for specified purposes and otherwise 1.4.1996) by 1973 c. 65, **s. 171C** (as inserted (30.10.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 39, **s. 171**; S.I. 1995/2866, **arts. 2(f)**, 3(a))

Marginal Citations

M36 1845 c. 19.

M37 1845 c. 33.

M38 1923 c. 20.

110 Acquisition of land for purposes of exchange.

Without prejudice to the generality of the powers conferred by the preceding provisions of this Part of this Act, any power of a local authority to acquire land thereunder, whether compulsorily or by agreement, shall include power to acquire land required for giving in exchange for land appropriated under section 111 of this Act.

111 [F399] . . . . . .

Textual Amendments

F399 Ss. 91(1), 111, 112 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

Powers exercisable in relation to land held for planning purposes, and other related powers

112 [F400] . . . . . .

Textual Amendments

F400 Ss. 91(1), 111, 112 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

113 Disposal of land held for planning purposes.

(1) Where any land has been acquired or appropriated by a. . . [F401] planning authority for planning purposes, and is for the time being held by the authority for the purposes for which it was so acquired or appropriated, the authority may dispose of the land to such person, in such manner and subject to such conditions as may appear to them to be expedient in order to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out thereon, whether by themselves or by any other person, or to secure the erection, construction or carrying out thereon of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.

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(2) . . . . . [F402]

(3) Subject to the provisions of subsection (6) of this section, any land disposed of under this section shall not,. . . [F403], be disposed of otherwise than at the best price or on the best terms that can reasonably be obtained.

(4) . . . . . [F404]

(5) Where representations are made to the Secretary of State—

(a) that a. . . [F401] planning authority have refused to dispose of any land under this section to any person or to agree with him as to the manner in which, or the terms or conditions on or subject to which, it is to be disposed of to him; and

(b) that the refusal constitutes unfair discrimination against that person or is otherwise oppressive,

the Secretary of State may cause the representations to be intimated to the authority; and after considering any statement in writing made to him by the authority, the Secretary of State may, if he thinks fit, cause a public local inquiry to be held and after considering the report of the person appointed to hold the inquiry (if any), may, if it appears to him that the representations are well founded and that it is expedient as mentioned in subsection (1) of this section that the authority should dispose of the land under this section to that person, require the authority to offer to dispose of it to him, and give directions as to the manner of the disposal and as to all or any of the terms or conditions on or subject to which it is to be offered to him.

(6) In relation to land acquired or appropriated for planning purposes for a reason mentioned in section 102(1)(a). . . [F405] of this Act the powers conferred by this section on a. . . [F401] planning authority,. . . [F403], shall be so exercised as to secure, so far as may be practicable, to persons who were living or carrying on business or other activities on any such land which the authority have acquired as mentioned in subsection (1) of this section, who desire to obtain accommodation on such land, and who are willing to comply with any requirements of the authority as to the development and use of such land, an opportunity to obtain thereon accommodation suitable to their reasonable requirements, on terms settled with due regard to the price at which any such land has been acquired from them.

In this subsection "development" includes redevelopment.

(7) Where land is disposed of under this section by a. . . [F401] planning authority to any person for the erection of a church or other building for religious worship or buildings ancillary thereto, then, unless the parties otherwise agree, such disposal shall be by way of feu.

(8) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of the provisions of any enactment, other than this Act, by virtue of or under which the. . . [F401] planning authority are or may be authorised to dispose of land held by them.

Textual Amendments

F401 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F402 S. 113(2) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F403 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F404 S. 113(4) repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

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F405 Words repealed by Local Government, Planning and Land Act 1980 (c. 65), **s. 92(6)**

114 Development of land held for planning purposes.

(1) The functions of a. . . [F406] planning authority shall include power for the authority, notwithstanding any limitation imposed by law on the capacity of the authority by virtue of its constitution, to erect, construct or carry out any building or work on any land to which this section applies, not being a building or work for the erection, construction or carrying out of which, whether by that authority or by any other person, statutory power exists by virtue of, or could be conferred under, an alternative enactment.

(2) This section applies to any land which has been acquired or appropriated by a. . . [F406] planning authority for planning purposes and is for the time being held by the authority for the purposes for which it was so acquired or appropriated.

(3) . . . . . [F407]

(5) The functions of a. . . [F406] planning authority shall include power for the authority, notwithstanding any such limitation as is mentioned in subsection (1) of this section, to repair, maintain and insure any buildings or works on land to which this section applies, and generally to deal therewith in a proper course of management.

(6) Nothing in this section shall be construed as authorising any act or omission on the part of a. . . [F406] planning authority which is actionable at the instance of any person on any ground other than such a limitation as is mentioned in subsection (1) of this section.

(7) In this section "alternative enactment" means any enactment which is not contained in this Part of this Act. . . [F408].

Textual Amendments

F406 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F407 Ss. 114(3)(4), 115(2), 118(2) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F408 Words repealed by Industrial Development Act 1982 (c. 52), s. 19, **Sch. 3**

115 Special provisions as to features and buildings of architectural and historic interest.

(1) In the exercise of the powers of appropriation, disposal and development conferred by the provisions of sections 112, 113 and 114(1) of this Act, a. . . [F409] planning authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings;. . . [F410].

(2) . . . . . [F411]

(3) In this section **[**[F412]"preserving"**]**, in relation to a building means the **[**[F412]preserving**]** thereof either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character, and "development" includes redevelopment.

(4) This section is without prejudice to the provisions of section 262(5) of this Act.

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Textual Amendments

F409 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F410 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F411 Ss. 114(3)(4), 115(2), 118(2) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F412 Word substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 25**

116 Management etc. of listed buildings acquired by. . . [F413] planning authority or Secretary of State.

(1) Where a. . . [F413] planning authority acquire any building or other land under section 104(1) or 109(1)(b) of this Act, they may make such arrangements as to its management, use or disposal as they consider appropriate for the purpose of its preservation.

(2) Where the Secretary of State acquires any building or other land under section 104(2) of this Act, subsection (3) of section 5 of the [M39]Historic Buildings and Ancient Monuments Act 1953 (management, custody and disposal), except so much of it as refers to subsection (4) of that section, shall apply in relation thereto as it applies in relation to property acquired under that section.

Textual Amendments

F413 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Marginal Citations

M39 1953 c. 49.

117 Power to override servitudes and other rights.

(1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired or appropriated by a. . . [F414] planning authority for planning purposes, whether done by the. . . [F414] planning authority or by a person deriving title from them, is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this section applies, or involves a breach of a restriction as to the use of land arising by virtue of any deed or contract:

Provided that nothing in this subsection shall authorise interference with any right of way or right of laying down, erecting continuing or maintaining apparatus on, under or over land, being a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking **[**[F415]or a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system.**]**

(2) This section applies to the following interests and rights, that is to say, any servitude, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(3) In respect of any interference or breach in pursuance of subsection (1) of this section, compensation shall be payable under section 61 of the [M40]Lands Clauses Consolidation (Scotland) Act 1845 or under section 6 of the [M41]Railways Clauses Consolidation (Scotland) Act 1845 to be assessed in the same manner and subject to the same rules as

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in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with a purchase under those Acts or the injury arises from the execution of works on land acquired under those Acts.

(4) Where a person deriving title from the. . . [F414] planning authority by whom the land in question was acquired or appropriated is liable to pay compensation by virtue of subsection (3) of this section, and fails to discharge that liability, the liability shall be enforceable against the. . . [F414] planning authority:

Provided that nothing in this subsection shall be construed as affecting any agreement between the. . . [F414] planning authority and any other person for indemnifying the. . . [F414] planning authority against any liability under this subsection.

(5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than such an interference or breach as is mentioned in subsection (1) of this section.

Textual Amendments

F414 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F415 Words inserted by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(4), **Sch. 5 para. 45**

Modifications etc. (not altering text)

C73 S. 117 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c.38), **Sch. 3 para. 10(2)(d)**

C74 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C75 S. 117 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)**

C76 Ss. 108(2), 117-119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

Marginal Citations

M40 1845 c. 19.

M41 1845 c. 33.

118 Provisions as to churches and burial grounds.

(1) Any land, consisting of a church or other building used or formerly used for religious worship, or the site thereof, or a burial ground, which has been acquired by a Minister, a. . . [F416] planning authority or statutory undertakers under this Part of this Act or compulsorily under any other enactment, or which has been appropriated by a. . . [F416] planning authority for planning purposes, may, subject to the following provisions of this section—

(a) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and

(b) in any other case, be used by any person in any manner in accordance with planning permission,

notwithstanding anything in any enactment relating to churches or such other buildings as aforesaid or to burial grounds or any obligation or restriction imposed under any

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deed or agreement or otherwise as respects that church or other building or burial ground:

. . . [F417]

[[F418](1A) In the case of land—

(a) which has been acquired by the Secretary of State under section 79(1) of the National Health Service (Scotland) Act 1978; and

(b) which is held, used or occupied by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990,

subsection (1) of this section shall apply with the omission of paragraph (a) and, in paragraph (b), of the words "in any other case".]

(2) . . . . . [F419]

(3) . . . . . [F420], no authority shall be required for the removal and reinterment in accordance with the regulations of any human remains, or for the removal or disposal of any monuments.

(4) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment, obligation or restriction as is mentioned in subsection (1) of this section.

(5) In this section "burial ground" includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment, and includes part of a burial ground; and "monument" includes a tombstone or other memorial and any fixtures or furnishings.

Textual Amendments

F416 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F417 Proviso repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F418 S. 118(1A) inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), **Sch. 8 para. 7**

F419 Ss. 114(3)(4), 115(2), 118(2) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F420 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

Modifications etc. (not altering text)

C77 S. 118 extended by Airports Authority Act 1975 (c. 78), **s. 17(6)(7)(d)** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; modified by Civil Aviation Act 1982 (c.16), **s. 54(1)**

C78 S. 118 extended by Telecommunications Act 1984 (c. 12, SIF 96), **s. 35(4)**(*a*)

C79 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C80 S. 118 applied by Airports Act 1986 (c. 31, SIF 9), **s. 59(6)**(*b*)

C81 S. 118 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 2(2)(d)(9)** (with s. 112(3), Sch. 17 para. 35(1))

C82 Ss. 108(2), 117-119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

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119 Use and development of land for open spaces.

(1) Any land being, or forming part of, a common or open space, which has been acquired by a Minister, a local authority or statutory undertakers under this Part of this Act or compulsorily under any other enactment, or which has been appropriated by a. . . [F421] planning authority for planning purposes, may—

(a) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and

(b) in any other case, be used by any person in any manner in accordance with planning permission,

notwithstanding anything in any enactment relating to land of that kind, or in any enactment by which the land is specially regulated.

(2) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment as is mentioned in subsection (1) of this section.

Textual Amendments

F421 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C83 S. 119 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

C84 S. 119 extended by Telecommunications Act 1984 (c. 12, SIF 96), **s. 35(4)**(*b*)

C85 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C86 S. 119 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 2(2)(d)(9)** (with s. 112(3), Sch. 17 para. 35(1))

C87 Ss. 108(2), 117-119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

120 Displacement of persons from land acquired or appropriated.

(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a. . . [F422] planning authority for the purposes for which it was acquired or appropriated, and the carrying out of redevelopment on the land will involve the displacement of persons residing in premises thereon, it shall be the duty of the authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacements from time to time becoming necessary as the redevelopment proceeds.

(2) . . . . . [F423]

(3) If the Secretary of State certifies that possession of a house which has been acquired or appropriated by a. . . [F424] planning authority for planning purposes, and is for the time being held by the authority for the purposes for which it was acquired or appropriated, is immediately required for those purposes, nothing in the [M42]Rent (Scotland) Act 1971 shall prevent the acquiring or appropriating authority from obtaining possession of the house.

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(4) Where any land has been acquired by a Minister or a. . . [F424] planning authority under this Part of this Act, or has been appropriated by a. . . [F424] planning authority for planning purposes, and possession of any building on the land is required by that Minister or the. . . [F424] planning authority in question, as the case may be, for the purposes for which the land was acquired or appropriated, then, at any time after the tenancy of the occupier has expired or has been determined, the Minister or. . . [F424] planning authority in question may serve a notice on the occupier of the building requiring him to remove therefrom within a period of twenty-one days; and on the expiry of that period a certified copy of the notice to remove shall be sufficient warrant for ejection against the occupier or any party in his right in the event of non-compliance with the notice.(5)(6). . . . . [F425]

Textual Amendments

F422 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
F423 S. 120(2) repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. XIII**
F424 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
F425 S. 120(5)(6) repealed by Land Compensation Act 1973 (c. 26), **Sch. 3**

Marginal Citations

M42 1971 c. 28.

Supplementary provisions

121 Modification of incorporated enactments for purposes of Part VI.

(1) Where it is proposed that land should be acquired compulsorily under section 102 or 103 of this Act, and a compulsory purchase order relating to that land is submitted to the confirming authority in accordance with Part I of Schedule 1 to the [M43]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, or, as the case may be, is made in draft by the Secretary of State for the Environment in accordance with Part II of that Schedule, the confirming authority or that Secretary of State, as the case may be, may disregard for the purposes of that Schedule any objection to the order or draft which, in the opinion of that authority or Secretary of State, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.

(2) Where a compulsory purchase order authorising the acquisition of any land under section 102 of this Act is submitted to the Secretary of State in accordance with Part I of Schedule 1 to the said Act of 1947, then if the Secretary of State—

(a) is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised therein; but

(b) has not for the time being determined whether it ought to be confirmed so far as it relates to any other such land, he may confirm the order so far as it relates to the land mentioned in paragraph (a) of this subsection, and give directions postponing consideration of the order, so far as it relates to any other land specified in the directions, until such time as may be so specified.

(3) Where the Secretary of State gives directions under subsection (2) of this section, the notices required by paragraph 6 of Schedule 1 to the said Act of 1947 to be published and served shall include a statement of the effect of the directions.

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(4) In construing the Lands Clauses Acts and section 6 of the Railways Clauses Consolidation (Scotland) Act 1845, as incorporated by virtue of paragraph 1 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, in relation to any of the provisions of this Part of this Act—

(a) references to the execution of the works or to the construction of the railway shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by section 117 of this Act;

(b) in relation to the erection, construction or carrying out of any buildings or works so authorised, references in section 6 of the said Act of 1845 to the company shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out; and

(c) references to the execution of the works shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of a Minister or statutory undertakers on land acquired by that Minister or those undertakers, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

Modifications etc. (not altering text)

C88 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C89 S. 121 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

C90 Ss. 108(2), 117-119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

Marginal Citations

M43 1947 c. 42.

122 Interpretation of Part VI.

(1) In this Part of this Act any reference to the acquisition of land for planning purposes is a reference to the acquisition thereof under section 102 or 109 of this Act and any reference to the appropriation of land for planning purposes is a reference to the appropriation thereof for purposes for which land can be or could have been acquired under those sections.

(2) In relation to a. . . [F426] planning authority or body corporate, nothing in sections 117 to 119 of this Act shall be construed as authorising any act or omission on their part in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the authority or body.

(3) Any power conferred by section 118 or 119 of this Act to use land in a manner therein mentioned shall be construed as a power so to use the land, whether it involves the erection, construction or carrying out of any building or work, or the maintenance of any building or work, or not.

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Textual Amendments

F426 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

[F427]PART VII

COMPENSATION FOR PLANNING DECISIONS RESTRICTING NEW DEVELOPMENT

Textual Amendments

F427 Pt. VII (ss. 123-152) except s. 145 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34,SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19 Pt.IV** (with s.84(5)); S.I. 1991/2092, **art.3**

Unexpended balance of established development value

[F428]123 . . ..

. . . . . .

Textual Amendments

F428 S. 123 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F429]124 . . . . . .

Textual Amendments

F429 S. 124 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F430]125 . . . . . .

Textual Amendments

F430 s. 125 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F431]126 . . . . . .

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Textual Amendments

F431 S. 126 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F432]127 . . . . . .

Textual Amendments

F432 S. 127 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I 1991/2092, art.3

[F433]128 . . . . . .

Textual Amendments

F433 S. 128 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F434]129 . . . . . .

Textual Amendments

F434 S. 129 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F435]130 . . . . . .

Textual Amendments

F435 S. 130 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F436]131 . . . . . .

Textual Amendments

F436 S. 131 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

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[F437]132 . . . . . .

Textual Amendments

F437 S. 132 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F438]133 . . . . . .

Textual Amendments

F438 S. 133 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F439]134 . . . . . .

Textual Amendments

F439 S. 134 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

Right to compensation

[F440]135 . . . . . .

Textual Amendments

F440 S. 135 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F441]136 . . . . . .

Textual Amendments

F441 S. 136 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F442]137 . . . . . .

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Textual Amendments

F442 s. 137 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F443]138 . . . . . .

Textual Amendments

F443 S. 138 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F444]139 . . . . . .

Textual Amendments

F444 S. 139 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F445]140 . . . . . .

Textual Amendments

F445 S. 140, 154(4), 158(5), 174, 180(2) repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

Measure of compensation

[F446]141 . . . . . .

Textual Amendments

F446 S. 141 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F447]142 . . . . . .

Textual Amendments

F447 S. 142 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **ss. 60(1)(7)(8)**, 846), Sch. 19, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

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Claims for, and payment of, compensation

[F448]143 . . . . . .

Textual Amendments

F448 S. 143 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F449]144 . . . . . .

Textual Amendments

F449 S. 144 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

145 Determination of claims.

(1) Provision shall be made by regulations under this section—

(a) for requiring claims for compensation under [F450] . . . this Act to be determined by the Secretary of State in such manner as may be prescribed by the regulations;

(b) for regulating the practice and procedure to be followed in connection with the determination of such claims;

(c) for requiring the Secretary of State, on determining any such claim, to give notice of his determination to the claimant, and to every other person (if any) who has made, and not withdrawn, a claim for compensation under [F450] . . .this Act in respect of the same planning decision, and, if his determination includes an apportionment, to give particulars of the apportionment to any other person entitled to an interest in land appearing to the Secretary of State to be an interest substantially affected by the apportionment.

[[F451](d) for requiring the Secretary of State to pay any compensation determined under this section to the person entitled thereto.**]**

(2) Subject to subsection (3) of this section, provision shall be made by regulations under this section—

(a) for enabling the claimant or any other person to whom notice of the Secretary of State's determination has been given in accordance with subsection (1) of this section, if he wishes to dispute the determination, and any other person to whom particulars of an apportionment included in that determination have been so given, or who establishes that he is entitled to an interest in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require the determination, or, as the case may be, the apportionment, to be referred to the Lands Tribunal;

(b) for enabling the claimant and every other person to whom notice of any determination or apportionment has been given as mentioned in paragraph (a) of this subsection to be heard by the Tribunal on any reference under this section of that determination or apportionment, as the case may be; and

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(c) for requiring the Tribunal, on any such reference, either to confirm or to vary the Secretary of State's determination or the apportionment, as the case may be, and to notify the parties of the decision of the Tribunal.

(3) Where on a reference to the Lands Tribunal under this section it is shown that an apportionment relates wholly or partly to the same matters as a previous apportionment, and is consistent with that previous apportionment in so far as it relates to those matters, the Tribunal shall not vary the apportionment in such a way as to be inconsistent with the previous apportionment in so far as it relates to those matters.

Textual Amendments

F450 Words in s. 145(1) omitted (25. 9. 1991) by virtue of Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 28(a); S.I. 1991/2092, **art.3**

F451 S. 145(1)(d) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 28(b), with s. 84(5); S.I. 1991/2092, **art.3**

[F452]146 . . . . . .

Textual Amendments

F452 S. 146 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, art.3, **Sch. 1**

Subsequent recovery of compensation

[F453]147 . . . . . .

Textual Amendments

F453 S. 147 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F454]148 . . . . . .

Textual Amendments

F454 S. 148 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, art.3, **Sch. 1**

[F455]149 . . . . . .

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F455 S. 149 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, art.3, **Sch. 1**

[F456]150 . . . . . .

Textual Amendments

F456 S. 150 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(2)(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, art.3, **Sch. 1**

Supplementary provisions

[F457]151 .

. . . . . .

Textual Amendments

F457 S. 151 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, art.3, **Sch. 1**

[F458]152 . . . . . .

Textual Amendments

F458 S. 152 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(1)(7)(8), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092. art.3, Sch. 1

PART VIII

COMPENSATION FOR OTHER PLANNING RESTRICTIONS

Modifications etc. (not altering text)

C91 Pt. VIII modified (30.10.1994) by S.I. 1994/2716, **regs. 74(1)(b)**, 78(1)(b)
Pt. VIII applied (with modifications) (30.10.1994) by S.I. 1994/2716, **regs. 74(2)**, 78(2)

C92 Pt. VIII (ss. 153-168) modified (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 15(4)(b)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
Pt. VIII (ss. 153-168) modified (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 14 para. 13(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Revocation or modification of planning permission

153 Compensation where planning permission revoked or modified.

(1) [F459]Subject to section 153A of this Act, where planning permission is revoked or modified by an order under section 42 of this Act,. . . [F460], then if, on a claim made to the [F461]. . . planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the land—

(a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification; or

(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the [F461]. . . planning authority shall pay to that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to subsection (2) of this section, no compensation shall be paid under this section in respect of any work carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that permission.

(4) In calculating, for the purposes of this section, the amount of any loss or damage consisting of depreciation of the value of an interest in land, it shall be assumed that planning permission would be granted **[**[F462]—.

(a) subject to the condition set out in Schedule 16, for any development of a class specified in paragraph 1 of Schedule 6;

(b) for any development of a class specified in paragraph 2 of Schedule 6.**]**

(5) In this Part of this Act any reference to an order under section 42 of this Act includes a reference to an order under the provisions of that section as applied by section 49(2) of this Act.

Textual Amendments

F459 Words substituted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 4**

F460 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F461 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F462 Words in s. 153(4) substituted (25. 9. 1991 with retrospective effect in relation to claims made on or after 16.11.1990) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch** . 12, para. 14(1)(2) (with s. 84(5)); S.I. 1991/2092, **art.3**

Modifications etc. (not altering text)

C93 S. 153 modified by S.I. 1987/433, **regs. 3**, 6

C94 S. 153(1)(a) applied (30.10.1994) by S.I. 1994/2716, **reg. 67(2)(3)**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F463 153A Compensation for certain orders under s. 42 relating to mineral working to be on special basis.

(1) Where mineral compensation requirements are satisfied in relation to an order under section 42 of this Act, section 153 of this Act shall have effect subject to mineral compensation modifications.

(2) Subject to subsection (4) of this section, mineral compensation requirements are satisfied in relation to an order under section 42 of this Act if—

(a) the order modifies planning permission for development consisting of the winning and working of minerals; and

(b) the order does not—

(i) impose any restriction on the winning and working of minerals; or

(ii) modify or replace any such restriction subject to which the planning permission was granted or which was imposed by a relevant order; and

(c) the planning authority carried out special consultations about the making and terms of the order before they made it; and

(d) either—

(i) the permission was granted not less than five years before the date of the order; or

(ii) the conditions specified in subsection (3) of this section are satisfied.

(3) The conditions mentioned in subsection (2)(d)(ii) of this section are—

(a) that the planning permission which the order modifies was granted before the commencement of section 27A of this Act; and

(b) that the order—

(i) imposes an aftercare condition; and

(ii) does not impose any other condition.

(4) Where the planning authority—

(a) make an order under section 42 of this Act modifying planning permission for development consisting of the winning and working of minerals; and

(b) have previously made a relevant order or orders,

mineral compensation requirements are not satisfied in relation to the order mentioned in paragraph (a) of this subsection unless it was made more than five years after the order previously made or the last such order.]

Textual Amendments

F463 S. 153A inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 29**, 35

154 Application of s. 153 to special cases of refusal or conditional grant of planning permission.

(1) The provisions of this section shall have effect where—

(a) planning permission for the development of land has been granted by a development order; and

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(b) that permission is withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order; and

(c) on an application made in that behalf under Part III of this Act, planning permission for that development is refused, or is granted subject to conditions other than those previously imposed by the development order.

[[F464](1A) Where planning permission granted by a development order is withdrawn by revocation or amendment of the order subsection (1) of this section applies only if the application referred to in paragraph (*c*) is made before the end of the period of twelve months beginning with the date on which the revocation or amendment came into operation.**]**

(2) In any case falling within subsection (1) of this section, the provisions of section 153 of this Act shall apply as if the planning permission granted by the development order—

(a) had been granted by the. . . [F465] planning authority under Part III of this Act; and

(b) had been revoked or modified by an order under section 42 of this Act,

and the provisions of section 155. . . [F466] and of sections 156 and 157 of this Act shall apply as if references therein to an order under section 42 of this Act were references to the planning decision whereby the planning permission in question is refused, or is granted subject to conditions other than those previously imposed by the development order.

(3) This section shall not apply in relation to planning permission for the development of operational land of statutory undertakers.

(4) . . . . . [F467]

Textual Amendments

F464 S. 154(1A) inserted by Town and Country Planning (Compensation) Act 1985 (c. 19, SIF 123:1, 2), **ss. 2(1)**, 3(2)

F465 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F466 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

F467 S. 140, 154(4), 158(5), 174, 180(2) repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

Modifications etc. (not altering text)

C95 S. 154(3) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

C96 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C97 S. 138, 154(3) amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)**

155 Recording and apportionment of compensation for depreciation.

(1) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation of an amount exceeding £20, the. . . [F468] planning authority shall (if it appears to them to be practicable to do so) apportion the amount of the compensation for depreciation between different parts

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of the land to which the claim for that compensation relates, and give particulars of any such apportionment to the claimant and to every other person (if any) entitled to an interest in land which appears to the authority to be substantially affected by the apportionment.

(2) In carrying out an apportionment under subsection (1) of this section, the. . . [F468] planning authority shall divide the land into parts, and shall distribute the compensation for depreciation between those parts, according to the way in which different parts of the land appear to the authority to be differently affected by the order in consequence of which the compensation is payable.

[[F469](3) Regulations under this Act shall make provision—

(a) for enabling the claimant or any other person to whom notice of the planning authority's apportionment has been given in accordance with subsection (1) of this section, or who establishes that he is entitled to an interest in land which is substantially affected by such an apportionment, if he wishes to dispute the apportionment, to require it to be referred to the Lands Tribunal;

(b) for enabling the claimant and any other person mentioned in paragraph (a) of this subsection to be heard by the Tribunal on any reference under this section of that apportionment; and

(c) for requiring the Tribunal, on any such reference, either to confirm or vary the apportionment and to notify the parties of the decision.**]**

(4) On a reference to the Lands Tribunal by virtue of subsection (3) of this section, subsections (1) and (2) of this section, so far as they relate to the making of an apportionment, shall apply with the substitution, for references to the. . . [F468] planning authority, of references to the Lands Tribunal.

(5) Where compensation becomes payable under the preceding provisions of this Part of this Act, and includes compensation for depreciation exceeding £20, the. . . [F468] planning authority shall cause notice of that fact in the prescribed form, specifying the land to which the compensation relates and the amount of the compensation for depreciation and any apportionment thereof under this section, to be recorded in the appropriate Register of Sasines, and shall send a copy of the notice to the Secretary of State; [F470] . . .

[[F471](5A) In relation to compensation for depreciation specified in a notice recorded or, as the case may be, registered under the preceding provisions of this section, references in this Part of this Act to so much of the compensation as is attributable to a part of the land to which the notice relates shall be construed in accordance with the following provisions, that is to say—

(a) if the notice does not include an apportionment under the preceding provisions of this section, the amount of the compensation shall be treated as distributed rateably according to area over the land to which the notice relates;

(b) if the notice includes such an apportionment, the compensation shall be treated as distributed in accordance with that apportionment as between the different parts of the land by reference to which the apportionment is made; and so much of the compensation as, in accordance with the apportionment, is attributed to a part of the land shall be treated as distributed rateably according to area over that part of the land.**]**

(6) In this section [F472] . . . "compensation for depreciation" means so much of any compensation payable under the preceding provisions of this Part of this Act as is

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payable in respect of loss or damage consisting of depreciation of the value of an interest in land.

Textual Amendments

F468 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F469 S. 155(3) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para. 15(a), with s. 84(5); S.I. 1991/2092, **art.3**

F470 Words in s. 155(5) repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), Sch. 12, para. 15(b), **Sch. 19**, Pt.IV, with s. 84(5); S.I. 1991/2092, **art.3**

F471 S. 155(5A) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para. 15(c), with s. 84(5); S.I. 1991/2092, **art.3**

F472 Words in s. 155(6) repealed (25. 9. 1991, subject to limitations referred to in S.I. 1991/2092, art. 4, **Sch. 2**, Pt. II) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), Sch. 12, para. 15(d), **Sch. 19**, Pt. IV, with s. 84(5); S.I. 1991/2092, **art.3**

[F473]156 . . . . . .

Textual Amendments

F473 S. 156 repealed (25. 9. 1991, subject to limitations referred to in S.I. 1991/2092, art. 4, **Sch. 2**, Pt. II) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 16, **Sch. 19**, Pt.IV, with s. 84(5); S.I. 1991/2092, **art.3**

[[F474]156A[F474]Recovery of compensation on subsequent development.

(1) No person shall carry out any development to which this section applies, on land in respect of which a notice (hereafter in this Part of this Act referred to as a "compensation notice") is recorded or, as the case may be, registered under section 155(5) of this Act, until such amount, if any, as is recoverable under this section in respect of the compensation specified in the notice has been paid or secured to the satisfaction of the Secretary of State.

(2) Subject to the following provisions of this section, this section applies to any development—

(a) which is development of a residential, commercial or industrial character and consists wholly or mainly of the construction of houses, flats, shop or office premises, or industrial buildings (including warehouses), or any combination thereof; or

(b) which consists in the winning and working of minerals; or

(c) to which, having regard to the probable value of the development, it is in the opinion of the Secretary of State reasonable that this section should apply.

(3) This section shall not apply to any development by virtue of subsection (2)(c) of this section if, on an application made to him for the purpose, the Secretary of State has certified that, having regard to the probable value of the development, it is not in his opinion reasonable that this section should apply thereto.

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(4) Where the compensation specified in the compensation notice became payable in respect of the imposition of conditions on the granting of permission to develop land, this section shall not apply to the development for which that permission was granted.

(5) This section does not apply to any development—

(a) of a class specified in paragraph 1 of Schedule 6 which is carried out in accordance with the condition set out in Schedule 16; or

(b) of a class specified in paragraph 2 of Schedule 6.

(6) This section does not apply in a case where the compensation under section 153 of this Act specified in a compensation notice became payable in respect of an order modifying planning permission, and the development is in accordance with that permission as modified by that order.**]**

Textual Amendments

F474 Ss. 156A, 156B inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12 para.17** (with s. 84(5)); S.I. 1991/2092, **art.3**

[F475F475156B Amount recoverable, and provisions for payment or remission thereof.

(1) Subject to the following provisions of this section, the amount recoverable under section 156A of this Act in respect of the compensation specified in a compensation notice—

(a) if the land on which the development is to be carried out (in this subsection referred to as "the development area") is identical with, or includes (with other land) the whole of, the land comprised in the compensation notice, shall be the amount of compensation specified in that notice;

(b) if the development area forms part of the land comprised in the compensation notice, or includes part of that land together with other land not comprised in that notice, shall be so much of the amount of the compensation specified in that notice as is attributable to land comprised in that notice and falling within the development area.

(2) Where, in the case of any land in respect of which a compensation notice has been recorded, the Secretary of State is satisfied, having regard to the probable value of any proper development of that land, that no such development is likely to be carried out unless he exercises his powers under this subsection, he may, in the case of any particular development, remit the whole or any part of any amount otherwise recoverable under section 156A of this Act.

(3) Where, in connection with the development of any land, an amount becomes recoverable under section 156A of this Act in respect of the compensation specified in a compensation notice, then, except where, and to the extent that, payment of that amount has been remitted under subsection (2) of this section, no amount shall be recoverable under section 156A of this Act in respect of that compensation, in so far as it is attributable to that land, in connection with any subsequent development thereof.

(4) No amount shall be recoverable under section 156A of this Act in respect of any compensation by reference to which a sum has become recoverable by the Secretary of State under section 244 of this Act.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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(5) An amount recoverable under section 156A of this Act in respect of any compensation shall be payable to the Secretary of State, and

(a) shall be so payable either as a single capital payment or as a series of instalments of capital and interest combined, or as a series of other annual or periodical payments, of such amounts, and payable at such times, as the Secretary of State may direct, after taking into account any representations made by the person by whom the development is to be carried out; and

(b) except where the amount is payable as a single capital payment, shall be secured by that person to the satisfaction of the Secretary of State (whether by heritable or other security, personal bond or otherwise).

(6) If any person initiates any development to which section 156A applies in contravention of subsection (1) of that section, the Secretary of State may serve a notice on him specifying the amount appearing to the Secretary of State to be the amount recoverable under that section in respect of the compensation in question, and requiring him to pay that amount to the Secretary of State within such period, not being less than three months after the service of the notice, as may be specified in the notice.

(7) Where, after a compensation notice in respect of any land has been recorded or, as the case may be, registered, any amount recoverable under this section in respect of the compensation specified in the notice, or any part of such amount, has been paid to the Secretary of State, or circumstances arise under which by virtue of any provision of this Act no amount is so recoverable in respect of the land specified in the notice or any part of that land, the Secretary of State shall cause to be recorded in the appropriate Register of Sasines or, as the case may be, registered in the Land Register of Scotland, a notice of that fact, specifying the land to which such fact relates, and, in the case of any notice of the fact that part only of such amount has been so paid, stating whether the balance has been secured to the satisfaction of the Secretary of State or has been remitted by him under subsection (2) of this section, and shall send a copy thereof to the planning authority.**]**

Textual Amendments

F475 Ss. 156A, 156B inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12 para.17** (with s. 84(5)); S.I. 1991/2092, **art. 3**

157 Recovery, on subsequent development, of compensation under s. 153.

[F476](1) . . . . . .

(2) Subject to subsection (3) of this section, any sum recovered by the Secretary of State under **[**[F477]section 156A of this Act**]** shall be paid to the. . . [F478] planning authority who paid the compensation to which that sum relates.

(3) In paying any such sum to the. . . [F478] planning authority, the Secretary of State shall deduct therefrom—

. . . . . .

[F479]. . .the amount of any grant paid by him under Part XIII of this Act in respect of that compensation;

Provided that, if the sum recovered by the Secretary of State is an instalment of the total sum recoverable, or is recovered by reference to development of part of the land in respect of which the compensation was payable, any deduction to be

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made under [F479]. . . paragraph (b) of this subsection shall be a deduction of such amount as the Secretary of State may determine to be the proper proportion of the amount referred to in that paragraph.

[F480](4) . . . . . .

Textual Amendments

F476 S. 157(1) repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34), ss. 60, 84(6), Sch. 12 para. 18(a), **Sch. 19**, Pt.IV, with s. 84(5); S.I. 1991/2092, art. 3, **Sch.1**

F477 Words in s. 157(2) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34), s. 60, **Sch. 12**, para 18(b); S.I. 1991/2092, **art.3**

F478 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F479 Words in s. 157(3) repealed (25. 9. 1991) by Planning and Compensations Act 1991 (c. 34), ss. 60, 84, Sch. 12 para. 18(c), **Sch. 19**, Pt.IV; S.I. 1991/2092, art. 3, **Sch.1**

F480 S. 157(4) repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34) ss. 84(6), Sch. 12 para. 18 (d), Sch. 19, Pt.IV; S.I. 1991/2092, art. 3, **Sch.1**

Other restrictions

[F481]158 . . . . . .

Textual Amendments

F481 S. 158 repealed (25.7.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(2)(5), **Sch. 19**, Pt.IV (with s. 84(5))

159 Compensation in respect of orders under s. 49.

(1) **[**[F482]Subject to section 159B of this Act, the**]** provisions of this section shall have effect where an order is made under section 49 of this Act, requiring a use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed.

(2) If, on a claim made to the. . . [F483] planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that any person has suffered damage in consequence of the order by depreciation of the value of an interest in the land to which he is entitled, or by being disturbed in his enjoyment of the land, that authority shall pay to that person compensation in respect of that damage.

(3) Without prejudice to subsection (2) of this section, any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the. . . [F483] planning authority compensation in respect of any expenses reasonably incurred by him in that behalf.

(4) Any compensation payable to a person under this section by virtue of such an order as is mentioned in subsection (1) of this section shall be reduced by the value to him of any timber, apparatus or other materials removed for the purpose of complying with the order.

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Textual Amendments

F482 Words substituted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 5**

F483 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C98 S. 159 modified by S.I. 1987/433, **regs. 4**, 5, 6

[F484 159A Compensation in respect of orders under s. 49A and suspension orders.

Subject to section 159B of this Act, the provisions of section 159 of this Act shall apply where an order is made under section 49A of this Act or a suspension order or supplementary suspension order is made as they apply where an order is made under section 49 of this Act.]]

Textual Amendments

F484 Ss. 159A, 159B inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 30**, 35

159B [F485 Compensation on special basis.

(1) Where mineral compensation requirements are satisfied in relation to an order under section 49 or 49A of this Act, or in relation to a suspension order or supplementary suspension order, section 159 or 159A of this Act shall have effect subject to mineral compensation modifications.

(2) Subject to subsection (6) of this section, mineral compensation requirements are satisfied in relation to an order under section 49 of this Act if—

(a) the order—

(i) imposes any conditions on the continuance of the use of land for the winning and working of minerals; or

(ii) requires that any buildings, works, plant or machinery used for the winning and working of minerals shall be altered or removed; and

(b) the conditions specified in subsection (5) of this section are satisfied.

(3) Subject to subsection (6) of this section, mineral compensation requirements are satisfied in relation to an order under section 49A of this Act if the conditions specified in subsection (5)(a) and (c) of this section are satisfied.

(4) Mineral compensation requirements are satisfied in relation to a suspension order or supplementary suspension order if the conditions specified in subsection (5)(c) of this section are satisfied.

(5) The conditions mentioned in subsections (2)(b), (3) and (4) of this section are—

(a) that development consisting of the winning and working of minerals began not less than five years before the date of the order;

(b) that the order does not—

(i) impose any restriction on the winning and working of minerals; or

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(ii) modify or replace any such restriction subject to which planning permission for development consisting of the winning and working of minerals was granted or which was imposed by a relevant order; and

(c) that the planning authority carried out special consultations about the making and terms of the order before they made it.

(6) Where the planning authority—

(a) make—

(i) an order under section 49 of this Act which imposes any such condition or makes any such requirement as is mentioned in subjection (2)(a) of this section; or

(ii) an order under section 49A of this Act; and

(b) have previously made a relevant order or orders,

mineral compensation requirements are not satisfied in relation to the order mentioned in paragraph (a) of this subsection unless it was made more than five years after the order previously made or the last such order.

Textual Amendments

F485 Ss. 159A, 159B inserted by Town and Country Planning (Minerals) Act 1981 (c. 36, ss 30, 35

[F486]160 . . . . . .

Textual Amendments

F486 S. 160 repealed (25.7.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(3), 84(4)(6), **Sch. 19 Pt.IV** (with s. 84(5))

161 Compensation where listed building consent revoked or modified.

(1) Where listed building consent is revoked or modified by an order under paragraph 9 of Schedule 10 to this Act (other than an order which takes effect by virtue of paragraph 11 of that Schedule and without being confirmed by the Secretary of State), then if on a claim made to the. . . [F487] planning authority within the time and in the manner prescribed by regulations under this Act, it is shown that a person interested in the building—

(a) has incurred expenditure in carrying out works which are rendered abortive by the revocation or modification; or

(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the authority shall pay to that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out those works.

(3) Subject to subsection (2) of this section, no compensation shall be paid under this section in respect of any works carried out before the grant of the listed building

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consent which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done before the grant of that consent.

Textual Amendments

F487 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

162 Compensation for loss or damage caused by service of building preservation notice.

(1) The provisions of this section shall have effect as respects compensation where a building preservation notice is served.

(2) The. . . [F488] planning authority shall not be under any obligation to pay compensation under section 160 of this Act, in respect of any refusal of listed building consent or its grant subject to conditions, unless and until the building is included in a list compiled or approved by the Secretary of State under section 52 of this Act; but this subsection shall not prevent a claim for such compensation being made before the building is so included.

(3) If the building preservation notice ceases to have effect without the building having been included in a list so compiled or approved, then, subject to a claim in that behalf being made to the. . . [F488] planning authority within the time and in the manner prescribed by regulations under this Act, any person who at the time when the notice was served had an interest in the building shall be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.

(4) The loss or damage in respect of which compensation is payable under subsection (3) of this section shall include a sum payable in respect of a breach of contract caused by the necessity of discontinuing or countermanding any works to the building on account of the building preservation notice being in force with respect thereto.

Textual Amendments

F488 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

163 Compensation in respect of tree preservation orders.

The matters for which provision may under section 58 of this Act be made by a tree preservation order include the payment by the. . . [F489] planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage caused or incurred in consequence of the refusal of any consent required under the order, or of the grant of any such consent subject to conditions.

Textual Amendments

F489 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

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164 Compensation in respect of requirement as to replanting of trees.

(1) The provisions of this section shall have effect where a requirement is imposed by the. . . [F490] planning authority or the Secretary of State by or under a tree preservation order for securing the replanting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order.

(2) If the Forestry Commissioners decide not to make any advance under **[**[F491]section 1 of the [M44]Forestry Act 1979**]** in respect of the replanting and come to that decision on the ground that the requirement frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry, the. . . [F490] planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the requirement.

(3) The Forestry Commissioners shall, at the request of the person under a duty to comply with the requirement, give a certificate stating whether they have decided not to make any such advance and, if so, the grounds of their decision.

(4) A claim for compensation under this section must be served on the. . . [F490] planning authority within twelve months from the date on which the requirement was imposed, or where an application has been made to the Secretary of State for the determination of any question relating to the reasonableness of a requirement, from the date of the decision of the Secretary of State on the application, but subject in either case to such extension of that period as the. . . [F490] planning authority may allow.

(5) Any question of disputed compensation under this section shall be determined in accordance with section 70 of the [M45]Countryside (Scotland) Act 1967.

(6) . . . . . [F492]

Textual Amendments

F490 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F491 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 17(2)(a)**

F492 S. 164(6) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

Marginal Citations

M44 1979 c. 21.

M45 1967 c. 86

165 Compensation for restrictions on advertising.

Where, for the purpose of complying with any regulations made under section 61 of this Act, works are carried out by any person—

(a) for removing an advertisement which was being displayed on 16th August 1948; or

(b) for discontinuing the use for the display of advertisements of a site used for that purpose on that date,

that person shall, on a claim made to the. . . [F493] planning authority within the time and in the manner prescribed by regulations under this Act, be entitled to recover from

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that authority compensation in respect of any expenses reasonably incurred by him in that behalf.

Textual Amendments

F493 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

166 Compensation for loss due to stop notice.

(1) Where a stop notice under section 87 of this Act ceases to have effect, a person who, at the time when it was first served, had an interest **[**[F494], whether as owner or occupier or otherwise,**]** in the land to which it relates shall, in any of the circumstances mentioned in subsection (2) of this section, be entitled to be compensated by the. . . [F495] planning authority in respect of any loss or damage directly attributable to the prohibition contained in the notice.

(2) A person shall be entitled to compensation under subsection (1) of this section in respect of a prohibition contained in a stop notice in any of the following circumstances:—

(a) the enforcement notice is quashed on any of the grounds mentioned in section 85(1)(b), (c), (d) or (e) of this Act;

(b) the allegation in the enforcement notice on which the prohibition in the stop notice is dependent is not upheld by reason that the enforcement notice is varied on one of those grounds;

(c) the enforcement notice is withdrawn by the. . . [F495] planning authority otherwise than in consequence of the grant by them of planning permission for the development to which the notice relates or for its retention or continuance without compliance with a condition or limitation subject to which a previous planning permission was granted;

(d) the stop notice is withdrawn.

(3) A prohibition in a stop notice shall be treated for the purposes of subsection (2) of this section as dependent on an allegation in an enforcement notice if and to the extent that the **[**[F496]activity**]** to which the prohibition in the stop notice relates are the same as those alleged in the enforcement notice to constitute a breach of planning control or are so closely associated therewith as to constitute substantially the same **[**[F496]activity**]**.

(4) A claim for compensation under this section shall be made to the. . . [F495] planning authority within the time and in the manner prescribed by regulations under this Act.

(5) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition. . . [F497].

[[F498](6) In the assessment of any compensation under this section, there shall be taken into account any failure on the part of the claimant to comply with the provisions of section 270 of this Act, to the extent, if any, that such failure has contributed to the circumstances in which the enforcement notice was withdrawn or varied or quashed, or the stop notice withdrawn.**]**

Textual Amendments

F494 Words inserted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(2)(a)**

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F495 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
F496 Word substituted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(2)(b)**
F497 Words repealed by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(2)(c)**
F498 S. 166(6) added by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(2)(d)**

Modifications etc. (not altering text)
C99 S. 166 extended (with modifications) by S.I. 1984/995, reg. 2, **Sch.** (which S.I. was revoked (26.3.1992) by S.I. 1992/478, **reg.3**)

Supplementary provisions

167 General provisions as to compensation for depreciation under Part VIII.

(1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 12 of the [M46]Land Compensation (Scotland) Act 1963 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) **[**[F499]Subject to regulations under section 167A of this Act, this**]** section applies to any compensation which, under the preceding provisions of this Part of this Act, other than section 163, 164 or 166, is payable in respect of depreciation of the value of an interest in land.

(3) In relation to the assessment of compensation payable under section 153 of this Act, the value of any interest may be a minus quantity.

(4) Where an interest in land is subject to a heritable security—
- (a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the security;
- (b) a claim for any such compensation may be made by any creditor in a heritable security over the interest, but without prejudice to the making of a claim by the person entitled to the interest;
- (c) no compensation to which this section applies shall be payable in respect of the interest of the creditor in the heritable security (as distinct from the interest which is subject to the security); and
- (d) any compensation to which this section applies which is payable in respect of the interest which is subject to the heritable security shall be paid to the creditor in the security, or, if there is more than one such creditor, to the creditor whose security ranks first, and shall in either case be applied by him as if it were proceeds of sale by him under the powers competent to creditors in heritable securities.

Textual Amendments
F499 Words substituted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 6**

Modifications etc. (not altering text)
C100 S. 167(1)(2) extended by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 117(2)** (with s. 128(1))
C101 S. 167(4) extended by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 118** (with s. 128(1))

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Marginal Citations
M46 1963 c. 51.

[F500 167A Regulations as to compensation in respect of orders relating to mineral working —meaning of "mineral compensation modifications".

(1) The Secretary of State may by regulations made with the consent of the Treasury direct that sections 153, 159, 167, 226, and 227 of this Act shall have effect, where mineral compensation requirements are satisfied, subject, in such cases as may be specified in the regulations, to such modifications as may be so specified.

(2) Any such regulations shall make provision as to circumstances in which compensation is not to be payable.

(3) Any such regulations shall make provision—
- (a) for the modification of the basis on which any amount to be paid by way of compensation is to be assessed; or
- (b) for the assessment of any such amount on a basis different from that on which it would otherwise have been assessed.

(4) Regulations made by virtue of subsection (3)

(a) of this section in relation to compensation where an order is made under section 42 or 49 of this Act shall provide that the amount of the compensation under section 153 or, as the case may be, 159 of this Act, shall be reduced—
- (a) by the prescribed sum; or
- (b) by a sum equal to the prescribed percentage of the appropriate sum.

(5) In subsection (4) of this section "the appropriate sum" means the product of the sum which represents the annual value of the right to win and work minerals at the site to which the order relates and a multiplier which the Secretary of State considers appropriate having regard to the period at the expiration of which the minerals in, on or under that site might be expected to be exhausted if they continued to be extracted at the rate which has been assumed for the purpose of calculating the annual value of the right to win and work them.

(6) The prescribed percentage shall not be more than 10 per cent.

(7) The annual value of the right to win and work the minerals shall be calculated in the prescribed manner.

(8) In this Act "mineral compensation modifications" means modifications specified in regulations made by virtue of this section.

(9) Regulations under this section—
- (a) may make different provision for different cases; and
- (b) may include such incidental or supplementary provisions as the Secretary of State considers expedient.

(10) No regulations under this section shall have effect until approved by a resolution of each House of Parliament.

(11) Before making any such regulations the Secretary of State shall consult such persons or bodies of persons as appear to him to be representative—

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(a) of persons carrying out mining operations;
(b) of owners of interests in land containing minerals; and
(c) of planning authorities.**]**

Textual Amendments
F500 Ss. 167A—167C inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 31**, 35

[F501 167B Orders relating to mineral working— meaning of "special consultations".

(1) Any reference in this Act to a planning authority carrying out special consultations about the making and terms of an order before they make it is a reference to their carrying out consultations—
(a) subject to subsection (2) of this section, with any person who has an interest—
(i) in the land to which the order will relate; or
(ii) in minerals in, on or under that land; and
(b) with the relevant authority or authorities.

(2) The duty to consult imposed by subsection (1)(a) of this section is only a duty to consult persons whom the planning authority are able to trace by taking reasonable steps to do so.

(3) In subsection (1)(b) above "the relevant authority or authorities" means—
(a) if the planning authority is a district planning authority, the regional planning authority in whose area the land to which the order will relate is situated; and
(b) if the planning authority is a regional planning authority, the district planning authority or authorities in whose area or areas the land to which the order will relate is situated.**]**

Textual Amendments
F501 Ss. 167A—167C inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 31**, 35

[F502 167C Orders relating to mineral working— meaning of "restriction on the winning and working of minerals" and "relevant order".

(1) In this Act "restriction on the winning and working of minerals" means—
(a) in relation to planning permission granted for development consisting of the winning and working of minerals, a condition subject to which the permission was granted and which made provision to which this section applies; and
(b) in relation to an order under section 42 or 49 of this Act, a term of the order which made such provision.

(2) The provision to which this section applies is—
(a) any provision—
(i) for the period before the expiration of which development consisting of the winning and working of minerals was to be begun;
(ii) for the size of the area to be used for the winning and working of minerals;

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(iii) for the depth to which operations for the winning and working of minerals were to extend;

(iv) for the rate at which any particular mineral was to be extracted;

(v) for the total quantity of minerals to be extracted; or

(vi) for the period at the expiration of which the winning and working of minerals was to cease;

(b) . . . [F503]

(3) In this Act "relevant order", in relation to any land, means an order under section 42, 49 or 49A of this Act.**]**

Textual Amendments

F502 Ss. 167A—167C inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 31**, 35

F503 S. 167C(2)(b) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

168 Determination of claims for compensation.

(1) Except in so far as may be otherwise provided by section 164(5) of this Act, by any tree preservation order or by any regulations made under this Act, any question of disputed compensation under this Part of this Act **[**[F504]including any question of disputed compensation under section 153, 159, 167, 226 or 227 of this Act as modified by regulations under section 167A of this Act**]** shall be referred to and determined by the Lands Tribunal.

(2) In relation to the determination of any such question, the provisions of sections 9 and 11 of the [M47]Land Compensation (Scotland) Act 1963 shall apply, subject to any necessary modifications and to the provisions of any regulations made under this Act.

Textual Amendments

F504 Words inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 32**, 35

Marginal Citations

M47 1963 c. 51.

PART IX

PROVISIONS ENABLING OWNER OR LESSEE TO REQUIRE PURCHASE OF HIS INTEREST

Interests affected by planning decisions or orders

169 Purchase notice on refusal or conditional grant of planning permission.

(1) Where, on an application for planning permission to develop any land, permission is refused or is granted subject to conditions, then if any owner or lessee of the land claims—

(a) that the land has become incapable of reasonably beneficial use in its existing state; and

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(b) in a case where planning permission was granted subject to conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions; and

(c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the. . . [F505] planning authority or the Secretary of State has undertaken to grant planning permission,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the. . . [F505] planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with the following provisions of this Part of this Act.

(2) Where, for the purpose of determining whether the conditions specified in subsection (1)(a) to (c) of this section are fulfilled in relation to any land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial use of that land, then, in determining that question for that purpose, **[**[F506]no account shall be taken of any prospective development other than any development specified in paragraph 1 or 2 of Schedule 6 to this Act.**]**

[F507](3) . . . . . .

(4) For the purposes of this section the conditions referred to in sections 38 and 39 of this Act shall be disregarded,. . . [F508]

(5) a person on whom there has been served a repairs notice under section 105 of this Act shall not in any case be entitled to serve a purchase notice under this section in respect of the building in question until the expiration of three months beginning with the date of the service of the repairs notice; and if during that period the. . . [F505] planning authority or the Secretary of State start the compulsory acquisition of the building in the exercise of their powers under section 104 of this Act, that person shall not be so entitled unless and until the compulsory acquisition is discontinued.

(6) For the purposes of subsection (5) of this section a compulsory acquisition—

(a) is started when the. . . [F505] planning authority or the Secretary of State, as the case may be, serve the notice required by paragraph 3(b) of Schedule 1 to the [M48]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; and

(b) is discontinued, in the case of acquisition by a. . . [F505] planning authority, when they withdraw the compulsory purchase order or the Secretary of State decides not to confirm it and, in the case of acquisition by the Secretary of State, when he decides not to make the compulsory purchase order.

(7) A notice under this section, or under any other provision of this Part of this Act to which this subsection is applied, is in this Act referred to as a "purchase notice".

[[F509](8) The words "planning authority" in subsection (1) above shall in a case where a regional planning authority have dealt with an application by virtue of section 179 of the [M49]Local Government (Scotland) Act 1973 (which enables a regional planning authority to have an application for planning permission which has been made to a district planning authority referred to themselves) be construed as meaning that regional planning authority.**]**

Textual Amendments

F505 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

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F506 Words in s. 169(2) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34), s. 60(6), **Sch. 12**, para. 19(a), with s. 84(5); S.I. 1991/2092, art. 3, **Sch. 1**

F507 S. 169(3) repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34), s. 84(6), **Sch. 19**, Pt. IV, with s. 84(5); S.I. 1991/2092, art. 3, **Sch. 1**

F508 Words repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

F509 S. 169(8) added by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 33**

Modifications etc. (not altering text)

C102 S. 169 extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 49(5)**

Marginal Citations

M48 1947 c. 42.

M49 1973 c. 65.

170 Action by. . . [F510] planning authority on whom purchase notice is served.

(1) The. . . [F510] planning authority on whom a purchase notice is served under section 169 of this Act shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner or lessee by whom the purchase notice was served a notice stating either—

(a) that the. . . [F510] planning authority are willing to comply with the purchase notice; or

(b) that another local authority or statutory undertakers specified in the notice under this subsection have agreed to comply with it in their place; or

(c) that, for reasons specified in the notice under this subsection, the. . . [F510] planning authority are not willing to comply with the purchase notice and have not found any other local authority or statutory undertakers who will agree to comply with it in their place, **[**[F511]and that they have transmitted to the Secretary of State a copy of the purchase notice and of the notice under this subsection**]**.

(2) Where the. . . [F510]ning authority on whom a purchase notice is served by an owner or lessee have served on him a notice in accordance with subsection (1)(a) or (b) of this section, the. . . [F510] planning authority, or the local authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions, and to have served a notice to treat in respect thereof on the date of service of the notice under that subsection.

(3) Where the. . . [F510] planning authority on whom a purchase notice is served by an owner or lessee propose to serve on him a notice in accordance with subsection (1)(c) of this section, **[**[F512]then, before they take steps to serve that notice, they shall transmit to the Secretary of State a copy of the purchase notice together with a copy of the notice which they propose to serve**]**.

(4) Where the. . . [F510] planning authority on whom a purchase notice is served by an owner or lessee do not, within the period specified in subsection (1) of this section, serve on him a notice under that subsection, the purchase notice shall be deemed to be confirmed at the expiration of that period, and the authority shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions, and to have served a notice to treat in respect thereof at the expiration of the said period.

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(5) In this section "the relevant provisions" means the provisions of Part VI of this Act or, in the case of statutory undertakers any statutory provision (however expressed) under which they have power, or may be authorised, to purchase land compulsorily for the purposes of their undertaking.

Textual Amendments

F510 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F511 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 35(1)**(*a*)

F512 Words substituted Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 35(1)**(*b*)

Modifications etc. (not altering text)

C103 S. 170 extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 49(5)** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

C104 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C105 S. 170 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)**

C106 Ss. 170-172, 175, 181, 195(6) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

171 Procedure on reference of purchase notice to Secretary of State.

(1) Where a copy of a purchase notice is transmitted to the Secretary of State under section 170(3) of this Act, the Secretary of State shall consider whether to confirm the notice or to take other action under section 172 of this Act in respect thereof.

(2) Before confirming a purchase notice or taking any other action under section 172 of this Act in respect thereof, the Secretary of State shall give notice of his proposed action—

(a) to the person by whom the purchase notice was served;

(b) to the. . . [F513] planning authority on whom the purchase notice was served; and

(c) if the Secretary of State proposes to substitute any other local authority or statutory undertakers for the. . . [F513] planning authority on whom the purchase notice was served, to that other local authority or those statutory undertakers.

(3) If, within such period as may be specified in a notice under subsection (2) of this section, being a period of not less than twenty-eight days from the service of that notice, any of the persons, authorities or statutory undertakers on whom that notice is served so requires, the Secretary of State, before confirming the purchase notice or taking any other action under section 172 of this Act in respect thereof, shall afford to those persons, authorities and undertakers an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) Where the Secretary of State has given notice under subsection (2) of this section of his proposed action, and any of the persons, authorities and statutory undertakers concerned have appeared before and been heard by a person appointed by the Secretary of State for the purpose, or the persons, authorities and undertakers concerned have agreed to dispense with such a hearing, and it then appears to the Secretary of State to

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be expedient to take action under section 172 of this Act otherwise than in accordance with the notice given by him, the Secretary of State may take that action accordingly.

Textual Amendments

F513 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C107 S. 171 extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 49(5)** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

C108 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C109 S. 171 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

C110 Ss. 170-172, 175, 181, 195(6) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

172 Action by Secretary of State in relation to purchase notice.

(1) Subject to the following provisions of this section and to section 173 of this Act, if the Secretary of State is satisfied that the conditions specified in section 169(1)(a) to (c) of this Act are fulfilled in relation to a purchase notice, he shall confirm the notice.

(2) If it appears to the Secretary of State to be expedient to do so, he may, in lieu of confirming the purchase notice, grant planning permission for the development in respect of which the application was made, or, where planning permission for that development was granted subject to conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of that development.

(3) If it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other development for which planning permission ought to be granted, he may, in lieu of confirming the purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that planning permission for that development shall be granted in the event of an application being made in that behalf.

(4) If it appears to the Secretary of State to be expedient that another local authority or statutory undertakers should acquire the interest of the owner or lessee for the purpose of any of their functions, he may, if he confirms the notice, modify it, either in relation to the whole or in relation to any part of the land to which it relates, by substituting that other authority or, as the case may be, those statutory undertakers for the. . . [F514] planning authority on whom the notice was served.

(5) In section 171 of this Act, any reference to the taking of action by the Secretary of State under this section is a reference to the taking by him of any such action as is mentioned in subsections (1) to (4) of this section, or to the taking by him of a decision not to confirm the purchase notice either on the grounds that any of the conditions referred to in subsection (1) of this section are not fulfilled or by virtue of section 173 of this Act.

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Textual Amendments

F514 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C111 S. 172 extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 49(5)** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

C112 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C113 S. 172 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)**

C114 Ss. 170-172, 175, 181, 195(6) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

173 Power to refuse to confirm purchase notice where land has restricted use by virtue of previous planning permission.

(1) This section shall have effect where, on an application for planning permission to develop any **[**[F515]land which consists in whole or in part of land which has a restricted use**]** by virtue of a previous planning permission, permission is refused or granted subject to conditions and an owner of the land serves a purchase notice under section 169 of this Act.

(2) For the purposes of this section, land is to be treated as having a restricted use by virtue of a previous planning permission if it is part of a larger area in respect of which planning permission was previously granted (and has not been revoked) and either—

(a) it remains a condition of the planning permission (however expressed) that that part shall remain undeveloped or be preserved or laid out in a particular way as amenity land in relation to the remainder; or

(b) the planning permission was granted on an application which contemplated (expressly or by necessary implication) that the part should not be comprised in the development for which planning permission was sought, or should be preserved or laid out as aforesaid.

(3) If a copy of the purchase notice is transmitted to the Secretary of State under section 170(3) of this Act the Secretary of State, although satisfied that the land has become incapable of reasonably beneficial use in its existing state, shall nevertheless not be required under section 172(1) of this Act to confirm the notice if it appears to him that **[**[F516]the land having a restricted use by virtue of a previous planning permission ought, in accordance with that permission,**]** to remain undeveloped or, as the case may be, remain or be preserved or laid out as amenity land in relation to the remainder of the large area for which that planning permission was granted.

Textual Amendments

F515 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 36**(*a*)

F516 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 36**(*b*)

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Modifications etc. (not altering text)

C115 S. 173 extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 49(5)**

174 [F517] . . . . . .

Textual Amendments

F517 S. 140, 154(4), 158(5), 174, 180(2) repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

175 Effect of Secretary of State's action in relation to purchase notice.

(1) Where the Secretary of State confirms a purchase notice, the. . . [F518] planning authority on whom the purchase notice was served (or, if under section 172(4) of this Act the Secretary of State modified the purchase notice by substituting another local authority or statutory undertakers for that. . . [F518] planning authority, that other local authority or those statutory undertakers) shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct.

(2) If, before the end of the relevant period, the Secretary of State has neither confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in section 172(2) or (3) of this Act, and has not notified the owner or lessee, as the case may be, by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the end of that period, and the authority on whom the notice was served shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the relevant provisions and to have served notice to treat in respect thereof at the end of that period.

(3) For the purposes of subsection (2) of this section the relevant period is **[**[F519], subject to subsection (3A) of this section,**]** the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Secretary of State.

[[F520](3A) The relevant period does not run if the Secretary of State has before him at the same time both a copy of the purchase notice transmitted to him under section 170(3) of this Act and an appeal notice under any of the following provisions of this Act relating to any of the land to which the purchase notice relates—

section 33 (appeal against refusal of planning permission, &c.),
section 85 (appeal against enforcement notice),
section 91 (appeal against refusal of established use certificate),
section 93 (appeal against listed building enforcement notice), or
paragraph 7 or 8 of Schedule 10 (appeal against refusal of listed building consent, &c.).**]**

(4) Where the Secretary of State has notified the owner or lessee by whom a purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice (including any decision not to confirm the notice in respect of part of the land to which it relates, and including any decision to grant any permission, or give any

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direction, in lieu of confirming the notice, either wholly or in part) and that decision of the Secretary of State is quashed under the provisions of Part XII of this Act, the purchase notice shall be treated as cancelled, but the owner or lessee may serve a further purchase notice in its place.

(5) For the purposes of any regulations made under this Act as to the time within which a purchase notice may be served, the service of a purchase notice under subsection (4) of this section shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with those regulations if the planning decision, in consequence of which the notice is served, had been made on the date on which the decision of the Secretary of State was quashed as mentioned in subsection (4) of this section.

(6) In this section "the relevant provisions" has the same meaning as in section 170 of this Act.

Textual Amendments

F518 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F519 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 37(1)**

F520 S. 175(3A) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 37(1)**

Modifications etc. (not altering text)

C116 S. 175 extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 49(5)** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

C117 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C118 S. 175 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)**

C119 Ss. 170-172, 175, 181, 195(6) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

176 Special provisions as to compensation where purchase notice served.

(1) Where by virtue of section 153 of this Act compensation is payable in respect of expenditure incurred in carrying out any work on land, then, if a purchase notice is served in respect of an interest in that land, any compensation payable in respect of the acquisition of that interest in pursuance of the purchase notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable by virtue of that section.

(2) Where a purchase notice served in respect of an interest in land does not take effect, or does not take effect in relation to a part of the land, by reason that the Secretary of State gives a direction under section 172(3) of this Act, then if, on a claim made to the. . . [F521] planning authority within the time and in the manner prescribed by regulations under this Act it is shown that the permitted development value of that interest (or, as the case may be, of that interest so far as it relates to that part of the land) is less than its **[**[F522]Schedule 6 value**]**, the. . . [F521] planning authority shall pay to the person entitled to that interest compensation of an amount which (subject to the following provisions of this section) shall be equal to the difference.

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(3) If the planning permission which, by the direction referred to in subsection (2) of this section, is required to be granted would be granted subject to conditions for regulating the design or external appearance of buildings, or the size or height of buildings, or for regulating the number of buildings to be erected on the land, the Secretary of State, if it appears to him to be reasonable to do so having regard to the local circumstances, may direct that those conditions shall be disregarded, either altogether or to such extent as may be specified in the direction, in assessing any compensation payable under subsection (2) of this section.

(4) Sections 167 and 168 of this Act shall have effect in relation to compensation under subsection (2) of this section as they have effect in relation to compensation to which those sections apply.

(5) In this section "permitted development value", in relation to an interest in land in respect of which a direction is given under section 172(3) of this Act, means the value of that interest calculated with regard to that direction, but on the assumption that no planning permission would be granted otherwise than in accordance with that direction, and.

[[F523]" Schedule 6 value", in relation to such an interest, means the value of that interest calculated on the assumption that planning permission would be granted—

(a) subject to the conditions set out in Schedule 16, for any development of a class specified in paragraph 1 of Schedule 6; and

(b) for any development of a class specified in paragraph 2 of Schedule 6.**]**

Textual Amendments

F521 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F522 Words in s. 176(2) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para. 20(a), with s. 84(5); S.I. 1991/2092, **art.3**

F523 Words in s. 176(5) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para. 20(b), with s. 84(5); S.I. 1991/2092, **art.3**

Modifications etc. (not altering text)

C120 S. 176 extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 49(5)**

177 Purchase notice in respect of order revoking or modifying planning permission.

(1) Where by an order under section 42 of this Act planning permission in respect of any land is revoked, or is modified by the imposition of conditions, then if any owner or lessee of the land claims—

(a) that the land has become incapable of reasonably beneficial use in its existing state; and

(b) in a case where the planning permission was modified by the imposition of conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with those conditions; and

(c) in any case, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other development for which planning permission has been granted or for which the. . . [F524] planning authority or the Secretary of State has undertaken to grant planning permission,

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he may, within the time and in the manner prescribed by regulations under this Act, serve on the. . . [F524] planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.

(2) Section 169(7) of this Act shall apply to this section; and, subject to subsection (3) of this section, sections 169(2), 170 to 173, 175 and 176 of this Act shall apply to a notice served by virtue of subsection (1) of this section as they apply to a notice served by virtue of section 169(1) of this Act

(3) In the application of subsection (2) of section 169 of this Act to a purchase notice served by virtue of subsection (1) of this section, that subsection shall apply as if the words "or which would contravene the condition set out in Schedule 16 to this Act" were omitted; and in the application of section 172 of this Act, to a purchase notice served as aforesaid, that section shall apply as if the following subsection were substituted for subsection (2) thereof—

"(2) If it appears to the Secretary of State to be expedient to do so, he may, in lieu of confirming the purchase notice, cancel the order revoking the planning permission, or, where the order modified the permission by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the development in respect of which the permission was granted".

Textual Amendments

F524 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C121 S. 177 extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 49(5)**

178 Purchase notice in respect of order requiring discontinuance of use or alteration or removal of buildings or works.

(1) If any person entitled to an interest in land in respect of which an order is made under section 49 of this Act claims—

(a) that by reason of the order the land is incapable of reasonably beneficial use in its existing state, and

(b) that it cannot be rendered capable of reasonably beneficial use by the carrying out of any development for which planning permission has been granted, whether by that order or otherwise,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the. . . [F525] planning authority in whose district the land is situated a notice requiring that authority to purchase his interest in the land in accordance with the preceding provisions of this Part of this Act.

(2) Section 169(7) of this Act shall apply to this section; and, subject to subsection (3) of this section, sections 169(2), 170 to 173, 175 and 176 of this Act shall apply to a notice served by virtue of subsection (1) of this section as they apply to a notice served by virtue of section 169(1) of this Act.

(3) In the application of subsection (2) of section 169 of this Act to a purchase notice served by virtue of subsection (1) of this section, that subsection shall apply as if

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the words "or which would contravene the condition set out in Schedule 16 to this Act" were omitted; and in the application of section 172 of this Act to a purchase notice served as aforesaid, that sec tion shall have effect subject to the following modifications, that is to say—

(a) in subsection (1), for the reference to the conditions therein mentioned, there shall be substituted a reference to the conditions specified in subsection (1) (a) and (b) of this section; and

(b) the following subsection shall be substituted for subsection (2)—

"(2) If it appears to the Secretary of State to be expedient to do so, he may, in lieu of confirming the purchase notice, revoke the order under section 49 of this Act, or, as the case may be, amend that order so far as appears to him to be required in order to prevent the land from being rendered incapable of reasonably beneficial use by the order".

(4) Where a purchase notice in respect of an interest in land is served in consequence of such an order as is mentioned in subsection (1) of this section, then if—

(a) that interest is acquired in accordance with the preceding provisions of this Part of this Act; or

(b) compensation is payable in respect of that interest under section 176(2) of this Act,

no compensation shall be payable in respect of that order under section 159 of this Act.

(5) Except as provided by this section, no purchase notice shall be served in respect of an interest in land while the land is incapable of reasonably beneficial use by reason only of such an order as is mentioned in subsection (1) of this section.

Textual Amendments

F525 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

179 Purchase notice on refusal or conditional grant of listed building consent.

(1) Where, on an application for listed building consent in respect of a building, consent is refused or is granted subject to conditions or, by an order under Part II of Schedule 10 to this Act, listed building consent is revoked or modified, then if any owner or lessee of the land claims—

(a) that the land has become incapable of reasonably beneficial use in its existing state; and

(b) in a case where consent was granted subject to conditions with respect to the execution of the works or, as the case may be, was modified by the imposition of such conditions, that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the works in accordance with those conditions; and

(c) in any case that the land cannot be rendered capable of reasonably beneficial use by the carrying out of any other works for which listed building consent has been granted or for which the. . . [F526] planning authority or the Secretary of State has undertaken to grant such consent,

he may, within the time and in the manner prescribed by regulations under this Act, serve on the. . . [F526] planning authority in whose district the land is situated a

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notice requiring that authority to purchase his interest in the land in accordance with Schedule 17 to this Act.

(2) Where, for the purpose of determining whether the conditions specified in subsection (1)(a) to (c) of this section are satisfied in relation to the land, any question arises as to what is or would in any particular circumstances be a reasonably beneficial use of that land, then in determining that question for that purpose, no account shall be taken of any prospective use of that land which would involve the carrying out of **[**[F527]development (other than any development specified in paragraph 1 or 2 of Schedule 6 to this Act)**]** or of any works requiring listed building consent which might be executed to the building, other than works for which the. . . [F526] planning authority or the Secretary of State have undertaken to grant such consent.

(3) In this section and in Schedule 17 to this Act, "the land" means the building in respect of which listed building consent has been refused, or granted subject to conditions, or modified by the imposition of conditions, and in respect of which its owner or lessee serves a notice under this section, together with any land comprising the building, or contiguous or adjacent to it, and owned or occupied with it, being land as to which the owner or lessee claims that its use is substantially inseparable from that of the building and that it ought to be treated, together with the building, as a single holding.

(4) Subsections (5) and (6) of section 169 of this Act shall apply to a listed building purchase notice as they apply to a purchase notice under that section.

(5) A notice under this section is in this Act referred to as a "listed building purchase notice".

Textual Amendments

F526 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F527 Words in s. 179(2) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para.21, with s. 84(5); S.I. 1991/2092, **art.3**

180 Purchase notices in other cases.

(1) Sections 169 to 172, 175 and 176 of this Act are provisions falling within subsection (2) of section 58 of this Act; and subsection (1) of the said section 58 and subsection (2) of section 61 of this Act, shall have effect accordingly.

(2) . . . . . [F528]

Textual Amendments

F528 S. 140, 154(4), 158(5), 174, 180(2) repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

[[F529]**180A Public telecommunications operators.**

In the preceding provisions of this Part of this Act and in Schedule 17 to this Act the references to statutory undertakers shall be deemed to include references to a public telecommunications operator.**]**

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Textual Amendments

F529 S. 180A inserted by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(5), **Sch. 5 para. 45**

Interests of owner-occupiers affected by planning proposals

181 Scope of these provisions.

(1) The provisions of sections 182 to 196 of this Act shall have effect in relation to land which—

(a) is land indicated in a structure plan in force either as land which may be required for the purposes of any **[**[F530]of the following functions, that is to say, those of a government department, local authority or statutory undertakers, or of the ([F531]British Coal Corporation) or the establishment or running by a public telecommunications operator of a telecommunication system**]**, or as land which may be included in an action area; or

(b) is land allocated for the purposes of any such functions by a local plan in force, or is land defined in such a plan as the site of proposed development for the purposes of any such functions; or

(c) is land indicated in a development plan (otherwise than by being dealt with in a manner mentioned in the preceding paragraphs) as land on which a road is proposed to be constructed or land to be included in a road as proposed to be improved or altered; or

(d) is land authorised by a special enactment to be compulsorily acquired, or land falling within the limits of deviation within which powers of compulsory acquisition conferred by a special enactment are exercisable; or

[[F532](e) is land on or adjacent to the line of a road proposed to be constructed, improved or altered, as indicated in an order or scheme—

(i) which has come into operation under; or

(ii) which is proposed to be made or confirmed under, and in respect of which a notice has been published under Schedule 1 to,

the Roads (Scotland) Act 1984 being land in relation to which a power of compulsory acquisition conferred by that Act may become exercisable as being land required for purposes of construction, improvement or alteration as indicated in the order or scheme;**]**

(f) is land shown on plans approved by a resolution of a local **[**[F533]roads**]** authority as land comprised in the site of a road as proposed to be constructed, improved or altered by that authority; or

(g) is land in respect of which a compulsory purchase order is in force, where the appropriate authority have power to serve, but have not served, notice to treat in respect of the land; or

[[F534](h) is land comprised in the site of a road as proposed to be constructed, improved or altered by the Secretary of State if he has given written notice of the proposal, together with maps or plans sufficient to identify the land in question, to the planning authority;**]**

[[F535](i) is land in the case of which there is in force a compulsory purchase order providing for the acquisition of a right in or over that land, and the appropriate authority have power to serve, but have not served, notice to treat in respect of the right.**]**

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(2) Paragraph (a) of subsection (1) of this section shall not apply to land situated in an area for which a local plan is in force, where that plan—

(a) allocates any land in the area for the purposes of such functions as are mentioned in that paragraph; or

(b) defines any land in the area as the site of proposed development for the purposes of any such functions.

(3) Interests qualifying for protection under these provisions are either—

(a) interests in hereditaments or parts of hereditaments; or

(b) interests in agricultural units or parts of agricultural units.

(4) An interest in the whole or part of a hereditament shall be taken to be an interest qualifying for protection under these provisions if, on the date of service of a notice under section 182 of this Act in respect thereof, either—

(a) the annual value of the hereditament does not exceed such amount as may be prescribed for the purposes of this paragraph by an order made by the Secretary of State, and the interest in question is the interest of an owner-occupier of the hereditament; or

(b) in a case not falling within the preceding paragraph, the interest in question is the interest of a resident owner-occupier of the hereditament.

[[F536](4A) The Secretary of State may, by regulations made under this subsection, substitute for any reference in these provisions to "annual value" or "hereditament" such other reference as he may consider appropriate; and such regulations may make such supplemental or consequential amendments of this Act or of any other enactment whether passed before or after this Act as the Secretary of State thinks fit.**]**

(5) An interest in the whole or part of an agricultural unit shall be taken to be an interest qualifying for protection under these provisions if, on the date of service of a notice under section 182 of this Act in respect thereof, it is the interest of an owner-occupier of the unit.

(6) In this section and in the said sections 182 to 196 "these provisions" means the provisions of this section and of those sections, "the specified descriptions" means the descriptions contained in subsection (1)(a) to **[**[F537](i)**]** of this section and "blight notice" means a notice served under section 182 or 190 of this Act. **[**[F538]or section 73 of the [M50]Land Compensation (Scotland) Act 1973**]**

Textual Amendments

F530 Words substituted by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(6), **Sch. 5 para. 45**

F531 Words substituted by Coal Industry Act 1987 (c. 3, SIF 86), s. 1(2), **Sch. 1 para. 20**

F532 S. 181(1)(*e*) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(5)**(*a*) (with s. 128(1))

F533 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(5)**(*b*) (with s. 128(1))

F534 S. 181(1)(h) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 79, **Sch. 17**, Pt. II para. 17 (with s. 84(5)); S.I. 1991/2092, **art.3**

F535 S. 181(1)(i) added by Land Compensation (Scotland) Act 1973 (c. 56), **s. 71(2)(a)**

F536 S. 181(4A) inserted by Local Government Finance Act 1988 (c. 41, SIF 81:1, 103:2), s. 137, **Sch. 12 para. 9**

F537 Word substituted by Land Compensation (Scotland) Act 1973 (c. 56), **s. 71(2)(b)**

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Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F538 Words added by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(2)**

Modifications etc. (not altering text)

C122 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C123 S. 181 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5) and Civil Aviation Act 1982 (c.16), **Sch. 2 para. 4**; amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

C124 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C125 S. 181 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

C126 S. 181(1) amended by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 106(8)** (with s. 128(1))

C127 S. 181(1) amended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 67**, 68(1)-(4), 69, 70(2) and Local Government, Planning and Land Act 1980 (c. 65), **s. 147** (1)(2); extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 71(1)**; continued by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 17 para. 8(4)**

C128 S. 181(1)(a) amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 64(1)**; excluded by Land Compensation (Scotland) Act 1973 (c. 56), **s. 67(2)**

C129 S. 181(1)(b) amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 64(2)**

C130 S. 181(1)(*e*) amended by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 106(7)** (with s. 128(1))

C131 S. 181(1)(e) amended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 65**, 70(1)

C132 S. 181(1)(g)(i) amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 66**

Marginal Citations

M50 1973 c. 56.

182 Power to serve blight notice.

(1) Where the whole or part of a hereditament or agricultural unit is comprised in land of any of the specified descriptions, and a person claims that—

(a) he is entitled to an interest in that hereditament or unit; and

(b) the interest is one which qualifies for protection under these provisions; and

(c) . . . . . [F539] he has made reasonable endeavours to sell that interest **[**[F540]or the land falls within paragraph (d) or (g) of section 181(1) of this Act and the powers of compulsory acquisition remain exercisable**]**; and

[[F541](d) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land**]**

he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, these provisions.

(2) Subsection (1) of this section shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the entirety of a hereditament or agricultural unit:

Provided that this subsection shall not enable any person—

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(a) if he is entitled to an interest in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of his interest in part of the hereditament or unit; or

(b) if he is entitled to an interest only in part of a hereditament or agricultural unit, to make or serve any such claim or notice in respect of his interest in less than the entirety of that part.

(3) . . . . . [F542]

(4) In these provisions "the claimant", in relation to a blight notice, means the person who served that notice, and any reference to the interest of the claimant, in relation to such a notice, is a reference to the interest which the notice requires the appropriate authority to purchase as mentioned in subsection (1) of this section.

[[F543](5) Where the claimant is a crofter or cottar, this section shall have effect as if—

(a) in subsection (1)(c) for the word "sell" there were substituted the word "assign";

(b) in subsection (1)(d) for the words from "sell it" to "to sell" there were substituted the words "assign it except at a price substantially lower than that for which he might reasonably have expected to assign it";

(c) in subsections (1) and (4) for the word "purchase" there were substituted the words "take possession of"**]**

Textual Amendments

F539 Words repealed by Land Compensation Act 1973 (c. 26), **Sch. 3** except in relation to a blight notice served before 23.5.1973

F540 Words in s. 182(1)(c) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (C. 34, SIF 123:2), s. 79, Sch. 17, Pt. I para.11 (with s. 84(5)); S.I. 1991/2092, **art.3**

F541 S. 182(1)(d) substituted by Land Compensation (Scotland) Act 1973 (c. 56), **s. 72**

F542 S. 182(3) repealed by Land Compensation Act 1973 (c. 26), **Sch. 3** except in relation to a blight notice served before 23.5.1973

F543 S. 182(5) added by Crofting Reform (Scotland) Act 1976 (c. 21), s. 11, **Sch. 1 para. 1**

Modifications etc. (not altering text)

C133 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C134 S. 182 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)(4)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56) , s. 77(4)

183 Objection to blight notice.

(1) Where a blight notice has been served in respect of a hereditament or an agricultural unit, the appropriate authority, at any time before the end of the period of two months beginning with the date of service of that notice, may serve the claimant a counter-notice in the prescribed form objecting to the notice.

(2) Subject to the following provisions of this section, the grounds on which objection may be made in a counter-notice to a notice served under section 182 of this Act are—

(a) that no part of the hereditament or agricultural unit to which the notice relates is comprised in land of any of the specified descriptions;

(b) that the appropriate authority (unless compelled to do so by virtue of these provisions) do not propose to acquire any part of the hereditament, or (in the

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case of an agricultural unit) any part of the affected area, in the exercise of any relevant powers;

(c) that the appropriate authority propose in the exercise of relevant powers to acquire a part of the hereditament or (in the case of an agricultural unit) a part of the affected area specified in the counter-notice, but (unless compelled to do so by virtue of these provisions) do not propose to acquire any other part of that hereditament or area in the exercise of any such powers;

(d) that **[**[F544](in the case of land falling within paragraph (a) or (c) but not (e), (f) or (h) of section 181(1) of this Act)**]** the appropriate authority (unless compelled to do so by virtue of these provisions) do not propose to acquire in the exercise of any relevant powers any part of the hereditament or (in the case of an agricultural unit) any part of the affected area during the period of **[**[F545]fifteen**]** years from the date of the counter-notice or such longer period from that date as may be specified in the counter-notice;

(e) that, on the date of service of the notice under section 182 of this Act, the claimant was not entitled to an interest in any part of the hereditament or agricultural unit to which the notice relates;

(f) that (for reasons specified in the counter-notice) the interest of the claimant is not an interest qualifying for protection under these provisions;

(g) that the conditions specified in paragraphs (c) and (d) of section 182(1) of this Act are not fulfilled.

(3) An objection may not be made on the grounds mentioned in paragraph (d) of subsection (2) of this section if it may be made on the grounds mentioned in paragraph (b) of that subsection.

[[F546](3A) Where the appropriate enactment confers power to acquire a right in or over land, subsection (2) of this section shall have effect as if—

(a) in paragraph (b), after the word "acquire" there were inserted the words "or to acquire any right in or over";

(b) in paragraph (c), for the words "do not propose to acquire" there were substituted the words "propose neither to acquire nor to acquire any right in or over";

(c) in paragraph (d), after the words "affected area" there were inserted the words "or to acquire any right in or over any part thereof".**]**

(4) Any counter-notice served under this section in respect of blight notice shall specify the grounds (being one or more of the grounds mentioned in the preceding provisions of this section or, as relevant, in section 190(6) of this Act) **[**[F547]or section 73(3) or 75(1) of the [M51]Land Compensation (Scotland) Act 1973**]**) on which the appropriate authority object to the notice.

(5) In this section "relevant powers", in relation to any land falling within any of the specified descriptions, means any powers under which the appropriate authority are or could be authorised—

(a) to acquire **[**[F548]or to acquire any right in or over**]** that land compulsorily as being land falling within that description; or

(b) to acquire **[**[F548]or to acquire any right in or over**]** that land compulsorily for any of the relevant purposes;

and "the relevant purposes", in relation to any such land, means the purposes for which, in accordance with the circumstances by virtue of which that land falls within

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the description in question, it is liable to be acquired or is indicated as being proposed to be acquired.

Textual Amendments

F544 Words inserted by Local Government, Planning and Land Act 1980 (c. 65), **s. 92(7)(8)** except as to a counter notice served under s. 183 before 13.11.1980

F545 Word substituted by Local Government, Planning and Land Act 1980 (c. 65), **s. 92(7)(8)** except as to a counter notice served under s. 183 before 13.11.1980

F546 S.183 (3A) inserted by Land Compensation (Scotland) Act 1973 (c. 56), **s. 71(3)**

F547 Words inserted by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(3)**

F548 Words inserted by Land Compensation (Scotland) Act 1973 (c. 56), **s. 71(3)(b)**

Modifications etc. (not altering text)

C135 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C136 S. 183 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

C137 S. 183(2)(a)-(d) extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 73(3)**

C138 S. 183(2)(b) excluded by Land Compensation (Scotland) Act 1973 (c. 56), **s. 69(2)**

C139 S. 183(2)(c) excluded by Land Compensation (Scotland) Act 1973 (c. 56), **s. 69(2)**; extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 75(2)**

Marginal Citations

M51 1973 c. 56.

184 Reference of objection to Lands Tribunal.

(1) Where a counter-notice has been served under section 183 of this Act objecting to a blight notice, the claimant, at any time before the end of the period of two months beginning with the date of service of the counter-notice, may require the objection to be referred to the Lands Tribunal.

(2) On any such reference, if the objection is not withdrawn, the Lands Tribunal shall consider the matters set out in the notice served by the claimant and the grounds of the objection specified in the counter-notice; and, subject to subsection (3) of this section, unless it is shown to the satisfaction of the Tribunal that the objection is not well-founded, the Tribunal shall uphold the objection.

(3) An objection on the grounds mentioned in section 183(2)

(b), (c) or (d) of this Act shall not be upheld by the Tribunal unless it is shown to the satisfaction of the Tribunal that the objection is well-founded.

(4) If the Tribunal determines not to uphold the objection, the Tribunal shall declare that the notice to which the counter-notice relates is a valid notice.

(5) If the Tribunal upholds the objection, but only on the grounds mentioned in section 183(2)(c) of this Act, the Tribunal shall declare that the notice is a valid notice in relation to the part of the hereditament or (in the case of an agricultural unit) of the affected area specified in the counter-notice as being the part which the appropriate authority propose to acquire as therein mentioned, but not in relation to any other part of the hereditament or affected area.

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(6) In any case falling within subsection (4) or subsection (5) of this section, the Tribunal shall give directions specifying the date on which notice to treat **[**[F549]or, in a case where the claimant is a crofter or cottar, notice of entry**]** (as mentioned in section 185 of this Act) is to be deemed to have been served.

Textual Amendments

F549 Words inserted by Crofting Reform (Scotland) Act 1976 (c. 21), s. 11, **Sch. 1 para. 2**

Modifications etc. (not altering text)

C140 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C141 S. 184 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 64(6)**, 73(1), 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

C142 S. 184(5) excluded by Land Compensation (Scotland) Act 1973 (c. 56), **s. 75(7)**

185 Effect of valid blight notice.

(1) Where a blight notice has been served, and either—

(a) no counter-notice objecting to that notice is served in accordance with these provisions; or

(b) where such a counter-notice has been served, the objection is withdrawn, or, on a reference to the Lands Tribunal, is not upheld by the Tribunal,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in the hereditament, or (in the case of an agricultural unit) the interest of the claimant in so far as it subsists in the affected area, and to have served a notice to treat in respect thereof on the date mentioned in subsection (2) of this section.

(2) The said date—

(a) in a case where, on a reference to the Lands Tribunal, the Tribunal determines not to uphold the objection, is the date specified in directions given by the Tribunal in accordance with section 184(6) of this Act;

(b) in any other case, is the date on which the period of two months beginning with the date of service of the blight notice comes to an end.

(3) Where the appropriate authority have served a counter-notice objecting to a blight notice on the grounds mentioned in section 183(2)(c) of this Act, then if either—

(a) the claimant, without referring that objection to the Lands Tribunal, and before the time for so referring it has expired, gives notice to the appropriate authority that he accepts the proposal of the authority to acquire the part of the hereditament or affected area specified in the counter-notice, and withdraws his claim as to the remainder of that hereditament or area; or

(b) on a reference to the Lands Tribunal, the Tribunal makes a declaration in accordance with section 184(5) of this Act in respect of that part of the hereditament or affected area,

the appropriate authority shall be deemed to be authorised to acquire compulsorily under the appropriate enactment the interest of the claimant in so far as it subsists in the part of the hereditament or affected area specified in the counter-notice (but not in so far as it subsists in any other part of that hereditament or area) and to have served a notice to treat in respect thereof on the date mentioned in subsection (4) of this section.

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(4) The said date—

(a) in a case falling within paragraph (a) of subsection (3) of this section, is the date on which notice is given in accordance with that paragraph; and

(b) in a case falling within paragraph (b) of that subsection, is the date specified in directions given by the Lands Tribunal in accordance with section 184(6) of this Act.

[[F550](5) Where the claimant is a crofter or cottar, this section shall have effect as if in subsections (1) and (3) for the words from "acquire" to "respect thereof" there were substituted the words "require the crofter or cottar to give up possession of the land occupied by him and to have served a notice of entry in respect thereof under paragraph 3 of Schedule 2 to the [M52]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947."**]**

Textual Amendments

F550 S. 185(5) added by Crofting Reform (Scotland) Act 1976 (c. 21), s. 11, **Sch. 1 para. 3**

Modifications etc. (not altering text)

C143 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C144 S. 185 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); modified by Land Compensation (Scotland) Act 1973 (c. 56), **s. 75(6)**; amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

C145 S. 185(1) modified by Land Compensation (Scotland) Act 1973 (c. 56), **s. 76(1)**

C146 S. 185(3) excluded by Land Compensation (Scotland) Act 1973 (c. 56), **s. 76(1)**

Marginal Citations

M52 1947 c. 42.

186 Compensation for compulsory purchase of historic buildings and of land in clearance areas.

Where an interest in land is acquired in pursuance of a blight notice and the interest is one—

(a) in respect of which a compulsory purchase order is in force under section 1 of the [M53]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (as applied by section 104 of this Act) containing a direction for minimum compensation under section 107 of this Act; or

(b) in respect of which a compulsory purchase order is in force under the said section 1 as applied by **[**[F551]paragraph 5 of Schedule 8 to the Housing (Scotland) Act 1987**]**;

the compensation payable for the acquisition shall, in a case falling within paragraph (a) of this section, be assessed in accordance with the direction mentioned in that paragraph and, in a case falling within paragraph (b) of this section, be assessed in accordance with **[**[F551]paragraph 12(2) and (3) of Schedule 8 to the Housing (Scotland) Act 1987**]** in either case as if the notice to treat deemed to have been served in respect of the interest under section 185 of this Act had been served in pursuance of the compulsory purchase order.

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Textual Amendments

F551 Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 339(2), **Sch. 23 para. 18** (with s. 335)

Modifications etc. (not altering text)

C147 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C148 S. 186 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

Marginal Citations

M53 1947 c. 42.

187 Withdrawal of blight notice.

(1) Subject to subsection (2) of this section, the person by whom a blight notice has been served may withdraw the notice at any time before the compensation payable in respect of a compulsory acquisition in pursuance of the notice has been determined by the Lands Tribunal, or at any time before the end of the period of six weeks beginning with the date on which the compensation is so determined; and, where such a notice is withdrawn by virtue of this subsection, any notice to treat deemed to have been served in consequence thereof shall be deemed to have been withdrawn.

(2) A person shall not be entitled by virtue of subsection (1) of this section to withdraw a notice after the appropriate authority have exercised a right of entering and taking possession of land in pursuance of a notice to treat deemed to have been served in consequence of that notice.

(3) No compensation shall be payable in respect of the withdrawal of a notice to treat which is deemed to have been withdrawn by virtue of subsection (1) of this section.

Modifications etc. (not altering text)

C149 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C150 S. 187 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

188 Effect on powers of compulsory acquisition of counter-notice disclaiming intention to acquire.

(1) The provisions of subsection (2) of this section shall have effect where the grounds of objection specified in a counter-notice served under section 183 of this Act consist of or include the grounds mentioned in paragraph (b) or (d) of subsection (2) of that section, and either—

(a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal, or

(b) the time for referring that objection to the Lands Tribunal expires without its having been so referred.

(2) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes the whole or part of the hereditament

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or agricultural unit to which the counter-notice relates, or if the land in question falls within section 181(1)(d) of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in the hereditament or agricultural unit or any part thereof shall cease to have effect.

(3) The provisions of subsection (4) of this section shall have effect where the grounds of objection specified in a counter-notice under section 183 of this Act consist of or include the grounds mentioned in paragraph (c) of subsection (2) of that section, and either—

(a) the objection on the grounds mentioned in that paragraph is referred to and upheld by the Lands Tribunal; or

(b) the time for referring that objection to the Lands Tribunal expires without its having been so referred;

and in subsection (4) of this section any reference to "the part of the hereditament or affected area not required" is a reference to the whole of that hereditament or area except the part specified in the counter-notice as being the part which the appropriate authority propose to acquire as mentioned in the counter-notice.

(4) If a compulsory purchase order has been made under the appropriate enactment in respect of land which consists of or includes any of the part of the hereditament or affected area not required, or if the land in question falls within section 181(1)(d) of this Act, any power conferred by that order, or by the special enactment, as the case may be, for the compulsory acquisition of the interest of the claimant in any land comprised in the part of the hereditament or affected area not required shall cease to have effect.

[[F552](5) Where the claimant is a crofter or cottar, this section shall have effect as if in subsections (2) and (4) for the words from "or by" to "claimant in" there were substituted the words "to require the crofter or cottar to give up possession of".**]**

Textual Amendments

F552 S. 188(5) added by Crofting Reform (Scotland) Act 1976 (c. 21), s. 11, **Sch. 1 para. 4**

Modifications etc. (not altering text)

C151 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C152 S. 188 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

189 Death of claimant after service of blight notice.

(1) In relation to any time after the death of a person who has served a blight notice, the provisions mentioned in subsection (2) of this section shall apply as if any reference therein to the claimant were a reference to the person who, on the claimant's death, has succeeded to his interest in the hereditament or agricultural unit in question.

(2) The said provisions are sections 183(1), 184(1) and 185(3) of this Act.

Modifications etc. (not altering text)

C153 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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C154 S. 189 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

C155 S. 189(2) amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 76(8)**

190 Power of heritable creditor to serve blight notice.

(1) Where the whole or part of a hereditament or agricultural unit is comprised in land falling within any of the specified descriptions and a person claims that—

(a) he is entitled as heritable creditor (by virtue of a power which has become exercisable) to sell an interest in the hereditament or unit, giving immediate vacant possession of the land; and

(b) . . . . . [F553] he has made reasonable endeavours to sell that interest **[**[F554]or the land falls within paragraph (d) or (g) of section 181(1) of this Act and the powers of compulsory acquisition remain exercisable**]**; and

[[F555](c) in consequence of the fact that the hereditament or unit or a part of it was, or was likely to be, comprised in land of any of the specified descriptions, he has been unable to sell that interest except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the hereditament or unit were, or were likely to be, comprised in such land.**]**

then, subject to the provisions of this section, he may serve on the appropriate authority a notice in the prescribed form requiring that authority to purchase that interest to the extent specified in, and otherwise in accordance with, these provisions.

(2) Subsection (1) of this section shall apply in relation to an interest in part of a hereditament or agricultural unit as it applies in relation to an interest in the entirety of a hereditament or agricultural unit:

Provided that this subsection shall not enable a person—

(a) if his interest as heritable creditor is in the entirety of a hereditament or agricultural unit, to make any claim or serve any notice under this section in respect of any interest in part of the hereditament or unit; or

(b) if his interest as heritable creditor is only in part of a hereditament or agricultural unit, to make or serve any such notice or claim in respect of any interest in less than the entirety of that part.

(3) Notice under this section shall not be served unless one or other of the following conditions is satisfied with regard to the interest which the heritable creditor claims he has the power to sell—

(a) the interest could be the subject of a notice under section 182 of this Act served by the person entitled thereto on the date of service of the notice under this section; or

(b) the interest could have been the subject of such a notice served by that person on a date not more than six months before the date of service of the notice under this section.

(4) No notice under this section shall be served in respect of a hereditament or agricultural unit, or any part of a hereditament or agricultural unit, at a time when a notice already served under section 182 of this Act is outstanding with respect to the hereditament, unit or part; and no notice shall be so served under that section at a time when a notice already served under this section is so outstanding.

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(5) For the purposes of subsection (4) of this section, a notice served under this section or section 182 of this Act shall be treated as outstanding with respect to a hereditament or agricultural unit, or to part of a hereditament or agricultural unit, until—

(a) it is withdrawn in relation to the hereditament, unit or part; or

(b) an objection to the notice having been made by a counter-notice under section 183 of this Act, either—

(i) the period of two months specified in section 184 of this Act elapses without the claimant having required the objection to be referred to the Lands Tribunal under that section; or

(ii) the objection, having been so referred to the Lands Tribunal, is upheld by the Tribunal with respect to the hereditament, unit or part.

(6) The grounds on which objection may be made in a counter-notice under section 183 of this Act to a notice under this section are those specified in paragraphs (a) to (c) of subsection (2) of that section and, in a case to which it applies the grounds specified in paragraph (d) of that subsection and also the following grounds—

(a) that, on the date of service of the notice under this section, the claimant had no interest as heritable creditor in any part of the hereditament or agricultural unit to which the notice relates;

(b) that (for reasons specified in the counter-notice) the claimant had not on that date the power referred to in subsection (1)(a) of this section;

(c) that the conditions specified in subsection (1)(b) and (c) of this section are not fulfilled;

(d) that (for reasons specified in the counter-notice) neither of the conditions specified in subsection (3) of this section was, on the date of service of the notice under this section, satisfied with regard to the interest referred to in that subsection.

Textual Amendments

F553 Words repealed by Land Compensation Act 1973 (c. 26), **Sch. 3** except in relation to a blight notice served before 23.5.1973

F554 Words in s. 190(1)(b) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 79, **Sch. 17**, Pt. I para. 11, with s. 84(5); S.I. 1991/2092, **art.3**

F555 S. 190(1)(c) substituted by Land Compensation (Scotland) Act 1973 (c. 56), **s. 72**

Modifications etc. (not altering text)

C156 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C157 S. 190 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

C158 S. 190(4)(5) extended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 73(4)**

191 Saving for claimant's right to sell whole hereditament, etc.

(1) The provisions of sections 183(2)(c), 184(5), 185(3) and 188(3) and (4) of this Act relating to hereditaments shall not affect the right of a claimant under section 90 of the [M54]Lands Clauses Consolidation (Scotland) Act 1845 to sell the whole of the hereditament, or (in the case of an agricultural unit) the whole of the affected area, which he has required the authority to purchase.

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(2) The said provisions shall not affect the right of a claimant under paragraph 4 of Schedule 2 to the [M55]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to sell (unless the Lands Tribunal otherwise determines) the whole of the hereditament, or (in the case of an agricultural unit) the whole of the affected area, which he has required the authority to purchase; and accordingly in determining whether or not to uphold an objection relating to a hereditament on the grounds mentioned in section 183(2)(c) of this Act the Tribunal shall consider (in addition to the other matters which they are required to consider) whether—

(a) in the case of a house, building or manufactory, the part proposed to be acquired can be taken without material detriment to the house, building or manufactory; or

(b) in the case of a park or garden belonging to a house, the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house.

Modifications etc. (not altering text)

C159 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C160 S. 191 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

C161 S. 191(2) amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 54(1)**

Marginal Citations

M54 1845 c. 19.

M55 1947 c. 42.

192 Meaning of "owner-occupier" and "resident owner-occupier".

(1) Subject to the following provisions of this section, in these provisions "owner-occupier", in relation to a hereditament, means a person who—

(a) occupies the whole or a substantial part of the hereditament in right of an owner's interest therein, and has so occupied the hereditament or that part thereof during the whole of the period of six months ending with the date of service; or

(b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament during the whole of a period of six months ending not more than twelve months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.

(2) Subject to the following provisions of this section, in these provisions "owner-occupier", in relation to an agricultural unit, means a person who—

(a) occupies the whole of that unit, and has occupied it during the whole of the period of six months ending with the date of service; or

(b) occupied the whole of that unit during the whole of a period of six months ending not more than twelve months before the date of service,

and, at all times material for the purposes of paragraph (a) or paragraph (b) of this subsection, as the case may be, has been entitled to an owner's interest in the whole or part of that unit.

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(3) In these provisions "resident owner-occupier", in relation to a hereditament, means an individual who—

(a) occupies the whole or a substantial part of the hereditament as a private dwelling in right of an owner's interest therein, and has so occupied the hereditament or that part thereof, as the case may be, during the whole of the period of six months ending with the date of service; or

(b) occupied, in right of an owner's interest, the whole or a substantial part of the hereditament as a private dwelling during the whole of a period of six months ending not more than twelve months before the date of service, the hereditament, or that part thereof, as the case may be, having been unoccupied since the end of that period.

(4) In this section "owner's interest", in relation to a hereditament or agricultural unit, or part thereof, includes the interest of **[**[F556](a)**]** the lessee under a lease thereof, being a lease the unexpired period of which on the date of service is not less than three years **[**[F557]and (b) a crofter or cotter therein**]**; and "date of service", in relation to a hereditament or agricultural unit, means the date of service of a notice in respect thereof under section 182 of this Act.

Textual Amendments

F556 Word inserted by Crofting Reform (Scotland) Act 1976 (c. 21), s. 11, **Sch. 1 para. 5**

F557 Words inserted by Crofting Reform (Scotland) Act 1976 (c. 21), s. 11, **Sch. 1 para. 5**

Modifications etc. (not altering text)

C162 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C163 S. 192 extended by Land Compensation (Scotland) Act 1973 (c. 56) ss. 73(1), 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

193 Special provisions as to partnerships.

(1) The provisions of this section shall have effect for the purposes of the application of these provisions to a hereditament or agricultural unit occupied for the purposes of a partnership firm.

(2) Occupation for the purposes of the firm shall be treated as occupation by the firm, and not as occupation by any one or more of the partners individually, and the definitions of "owner-occupier" in section 192(1) and (2) of this Act shall apply in relation to the firm accordingly.

(3) If, after the service by the firm of a blight notice, any change occurs (whether by death or otherwise) in the constitution of the firm, upon proceedings, rights or obligations consequential upon that notice may be carried on or exercised by or against, or (as the case may be) shall be incumbent upon, the partners for the time being constituting the firm.

(4) Nothing in this section or elsewhere in these provisions shall be construed as indicating an intention to exclude the operation of section 19 of the [M56]Interpretation Act 1889 (whereby, unless the contrary intention appears, "person" includes any body of persons corporate or unincorporate) in relation to any of these provisions.

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(5) Subsection (2) of this section shall not affect the definition of "resident owner-occupier" in section 192(3) of this Act.

Modifications etc. (not altering text)

C164 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C165 S. 193 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

C166 Reference in s. 193(4) to "section 19 of the Interpretation Act 1889" to be construed as reference to Interpretation Act 1978 (c. 30), **Sch. 1** (entry relating to "Person"): Interpretation Act 1978 (c. 30), **s. 25(2)**

Marginal Citations

M56 1889 c. 63.

194 "Appropriate authority" for purposes of these provisions.

(1) Subject to the following provisions of this section, in these provisions "the appropriate authority", in relation to any land, means the government department, local authority or other body **[**[F558]or person**]** by whom, in accordance with the circumstances by virtue of which the land falls within any of the specified descriptions, the land is liable to be acquired or is indicated as being proposed to be acquired.

(2) If any question arises—

(a) whether the appropriate authority in relation to any land for the purpose of these provisions is the Secretary of State or a local **[**[F559]roads**]** authority; or

(b) which of two or more local **[**[F559]roads**]** authorities is the appropriate authority in relation to any land for those purposes; or

(c) which of two or more local authorities is the appropriate authority in relation to any land for those purposes;

that question shall be referred to the Secretary of State, whose decision shall be final.

(3) If any question arises which authority is the appropriate authority for the purposes of these provisions—

(a) section 183(1) of this Act shall have effect as if the reference to the date of service of the blight notice were a reference to that date or the date on which that question is determined, whichever is the later;

(b) section 190(3)(b) of this Act shall apply with the substitution for the period of six months of a reference to that period extended by so long as it takes to obtain a determination of the question; and

(c) section 192(1)(b), (2)(b) and (3)(b) of this Act shall apply with the substitution for the reference to twelve months before the date of service of a reference to that period extended by so long as it takes to obtain a determination of the question.

Textual Amendments

F558 Words inserted by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(6), **Sch. 5 para. 45**

F559 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(6)** (with s. 128(1))

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Modifications etc. (not altering text)

C167 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C168 S. 194 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 4 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

195 "Appropriate enactment" for purposes of these provisions.

(1) Subject to the following provisions of this section, in these provisions "the appropriate enactment", in relation to land falling within any of the specified descriptions, means the enactment which provides for the compulsory acquisition of land as being land falling within that description **[**[F560]or, as respects the description contained in paragraph (i) of section 181(1) of this Act, the enactment under which the compulsory purchase order referred to in that paragraph was made.**]**

(2) In relation to land falling within the description contained in section 181(1)(b) of this Act an enactment shall, for the purposes of subsection (1) of this section be taken to be an enactment which provides for the compulsory acquisition of land as being land falling within that description if—

(a) the enactment provides for the compulsory acquisition of land for the purposes of the functions which are indicated in the development plan as being the functions for the purposes of which the land is allocated or is proposed to be developed; or

(b) where no particular functions are so indicated in the development plan, the enactment provides for the compulsory acquisition of land for the purposes of any of the functions of the government department, local authority or other body for the purposes of whose functions the land is allocated or is defined as the site of proposed development.

(3) Where, in accordance with the circumstances by virtue of which any land falls within any of the specified descriptions, it is indicated that the land is proposed to be acquired for **[**[F561]roads**]** purposes, any enactment under which a **[**[F561]roads**]** authority are or (subject to the fulfilment of the relevant conditions) could be authorised to acquire that land compulsorily for **[**[F561]roads**]** purposes shall, for the purposes of subsection (1) of this section, be taken to be an enactment providing for the compulsory acquisition of that land as being land falling within the description in question.

(4) In subsection (3) of this section the reference to the fulfilment of the relevant conditions is a reference to such one or more of the following as are applicable to the circumstances in question, that is to say—

[[F562](aa) the coming into operation of any requisite scheme or order under the Roads (Scotland) Act 1984;**]**

(c) the making or approval of any requisite plans.

(5) If, apart from this subsection, two or more enactments would be the appropriate enactment in relation to any land for the purposes of these provisions, the appropriate enactment for those purposes shall be taken to be that one of those enactments under which, in the circumstances in question, it is most likely that (apart from these provisions) the land would have been acquired by the appropriate authority.

(6) If any question arises as to which enactment is the appropriate enactment in relation to any land for the purposes of these provisions, that question shall be referred—

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(a) where the appropriate authority are a government department, to the Minister or Board in charge of that department;

(b) where the appropriate authority are statutory undertakers, to the appropriate Minister; and

(c) in any other case, to the Secretary of State,

and the decision of the Minister, Secretary of State or Board to whom a question is referred under this subsection shall be final.

Textual Amendments

F560 Words added by Land Compensation (Scotland) Act 1973 (c. 56), **s. 71(4)**

F561 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(7)**(*a*) (with s. 128(1))

F562 S. 195(4)(*aa*) substituted for paras. (*a*) and (*b*) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(7)**(*b*) (with s. 128(1))

Modifications etc. (not altering text)

C169 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C170 S. 195 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

C171 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C172 S. 195(6) modified by Gas Act 1986 (c. 44: SIF 44:2), s. 67(1), Sch. 7 para. 2(9)(*f*) (with Sch. 8 para. 33)

C173 S. 195(6) modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 3(2)(e)** (with s. 112(3), Sch. 17 paras. 33, 35(1))
S. 195(6) modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C174 S. 195(6) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**
Ss. 170-172, 175, 181, 195(6) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C175 S. 195(6)(*b*) amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 2(2)(d)(9) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

196 General interpretation of these provisions.

(1) Subject to the following provisions of this section, in these provisions the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"the affected area", in relation to an agricultural unit, means so much of that unit as, on the date of service, consists of land falling within any of the specified descriptions;

"agricultural unit" means land which is occupied as a unit for agricultural purposes, including any dwellinghouse or other building occupied by the same person for the purpose of farming the land;

"annual value", in relation to a hereditament, means the value which, on the date of service, is shown in the valuation roll as the rateable value of that hereditament, except that, where the rateable value differs from the net annual value, it means the value which on that date is shown in the valuation roll as the net annual value thereof;

"the claimant" has the meaning assigned to it by section 182(4) of this Act;

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[[F563]"cottar" has the same meaning as in section 28(4) of the [M57]Crofters (Scotland) Act 1955;

"crofter" has the same meaning as in section 3(2) of the [M58]Crofters (Scotland) Act 1955**]**;

"hereditament" means the aggregate of the lands and heritages (not being agricultural lands and heritages within the meaning of section 7 of the [M59]Valuation and Rating (Scotland) Act 1956) which form the subject of a single entry in the valuation roll for the time being in force for a valuation area;

"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; and in this definition "local enactment" means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

"these provisions", "the specified descriptions" and "blight notice" have the meanings assigned to them respectively by section 181(6) of this Act.

(2) Where any land is on the boundary between two or more valuation areas, and accordingly—

(a) different parts of that land form the subject of single entries in the valuation rolls for the time being in force for those areas respectively; but

(b) if the whole of that land had been in one of those areas, it would have formed the subject of a single entry in the valuation roll for that area,

the whole of that land shall be treated, for the purposes of the definition of "hereditament" in subsection (1) of this section, as if it formed the subject of a single entry in the valuation roll for a valuation area.

(3) Land which forms the subject of an entry in the valuation roll by reason only that it is land over which any shooting, fishing or other sporting rights are exercisable, or that it is land over which a right of exhibiting advertisements is let out or reserved, shall not be taken to be a hereditament within the said definition.

(4) Where, in accordance with subsection (2) of this section, land whereof different parts form the subject of single entries in the valuation rolls for the time being in force for two or more valuation areas is treated as if it formed the subject of a single entry in the valuation roll for a valuation area, the definition of "annual value" in subsection (1) of this section shall apply as if any reference therein to a value shown in the valuation roll were a reference to the aggregate of the values shown (as rateable values or as net annual values, as the case may be) in those valuation rolls in relation to the different parts of that land.

(5) In this section "date of service" has the same meaning as in section 192 of this Act.

Textual Amendments

F563 Definitions inserted by Crofting Reform (Scotland) Act 1976 (c. 21), s. 11, **Sch. 1 para. 6**

Modifications etc. (not altering text)

C176 Ss. 181–196 modified by Local Government, Planning and Land Act 1980 (c. 65), **s. 147(3)**

C177 S. 196 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 73(1)**, 77(5); amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 77(4)**

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Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

C178 Definition of 'agricultural unit' applied (30.9.1991) by Coal Mining Subsidence Act 1991 (c. 45), **s. 52(1)**; S.I. 1991/2508, **art.2**

Marginal Citations

M57 1955 c. 21.
M58 1955 c. 21.
M59 1956 c. 60.

Supplementary provisions

197 No withdrawal of constructive notice to treat.

Without prejudice to the provisions of section 187(1) of this Act, the power conferred by section 39 of the [M60]Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of any of the provisions of this Part of this Act.

Marginal Citations

M60 1963 c. 51.

PART X

HIGHWAYS

Stopping up and diversion of highways

198 Highways affected by development: orders by Secretary of State.

(1) The Secretary of State may by order authorise the stopping up or diversion of any **[**[F564]road**]** if he is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III of this Act, **[**[F565]or by virtue of Schedule 32 to the [M61]Local Government, Planning and Land Act 1980**]**, or to be carried out by a government department.

[[F566](2) Any order under this section may make such provision as appears to the Secretary of State to be necessary or expedient for the construction or improvement of any other road, and may direct that the other road so constructed or improved—

(a) shall be entered by the local roads authority in the list of public roads kept by them under section 1 of the Roads (Scotland) Act 1984; or

(b) shall be deemed for the purposes of that Act to have been constructed by him under section 19 thereof,

and in the case of a road so deemed, that it shall, on such date as may be specified in the order, become a trunk road within the meaning of that Act.**]**

(3) Any order made under this section may contain such incidental and consequential provisions as appear to the Secretary of State to be necessary or expedient, including in particular—

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(a) provision for authorising the Secretary of State, or requiring any other authority or person specified in the order—

(i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is attributable to the doing of any such work; [F567]

(ii)

[F567](b) provision for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the **[**[F568]road**]** to which the order relates.

(4) An order may be made under this section authorising the stopping up or diversion of any **[**[F569]road**]** which is temporarily stopped up or diverted under any other enactment.

(5) The provisions of this section shall have effect without prejudice to—

(a) any power conferred on the Secretary of State by any other enactment to authorise the stopping up or diversion of a **[**[F569]road**]**;

(b) the provisions of section 3 of the [M62]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; or

(c) the provisions of section 203(1)(a) of this Act.

Textual Amendments

F564 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(8)**(*a*) (with s. 128(1))

F565 Words inserted by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 32 para 19(4)**

F566 S. 198(2) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(8)**(*b*) (with s. 128(1))

F567 S. 198(3)(*a*)(ii) and the word "or" immediately preceding that sub-paragraph repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), **Sch. 9 para. 70(8)**(*c*)(i), Sch. 11 (with s. 128(1))

F568 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(8)**(*c*)(ii), Sch. 11 (with s. 128(1))

F569 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(8)**(*d*) (with s. 128(1))

Modifications etc. (not altering text)

C179 S. 198 extended by Mineral Workings Act 1951 (c. 60, SIF 86), **s. 32** as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 41(1)** (with ss. 128(1), 156(1), Sch. 9 para. 41(2))

C180 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C181 S. 198(3) amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(7)(a)(9)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

C182 Ss. 198(3), 199(2), 202(3) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C183 S. 198(3)(b) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

Marginal Citations

M61 1980 c. 65.

M62 1947 c. 42.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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[F570 198A Highways affected by development: orders by planning authorities.

(1) Subject to section 206 of this Act and to subsection (5) below, a planning authority may by order authorise the stopping up diversion of any [F571 road] which is not—

(a) a trunk road within the meaning of [F572 the Roads (Scotland) Act 1984]; or

(b) a special road provided by the Secretary of State in pursuance of a scheme under [F573 that Act],

if they are satisfied as mentioned in section 198(1) of this Act.

(2) An order under this section—

(a) may make such provision as appears to the planning authority to be necessary or expedient for the [F574 construction] or improvement of any other [F574 road] (not being a trunk road such as is mentioned in paragraph (a), or a special road such as is mentioned in paragraph (b), of subsection (1) above) and may direct that [F574 the other road so constructed or improved shall be entered by the local roads authority in the list of public roads kept by the local roads authority under section 1 of the Roads (Scotland) Act 1984];

(b) may contain such incidental and consequential provisions as appear to the planning authority to be necessary or expedient, including in particular—

(i) provision for authorising the planning authority, or requiring any other authority or person specified in the order, to make such payments, repayments or contributions as are mentioned in [F575] paragraph (a) of subsection (3) of section 198 of this Act;

(ii) such provision as is mentioned in paragraph (b) of that subsection.

(3) An order may be made under this section authorising the stopping up or diversion of any [F576 road] (not being a trunk road such as is mentioned in paragraph (a), or a special road such as is mentioned in paragraph (b), of subsection (1) above) which is temporarily stopped up or diverted under any other enactment.

(4) The provisions of this section shall have effect without prejudice to any power conferred on the planning authority by any other enactment to authorise the stopping up or diversion of a [F576 road].

(5) The planning authority shall not make an order under this section without consulting the [F577 roads] authority (in a case where they are themselves not that authority).]

Textual Amendments

F570 S. 198A inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 25**

F571 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(9)**(*a*)(i) (with s. 128(1))

F572 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(9)**(*a*)(ii)

F573 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(9)**(*a*)(iii) (with s. 128(1))

F574 Word(s) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(9)**(*b*)(i) (with s. 128(1))

F575 Words repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), **Sch. 9 para. 70(9)**(*b*)(ii), Sch. 11 (with s. 128(1))

F576 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(9)**(*c*) (with s. 128(1))

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F577 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(9)**(*d*) (with s. 128(1))

Modifications etc. (not altering text)

C184 S. 198A extended by Mineral Workings Act 1951 (c. 60, SIF 86), **s. 32** as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 41(1)** (with ss. 128(1), 156(1), Sch. 9 para. 41(2))

199 Footpaths and bridleways affected by development: orders by local planning authorities.

(1) Subject to section 206 of this Act, a [F578]planning authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied as mentioned in section 198(1) of this Act.

(2) An order under this section may, if the [F578] planning authority are satisfied that it should do so, provide—

(a) for the creation of an alternative footpath or bridleway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing path or way for such use;

(b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement, provision is made by the order;

(c) for the preservation of any rights of statutory undertakers in respect of apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;

(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.

Textual Amendments

F578 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C185 S. 199 extended by the Mineral Workings Act 1951 (c. 60, SIF 86), **s. 32** as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 41(1)** (with ss. 128(1), 156(1), Sch. 9 para. 41(2))

C186 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C187 S. 199(2) amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(7)(a)(9)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

C188 S. 199(2) amended by British Telecommunications Act 1981 (c. 38), s. 87, **Sch. 3 para. 10(2)(d)**; extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

C189 Ss. 198(3), 199(2), 202(3) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

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200 [F579]. . . . . .

Textual Amendments

F579 S. 200 repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11**

Conversion of highway into footpath or bridleway

201 Order extinguishing right to use vehicles on highway.

(1) The provisions of this section shall have effect where a competent authority by resolution adopt a proposal for improving the amenity of part of their area, being a proposal which involves a **[**[F580]road**]** in that area (being a **[**[F580]road**]** over which the public have a right of way with vehicles, but not a trunk road or a road classified as a principal road for the purposes of advances under section **[**[F581]3 of the Roads (Scotland) Act 1984**]**) being changed to a footpath or bridleway

(2) **[**[F582]Subject to section 206 of this Act and to subsection (9) of this section, the competent authority may**]** by order provide for the extinguishment of any right which persons may have to use vehicles on that **[**[F583]road**]**.

(3) An order made under subsection (2) of this section may include such provision as the **[**[F584]competent authority**]** (after consultation with the [F585] planning authority and the **[**[F586]roads**]** authority, if different from the competent authority) thinks fit for permitting the use on the **[**[F586]road**]** of vehicles (whether mechanically propelled or not) in such cases as may be specified in the order, notwithstanding the extinguishment of any such right as is mentioned in that subsection; and any such provision may be framed by reference to particular descriptions of vehicles, or to particular persons by whom, or on whose authority, vehicles may be used, or to the circumstances in which, or the times at which, vehicles may be used for particular purposes.

(4) No provision contained in, or having effect under, any enactment, being a provision prohibiting or restricting the use of footpaths or bridleways shall affect any use of a vehicle on a **[**[F587]road**]** in relation to which an order made under subsection (2) of this section has effect, where the use is permitted in accordance with provisions of the order included by virtue of subsection (3) of this section.

(5) Any person who, at the time of an order under subsection (2) of this section coming into force, has an interest in land having lawful access to a **[**[F587]road**]** to which the order relates shall be entitled to be compensated by the competent authority in respect of any depreciation in the value of his interest which is directly attributable to the order and of any other loss or damage which is so attributable.

In this subsection "lawful access" means access authorised by planning permission granted under this Act or the Act of 1947, or access in respect of which no such permission is necessary.

(6) A claim for compensation under subsection (5) of this section shall be made to the competent authority within the time and in the manner prescribed by regulations under this Act.

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(7) Sections 167 and 168 of this Act shall have effect in relation to compensation under subsection (5) of this section as they have effect in relation to compensation to which those sections apply.

(8) Without prejudice to section 273(3) of this Act, the **[**[F588]competent authority may, subject to section 206 of this Act and to subsection (9) of this section**]** by order revoke an order made by **[**[F588]them**]** in relation to a **[**[F587]road**]** under subsection (2) of this section; and the effect of the order shall be to reinstate any right to use vehicles on the **[**[F587]road**]**, being a right which was extinguished by virtue of the order under that subsection.

(9) The competent authorities for the purposes of this section are **[**[F589]regional, islands and district**]** councils, and **[**[F590]a competent authority shall not make an order under subsection (2) or (8) of this section—

(a) if they are not the authority exercising district planning functions, without consulting that authority; and

(b) if they are not the **[**[F591]roads**]** authority, without obtaining the consent of that authority.**]**

[[F592](10) An order under this section—

(a) may make such provision as appears to the competent authority to be necessary or expedient for the **[**[F593]construction**]** or improvement of any other **[**[F593]road**]** (not being a trunk road such as is mentioned in paragraph (a), or a special road such as is mentioned in paragraph (b), of section 189A(1) of this Act), and may direct that **[**[F593]the other road so constructed or improved shall be entered by the local roads authority in the list of public roads kept by the local roads authority under section 1 of the Roads (Scotland) Act 1984**]**;

(b) may contain such incidental and consequential provisions as appear to the competent authority to be necessary or expedient, including in particular—

(i) provision for authorising the competent authority, or requiring any other authority or person specified in the order, to make such payments, repayments or contributions as are mentioned in [F594] paragraph (a) of subsection (3) of section 198 of this Act;

(ii) such provision as is mentioned in paragraph (b) of that subsection.

(11) The provisions of this section shall have effect without prejudice to—

(a) any power conferred on the competent authority by any other enactment to authorise the stopping up or diversion of a **[**[F595]road**]**

(b) the provisions of section 203(1)(b) of this Act.**]**

Textual Amendments

F580 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(10)**(*a*)(i) (with s. 128(1))

F581 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(10)**(*a*)(ii) (with s. 128(1))

F582 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 27(1)(a)** except as regards the operation of s. 201 in relation to an extinguishment for which application was, before 11.6.1981, made to the Secretary of State under s. 201(2)

F583 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(10)**(*b*) (with s. 128(1))

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F584 Words substituted by Local Government (Miscellaneous Provisions (Scotland) Act 1981 (c. 23, Sch. 2 para. 27(1)(b). (2) except as regards the operation of s. 201 in relation to an extinguishment for which application was, before 11.6.1981, made to the Secretary of State under s. 201(2)

F585 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F586 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(10)**(*c*)(i)(ii) (with s. 128(1))

F587 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(10)**(*d*) (with s. 128(1))

F588 Words substituted by Local Government (Miscellaneous Provi sions (Scotland) Act 1981 (c. 23), Sch. 2 para. 27(1)(c), (2) except as regards the operation of s. 201 in relation to an extinguishment for which application was, before 11.6.1981, made to the Secretary of State under s. 201(2)

F589 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 27**

F590 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 27(1)(d)**, (2) except as regards the operation of s. 20 in relation to an extinguishment for which application was, before 11.6.1981, made to the Secretary of State under s. 201(2)

F591 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(10)**(*e*) (with s. 128(1))

F592 S. 201(10)(11) substituted for s. 201(1) by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 2 para. 27(1)(e)**, (2) except as regards the operation of s. 201 in relation to an extinguishment for which application was, before 11.6.1981, made to the Secretary of State under s. 201(2)

F593 Word(s) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(10)**(*f*)(i) (with s. 128(1))

F594 Words repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), **Sch. 9 para. 70(10)**(*f*)(ii), Sch. 11 (with s. 128(1))

F595 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(10)**(*g*) (with s. 128(1))

202 Provision of amenity for highway reserved to pedestrians.

(1) Where in relation to a **[**[F596]road**]** an order has been made under section 201(2) of this Act, a competent authority may carry out and maintain any such works on or in the **[**[F596]road**]**, or place on or in it any such objects or structures, as appear to them to be expedient for the purposes of giving effect to the order or of enhancing the amenity of the **[**[F596]road**]** and its immediate surroundings or to be otherwise desirable for a purpose beneficial to the public.

(2) The powers exercisable by a competent authority under this section shall extend to laying out any part of the **[**[F596]road**]** with lawns, trees, shrubs and flower-beds and to providing facilities for recreation or refreshment.

(3) A competent authority may so exercise their powers under this section as to restrict the access of the public to any part of the **[**[F596]road**]**, but shall not so exercise them as—

(a) to prevent persons from entering the **[**[F596]road**]** at any place where they could enter it before the order under section 201 of this Act was made; or

(b) to prevent the passage of the public along the **[**[F596]road**]**; or

(c) to prevent normal access by pedestrians to premises adjoining the **[**[F596]road**]**; or

(d) to prevent any use of vehicles which is permitted by an order made under the said section 201 and applying to the **[**[F596]road**]**; or

(e) to prevent statutory undertakers from having access to any works of theirs under, in, on, over, along or across the **[**[F596]road**]**; **[**[F597]or

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(f) to prevent the operator of any telecommunications code system from having access to any works of his under, in, on, over, along or across the **[**[F596]road**].]**

(4) An order under section 201(8) of this Act may make provision requiring the removal of any obstruction of the **[**[F596]road**]** resulting from the exercise by a competent authority of their powers under this section.

(5) The competent authorities for the purposes of this section are **[**[F598]regional, islands and district**]** councils, but such an authority shall not exercise any powers conferred by this section unless they have obtained the consent of the [F599] planning authority **[**[F600]exercising district planning functions**]** and the **[**[F601]roads**]** authority (in a case where they are themselves not that authority).

Textual Amendments

F596 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(11)**(*a*) (with s. 128(1))

F597 S. 201(3)(*f*) and the word "or" immediately preceeding that paragraph inserted by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(7), **Sch. 5 para. 45**

F598 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 28**

F599 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F600 Words inserted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 28**

F601 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(11)**(*b*) (with s. 128(1))

Modifications etc. (not altering text)

C190 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C191 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C192 S. 202(3) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 10(2)(d)**

C193 Ss. 198(3), 199(2), 202(3) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

Extinguishment of rights of way

203 Extinguishment of public rights of way over land held for planning purposes.

(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated—

(a) the Secretary of State may by order extinguish any public right of way over the land if he is satisfied that an alternative right of way has been or will be provided or that the provision of an alternative right of way is not required;

(b) subject to section 206 of this Act, the local authority may by order extinguish any such right over the land [F602] if they are satisfied as aforesaid.

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(2) In this section any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with section 122(1) of this Act as if this section were in Part VI of this Act.

Textual Amendments

F602 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

Procedure for making and confirming orders

204 Procedure for making of orders by Secretary of State.

(1) Before making an order under section 198, [F603F604] or 203(1)(a) of this Act the Secretary of State shall publish in at least one local newspaper circulating in the relevant area, and in the Edinburgh Gazette, a notice—

(a) stating the general effect of the order;

(b) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of twenty-eight days from the date of the publication of the notice; and

(c) stating that, within that period, any person may by notice to the Secretary of State object to the making of the order.

(2) Not later than the date on which that notice is so published, the Secretary of State—

(a) shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan, on every local authority in whose area any **[**[F605]road**]** or, as the case may be, any land to which the order relates is situated, and on any water, hydraulic power, gas or electricity undertakers having any cables, mains, pipes or wires laid along, across, under or over any **[**[F605]road**]** to be stopped up or diverted or, as the case may be, any land over which a right of way is to be extinguished, under the order; and

(b) shall cause a copy of the notice to be displayed in a prominent position at the ends of so much of any **[**[F605]road**]** as is proposed to be stopped up or diverted or, as the case may be, of the right of way proposed to be extinguished under the order.

(3) If before the end of the said period of twenty-eight days an objection is received by the Secretary of State from any local authority or undertakers on whom a notice is required to be served under subsection (2) of this section, or from any other person appearing to him to be affected by the order, and the objection is not withdrawn, the Secretary of State shall cause a local inquiry to be held:

Provided that, if the objection is made by a person other than such a local authority or undertakers, the Secretary of State may dispense with such an inquiry if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.

(4) After considering any objections to the order which are not withdrawn, and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State (subject to subsection (5) of this section) may make the order either without modification or subject to such modifications as he thinks fit.

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(5) Where the order contains a provision requiring any such payment, repayment or contribution as is mentioned in section 198(3)(a) of this Act, and objection to that provision is duly made, in accordance with subsection (3) of this section, by an authority or person who would be required thereby to make such a payment, repayment or contribution, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(6) Immediately after the order has been made, the Secretary of State shall publish, in the manner specified in subsection (1) of this section, a notice stating that the order has been made, and naming a place where a copy of the order may be seen at all reasonable hours; and the provisions of subsection (2) of this section shall have effect in relation to any such notice as they have effect in relation to a notice under subsection (1) of this section.

(7) In this section "the relevant area", in relation to an order, means the area in which any **[**[F605]road**]** or land to which the order relates is situated [F606]

Textual Amendments

F603 Figure repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

F604 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

F605 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(12)** (with s. 128(1))

F606 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

Modifications etc. (not altering text)

C194 S. 204 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(8)(9)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

C195 S. 204(2)(*a*) amended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(2)**(*d*) (with Sch. 8 para. 33)
S. 204(2)(a) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(e)**; S.I. 1996/218, **art. 2**

205 Procedure in anticipation of planning permission, etc.

(1) Where the Secretary of State would, if planning permission for any development had been granted under Part III of this Act, have power to make an order under section 198 [F607] of this Act authorising the stopping-up or diversion of a **[**[F608]road**]** in order to enable that development to be carried out, then, notwithstanding that such permission has not been granted, the Secretary of State may, in the circumstances specified in subsections (2) to (4) of this section, publish notice of the draft of such an order in accordance with section 204 of this Act.

(2) The Secretary of State may publish such a notice as aforesaid where the relevant development is the subject of an application for planning permission and either—

(a) that application is made by a local authority or statutory undertakers or the **[**[F609]British Coal Corporation**]**; or

(b) that application stands referred to the Secretary of State in pursuance of a direction under section 32 of this Act; or

(c) the applicant has appealed to the Secretary of State under section 33 of this Act against a refusal of planning permission or of approval required under a development order, or against a condition of any such permission or approval.

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(3) The Secretary of State may publish such a notice as aforesaid where—

(a) the relevant development is to be carried out by a local authority **[**[F610]or**]**, statutory undertakers [F611] and requires, by virtue of an enactment, the authorisation of a government department; and

(b) the developers have made application to the department for that authorisation and also requested a direction under section 37 of this Act [F611], that planning permission be deemed to be granted for that development.

(4) The Secretary of State may publish such a notice as aforesaid where the [F612] planning authority certify that they have begun to take such steps, in accordance with regulations made by virtue of section 256 of this Act, as are requisite in order to enable them to obtain planning permission for the relevant development.

(5) Section **[**[F613]204(4)**]** of this Act shall not be construed as authorising the Secretary of State to make an order under section 198 [F614] of this Act of which notice has been published by virtue of subsection (1) of this section until planning permission is granted for the development which occasions the making of the order.

Textual Amendments

F607 Words repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

F608 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(13)** (with s. 128(1))

F609 Words substituted by Coal Industry Act 1987 (c. 3, SIF 86), s. 1(2), **Sch. 1 para. 20**

F610 Word inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 48**

F611 Words repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 39(4), **Sch. 12 Pt. II**

F612 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F613 Figure substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 49**

F614 Word(s) repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

Modifications etc. (not altering text)

C196 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C197 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C198 S. 205 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

[[F615]**205A Further procedure in anticipation of planning permission etc.**

(1) Where—

(a) a planning authority would, if planning permission for any development had been granted under Part III of this Act, have power to make an order under section 198A of this Act authorising the stopping-up or diversion of a **[**[F616]road**]** in order to enable that development to be carried out; [F617]

(b)

[F617]then, notwithstanding that such permission has not been granted, the [F618] authority may, in the circumstances specified in subsections (2) to (4) of this section, publish notice of the draft of such an order in accordance with the provisions of Schedule 18

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to this Act; but nothing in the said schedule shall be construed as authorising the [F618] authority to make the order in anticipation of such permission.

(2) The [F618] authority may publish such a notice as aforesaid where the [F618] development is the subject of an application for planning permission.

(3) The [F618] authority may publish such a notice as aforesaid where—

(a) the [F618] development is to be carried out by a local authority **[**[F619]or**]**, statutory undertakers [F620] and requires, by virtue of an enactment, the authorisation of a government department; and

(b) the developers have made an application to the department for that authorisation and also requested a direction under section 37 of this Act, [F620], that planning permission be deemed to be granted for that development.

(4) The planning authority may publish such a notice as aforesaid where they have begun to take such steps, in accordance with regulations made by virtue of section 256 of this Act, as are requisite in order to enable them to obtain planning permission for the [F618] development.

(5[F621]**]**

Textual Amendments

F615 S. 205A added by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 16**

F616 In s. 205A(1)(*a*) (in the amending Act referred to as s. 205(1)(*a*)) word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(14)** (with s. 128(1))

F617 S. 205(1)(*b*) and the word "or" immediately preceeding it repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

F618 Word(s) repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

F619 Word inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 48**

F620 Words repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 39(4), **Sch. 12 Pt. II**

F621 S. 205A(5) repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

[[F622]**206 Confirmation of orders made by other authorities.**

(1) An order made under section 198A or 199 of this Act by a planning authority [F623], section 201 thereof by a competent authority or section 203(1)(b) thereof by a local authority, shall not take effect unless confirmed—

(a) by the Secretry of State in a case where the order is opposed;

(b) in any other case by the authority making the order.**]**

(2) The Secretary of State shall not confirm any such order unless satisfied as to every matter of which the authority making the order are required under section **[**[F624]198A [F623]**]** 199 or 203(1)(b) (as the case may be) to be satisfied.

(3) The time specified—

(a) in an order under section 199 as the time from which a footpath or bridleway is to be stopped up or diverted; or

[[F625](aa) in an order under section 198A [F623] as the time from which a **[**[F626]road**]** is to be stopped up or diverted; or

(ab) in an order under section 201 as the time from which a right is to be extinguished; or**]**

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(b) in an order under section 203(1)(b) as the time from which a right of way is to be extinguished,

shall not be earlier than confirmation of the order.

(4) Schedule 18 to this Act shall have effect with respect to the confirmation of orders under section **[**[F627]198A, 199, [F623], 201**]** or 203(1)(b) of this Act and the publicity for such orders after they are confirmed. **[**[F628]The Schedule has no application as regards orders made by the Secretary of State.**]**

Textual Amendments

F622 S. 206(1) substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 17(a)**

F623 Word(s) repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

F624 Words inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 17(b)**

F625 S. 206(3)(aa), (ab) inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 17(c)**

F626 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(15)** (with s. 128(1))

F627 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 17(d)(i)**

F628 Words added by Local Government (Miscellaneous Provi sions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 17(d)(ii)**

Supplementary provisions

207 [F629]. . . . . .

Textual Amendments

F629 S. 207 repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

208 Concurrent proceedings in connection with highways.

(1) In relation to orders under sections 198, **[**[F630]198A,**]** and 201 of this Act, regulations made under this Act may make provision for securing that any proceedings required to be taken for the purposes of the acquisition of land under section **[**[F631]104(1)(*b*)(i) of the Roads (Scotland) Act 1984**]** may be taken concurrently with any proceedings required to be taken for the purposes of the order.

(2) In relation to orders under section 203(1)(a) **[**[F630]or (b)**]** of this Act, regulations made under this Act may make provision for securing—

(a) that any proceedings required to be taken for the purposes of such an order may be taken concurrently with any proceedings required to be taken for the purposes of the acquisition of the land over which the right of way is to be extinguished; or

(b) that any proceedings required to be taken for the purposes of the acquisition of any other land under section **[**[F632]104(1)(*b*)(ii) of the Roads (Scotland)

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Act 1984**]** may be taken concurrently with either or both of the proceedings referred to in the preceding paragraph.

Textual Amendments

F630 Words inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 19**

F631 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(16)**(*a*) (with s. 128(1))

F632 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(16)**(*b*) (with s. 128(1))

[F633 209

(1) Where in pursuance of an order under section 198, 198A F634 or 201 of this Act a **[**F635road**]** is stopped up, diverted or changed and immediately before the date on which the order became operative there was under, in, on, over, along or across the **[**F635road**]** any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of the telecommunication apparatus as if the order had not become operative; but any person entitled to land over which the **[**F635road**]** subsisted shall be entitled to require the alteration of the apparatus.

(2) Where any such order provides for the improvement of a **[**F636road**]**, other than a trunk road, and, immediately before the date on which the order became operative, there was under, in, on, over, along or across the **[**F636road**]** any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the local **[**F636roads**]** authority shall be entitled to require the alteration of the apparatus.

This subsection does not have effect so far as it relates to the alteration of any telecommunication apparatus for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act M63 1950.

(3) Where an order under section 199 of this Act authorising the stopping up or diversion of any footpath or bridle-way is made by a planning authority or an order under section 203(1)(*b*) of this Act extinguishing a public right of way is made by a planning authority and at the time of the publication of the notice required by section 206(4) of, and Schedule 18 to, this Act any telecommunication apparatus was kept installed for the purposes of a telecommunications code system under, in, on, over, along or across the land over which the right of way subsisted—

(a) the power of the operator of the system to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the footpath or bridle-way is stopped up or diverted or, as the case may be, the right of way is extinguished and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the system has given notice to the authority which made the order of his intention to remove the apparatus or that part of it, as the case may be;

(b) the operator of the system may by notice given in that behalf to the authority which made the order not later than the end of the said period of three months abandon the telecommunication apparatus or any part of it;

(c) subject to paragraph (*b*) of this subsection, the operator of the system shall be deemed at the end of that period to have abandoned any part of the apparatus

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which the operator has then neither removed nor given notice of his intention to remove;

(d) the operator of the system shall be entitled to recover from the authority which made the order the expense of providing, in substitution for the apparatus and any other telecommunication apparatus connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any telecommunication apparatus in such other place as the operator may require;

(e) where under the preceding provisions of this subsection the operator of the system has abandoned the whole or any part of any telecommunication apparatus that apparatus or that part of it shall vest in the authority which made the order and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of a telecommunications code system.

(4) As soon as reasonably practicable after the making of any such order as is mentioned in subsection (3) above in circumstances in which that subsection applies in relation to the operator of any telecommunications code system, the authority which made the order shall give notice to the operator of the making of the order.

(5) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.

(6) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.**]**

Textual Amendments

F633 S. 209 substituted by Telecommunications Act 1984 (c. 12, SIF 96), s. 110(2), Sch. 4 para. 54(8), **Sch. 5 para. 45**

F634 Words repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), **Sch. 9 para. 70(17)**(*a*), Sch. 11 (with s. 128(1))

F635 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(17)**(*a*) (with s. 128(1))

F636 Words substituted by Roads (Scotland Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(17)**(*b*) (with s. 128(1))

Modifications etc. (not altering text)

C199 S. 209(1)(2) extended by Civil Aviation Act 1982 (c. 16), **s. 48(9)(b)**

Marginal Citations

M63 1950 c.39**(108, 59).**

210 F637 . . . . . .

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Textual Amendments

F637 S. 210 repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

[F638 210A Recovery of costs of making orders relating to roads, paths etc.

(1) Where, after the coming into force of this section, a person requests a local authority to make an order to which this subsection applies, the local authority may require him, as a condition of their compliance with the request, to make such provision as they consider reasonable as regards any costs to be incurred by them in so complying.

(2) The orders to which subsection (1) above applies are orders under any of the following enactments—

(a) section 198A of this Act (orders authorising the stopping up or diversion of certain **[**F639 roads**]**);

(b) section 199 of this Act (orders authorising the stopping up or diversion of footpaths or bridleways);

(c)

F640 (d) section 201 of this Act (orders extinguishing the right to use vehicles on a **[**F641 road**]**);

(e)

F640 (f) section 34 of the M64 Countryside (Scotland) Act 1967 (orders as regards the closure of public paths); and

(g) section 35 of the said Act of 1967 (orders as regards the diversion of public paths).**]**

Textual Amendments

F638 S. 210A inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 45**

F639 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(18)**(*a*) (with s. 128(1))

F640 S. 210A(2)(*c*)(*e*) repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

F641 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(18)**(*b*) (with s. 128(1))

Marginal Citations

M64 1967 c. 86.

PART XI

STATUTORY UNDERTAKERS

Modifications etc. (not altering text)

C200 Pt. XI (ss. 211-230) modified (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 15(4)(b)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

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Pt. XI (ss. 211-230) modified (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 14 para. 13(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

Preliminary

211 Meaning of "operational land".

In this Act "operational land" means, in relation to statutory undertakers—

(a) land which is used for the purpose of carrying on their undertaking; and

(b) land in which an interest is held for that purpose,

not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.

Modifications etc. (not altering text)

C201 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C202 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C203 S. 211 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

212 Cases in which land is to be treated as not being operational land.

(1) Where an interest in land is held by statutory undertakers for the purpose of carrying on their undertaking and—

(a) the interest was acquired by them on or after 8th December 1969; or

(b) it was held by them immediately before that date but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the Act of 1947,

then subsection (2) of this section shall have effect for the purpose of determining whether the land is to be treated as operational land for the purposes of this Act and shall so have effect notwithstanding the definition of operational land in section 211 of this Act.

(2) The land shall not be treated as operational land for the purposes of this Act unless one or both of the following conditions are satisfied with respect to it, namely—

(a) there is, or at some time has been, in force with respect to the land a specific planning permission for its development and that development, if carried out, would involve or have involved the use of the land for the purpose of the carrying on of the statutory undertakers' undertaking; or

(b) the undertakers' interest in the land was acquired by them as the result of a transfer under the provisions of **[**[F642]**[**[F643]the Gas Act 1986**]**[F644], the Airports Act 1986**]** or**]** the [M65]Transport Act 1968 from other statutory undertakers and the land was, immediately before transfer, operational land of those other undertakers.

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(3) A specific planning permission for the purpose of subsection (2)(a) of this section is a planning permission—

(a) granted on an application in that behalf under Part III of this Act or the enactments previously in force and replaced by that Part of this Act; or

(b) granted by provisions of a development order granting planning permission generally for development which has received specific parliamentary approval; or

(c) granted by a special development order in respect of development specifically described in the order; or

(d) deemed to be granted by virtue of a direction of a government department under section 37 of this Act or section 32 of the Act of 1947;

and the reference in paragraph (b) of this subsection to development which has received specific parliamentary approval shall be construed as referring to development authorised by a local or private Act of Parliament or by an order approved by both Houses of Parliament or by an order which has been brought into operation in accordance with the provisions of the [M66]Statutory Orders (Special Procedure) Act 1945, being an Act or order which designates specifically both the nature of the development thereby authorised and the land upon which it may be carried out.

Textual Amendments

F642 Words inserted by Gas Act 1972 (c. 60), **s. 40**

F643 Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 13**

F644 Words inserted by Airports Act 1986 (c. 31, SIF 9), s. 83(1), **Sch. 4 para. 2**

Modifications etc. (not altering text)

C204 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C205 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C206 S. 212 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; excluded by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 54(8)** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 7(1)**

C207 S. 212 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C208 S. 212(1) amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 54(7)**

Marginal Citations

M65 1968 c. 73.

M66 1945 c. 18. (9 and 10 Geo. 6).

[[F645]213 Meaning of "the appropriate Minister".

(1) In this Act "the appropriate Minister"—

(a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour or pier undertaking, the Secretary of State for Transport;

(b) in relation to statutory undertakers carrying on an undertaking for the supply of [F646] hydraulic power, the Secretary of State for Energy;

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(c) in relation to [F647] the Civil Aviation Authority or statutory undertakers carrying on any lighthouse undertaking, the Secretary of State for Trade;

(d) in relation to the Post Office, the Secretary of State for Industry;

(e) in relation to statutory undertakers carrying on an undertaking for the supply of [F648] water, the Secretary of State for Scotland; and

(f) in relation to any other statutory undertakers, the Secretary of State for the Environment.]

(2) This Act shall have effect as if references to the Secretary of State and the appropriate Minister—

(a) were references to the Secretary of State and the appropriate Minister, if the appropriate Minister is not the one concerned as the Secretary of State; and

(b) were references to the one concerned as the Secretary of State alone, if he is also the appropriate Minister;

and similarly with references to a Minister and the appropriate Minister and with any provision requiring the Secretary of State to act jointly with the appropriate Minister.

Textual Amendments

F645 S. 213(1) substituted by S.I. 1976/1775, **Sch. 3 para. 4(2)(3)**

F646 Words repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**

F647 Words repealed by Airports Act 1986 (c. 31, SIF 9), s. 83(5), **Sch. 6 Pt. I**

F648 Words repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(4), **Sch. 18** (with s. 112(3), Sch. 17 para. 35(1))

General provisions

214 Applications for planning permission by statutory undertakers.

(1) Where—

(a) an application for planning permission to develop land to which this subsection applies is made by statutory undertakers and is referred to the Secretary of State under Part III of this Act; or

(b) an appeal is made to the Secretary of State under Part III of this Act from the decision on such an application; or

(c) such an application is deemed to be made under subsection (7) of section 85 of this Act on an appeal under that section by statutory undertakers,

the application or appeal shall be dealt with by the Secretary of State and the appropriate Minister.

(2) Subsection (1) of this section applies—

(a) to operational land; and

(b) to land in which the statutory undertakers hold, or propose to acquire, an interest with a view to its being used for the purpose of carrying on their undertaking where the planning permission, if granted on the application or appeal, would be for development involving the use of the land for that purpose.

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(3) An application for planning permission which is deemed to have been made by virtue of section 91(5) of this Act shall be determined by the Secretary of State and the appropriate Minister.

(4) Notwithstanding anything in Part III of this Act, planning permission to develop operational land of statutory undertakers shall not, except with their consent, be granted subject to conditions requiring that any buildings or works authorised by the permission shall be removed, or that any use of the land so authorised shall be discontinued, at the end of a specified period.

(5) Subject to the provisions of this Part of this Act as to compensation, the provisions of this Act shall apply to an application which is dealt with under this section by the Secretary of State and the appropriate Minister as if it had been dealt with by the Secretary of State.

Modifications etc. (not altering text)

C209 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)

C210 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C211 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C212 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C213 S. 214 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

C214 S. 214(2)(b) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 7(2)**

215 Development requiring sanction of government department.

(1) Where the sanction of a government department [F649] is required in respect of any development of operational land, then, except where that sanction has been granted without any direction as to the grant of planning permission, the Secretary of State and the appropriate Minister shall not be required to deal with an application for planning permission under section 214(1) of this Act.

(2) The provisions of subsection (3) of section 37 of this Act shall have effect for the purposes of this section as they have effect for the purposes of that section.

Textual Amendments

F649 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

Modifications etc. (not altering text)

C215 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

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C216 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C217 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C218 S. 215 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

216 Revocation or modification of permission to develop operational land.

In relation to any planning permission, granted on the application of statutory undertakers, for the development of operational land, the provisions of Part III of this Act with respect to the revocation and modification of planning permission shall have effect as if, for any reference therein to the Secretary of State, there were substituted a reference to the Secretary of State and the appropriate Minister.

Modifications etc. (not altering text)

C219 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C220 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C221 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C222 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C223 S. 216 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c.16), **Sch. 2 para. 5**

C224 Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

217 Order requiring discontinuance of use etc. of operational land.

The provisions of Part III of this Act with respect to the making of orders requiring the discontinuance of any use of land or imposing conditions on the continuance thereof, or requiring buildings or works on land to be altered or removed, shall have effect, in relation to operational land of statutory undertakers, as if, for any reference therein to the Secretary of State, there were substituted a reference to the Secretary of State and the appropriate Minister.

Modifications etc. (not altering text)

C225 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

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C226 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C227 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C228 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C229 S. 217 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

C230 Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

[[F650]218 Acquisition of land of statutory undertakers.

(1) This section applies to any compulsory purchase order under this Act authorising the acquisition of land which has been acquired by statutory undertakers for the purposes of their undertaking.

(2) Paragraph 10 (protection of land of statutory undertakers) of Schedule 1 to the [M67]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall not apply to such an order confirmed or made by the appropriate Minister jointly with the Minister or Ministers who would (apart from this subsection) have power to make or confirm it.**]**

Textual Amendments

F650 S. 218 substituted (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123:2), s. 79, Sch. 17, Pt. 1, para.12 (with s. 84(5)); S.I. 1991/2092, **art.3**

Modifications etc. (not altering text)

C231 Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C232 Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

Marginal Citations

M67 1947 c. 42.

219 Extinguishment of rights of way, and rights as to apparatus, of statutory undertakers.

(1) Where any land has been acquired by a Minister, a [F651] Planning authority or statutory undertakers under Part VI of this Act or compulsorily under any other enactment, or has been appropriated by a [F651] planning authority for planning purposes, and—

(a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land; or

(b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking,

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the acquiring or appropriating authority, if satisfied that the extinguishment of the right or, as the case may be, the removal of the apparatus, is necessary for the purpose of carrying out any development with a view to which the land was acquired or appropriated, may serve on the statutory undertakers a notice stating that, at the end of the period of twenty-eight days from the date of service of the notice or such longer period as may be specified therein, the right will be extinguished or requiring that, before the end of such period as aforesaid, the apparatus shall be removed.

(2) The statutory undertakers on whom a notice is served under subsection (1) of this section may, before the end of the period of twenty-eight days from the service of the notice, serve a counter-notice on the acquiring or appropriating authority stating that they object to all or any of the provisions of the notice and specifying the grounds of their objection.

(3) If no counter-notice is served under subsection (2) of this section—
- (a) any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice; and
- (b) if, at the end of the period so specified in relation to any apparatus, any requirement of the notice as to the removal of the apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

(4) If a counter-notice is served under subsection (2) of this section on a [F651] planning authority or on statutory undertakers, the authority or undertakers may either withdraw the notice (without prejudice to the service of a further notice) or may apply to the Secretary of State and the appropriate Minister for an order under this section embodying the provisions of the notice, with or without modification.

(5) If a counter-notice is served under subsection (2) of this section on a Minister, he may withdraw the notice (without prejudice to the service of a further notice) or he and the appropriate Minister may make an order under this section embodying the provisions of the notice, with or without modification.

(6) In this section any reference to the appropriation of land for planning purposes shall be construed in accordance with section 122(1) of this Act as if this section were in Part VI of this Act.

[[F652](7) In subsection (1) above—
- (a) the references in paragraph (*a*) to a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system; and
- (b) the reference in paragraph (*b*) to apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking shall include a reference to telecommunication apparatus kept installed for the purposes of any such system;

and for the purposes of this subsection, in this section (except, without prejudice to section 35(4) of the Telecommunications Act 1984, in those paragraphs and the words preceding them) and in sections 220, 226(2) and 227 of this Act references to statutory undertakers shall have effect as references to the operator of any such system, references, in relation to such an operator, to the carrying on of his undertaking shall have effect as references to the running of the telecommunications code system in

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question and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.**]**

Textual Amendments

F651 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F652 S. 219(7) inserted (with saving) by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(10), **Sch. 5 para. 45**

Modifications etc. (not altering text)

C233 S. 219, 221 extended by Telecommunications Act 1984 (c. 12, SIF 96), **s. 35(4)**(*c*)

C234 S. 219 applied (with modifications) by Roads (Scotland) Act 1984 (c. 54, SIF 108), **ss. 134**, 135 (with s. 128(1))

C235 S. 219 modified by Mineral Workings Act 1951 (c. 60, SIF 86), **s. 32** as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 41(3)** (with s. 128(1))

C236 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C237 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C238 S. 219 modified by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1) s. 13(1), Sch. 4 para. 2

C239 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C240 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C241 S. 219 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para.12** and Civil Aviation Act 1982 (c.16), **Sch. 2 para. 5**

220 Orders under s. 219.

(1) Where a Minister and the appropriate Minister propose to make an order under section 219(5) of this Act, they shall prepare a draft of the order.

(2) Before making an order under subsection (4) or subsection (5) of section 219 of this Act, the Ministers proposing to make the order—

(a) shall afford to the statutory undertakers on whom notice was served under subsection (1) of that section an opportunity of objecting to the application for, or proposal to make, the order; and

(b) if any objection is made, shall cause an inquiry to be held,

and may then, if they think fit, make the order in accordance with the application or in accordance with the draft order, as the case may be, either with or without modification.

(3) Where an order is made under section 219 of this Act—

(a) any right to which the order relates shall be extinguished at the end of the period specified in that behalf in the order; and

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(b) if, at the end of the period so specified in relation to any apparatus, any requirement of the order as to the removal of the apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.

Modifications etc. (not altering text)

C242 S. 220 extended by Telecommunications Act 1984 (c. 12, SIF 96) s. 35(4)

C243 S. 220, 222–225 applied by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 134** (with s. 128(1))

C244 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C245 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C246 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C247 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C248 S. 220 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**.

221 Notice for same purposes as s. 219 but given by statutory undertakers to developing authority.

(1) Subject to the provisions of this section, where land has been acquired or appropriated as mentioned in section 219(1) of this Act, and—

(a) there is on, under or over the land any apparatus vested in or belonging to statutory undertakers; and

(b) the undertakers claim that development to be carried out on the land is such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of the apparatus affected by the development,

the undertakers may serve on the acquiring or appropriating authority a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

(2) Where, after the land has been acquired or appropriated as aforesaid, development of the land is begun to be carried out, no notice under this section shall be served later than twenty-one days after the beginning of the development.

(3) Where a notice is served under this section, the authority on whom it is served may, before the end of the period of twenty-eight days from the date of service, serve on the statutory undertakers a counter-notice stating that they object to all or any of the provisions of the notice and specifying the grounds of their objection.

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(4) If no counter-notice is served under subsection (3) of this section, the statutory undertakers shall, after the end of the period of twenty-eight days therein mentioned, have the rights claimed in their notice.

(5) If a counter-notice is served under subsection (3) of this section, the statutory undertakers who served the notice under this section may either withdraw it or may apply to the Secretary of State and the appropriate Minister for an order under this section conferring on the undertakers the rights claimed in the notice or such modified rights as the Secretary of State and the appropriate Minister think it expedient to confer on them.

(6) Where, by virtue of this section or of an order of Ministers thereunder, statutory undertakers have the right to execute works for the removal or re-siting of apparatus, they may arrange with the acquiring or appropriating authority for the works to be carried out by that authority, under the superintendence of the undertakers, instead of by the undertakers themselves.

[[F653](7) In subsection (1)(*a*) above the reference to apparatus vested in or belonging to statutory undertakers shall include a reference to telecommunication apparatus kept installed for the purposes of a telecommunications code system; and, for the purposes of this subsection, in this section references (except in the said subsection (1)(*a*)) to statutory undertakers shall have effect as references to the operator of any such system and references to the appropriate Minister shall have effect as references to the Secretary of State for Trade and Industry.**]**

Textual Amendments

F653 S. 221(7) inserted by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(11), **Sch. 5 para. 45**

Modifications etc. (not altering text)

C249 S. 219, 221 extended by Telecommunications Act 1984 (c. 12, SIF 96), **s. 35(4)**(*c*)

C250 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C251 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C252 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C253 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C254 S. 221 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

222 Extension or modification of functions of statutory undertakers.

(1) The powers conferred by this section shall be exercisable where, on a representation made by statutory undertakers, it appears to the Secretary of State and the appropriate

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Minister to be expedient that the powers and duties of those undertakers should be extended or modified, in order—

(a) to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for any purpose in connection with which a [F654] planning authority or Minister may be authorised under Part VI of this Act to acquire land or in connection with which any such person may compulsorily acquire land under any other enactment; or

(b) to facilitate an adjustment of the carrying on of the undertaking necessitated by any of the acts and events mentioned in subsection (2) of this section.

(2) The said acts and events are—

(a) the acquisition under Part VI of this Act or compulsorily under any other enactment of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers in question;

(b) the extinguishment of a right or the imposition of any requirement by virtue of section 219 of this Act;

(c) a decision on an application made by the statutory undertakers for planning permission to develop any such land as is mentioned in paragraph (a) of this subsection;

(d) the revocation or modification of planning permission granted on any such application;

(e) the making of an order under section 49 of this Act in relation to any such land.

(3) The powers conferred by this section shall also be exercisable where, on a representation made by a [F654] planning authority or Minister, it appears to the Secretary of State and the appropriate Minister to be expedient that the powers and duties of statutory undertakers should be extended or modified, in order to secure the provision of new services, or the extension of existing services, for any purpose in connection with which the [F654] planning authority or Minister making the representation may be authorised under Part VI of this Act to acquire land or in Connection with which the local authority or Minister may compulsorily acquire land under any other enactment.

(4) Where the powers conferred by this section are exercisable, the Secretary of State and the appropriate Minister may, if they think fit, by order provide for such extension or modification of the powers and duties of the statutory undertakers as appears to them to be requisite in order to secure the services in question, as mentioned in subsection (1)(a) or (3) of this section, or to facilitate the adjustment in question, as mentioned in subsection (1)(b) of this section, as the case may be.

(5) Without prejudice to the generality of subsection (4) of this section, an order under this section may make provision—

(a) for empowering the statutory undertakers to acquire (whether compulsorily or by agreement) any land specified in the order, and to erect or construct any buildings or works so specified;

(b) for applying, in relation to the acquisition of any such land or the construction of any such works, enactments relating to the acquisition of land and the construction of works;

(c) where it has been represented that the making of the order is expedient for the purposes mentioned in subsection (1)(a) or (3) of this section, for giving effect to such financial arrangements between the [F654] planning authority or Minister and the statutory undertakers as they may agree, or as, in default of

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agreement, may be determined to be equitable in such manner and by such tribunal as may be specified in the order;

(d) for such incidental and supplemental matters as appear to the Secretary of State and the appropriate Minister to be expedient for the purposes of the order.

Textual Amendments

F654 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C255 Ss. 222—225 amended by Mineral Workings Act 1951 (c. 60, SIF 86), **s. 32** as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), 156(1), Sch. 9 para. 41(3) (with s. 128(1))

C256 S. 220, 222–225 applied by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 134** (with s. 128(1))

C257 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C258 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C259 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C260 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C261 S. 222 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

223 Procedure in relation to orders under s. 222.

(1) As soon as may be after making such a representation as is mentioned in subsection (1) or subsection (3) of section 222 of this Act—

(a) the statutory undertakers, in a case falling within subsection (1) of that section; or

(b) the [F655] planning authority or Minister making the representation, in a case falling within subsection (3) thereof,

shall publish, in such form and manner as may be directed by the Secretary of State and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which the representation relates, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, objections to the making of an order on the representation may be made, and shall serve a like notice on any persons appearing from the valuation roll to have an interest in any land to which the representation relates, and shall also, if it is so directed by the Secretary of State and the appropriate Minister, serve a like notice on such persons, or persons of such classes, as may be so directed.

(2) Orders under section 222 of this Act shall be subject to special parliamentary procedure.

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Textual Amendments

F655 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C262 Ss. 222—225 amended by Mineral Workings Act 1951 (c. 60, SIF 86), **s. 32** as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), 156(1), Sch. 9 para. 41(3) (with s. 128(1))

C263 S. 220, 222–225 applied by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 134** (with s. 128(1))

C264 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C265 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C266 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C267 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C268 S. 223 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

224 Relief of statutory undertakers from obligations rendered impracticable.

(1) Where, on a representation made by statutory undertakers, the appropriate Minister is satisfied that the fulfilment of any obligation incurred by those undertakers in connection with the carrying on of their undertaking has been rendered impracticable by an act or event to which this subsection applies, the appropriate Minister may, if he thinks fit, by order direct that the statutory undertakers shall be relieved of the fulfilment of that obligation, either absolutely or to such extent as may be specified in the order.

(2) Subsection (1) of this section applies to the following acts and events, that is to say—
   (a) the compulsory acquisition under Part VI of this Act or under any other enactment of any land in which an interest was held, or which was used, for the purpose of the carrying on of the undertaking of the statutory undertakers; and
   (b) the acts and events specified in section 222(2)(b) to (e) of this Act.

(3) As soon as may be after making a representation to the appropriate Minister under subsection (1) of this section, the statutory undertakers shall, as may be directed by the appropriate Minister, either publish (in such form and manner as may be so directed) a notice giving such particulars as may be so directed of the matters to which the representation relates, and specify the time (not being less than twenty-eight days) within which, and the manner in which, objections to the making of an order on the representation may be made, or serve such a notice on such persons, or persons of such classes, as may be so directed, or both publish and serve such notices.

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(4) If any objection to the making of an order under this section is duly made and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure.

(5) Immediately after an order is made under this section by the appropriate Minister, he shall publish a notice stating that the order has been made and naming a place where a copy of it may be seen at all reasonable hours, and shall serve a like notice—

(a) on any person who duly made an objection to the order and has sent to the appropriate Minister a request in writing to serve him with the notice required by this subsection, specifying an address for service; and

(b) on such other persons (if any) as the appropriate Minister thinks fit.

(6) Subject to subsection (7) of this section, and to the provisions of Part XII of this Act, an order under this section shall become operative, on the date on which the notice required by subsection (5) of this section is first published.

(7) Where in accordance with subsection (4) of this section the order is subject to special parliamentary procedure, subsection (6) of this section shall not apply.

Modifications etc. (not altering text)

C269 Ss. 222—225 amended by Mineral Workings Act 1951 (c. 60, SIF 86), **s. 32** as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), 156(1), Sch. 9 para. 41(3) (with s. 128(1))

C270 S. 220, 222–225 applied by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 134** (with s. 128(1))

C271 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C272 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C273 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C274 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C275 S. 224 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

225 Objections to orders under ss. 222 and 224.

(1) For the purposes of sections 222 and 224 of this Act, an objection to the making of an order thereunder shall not be treated as duly made unless—

(a) the objection is made within the time and in the manner specified in the notice required by the section under which the order is proposed to be made; and

(b) a statement in writing of the grounds of the objection is comprised in or submitted with the objection.

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(2) Where an objection to the making of such an order is duly made in accordance with subsection (1) of this section and is not withdrawn, the following provisions of this section shall have effect in relation thereto:

Provided that, in the application of those provisions to an order under section 222 of this Act, any reference to the appropriate Minister shall be construed as a reference to the Secretary of State and the appropriate Minister.

(3) Unless the appropriate Minister decides apart from the objection not to make the order, or decides to make a modification which is agreed to by the objector as meeting the objection, the appropriate Minister, before making a final decision, shall consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the objector to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.

(4) In so far as the appropriate Minister, after considering the grounds of the objection as set out in the original statement and in any such further statement, is satisfied that the objection relates to a matter which can be dealt with in the assessment of compensation, the appropriate Minister may treat the objection as irrelevant for the purpose of making a final decision.

(5) If, after considering the grounds of the objection as set out in the original statement and in any such further statement, the appropriate Minister is satisfied that, for the purpose of making a final decision, he is sufficiently informed as to the matters to which the objection relates, or if, where a further statement has been required, it is not submitted within the specified period, the appropriate Minister may make a final decision without further investigation as to those matters.

(6) Subject to subsections (4) and (5) of this section, the appropriate Minister, before making a final decision, shall afford to the objector an opportunity of appearing before, and being heard by, a person appointed for the purpose by the appropriate Minister; and if the objector avails himself of that opportunity, the appropriate Minister shall afford an opportunity of appearing and being heard on the same occasion to the statutory undertakers, [F656] planning authority or Minister on whose representation the order is proposed to be made, and to any other persons to whom it appears to the appropriate Minister to be expedient to afford such an opportunity.

(7) Notwithstanding anything in the preceding provisions of this section, if it appears to the appropriate Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he makes a final decision, he shall cause such an inquiry to be held; and where he determines to cause such an inquiry to be held, any of the requirements of those provisions to which effect has not been given at the time of that determination shall be dispensed with.

(8) In this section any reference to making a final decision, in relation to an order, is a reference to deciding whether to make the order or what modification (if any) ought to be made.

Textual Amendments

F656 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

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Modifications etc. (not altering text)

C276 Ss. 222—225 amended by Mineral Workings Act 1951 (c. 60, SIF 86), **s. 32** as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), 156(1), Sch. 9 para. 41(3) (with s. 128(1))

C277 S. 220, 222–225 applied by Roads (Scotland) Act 1984 (c. 54, SIF 108), **s. 134** (with s. 128(1))

C278 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C279 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C280 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C281 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C282 S. 225 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), s. 51, Sch. 2 para. 5, Sch. 10 paras. 4, **8**

Compensation

226 Right to compensation in respect of certain decisions and orders.

(1) Statutory undertakers shall, subject to the following provisions of this Part of this Act, be entitled to compensation from the [F657] planning authority—

(a) in respect of any decision made in accordance with section 214 of this Act whereby planning permission to develop operational land of those undertakers is refused or is granted subject to conditions where—

(i) planning permission for that development would have been granted by a development order but for a direction given under such an order that planning permission so granted should not apply to the development; and

(ii) it is not development which has received specific parliamentary approval (within the meaning given to that expression by section 212(3) of this Act);

(b) in respect of any order under section 42 of this Act, as modified by section 216 thereof, whereby planning permission, granted on the application of those undertakers for the development of any such land, is revoked or modified.

(2) Where, by virtue of section 219 of this Act, any right vested in or belonging to statutory undertakers is extinguished, or any requirement is imposed on statutory undertakers, those undertakers shall be entitled to compensation from the acquiring or appropriating authority at whose instance the right was extinguished or the requirement imposed.

(3) Where works are carried out for the removal or re-siting of statutory undertakers' apparatus, being works which the undertakers have the right to carry out by virtue of section 221 of this Act or an order of Ministers thereunder, the undertakers shall be entitled to compensation from the acquiring or appropriating authority.

(4) Notwithstanding anything in subsection (1) of this section, if the decision or order in question relates to land acquired by the statutory undertakers after 7th January

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1947, and the Secretary of State and the appropriate Minister are satisfied, having regard to the nature, situation and existing development of the land and of any neighbouring land, and to any other material considerations, that it is unreasonable that compensation should be recovered in respect of that decision or order, they may include therein a direction that subsection (1) of this section shall not apply to that decision or order.

(5) For the purposes of this section the conditions referred to in sections 38 and 39 of this Act shall be disregarded [F658]

Textual Amendments

F657 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F658 Words repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

Modifications etc. (not altering text)

C283 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C284 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C285 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C286 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C287 S. 226 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

227 Measure of compensation to statutory undertakers.

(1) Where statutory undertakers are entitled to compensation—

(a) as mentioned in subsection (1), (2) or (3) of section 226 of this Act; or

(b) under the provisions of section 159 in respect of an order made under section 49 **[**[F659], 49A or 49B**]** of this Act as modified by section 217 thereof; or

(c) in respect of a compulsory acquisition of land which has been acquired by those undertakers for the purposes of their undertaking, where the first-mentioned acquisition is effected under a compulsory purchase order confirmed or made without the appropriate Minister's certificate;

the amount of the compensation shall (subject to section 228 of this Act) be an amount calculated in accordance with the following provisions of this section.

(2) The said amount, subject to subsections (3) and (4) of this section, shall be the aggregate of the following amounts, that is to say—

(a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any

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adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation;

(b) whichever of the following is applicable, namely—

(i) where such an adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment;

(ii) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation;

(c) where the compensation is under section 226(2) of this Act, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.

(3) Where any such adjustment as is mentioned in paragraph (a) of subsection (2) of this section is made, the aggregate amount mentioned in that subsection shall be reduced by such amount (if any) as appears to the tribunal referred to in subsection (2) of section 229 of this Act to be appropriate to offset—

(a) the estimated value of any property (whether moveable or heritable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used, in so far as the value of the property has not been taken into account under paragraph (c) of that subsection; and

(b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under paragraph (b) of that subsection and is directly attributable to the adjustment,

and by any further amount which appears to the tribunal referred to in subsection (2) of section 229 of this Act to be appropriate, having regard to any increase in the capital value of heritable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under paragraph (b) of this subsection.

(4) Where the compensation is under section 226(3) of this Act and the acquiring or appropriating authority carry out the works, then, in addition to any reduction falling to be made under subsection (3) of this section, the aggregate amount mentioned in subsection (2) of this section shall be reduced by the actual cost to the authority of carrying out the works.

(5) References in this section to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or a balance of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances; and references to an increase in net receipts shall be construed accordingly.

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(6) In this section—

"proceeding giving rise to compensation" means—

(a) except in relation to compensation under section 226(3) of this Act, the particular action (that is to say, the decision, order, extinguishment of a right, imposition of a requirement, or acquisition) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken;

(b) in relation to compensation under the said section 226(3), the circumstances making it necessary for the apparatus in question to be removed or re-sited;

"the appropriate Minister's certificate" has the same meaning as in section 218 of this Act.

Textual Amendments

F659 Words inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 7**

Modifications etc. (not altering text)

C288 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Ss. 214-227 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C289 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C290 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C291 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C292 S. 227 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

228 Exclusion of s. 227 at option of statutory undertakers.

(1) Where statutory undertakers are entitled to compensation in respect of such a compulsory acquisition as is mentioned in section 227(1)(c) of this Act, the statutory undertakers may by notice in writing under this section elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section 12 of the [M68]Land Compensation (Scotland) Act 1963) which would be applicable apart from section 227 of this Act; and if the undertakers so elect the compensation shall be ascertained accordingly.

(2) An election under this section may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of part of that land.

(3) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

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Modifications etc. (not altering text)

C293 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C294 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C295 S. 228 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

Marginal Citations

M68 1963 c. 51.

229 Procedure for assessing compensation where s. 227 applies.

(1) Where the amount of any such compensation as is mentioned in subsection (1) of section 227 of this Act falls to be ascertained in accordance with the provisions of that section, the compensation shall, in default of agreement, be assessed by the tribunal referred to in subsection (2) of this section, if apart from this section it would not fall to be so assessed.

(2) The tribunal referred to in this subsection shall consist of four persons, namely—
- (a) an advocate or solicitor of not less than seven years' standing, appointed by the Lord President of the Court of Session to act as chairman;
- (b) two persons appointed by the Secretary of State as persons having special knowledge and experience of the valuation of land and of civil engineering respectively; and
- (c) for each claim coming before the tribunal, a person selected by the appropriate Minister, as a person having special knowledge and experience of statutory undertakings of the kind carried on by the claimant, from the members of a panel appointed by appropriate Ministers of persons appearing to them to have such knowledge and experience of statutory undertakings.

(3) The Treasury may pay out of moneys provided by Parliament to the members of the tribunal such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine.

(4) For the purposes of any proceedings arising before the tribunal referred to in subsection (2) of this section in respect of compensation falling to be ascertained as mentioned in subsection (1) of this section, the provisions of sections 9 and 11 of the [M69]Land Compensation (Scotland) Act 1963 shall apply as they apply to proceedings on a question referred to the Lands Tribunal under section 8 of that Act, but with the substitution in section 11 of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed.

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Modifications etc. (not altering text)

C296 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C297 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C298 S. 229 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

Marginal Citations

M69 1963 c. 51.

[F660 229A Application of sections 219 to 229 in relation to regional planning authorities.

Where a regional planning authority have exercised any power, either under Part VI of this Act or under any other enactment, compulsorily to purchase land, the provisions of sections 219 to 229 of this Act shall apply in relation to that exercise of power as they apply in relation to such an exercise by a district planning authority.**]**

Textual Amendments

F660 S. 229A inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 34**

Modifications etc. (not altering text)

C299 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C300 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

Supplementary provisions

230 Special provisions as to display of advertisements on operational land.

(1) The provisions of this Part of this Act specified in subsection (2) of this section do not apply in relation to the display of advertisements on operational land of statutory undertakers.

(2) The said provisions are sections 214 to 217 and 226(1) and (4) of this Act.

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Modifications etc. (not altering text)

C301 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Ss. 214, 216-230 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C302 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C303 S. 230 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c.38), **Sch. 3 para. 12** and Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

PART XII

VALIDITY OF PLANNING INSTRUMENTS AND DECISIONS AND PROCEEDINGS RELATING THERETO

231 Validity of development plans and certain orders, decisions and directions.

(1) Except as provided by the following provisions of this Part of this Act, the validity of—

(a) a structure plan, a local plan or any alteration, repeal or replacement of any such plan, whether before or after the plan, alteration, repeal or replacement has been approved or adopted; or

[[F661](aa) a simplified planning zone scheme or any alteration of any such scheme whether before or after the adoption or approval of the scheme or alteration; or**]**

(b) an order under any provision of Part X of this Act, [F662] whether before or after the order has been made; or

(c) an order under section 224 of this Act, whether before or after the order has been made; or

(d) any such order as is mentioned in subsection (2) of this section, whether before or after it has been confirmed; or

(e) any such action on the part of the Secretary of State as is mentioned in subsection (3) of this section,

shall not be questioned in any legal proceedings whatsoever.

(2) The orders referred to in subsection (1)(d) of this section are orders of any of the following descriptions, that is to say—

(a) any order under section 42 of this Act or under the provisions of that section as applied by or under any other provision of this Act **[**[F663]or as applied under section 181 of the Local Government (Scotland) Act 1973**]**;

(b) any order under section 49 of this Act; **[**[F664]or under the provisions of that section as applied by or under any other provision of this Act or as applied under section 181 of the Local Government (Scotland) Act 1973.**]**;

[[F665](ba) any order under section 49A of this Act;

(bb) any order under section 49B of this Act;**]**

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(c) any tree preservation order;

(d) any order made in pursuance of section 61(4) of this Act;

(e)

[F666](f) any order under Part II of Schedule 10 to this Act.

(3) The action referred to in subsection (1)(*e*) of this section is action on the part of the Secretary of State of any of the following descriptions, that is to say—

(a) any decision of the Secretary of State on an application [F667] referred to him under section 32 of this Act;

(b) any decision of the Secretary of State on an appeal under section 33 of this Act;

[F668](c) . . . . . .

(d) any decision by the Secretary of State to confirm a completion notice under section 41 of this Act;

(e) any decision of the Secretary of State relating to an application for consent under a tree preservation order, or relating to an application for consent under any regulations made in accordance with section 61 of this Act, or relating to any certificate or direction under any such order or regulations, whether it is a decision of the Secretary of State on appeal or a decision on an application referred to him for determination in the first instance;

[[F669](ee) any decision of the Secretary of State on an appeal to him under section 63A of this Act against a waste land notice;**]**

(f) any decision of the Secretary of State on an appeal to him under section 85 [F662] of this Act against any enforcement notice;

[[F670](g) any decision of the Secretary of State on an appeal under section 91(2) of this Act against the refusal or partial refusal of an application for an established use certificate;**]**

[[F671](h) any decision of the Secretary of State on an appeal to him under section 93 of this Act against a listed building enforcement notice;**]**

(i) any decision of the Secretary of State to confirm a purchase notice or listed building purchase notice;

(j) any decision of the Secretary of State not to confirm a purchase notice or listed building purchase notice, including any decision not to confirm such a notice in respect of part of the land to which it relates, and including any decision to grant any permission, or give any direction, in lieu of confirming such a notice, either wholly or in part;

(k) any decision of the Secretary of State on an application referred to him under paragraph 4 of Schedule 10 to this Act (being an application for listed building consent for any works) or on an appeal under paragraph **[**[F672]7**]** of that Schedule or section 93 of this Act.

(4) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such action as is mentioned in subsection (3) of this section.

Textual Amendments

F661 S. 231(1)(*aa*) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(3), **Sch. 6 Pt. IV**, para. 4

F662 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

F663 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 50**(*a*)

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F664 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 50**(*b*)
F665 S. 231(2)(*ba*)(*bb*) inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 8**
F666 S. 231(2)(*e*) repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**
F667 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 4 Pt. I**
F668 S. 231(3)(c) repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34), s. 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, art. 3, **Sch.1**
F669 S. 231(3)(*ee*) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **ss. 47(a)**, 69(2)
F670 S. 231(3)(g) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 35(a)**
F671 S. 231(3)(h) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **s. 47(c)**
F672 Word substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 35(b)**

Modifications etc. (not altering text)
C304 S. 231(3)(*f*) extended (with modifications) by S.I. 1984/995, reg. 2, **Sch.**

232 Proceedings for questioning validity of structure plans, etc.

(1) If any person aggrieved by a structure plan or local plan or by any alteration, repeal or replacement of any such plan desires to question the validity of the plan, alteration, repeal or replacement on the ground that it is not within the powers conferred by Part II of this Act, or that any requirement of the said Part II or of any regulations made thereunder has not been complied with in relation to the approval or adoption of the plan, alteration, repeal or replacement, he may, within six weeks from the date of the publication of the first notice of the approval or adoption of the plan, alteration, repeal or replacement required by regulations under section 16(1) of this Act, make an application to the Court of Session under this section.

(2) On any application under this section the Court of Session—

(a) may by interim order wholly or in part suspend the operation of the plan, alteration, repeal or replacement, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;

(b) if satisfied that the plan, alteration, repeal or replacement is wholly or to any extent outside the powers conferred by Part II of this Act, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of the said Part II or of any regulations made thereunder, may wholly or in part quash the plan, alteration, repeal or replacement, as the case may be, either generally or in so far as it affects any property of the applicant.

[[F673](3) The preceding provisions of this section shall apply, subject to any necessary modifications—

(a) to an order under section 198, [F674] under section 203(1)(a) or under section 224 of this Act as they apply to a structure plan, and as if, in subsection (1) of this section, for the reference to the notice therein mentioned there were substituted a reference either, in the case of sections 198, [F674] and 203(1)(a), to the notice required by section 204(6) of this Act, or, in the case of section 224, to the notice required by subsection (5) of that section; and

(b) to an order under section 198A, under section 199, [F674] under section 201, or under section 203(1)(b) of this Act as they apply to a structure plan, and as if, in subsection (1) of this section, for the reference to the date on which the

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notice therein mentioned is first published there were substituted a reference to the date on which the notice required by paragraph 6 of Schedule 18 to this Act is first published in accordance with that paragraph.**]**

[[F675](4) Subsections (1) and (2) of this section apply to a simplified planning zone scheme or an alteration of such a scheme as they apply to a structure plan and an alteration of such a plan, with the following modifications—

(a) for the references to Part II of this Act substitute references to Part III of this Act, and

(b) for the reference to regulations under section 16(1) of this Act substitute a reference to regulations under paragraph 12 of Schedule 6A to this Act,

and with any other necessary modifications.**]**

Textual Amendments

F673 S. 232(3) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 36**

F674 Word(s) repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

F675 S. 232(4) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(3), **Sch. 6 Pt. IV para. 5**

Modifications etc. (not altering text)

C305 Ss. 231-233 extended (1.1.1997) by 1995 c. 25, s. 96, **Sch. 13 para. 16(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

C306 Ss. 231-233 modified (1.1.1997) by 1995 c. 25, s. 96, **Sch. 14 para. 9(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

233 Proceedings for questioning validity of other orders, decisions and directions.

(1) If any person—

(a) is aggrieved by any order to which this section applies and desires to question the validity of that order, on the grounds that the order is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to that order; or

(b) is aggrieved by any action on the part of the Secretary of State to which this section applies and desires to question the validity of that action, on the grounds that the action is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to that action,

he may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the Court of Session under this section.

(2) Without prejudice to subsection (1) of this section, if the authority directly concerned with any order to which this section applies, or with any action on the part of the Secretary of State to which this section applies, desire to question the validity of that order or action on any of the grounds mentioned in subsection (1) of this section, the authority may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the Court of Session under this section.

(3) This section applies to any such order as is mentioned in subsection (2) of section 231 of this Act [F676] and to any such action on the part of the Secretary of State as is mentioned in subsection (3) of the said section 231.

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(4) On any application under this section the Court of Session—

(a) may by interim order suspend the operation of the order or action, the validity whereof is questioned by the application, until the final determination of the proceedings;

(b) if satisfied that the order or action in question is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation thereto, may quash that order or action:

Provided that paragraph (a) of this subsection shall not apply to applications questioning the validity of tree preservation orders.

(5) In relation to a tree preservation order, or to an order made in pursuance of section 61(4) of this Act, the powers conferred on the Court of Session by subsection (4) of this section shall be exercisable by way of quashing or (where applicable) suspending the operation of the order either in whole or in part, as the court may determine.

(6) References in this section to the confirmation of an order include the confirmation of an order subject to modifications as well as the confirmation of an order in the form in which it was made.

(7) In this section "the relevant requirements", in relation to any order or action to which this section applies, means any requirements of this Act or of the [M70]Tribunals and Inquiries Act 1971 (or any enactment replaced thereby), or of any order, regulations or rules made under this Act or under that Act (or any such enactment), which are applicable to that order or action, and any reference to the authority directly concerned with any order or action to which this section applies is a reference to the [F677] planning authority, and, in relation to any such decision as is mentioned in section 231(3)(i) or (j) of this Act, being a decision confirming the notice in question subject to the substitution of another local authority or statutory undertakers for the [F677] planning authority, shall be construed as including a reference to that other local authority or those statutory undertakers.

Textual Amendments

F676 Words repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

F677 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C307 Ss. 231-233 extended (1.1.1997) by 1995 c. 25, s. 96, **Sch. 13 para. 16(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

C308 Ss. 231-233 modified (1.1.1997) by 1995 c. 25, s. 96, **Sch. 14 para. 9(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

C309 S. 233(1)(*b*)(2) modified by S.I. 1988/1221, **reg. 31**

C310 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C311 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C312 S. 233(7) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**
S. 233(7) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

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Marginal Citations
M70 1971 c. 62.

234 Appeals to Court of Session against decisions under s. 51.

(1) If, in the case of any decision to which this section applies, the person who made the application to which the decision relates, or the [F678] planning authority, is dissatisfied with the decision in point of law, that person or the [F678] planning authority (as the case may be) may, according as rules of court may provide, either appeal against the decision to the Court of Session or require the Secretary of State to state and sign a case for the opinion of the Court of Session.

(2) This section applies to any decision of the Secretary of State—
- (a) on an application under section 51 of this Act which is referred to the Secretary of State under the provisions of section 32 of this Act as applied by that section; or
- (b) on an appeal from a decision of the [F678] planning authority under section 51 of this Act, being an appeal brought under the provisions of section 33 of this Act as so applied.

(3) Where an application under section 51 of this Act is made as part of an application for planning permission, the preceding provisions of this section shall have effect in relation to that application in so far as it is an application under the said section 51, but not in so far as it is an application for planning permission.

(4) In relation to proceedings in the Court of Session brought by virtue of this section, the power to make rules of court shall include power to make rules prescribing the powers of the Court of Session with respect to—
- (a) the giving of any decision which might have been given by the Secretary of State;
- (b) the remitting of the matter, with the opinion or direction of the court, for re-hearing and determination by the Secretary of State;
- (c) the giving of directions to the Secretary of State.

(5) Without prejudice to the preceding provisions of this section, the power to make rules of court in relation to proceedings in the Court of Session brought by virtue of this section shall include power to make rules providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.

Textual Amendments
F678 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

235 Special provisions as to decisions relating to statutory undertakers.

In relation to any action which—
- (a) apart from the provisions of Part XI of this Act, would fall to be taken by the Secretary of State, and, if so taken, would be action falling within section 231(3) of this Act; but

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(b) by virtue of Part XI of this Act, is required to be taken by the Secretary of State and the appropriate Minister,

the provisions of sections 231 and 233 of this Act shall have effect (subject to section 236 of this Act) as if any reference in those provisions to the Secretary of State were a reference to the Secretary of State and the appropriate Minister.

236 Special provisions as to orders subject to special parliamentary procedure.

(1) Where an order under section 198, [F679] 201 or 224 of this Act is subject to special parliamentary procedure, then—

(a) if the order is confirmed by Act of Parliament under section 2(4), as read with section 10, of the [M71]Statutory Orders (Special Procedure) Act 1945, or under section 6 of that Act, the provisions of sections 231 and 232 of this Act shall not apply to the order;

(b) in any other case, section 232 of this Act shall have effect in relation to the order as if, in subsection (1) of that section, for the reference to the date therein mentioned there were substituted a reference to the date on which the order becomes operative under the said Act of 1945.

(2) Where by virtue of Part XI of this Act any such action as is mentioned in section 235 of this Act is required to be embodied in an order, and that order is subject to special parliamentary procedure, then—

(a) if the order in which the action is embodied is confirmed by Act of Parliament under the said Act of 1945, the provisions of sections 231 and 233 of this Act shall not apply;

(b) in any other case, the provisions of section 233 of this Act shall apply with the substitution, for any reference to the date on which the action is taken, of a reference to the date on which the order becomes operative under the said Act of 1945.

Textual Amendments

F679 Word(s) repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

Marginal Citations

M71 1945 (9 & 10 Geo. 6 c. 18).

PART XIII

FINANCIAL PROVISIONS

237—239. [F680] . . . . . .

Textual Amendments

F680 Ss. 237–239 repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV** and S.I. 1986/672, arts. 2, 3, **Sch. 1**

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Grants for research and education

240 Grants for research and education.

The Secretary of State may, with the consent of the Treasury, make grants for assisting establishments engaged in promoting or assisting research relating to, and education with respect to, the planning and design of the physical environment.

Contributions to certain expenditure

241 Contributions by Ministers towards compensation paid by local authorities.

Where compensation is payable by a local authority under this Act in consequence of any decision or order given or made under—

(a) Part III or Part IV of this Act;
(b) sections 84 to 96 of this Act;
(c) the provisions of Part IX of this Act relating to purchase notices;
(d) Schedule 7 to this Act,

then if that decision or order was given or made wholly or partly in the interest of a service which is provided by a government department and the cost of which is defrayed out of moneys provided by Parliament, the Minister responsible for the administration of that service may pay to that authority a contribution of such amount as he may with the consent of the Treasury determine.

242 Contributions by local authorities and statutory undertakers.

(1) Without prejudice to **[**[F681]section 5(9) of the Roads (Scotland) Act 1984 (power of local roads authority to contribute towards costs incurred by Secretary of State in construction or improvement of trunk road**]**), any **[**[F682]regional or islands council**]** may contribute towards any expenses incurred by a local **[**[F683]roads**]** authority or the Secretary of State in the acquisition of land under Part VI of this Act, or in the construction or improvement of roads on land so acquired, or in connection with any development required in the interests of the proper planning of the **[**[F682]region or island area**]**.

(2) Any local authority and any statutory undertakers may contribute towards—

(a) any expenses incurred by a. . . [F684] planning authority in or in connection with the carrying out of a survey or the preparation of a structure plan or local plan under Part II of this Act;
(b) any expenses incurred by a. . . [F684] planning authority in or in connection with the performance of any of their functions under Part III (except section 25), Part IV, Part V (except sections 97 and 99) or Part VI (except section 116) of this Act, under the provisions of Part IX of this Act relating to purchase notices and listed building purchase notices or under Schedule 10 to this Act.

(3) . . . . . [F685]

Textual Amendments

F681 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(19)**(*a*) (with s. 128(1)

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F682 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 14 para. 89**
F683 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(19)**(*b*) (with s. 128(1))
F684 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
F685 S. 242(3) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

Modifications etc. (not altering text)
C313 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
C314 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)
C315 S. 242 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

243 Assistance for acquisition of property where objection made to blight notice in certain cases.

A **[**[F686]regional, islands or district**]** council may, subject to such conditions as may be approved by the Secretary of State, advance money to any person for the purpose of enabling him to acquire a hereditament or agricultural unit in respect of which a counter-notice has been served under section 183 of this Act specifying the grounds mentioned in subsection (2)(d) of that section as, or as one of, the grounds of objection if, in the case of a hereditament, its annual value does not exceed such amount as may be prescribed for the purposes of section 181(4)(a) of this Act.

Textual Amendments
F686 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 29**

Recovery of compensation etc.

244 Recovery from acquiring authorities of sums paid by way of compensation.

(1) Where an interest in land is compulsorily acquired, or is sold to an authority possessing compulsory purchase powers, and any of the land comprised in the acquisition or sale is land in respect of which a notice to which this section applies is recorded (whether before or after the completion of the acquisition or sale) in respect of a planning decision or order made before the service of the notice to treat, or the making of the contract, in pursuance of which the acquisition or sale is effected, the Secretary of State shall, subject to the following provisions of this section, be entitled to recover from the acquiring authority a sum equal to so much of the amount of the compensation specified in the notice as (in accordance with section **[**[F687]155(5A)**]** of this Act) is to be treated as attributable to that land.

(2) This section applies to notices recorded under [F688] . . . section 155(5) of this Act.

(3) If, immediately after the completion of the acquisition or sale, there is outstanding some interest in the land comprised therein to which a person other than the acquiring authority is entitled, the sum referred to in subsection (1) of this section shall not

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accrue due until that interest either ceases to exist or becomes vested in the acquiring authority.

(4) No sum shall be recoverable under this section in the case of a compulsory acquisition or sale where the Secretary of State is satisfied that the interest in question is being acquired for the purposes of the use of the land as a public open space.

(5) Where by virtue of the preceding provisions of this section the Secretary of State recovers a sum in respect of any land, by reason that it is land in respect of which a notice is recorded under the provisions of section 147(4) of this Act as applied by section 155 of this Act, section 157(2) and (3) of this Act shall have effect in relation to that sum as if it were a sum recovered as mentioned in section 157(2) of this Act.

Textual Amendments

F687 Words in s. 244(1) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para. 23(a) with s. 84(5); S.I. 1991/2092, **art.3**

F688 Words in s. 244(2) repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 23(b), **Sch. 19**, Pt.IV, (with s. 84(5)); S.I. 1991/2092, **art.3**

[F689]245 . . . . . .

Textual Amendments

F689 S. 245 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 24, **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

246 Sums recoverable from acquiring authorities reckonable for purposes of grant.

Where a sum is recoverable from an authority under section 244 [F690] . . . of this Act by reference to an acquisition or purchase of an interest in land, and in respect thereof, or of a subsequent appropriation of the land, a grant became or becomes payable to that or some other authority under an enactment, the power conferred by that enactment to pay the grant shall include, and shall be deemed always to have included, power to pay a grant in respect of that sum as if it had been expenditure incurred by the acquiring authority in connection with the acquisition or purchase.

Textual Amendments

F690 Words in s. 246 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 25, **Sch. 19**, Pt.IV, (with s. 84(5)); S.I. 1991/2092, **art.3**

Expenses and receipts of Secretary of State

247 Expenses of government departments.

(1) The following expenses of the Secretary of State shall be paid out of moneys provided by Parliament, that is to say—

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(a) any expenses incurred by the Secretary of State under subsection (2) of section 48 of this Act or under that subsection as applied by subsection (7) of section 61 of this Act, or in the payment of expenses of any committee established under the said section 61;

(b) any sums necessary to enable the Secretary of State to make any payments becoming payable by him under **[**[F691]section 145**]** . . . Part VIII of this Act;

(c) any expenses incurred by the Secretary of State under Part X of this Act;

(d) any expenses incurred by the Secretary of State in the making of grants. . . [F692] under section 240 of this Act;

(e) subject to the provisions of subsection (4) of section 248 of this Act, any instalment payable by the Secretary of State under subsections (2) and (3) of that section;

(f) any administrative expenses incurred by the Secretary of State for the purposes of this Act.

(2) There shall be paid out of moneys provided by Parliament any expenses incurred by any government department (including the Secretary of State)—

(a) in the acquisition of land under Part VI of this Act;

(b) in the payment of compensation under section 108(4), 226(2) or 266 of this Act;

(c) under section 118(2)(b) of this Act; or

(d) under section 241 of this Act.

Textual Amendments

F691 Words "Part VII or" in s. 247(1)(b) omitted and words "section 145" substituted for words "Part VII" (25. 9. 1991, subject to limitations referred to in S.I. 1991/2092, art. 4, **Sch. 2**, Pt. II) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 61, Sch. 12, para. 26, **Sch. 13 para.36** (with s. 84(5)); S.I. 1991/2092, **art.3**

F692 Words repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

[F693]248 . . . . . .

Textual Amendments

F693 S. 248 repealed (25. 9. 1991, subject to limitations referred to in S.I. 1991/2092, art. 4, **Sch. 2 Pt. II**) by Planning and Compensation Act 1991 (c. 34), ss. 60(6), 84(6), Sch. 12 para. 27, **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, art. 3, **Sch.1**

249 General provision as to receipts of Secretary of State.

[F694] . . .Subject to the provisions of section 157 of this Act, any sums received by the Secretary of State under any provision of this Act shall be paid into the Consolidated Fund.

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Textual Amendments

F694 Words in s. 249 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **ss. 60(6)**,84(6), Sch. 12, para. 28, Sch. 19, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

Expenses of local authorities

250 Expenses of, and borrowing by, local authorities.

(1) Any expenses incurred by a local **[**[F695]roads**]** authority under the provisions of this Act specified in Parts I and II of Schedule 19 to this Act shall be defrayed in like manner as expenses incurred by the authority on **[**[F695]roads**]**.

(2) Any expenses incurred by a local authority under the provisions of this Act specified in Parts I and II of Schedule 19 to this Act in pursuance of a purchase notice or in the acquisition of land under this Act for the purposes of any function of that authority, shall be defrayed in like manner as other expenses incurred by that authority for the purposes of that function.

(3) A local authority may borrow for the purposes of this Act in accordance with the provisions of Part **[**[F696]VII**]** of the [M72]Local Government (Scotland) Act **[**[F696]1973**]**

(4) Nothing in this section shall authorise the exercise of the power of borrowing money thereby conferred otherwise than in compliance with the provisions of the [M73]Local Authorities Loans Act 1945 and of any orders for the time being in force made by the Treasury under section 1 of the [M74]Borrowing (Control and Guarantees) Act 1946.

Textual Amendments

F695 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(20)** (with s. 128(1))

F696 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 30**

Marginal Citations

M72 1973 c. 65.

M73 1945 c. 18.

M74 1946 c. 58.

PART XIV

APPLICATION OF ACT TO SPECIAL CASES

Minerals

251 Power to modify Act in relation to minerals.

(1) In relation to development consisting of the winning and working of minerals, the provisions of this Act specified in Parts I and II of Schedule 19 to this Act shall

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have effect subject to such adaptations and modifications as may be prescribed by regulations made under this Act with the consent of the Treasury.

[[F697](1A) In this Act—

"development consisting of the winning and working of minerals" includes the extraction of minerals from a mineral-working deposit; and

"mineral-working deposit" means any deposit of material remaining after minerals have been extracted from land or otherwise deriving from the carrying out of operations for the winning and working of minerals in, on or under land.**]**

(2) Regulations made for the purposes of this section shall be of no effect unless they are approved by resolution of each House of Parliament.

(3) Any regulations made by virtue of subsection (1) of this section shall not apply—

(a) to the winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably required for the purposes of that use, including the fertilisation of the land so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for those purposes; or

(b) to development consisting of the winning and working of any minerals vested in the **[**[F698]British Coal Corporation**]**, being development to which any of the provisions of this Act relating to operational land of statutory undertakers apply by virtue of regulations made under section 259 of this Act; or

(c) to the winning and working of peat by any person for the domestic requirements of that person;

and nothing in subsection (1) of this section or in this subsection shall be construed as affecting the prerogative right of Her Majesty to any gold or silver mine.

Textual Amendments

F697 S. 251(1A) inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 19(2)**, 35

F698 Words substituted by Coal Industry Act 1987 (c. 3, SIF 86), s. 1(2), **Sch. 1 para. 20**

[[F699]**251A Duty of planning authorities to review mineral workings.**

(1) It shall be the duty of every planning authority—

(a) to undertake at such intervals as they consider fit reviews of every site in their area in, on or under which operations for the winning and working of minerals—

(i) are being carried out; or

(ii) have been carried out at any time during the relevant period; or

(iii) are authorised by planning permission but have not been begun; and

(b) to make in respect of any such site any order under section 42, 49, 49A or 49B of this Act that they consider appropriate.

(2) In subsection (1) of this section "the relevant period", in relation to a review, means the period of five years preceding the date of the beginning of the review or such other period as may be prescribed.**]**

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Textual Amendments

F699 S. 251A inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **ss. 20**, 35

252 [F700] . . . . . .

Textual Amendments

F700 S. 252 repealed by Mines (Working Facilities and Support) Act 1974 (c. 36), **s. 2(1)**

Crown land

253 Exercise of powers in relation to Crown land.

(1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—

(a) a plan approved, adopted or made under Part II of this Act may include proposals relating to the use of Crown land, and any power to acquire land compulsorily under Part VI of this Act may be exercised in relation to any interest therein which is for the time being held otherwise than by or on behalf of the Crown;

(b) any restrictions or powers imposed or conferred by Part III, Part IV or Part V of this Act, by the provisions of Part IX of this Act relating to purchase notices and listed building purchase notices, or by any of the provisions of sections 214 to 217 of this Act, shall apply and be exercisable in relation to Crown land, to the extent of any interest therein for the time being held otherwise than by or on behalf of the Crown;

(c) a building which for the time being is Crown land may be included in a list compiled or approved by the Secretary of State under section 52 of this Act.

(2) Except with the consent of the appropriate authority—

(a) no order or notice shall be made or served under any of the provisions of sections 49 **[**[F701], 49A, 49B **[**[F702]56J**]]** 58, 63, 84 **[**[F703]or 92**][**[F703]92 or 97B**]** of this Act or under any of those provisions as applied by any order or regulations made under Part IV of this Act, in relation to land which for the time being is Crown land;

(b) no interest in land which for the time being is Crown land shall be acquired compulsorily under Part VI of this Act.

(3) No enforcement notice shall be served under section 84 of this Act in respect of development carried out by or on behalf of the Crown after the appointed day on land which was Crown land at the time when the development was carried out.

(4) No listed building enforcement notice shall be served in respect of works executed by or on behalf of the Crown in respect of a building which was Crown land at the time when the works were executed.

(5) No purchase notice or listed building purchase notice shall be served in relation to any interest in Crown land unless an offer has been previously made by the owner of that

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interest to dispose of it to the appropriate authority on terms that the price payable for it shall be equal to (and shall, in default of agreement, be determined in like manner as) the compensation which would be payable in respect of that interest if it were acquired in pursuance of a purchase notice, and that offer has been refused by the appropriate authority.

(6) The rights conferred by the provisions of sections 181 to 196 of this Act shall be exercisable by a person who (within the meaning of those provisions) is an owner-occupier of a hereditament or agricultural unit which is Crown land, or is a resident owner-occupier of a hereditament which is Crown land, in the same way as they are exercisable in respect of a hereditament or agricultural unit which is not Crown land, and those provisions shall apply accordingly.

(7) In this Part of this Act "Crown land" means land in which there is a Crown interest; "Crown interest" means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department; and for the purposes of this section and section 254 of this Act "the appropriate authority", in relation to any land—

(a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;

(b) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department;

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

Textual Amendments

F701 Words inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 9**

F702 Figure inserted (*prosp.*) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 37, **Sch. 7 Pt. II para. 3**

F703 Words "92 or 97B" substituted (*prosp.*) for "or 92" by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 37, **Sch. 7 Pt. II para. 3**

Modifications etc. (not altering text)

C316 S. 253(1)(*b*) modified by Town and Country Planning Act 1984 (c.10, SIF 123:1, 2), **s. 4(1)**

254 Agreements relating to Crown land.

(1) The appropriate authority and the. . . [F704] planning authority for the district in which any Crown land is situated may make agreements for securing the use of the land, so far as may be prescribed by any such agreement, in conformity with the provisions of the development plan applicable thereto; and any such agreement may contain such consequential provisions, including provisions of a financial character, as may appear to be necessary or expedient having regard to the purposes of the agreement.

(2) An agreement made under this section by a government department shall not have effect unless it is approved by the Treasury.

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(3) In considering whether to make or approve an agreement under this section relating to land belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, the department and the Treasury shall have regard to the purposes for which the land is held by or for the department.

[[F705](4) In this section "planning authority" includes a regional planning authority.**]**

Textual Amendments

F704 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F705 S. 254(4) added by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 37**

255 Supplementary provisions as to Crown interest.

[[F706](1) Subject to subsection (2) of this section, where there is a Crown interest in any land, the provisions of sections 155 to 157 of this Act, and the provisions of Schedule 22 to this Act in so far as they relate to those sections, shall have effect in relation to any private interest as if the Crown interest were a private interest.**]**

(2) In this section "private interest" means an interest which is not a Crown interest.

Textual Amendments

F706 S. 255(1) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para. 29 (with s. 84(5)); S.I. 1991/2092, **art.3**

. . . [F707] planning authorities

Textual Amendments

F707 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

256 Application to. . . [F708]planning authorities of provisions as to planning control and enforcement.

(1) In relation to land of. . . [F708] planning authorities, and to the development by local authorities of land in respect of which they are the. . . [F708] planning authorities, the provisions of this Act specified in Part III of Schedule 19 to this Act shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

(2) Subject to the provisions of section 37 of this Act, any such regulations may in particular provide for securing—

(a) that any application by such an authority for planning permission to develop such land, or for any other consent required in relation to such land under the said provisions, shall be made to the Secretary of State and not to the. . . [F708] planning authority;

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(b) that any order or notice authorised to be made or served under those provisions in relation to such land shall be made or served by the Secretary of State and not by the. . . [F708] planning authority.

(3) Sections 23, 24 and 26(2) and (3) of this Act shall apply, with the necessary modifications, in relation to applications made to the Secretary of State in pursuance of regulations made for the purposes of subsection (1) of this section, as they apply in relation to applications for planning permission which fall to be determined by the. . . [F708] planning authority.

Textual Amendments

F708 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

[[F709]257 Application to. . . [F710]planning authorities of provisions as to listed buildings.

The provisions of this Act specified in Part IV of Schedule 19 to this Act shall have effect for the purpose of applications by planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings, subject to such exceptions and modifications as may be prescribed by regulations; and the regulations may in particular provide for the making of applications for listed building consent to the Secretary of State and for the service of notices under the said provisions by him.**]**

Textual Amendments

F709 S. 257 substituted by Town and Country Amenities Act 1974 (c. 32), **s. 7(2)**

F710 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

VALID FROM 18/02/1993

[[F711]257AApplication to planning authorities of provisions as to hazardous substances control.

(1) The provisions of this Act relating to hazardous substances shall have effect subject to such exceptions and modifications as may be prescribed in relation to hazardous substances consent for planning authorities.

(2) Subject to the provisions of section 56G of this Act, any such regulations may in particular provide for securing—

(a) that any application by such an authority for hazardous substances consent in respect of the presence of a hazardous substance on, over or under such land shall be made to the Secretary of State and not to the planning authority;

(b) that any order or notice authorised to be made, issued or served under those provisions shall be made, issued or served by the Secretary of State and not by the planning authority.**]**

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Textual Amendments

F711 S. 257A inserted (18.2.1993) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 37, **Sch. 7 Pt. II para. 4**; S.I. 1993/273, **art.4**

258 Special provisions as to statutory undertakers who are. . . [F712]planning authorities.

In relation to statutory undertakers who are. . . [F712] planning authorities, section 230 of this Act and the provisions specified in subsection (2) of that section shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.

Textual Amendments

F712 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Special case Regulations

259 National Coal Board.

(1) Regulations made under this Act by the Secretary of State and **[**[F713]the Secretary of State for Energy**]** with the consent of the Treasury may direct that any of the provisions of this Act specified in Part I of Schedule 19 to this Act or of section 212 of this Act being provisions relating to statutory undertakers and to land of such undertakers, shall apply, subject to such adaptations, modifications and exceptions as may be specified in the regulations, in relation to the **[**[F714]British Coal Corporation**]**, and in relation to land (including mines) of **[**[F714]that Corporation**]** of any such class as may be specified in the regulations, as if **[**[F714]the Corporation**]** were statutory undertakers and as if land of any class so specified were operational land.

(2) Without prejudice to the generality of subsection (1) of this section, any regulations made thereunder may in particular provide that any compensation payable to the **[**[F714]British Coal Corporation**]** by virtue of any of the provisions applied by the regulations, being compensation which, in the case of statutory undertakers, would be assessable in accordance with the provisions of section 227 of this Act, shall, instead of being assessed in accordance with that section, be assessed in accordance with the provisions of the regulations.

Textual Amendments

F713 Words substituted by virtue of S.I. 1974/692, arts. 2(1), 5(3), **Sch. 1 Pt. I**

F714 Words substituted by Coal Industry Act 1987 (c. 3, SIF 86), s. 1(2), **Sch. 1 para. 20**

Modifications etc. (not altering text)

C317 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

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PART XV

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

260 Default powers of Secretary of State.

(1) If it appears to the Secretary of State, after consultation with the. . . [F715] planning authority, to be expedient that any order to which this subsection applies should be made, he. . . [F716] may himself make such an order; and any order so made by the Secretary of State shall have the like effect as if it had been made by the. . . [F715] planning authority and confirmed by the Secretary of State under Part III or IV of this Act **[**[F717]or, in the case of a tree preservation order under section 58 of this Act, as if it had been made and confirmed by the planning authority**]**.

(2) Subsection (1) of this section applies to the following orders, that is to say—

(a) orders under section 42 of this Act, or under the provisions of that section as applied by any order or regulations made under Part IV of this Act;

(b) orders under section 49 of this Act;

[[F718](ba) orders under section 49A of this Act;

(bb) orders under section 49B of this Act;**]**

(c) tree preservation orders and orders amending or revoking them.

(3) The provisions of Part III or Part IV of this Act, and of any regulations made thereunder, with respect to the procedure to be followed in connection with the submission by the. . . [F715] planning authority of any order to which subsection (1) of this section applies, with respect to the confirmation of such an order by the Secretary of State, and with respect to the service of copies thereof as so confirmed, shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order by virtue of subsection (1) of this section, in relation to the making thereof by the Secretary of State, and in relation to the service of copies thereof as so made.

(4) Without prejudice to subsection (3) of this section, where the Secretary of State proposes under subsection (1) of this section to make any such order as is mentioned in subsection (2)(a) or (b) of this section he shall serve a notice of the proposal on the. . . [F715] planning authority; and if within such period as may be specified in the notice (not being less than twenty-eight days from the date of service) the authority so require, the Secretary of State before making the order shall afford to the authority an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.

(5) If it appears to the Secretary of State, after consultation with the. . . [F715] planning authority, to be expedient that—

(a) a completion notice under section 41 of this Act; or

(b) . . . [F719]

(c) an enforcement notice under section 84 of this Act,. . . [F716]; or

(d) a stop notice under section 87 of this Act; or

(e) a listed building enforcement notice,

should be served in respect of any land, he. . . [F716] may himself serve such a notice; and any notice so served by the Secretary of State shall have the like effect as a notice served by the. . . [F715] planning authority:

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Provided that, in relation to an enforcement notice under section 84 of this Act or a listed building enforcement notice which is served by the Secretary of State, the provisions of sections 86, 88 and 89, or, as the case may be, of sections 94 and 95 of this Act shall apply as if for any reference therein to the. . . [F715] planning authority there were substituted a reference to the Secretary of State.

(6) . . . . . [F720]

Textual Amendments

F715 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F716 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F717 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 51**

F718 S. 260(2)(*ba*)(*bb*) inserted by Town and Country Planning (Minerals) Act 1981 (c. 36) s. 35, Sch. 2 para. 10

F719 S. 260(5)(b) repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F720 S. 260(6)(7) repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 4**

[[F721] Interdicts restraining breaches of planning control]

Textual Amendments

F721 S. 260A and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.35** (with s. 84(5)); S.I. 1992/334, **art. 4**.

VALID FROM 26/03/1992

[[F722][F722]260A Interdicts restraining breaches of planning control.

(1) Whether or not they have exercised or propose to exercise any of their other powers under this Act, a planning authority may seek to restrain or prevent any actual or apprehended breach of any of the controls provided for by or under this Act by means of an application for interdict.

(2) On an application under subsection (1) of this section the court may grant such interdict as it thinks appropriate for the purpose of restraining or preventing the breach.

(3) In this section "the court" means the Court of Session or the sheriff.**]**

Textual Amendments

F722 S. 260A and cross heading inserted (26.3.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s.35** (with s. 84(5)); S.I. 1992/334, **art. 4**.

261 [F723]. . . . . .

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Textual Amendments

F723 S. 261 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

[[F724]262 Designation of conservation areas.

(1) Every planning authority shall from time to time determine which parts of their district are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and shall designate such areas as conservation areas.

(2) . . . . . [F725]

(4) The Secretary of State may from time to time, after consultation with a planning authority, determine that any part of the authority's district which is not for the time being designated as a conservation area is an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance; and, if he so determines, he may designate that part as a conservation area.

(5) Before making a determination under this section, a planning authority shall consult the planning authority of each district of which any part is included in the area to which the proposed determination relates.

(6) A planning authority shall give notice to the Secretary of State of the designation of any part of their district as a conservation area under subsection (1) or (2) above, and of any variation or cancellation of any such designation, and the Secretary of State shall give notice to a planning authority of the designation of any part of their district as a conservation area under subsection (4) above, and of any variation or cancellation of any such designation; and a notice under this subsection shall contain sufficient particulars to identify the area affected.

(7) Notice of any such designation, variation or cancellation as is mentioned in subsection (6) above, with particulars of its effect, shall be published in the Edinburgh Gazette and in at least one newspaper circulating in the district of the planning authority, by that authority or, as the case may be, the Secretary of State.

(8) Where any area is for the time being designated as a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance in the exercise, with respect to any buildings or other land in that area, of any powers under this Act, Part I of the [M75]Historic Buildings and Ancient Monuments Act 1953 or the [M76]Local Authorities (Historic Buildings) Act 1962.

(9) Every planning authority shall compile and keep available for public inspection free of charge at reasonable hours and at a convenient place a list containing such particulars as the Secretary of State may determine of any area in their district which has been designated as a conservation area.**]**

Textual Amendments

F724 Ss. 262, 262A, 262B substituted for s. 262 by Town and Country Amenities Act 1974 (c. 32), **s. 2(1)**

F725 Ss. 262(2)(3), 262A(3), 262B(3) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

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Marginal Citations

M75 1953 c. 49.

M76 1962 c. 36.

262A [F726Control of demolition in conservation areas.

(1) This section applies to all buildings in conservation areas other than—

(a) listed buildings, and

(b) excepted buildings within the meaning of section 56(2) of this Act, and

(c) buildings in relation to which a direction under subsection (4) below is for the time being in force.

(2) A building to which this section applies shall not be demolished without the consent of the appropriate authority.

(3) F727

(4) The Secretary of State may direct that this section shall not apply to a description of buildings specified in the direction. . . F728.

(5) A direction under subsection (4) above relating to a description of buildings may be given either to an individual planning authority or to planning authorities generally.

(6) The Secretary of State may vary or revoke a direction under subsection (4) above by a further direction under that subsection.

(7) The appropriate authority for the purposes of this section is—

(a) in relation to applications for consent made by planning authorities, the Secretary of State; and

(b) in relation to other applications, the planning authority or the Secretary of State.

(8) The following provisions of this Act, namely—

[F729sections 53 to 54D and 56AA**]**
[F729sections 92 to 96**]**
section 161,
section 179,
[F730sections 231 and 233, section 242**]**
section 253(1)(b) **[**F730, (4) and (5), section 257**]**,
Parts I and II of Schedule 10,
Schedule 17 **[**F730Part IV of Schedule 19**]**,

shall have effect in relation to buildings to which this section applies as they have effect in relation to listed buildings; but regulations may provide that they shall have effect in relation to buildings to which this section applies subject to such exceptions and modifications as may be prescribed.

(9) Any such regulations may make different provision—

(a) in relation to applications made by planning authorities, and

(b) in relation to other applications.

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(10) Any proceedings on or arising out of an application for listed building consent made while this section applies to a building shall lapse when it ceases to apply to it, and any listed building consent granted with respect to the building shall also lapse; but the fact that this section has ceased to apply to a building shall not affect the liability of any person to be prosecuted and punished for an offence under section 53 or 94 of this Act committed by him with respect to the building while this section applied to it.]

Textual Amendments

F726 Ss. 262 262A 262B substituted for s. 262 by Town and Country Amenity Act 1974 (c. 32), **s. 2(1)**

F727 Ss. 262(2)(3), 262A(3), 262B(3) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

F728 Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

F729 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II**, para. 21

F730 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II**, para. 21

262B [F731Formulation and publication of proposals for preservation and enhancement of conservation areas.

(1) It shall be the duty of a planning authority to formulate and publish, **[**F732from time to time**]** proposals for the preservation and enhancement of any parts of their district which are conservation areas.

(2) Proposals under this section shall be submitted for consideration to a public meeting in the area to which they relate; and the planning authority shall have regard to any views concerning the proposals expressed by persons attending the meeting.

(3) F733

Textual Amendments

F731 Ss. 262 262A 262B substituted for s. 262 bt Town and Country Amenities Act 1974 (c. 32), **s. 2(1)**

F732 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 39**

F733 Ss. 262(2)(3), 262A(3), 262B(3) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

[F734262C National Scenic Areas.

(1) Where it appears to the Secretary of State, after such consultation with the Countryside Commission for Scotland and such other persons or bodies as he thinks fit, that an area is of outstanding scenic value and beauty in a national context, and that special protection measures are appropriate for it, he may designate the area by a direction under this section as a National Scenic Area; and any such designation may be varied or cancelled by a subsequent direction.

(2) Notice of any such designation, variation, or cancellation as is mentioned in subsection (1) above shall be published in the Edinburgh Gazette and in at least one newspaper circulating in the vicinity of the Area by the Secretary of State.

(3) Every planning authority shall compile and make available for inspection free of charge at reasonable hours and at a convenient place a list containing such particulars

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as the Secretary of State may determine of any area in their district which has been designated as a National Scenic Area.

(4) Where any area is for the time being designated as a National Scenic Area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance in the exercise, with respect to any land in that area, of any powers under this Act.**]**

Textual Amendments

F734 S. 262C inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 38**

[F735]263 . . . . . .

Textual Amendments

F735 S. 263 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 30, **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

[F736]264 . . . . . .

Textual Amendments

F736 S. 264 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 30, **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

265 Rights of entry.

(1) Any person duly authorised in writing by the Secretary of State or by a. . . [F737] planning authority may at any reasonable time enter upon any land for the purpose of surveying it in connection with—

(a) the preparation, approval, adoption, making or amendment of a structure plan or local plan relating to the land under Part II of this Act, including the carrying out of any survey under that Part;

(b) any application under Part III or section **[**[F738]58 or 61**]** of this Act, or under any order or regulations made thereunder, for any permission, consent or determination to be given or made in connection with that land or any other land under Part III or either of those sections of this Act or under any such order or regulations;

(c) any proposal by the. . . [F737] planning authority or by the Secretary of State to make or serve any order or notice under Part III (other than section **[**[F739]41**]**), Part IV or Part V of this Act, or under any order or regulations made thereunder or any notice under section 105 of this Act.

[[F740](1A) Any person duly authorised in writing by the Secretary of State or by a planning authority may at any reasonable time enter any land for the purpose of surveying it in connection with—

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(a) any application for hazardous substances consent;
(b) any proposal to issue a hazardous substances contravention notice.**]**

(2) Any person duly authorised in writing by the Secretary of State may at any reasonable time enter upon any land for the purpose of surveying any building in connection with a proposal to include the building in, or exclude it from, a list compiled or approved under section 52 of this Act.

[[F741](2A) Any person duly authorised in writing by the Secretary of State or the planning authority may at any reasonable time enter upon any land for the purpose—
(a) of displaying a notice in accordance with the provisions of section 87(7) or (10) of this Act; or
(b) of ascertaining whether a stop notice or an enforcement notice is being complied with.**]**

(3) Any person duly authorised in writing by the Secretary of State or a. . . [F737] planning authority may at any reasonable time enter upon any land for the purpose of ascertaining whether, with respect to any building on the land, an offence has been, or is being, committed under section 53 or 94 of, or Schedule 10 to, this Act, or whether the building is being maintained in a proper state of repair.

(4) Any person duly authorised in writing by the Secretary of State, a. . . [F737] planning authority or a local authority may at any reasonable time enter upon any land for the purpose of ascertaining whether—
(a) an offence appears to have been committed under section 55 of this Act; or
(b) any of the functions conferred by section 97 or 99 of this Act should or may be exercised in connection with the land,

or for the purpose of exercising any of those functions in connection with the land.

[[F742](4A) Any person duly authorised in writing by the Secretary of State or by a planning authority may at any reasonable time enter any land for the purpose of ascertaining whether an offence appears to have been committed under section 56L of this Act.**]**

(5) Any person, being an officer of the Valuation Office or a person duly authorised in writing by the Secretary of State, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation under [F743] . . . this Act in respect of that land or any other land.

(6) Any person, being an officer of the Valuation Office or a person duly authorised in writing by a. . . [F737] planning authority, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of that land or any other land, being compensation payable by the. . . [F737] planning authority under Part VIII of this Act (other than section 164), under section 201(5) of this Act or under Part XI of this Act (other than section 226(2) or 227(1)(c)).

(7) Any person, being an officer of the Valuation Office or a person duly authorised in writing by a local authority or Minister authorised to acquire land under section 102 or 103 of this Act, and any person duly authorised in writing by a local authority having power to acquire land under Part VI of this Act, may at any reasonable time enter upon any land for the purpose of surveying it, or estimating its value, in connection with any proposal to acquire that land or any other land, or in connection with any claim for compensation in respect of any such acquisition.

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[[F744](7A) Any person duly authorised in writing by the Secretary of State or a planning authority may at any reasonable time enter any land in respect of which a hazardous substances contravention notice has been served for the purpose of ascertaining whether the notice has been complied with.**]**

(8) Subject to the provisions of section 266 of this Act, any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein.

[[F745](9) In subsection (1) (except as regards paragraph (a)) and in subsection (6) of this section "planning authority" includes a regional planning authority.**]**

Textual Amendments

F737 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F738 Words substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 40(a)(i)**

F739 Word substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 40(a)(ii)**

F740 S. 265(1A) inserted (*prosp*) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 37, **Sch. 7 Pt. II para. 5**(*a*)

F741 S. 265(2A) inserted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(3)**

F742 S. 265(4A) inserted (*prosp*) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 37, **Sch. 7 Pt. II para. 5**(*b*)

F743 Words in s. 265(5) repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 61, 84(6), Sch. 13, para. 38(e), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

F744 S. 265(7A) inserted (*prosp*) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 37, **Sch. 7 Pt. II para. 5**(*c*)

F745 S. 265(9) added by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 2 para. 40** (b)

Modifications etc. (not altering text)

C318 S. 265(8), 266(1)–(3)(6) extended with modifications by Telecommunications Act 1984 (c. 12, SIF 96), **s. 38(2)**

266 Supplementary provisions as to rights of entry.

(1) A person authorised under section 265 of this Act to enter upon any land shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a person acting in the exercise of his powers under section 265 of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F746]level 3 on the standard scale**]**.

(3) If any person who, in compliance with the provisions of section 265 of this Act, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on

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conviction on indictment to imprisonment for a term not exceeding two years or a fine, or both.

(4) Where any land is damaged in the exercise of a right of entry conferred under section 265 of this Act, or in the making of any survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered by any person interested in the land from the Secretary of State or authority on whose behalf the entry was effected.

(5) The provisions of section 168 of this Act shall apply in relation to compensation under subsection (4) of this section as they apply in relation to compensation under Part VIII of this Act.

(6) Where under section 265 of this Act a person proposes to carry out any works authorised by virtue of subsection (8) of that section—

(a) he shall not carry out those works unless notice of his intention to do so was included in the notice required by subsection (1) of this section; and

(b) if the land in question is held by statutory undertakers, and those undertakers object to the proposed works on the grounds that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works shall not be carried out except with the authority of the appropriate Minister.

Textual Amendments

F746 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **s. 289G** (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

Modifications etc. (not altering text)

C319 S. 265(8), 266(1)–(3)(6) extended with modifications by Telecommunications Act 1984 (c. 12, SIF 96), **s. 38(2)**

C320 S. 266(1)–(5) amended by Refuse Disposal (Amenity) Act 1978 (c. 3), **s. 8(4)**

C321 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C322 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C323 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)

C324 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C325 S. 266(6)(*b*) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

267 Local inquiries.

(1) Subject to the provisions of this section, the Minister may cause a local inquiry to be held for the purposes of the exercise of any of his functions under any of the provisions of this Act.

(2) The Minister shall appoint a person to hold the inquiry and to report thereon to him.

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(3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has lodged and has not withdrawn objections in relation to any matter in question at the inquiry, and shall be published in such newspaper or newspapers as the Minister may direct.

(4) The person appointed to hold the inquiry may, on the motion of any party thereto or of his own motion, serve a notice in writing on any person requiring him to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry:

Provided that—

(i) no person shall be required in obedience to such a notice to attend at any place which is more than ten miles from the place where he resides unless the necessary expenses are paid or tendered to him; and

(ii) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

(5) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

(6) Any person who refuses or wilfully neglects to attend in obedience to a notice under subsection (4) of this section or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which he may be required to produce by any such notice shall be liable on summary conviction to a fine not exceeding **[**[F747]level 2 on the standard scale**]** or to imprisonment for a period not exceeding three months.

[[F748](7) The Minister may make orders as to the expenses incurred—

(a) by the Minister in relation to—

(i) the inquiry;

(ii) arrangements made for an inquiry which does not take place; and

(b) by the parties to the inquiry,

and as to the parties by whom any of the expenses mentioned in paragraphs (*a*) and (*b*) above shall be paid.

(7A) What may be recovered by the Minister is the entire administrative expense of the inquiry, so that, in particular—

(a) there shall be treated as expenses incurred in relation to the inquiry such reasonable sum as the Minister may determine in respect of the general staff expenses and overheads of his department, and

(b) there shall be treated as expenses incurred by the Minister holding the inquiry any expenses incurred in relation to the inquiry by any other Minister or Government department and, where appropriate, such reasonable sum as that Minister or department may determine in respect of general staff expenses and overheads.

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(7B) The Minister may by regulations prescribe for any description of inquiry a standard daily amount and where an inquiry of that description does take place what may be recovered is—

(a) the prescribed standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which the inquiry sits or the person appointed to hold the inquiry is otherwise engaged on work connected with the inquiry,

(b) expenses actually incurred in connection with the inquiry on travelling or subsistence allowances or the provision of accommodation or other facilities for the inquiry, and

(c) any expenses attributable to the appointment of an assessor to assist the person appointed to hold the inquiry, and

(d) any legal expenses or disbursements incurred or made by or on behalf of the Minister in connection with the inquiry.**]**

(8) Any order of the Minister under subsection (7) of this section requiring any party to pay expenses may be enforced in like manner as **[**[F749]an extract registered decree arbitral bearing a warrant for the execution issued by the sheriff court of any sheriffdom in Scotland**]**.

(9) In this section the expression "Minister" means the Secretary of State, or any other Minister authorised under this Act to hold a local inquiry.

Textual Amendments

F747 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1) ss. 289C(4)(5), 289G

F748 S. 267(7)–(7B) substituted for s. 267(7) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 39(1)**

F749 Words substituted by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1), **Sch. 6 para. 15**

Modifications etc. (not altering text)

C326 S. 267 extended by Scottish Development Agency Act 1975 (c. 69), **s. 7(7)**; amended by Refuse Disposal (Amenity) Act 1978 (c. 3), **s. 8(4)**; excluded by Civil Aviation Act 1982 (c. 16), **s. 103**

[[F750]**267A Orders as to expenses of parties where no local inquiry held.**

(1) The Secretary of State has the same power to make orders under section 267(7) above in relation to proceedings to which this section applies which do not give rise to a local inquiry as he has in relation to a local inquiry.

(2) This section applies to proceedings under this Act where the Secretary of State is required before reaching a decision, to afford any person an opportunity of appearing before and being heard by a person appointed by him.**]**

Textual Amendments

F750 S. 267A inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 40**

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[F751 267B Procedure on certain appeals and applications.

(1) The Secretary of State may by regulations prescribe the procedure to be followed in connection with proceedings under this Act where he is required, before reaching a decision, to afford any person an opportunity of appearing before and being heard by a person appointed by him and which are to be disposed of without an inquiry or hearing to which rules under section 11 of the Tribunals and Inquiries Act [M77] 1971 apply.

(2) The regulations may in particular make provision as to the procedure to be followed—

(a) where steps have been taken with a view to the holding of such an inquiry or hearing which does not take place, or

(b) where steps have been taken with a view to the determination of any matter by a person appointed by the Secretary of State and the proceedings are the subject of a direction that the matter shall instead be determined by the Secretary of State, or

(c) where steps have been taken in pursuance of such a direction and a further direction is made revoking that direction,

and may provide that such steps shall be treated as compliance, in whole or in part, with the requirements of the regulations.

(3) The regulations may also—

(a) provide for a time limit within which any party to the proceedings must lodge written submissions and any supporting documents;

(b) prescribe the time limit (which may be different for different classes of proceedings) or enable the Secretary of State to give directions setting the time limit in a particular case or class of case;

(c) empower the Secretary of State to proceed to a decision taking into account only such written submissions and supporting documents as were lodged within the time limit; and

(d) empower the Secretary of State, after giving the parties written notice of his intention to do so, to proceed to a decision notwithstanding that no written submissions were lodged within the time limit, if it appears to him that he has sufficient material before him to enable him to reach a decision on the merits of the case.]

Textual Amendments

F751 S. 267B inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 41**

Marginal Citations

M77 1971 c.62.

268 Inquiries under Private Legislation Procedure (Scotland) Act 1936.

(1) Where the Ministers concerned so direct—

(a) any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure, and

(b) any hearing in connection with—

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(i) an appeal against the refusal, or the grant, subject to conditions, of an application by statutory undertakers for planning permission to develop operational land, or

(ii) such an application made by statutory undertakers and referred to the Secretary of State, or

(iii) the revocation or modification of planning permission to develop operational land granted to statutory undertakers,

shall be held by Commissioners under the [M78]Private Legislation Procedure (Scotland) Act 1936.

(2) Any such direction shall be deemed to have been given under section 2, as read with section 10, of the [M79]Statutory Orders (Special Procedure) Act 1945.

(3) Subsections (5) and (6) of section 225 of this Act shall not apply to an order such as is mentioned in subsection (1)(a) above.

(4) Nothing in subsections (2) to (9) of section 267 of this Act shall apply to any inquiry to which subsection (1)(a) above applies.

(5) The provisions of the said Act of 1945 in relation to the publication of notices in the Edinburgh Gazette and in a newspaper shall, notwithstanding anything contained in that Act, not apply to any order under this Act which is subject to special parliamentary procedure.

Modifications etc. (not altering text)

C327 S. 268 amended by Refuse Disposal (Amenity) Act 1978 (c. 3), **s. 8(4)**

Marginal Citations

M78 1936 c. 52

M79 1945 (9 and 10 Geo. 6 c. 18.

269 Service of notices.

(1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under this Act may be served or given either—

(a) by delivering it to the person on whom it is to be served or to whom it is to be given; or

(b) by leaving it at the usual or last known place of abode of that person, or, in a case where an address for service has been given by that person, at that address; or

(c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode, or, in a case where an address for service has been given by that person, at that address; or

(d) in the case of a person on whom the notice is required to be served as being a person appearing from the valuation roll to have an interest in land, by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his address as entered in the valuation roll; or

(e) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office,

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or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if—

(a) being addressed to him either by name or by the description of "the owner", "the lessee" or "the occupier", as the case may be, of the premises (describing them) it is delivered or sent in the manner specified in subsection (1)(a), (b) or (c) of this section; or

(b) being so addressed, and marked in such manner as may be prescribed by regulations under this Act for securing that it shall be plainly identifiable as a communication of importance, it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.

(3) Where the notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and it appears to the authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied, the notice or document shall be taken to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed to "the owners and any lessees and occupiers" of that part of the land (describing it) and is affixed conspicuously to some object on the land.

Modifications etc. (not altering text)

C328 S. 269 amended by Refuse Disposal (Amenity) Act 1978 (c. 3), **s. 8(4)**
S. 269 applied (30.10.1994) by S.I. 1994/2716, **reg. 108**

[F752 270 Power to require information as to interests in land.

(1) For the purpose of enabling any order to be made or any notice or other document to be served by them under the provisions of this Act, the Secretary of State or a local authority may in writing require the occupier of any land and any person who, either directly or indirectly, receives rent in respect of any land to supply in writing within a specified period, which shall not be less than twenty-one days from the service of the requirement on him, any of the following information—

(a) the nature of his interest in the land;

(b) the name and address of any other person known to him as having an interest in the land, whether as superior, owner, heritable creditor, lessee or otherwise;

(c) details of the purposes for which the land is currently being used.**]**

[F753(d) the time when that use began;,

(e) the name and address of any person known to the person on whom the notice is served as having used the premises for those purposes;

(f) the time when any activities being carried out on the premises began.**]**

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(2) Any person who, having been required in pursuance of this section to give any information, fails to give that information shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F754]level 3 on the standard scale**]**.

(3) Any person who, having been so required to give any information, knowingly makes any misstatement in respect thereof shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not execeeding two years or to a fine, or both.

[[F755](4) It shall be a defence in any proceedings under subsection (2) of this section that the accused did not know, and had no reasonable cause to know the information required of him.**]**

Textual Amendments

F752 S. 270(1) substituted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(4)(a)**

F753 S. 270(1)(*d*)–(*f*) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 530, **Sch. 11 Pt. II para. 52**

F754 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F755 S. 270(4) added by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(4)(b)**

Modifications etc. (not altering text)

C329 S. 270 amended by Refuse Disposal (Amenity) Act 1978 (c. 3), **s. 8(4)**
S. 270 extended (with modifications) (26.3.1992) by S.I. 1992/478, reg. 2, **Sch.**

271 Offences by corporations.

(1) Where an offence under this Act (other than section 55) which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.

(2) In subsection (1) of this section the expression "director", in relation to any body corporate established by or under an enactment for the purpose of carrying on under national ownership an industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

272 Combined applications.

(1) Regulations made under this Act may provide for the combination in a single document, made in such form and transmitted to such authority as may be prescribed by the regulations, of—

(a) an application for planning permission in respect of any development; and

(b) an application required, under any enactment specified in the regulations, to be made to a local authority in respect of that development.

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(2) Before making any regulations under this section, the Secretary of State shall consult with such local authorities or associations of local authorities as appear to him to be concerned.

(3) Different provision may be made by any such regulations in relation to areas in which different enactments are in force.

(4) An application required to be made to a local authority under an enactment specified in any such regulations shall, if made in accordance with the provisions of the regulations, be valid notwithstanding anything in that enactment prescribing, or enabling any authority to prescribe, the form in which, or the manner in which, such an application is to be made.

(5) Subsection (4) of this section shall have effect without prejudice to—
   (a) the validity of any application made in accordance with the enactment in question; or
   (b) any provision of that enactment enabling a local authority to require further particulars of the matters to which the application relates.

(6) In this section "application" includes a submission.

[[F756](7) The provisions of subsection (1) of this section shall apply in relation to applications for an approval required by a development order as they apply in relation to applications for planning permission.**]**

Textual Amendments

F756 S. 272(7) added by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 42**

273 Regulations and orders.

(1) The Secretary of State may make regulations under this Act—
   (a) for prescribing the form of any notice, order or other document authorised or required by any of the provisions of this Act to be served, made or issued by any local authority;
   (b) for any purpose for which regulations are authorised or required to be made under this Act, not being a purpose for which regulations are authorised or required to be made by another Minister; **[**[F757]and
   (c) for any of the purposes mentioned in section 28 (power to prescribe matters relevant to Part IV) of the [M80]Land Compensation (Scotland) Act 1963;**]**

(2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument; and any statutory instrument containing regulations made under this Act (except regulations which, by virtue of any provision of this Act, are of no effect unless approved by a resolution of each House of Parliament) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power conferred by any of the provisions of this Act to make an order shall include power to vary or revoke any such order by a subsequent order.

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(4) The power to make orders under sections 1(3), 18, 19(2)(f), 21, **[**[F758]21E,**]** 53(3) **[**[F759]56AA**]**,. . . [F760], 181(4)(a), 261 and 279 of this Act shall be exercisable by statutory instrument.

(5) Any statutory instrument which contains a development order or an order under section 1(3), **[**[F761]21E, 56AA**]**. . . [F760] or **[**[F762]181(4)(a)**]** of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Without prejudice to subsection (5) of this section, where a development order makes provision for excluding or modifying any enactment contained in a public general Act (other than any of the enactments specified in Schedule 20 to this Act) the order shall not have effect until that provision is approved by a resolution of each House of Parliament.

(7) . . . . . [F763]

[[F764](9) Any order under section 67, 71(6), 72(4) or 73(8) of this Act may contain such supplementary and incidental provisions as may appear to the Secretary of State to be appropriate.]**]**

(10) Any power (exercisable in accordance with section 280(2) of this Act) to make regulations or orders under this Act before the date of the commencement of this Act shall include power, by any regulations or order so made, to revoke any regulations or order made under any of the enactments which, as from that date, are repealed by this Act or having effect by virtue of any of those enactments as if made thereunder.

Textual Amendments

F757 S. 273(c) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 79, **Sch. 17**, Pt. II para.18 (with s. 84(5)); S.I. 1991/2092, **art.3**

F758 "21E" inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(3), **Sch. 6 Pt. IV para. 6**(*a*)

F759 "56AA" inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 18(2)**(*a*)

F760 Figures repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

F761 Figures inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(3), **Sch. 6 Pt. IV para. 6**(*b*) and s. 50, Sch. 9 Pt. II para. 18(2)(*b*)

F762 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 22**

F763 S. 273(7)(8) repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

F764 S. 273(9) repealed (prosp.) by Housing and Planning Act 1986 (c.63, SIF 123:2), ss. 53(2), 57(2), **Sch. 12 Pt. IV**

Marginal Citations

M80 1963 c. 51.

274 Act not excluded by special enactments.

For the avoidance of doubt it is hereby declared that the provisions of this Act, and any restrictions or powers thereby imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the passing of the Act of 1947, or by any local Act passed at

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any time during the Session of Parliament held during the regnal years 10 & 11 Geo. 6, for authorising or regulating any development of the land.

Modifications etc. (not altering text)

C330 S. 274 applied (with modifications) (18.8.1997) by S.I. 1997/1952, **art. 15(1)**

275 Interpretation.

(1) In this Act, except in so far as the context otherwise requires and subject to the transitional provisions herein after contained, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"acquiring authority", in relation to the acquisition of an interest in land (whether compulsorily or by agreement) or to a proposal so to acquire such an interest, means the government department, local authority or other body by whom the interest is, or is proposed to be, acquired;

"the [M81]Act of 1945" means the Town and Country Planning (Scotland) Act 1945;

"the [M82]Act of 1947" means the Town and Country Planning (Scotland) Act 1947;

"the [M83]Act of 1954" means the Town and Country Planning (Scotland) Act 1954;

"the [M84]Act of 1959" means the Town and Country Planning (Scotland) Act 1959;

"the [M85]Act of 1969" means the Town and Country Planning (Scotland) Act 1969;

"advertisement" means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the foregoing provisions of this definition), includes any hoarding or similar structure used, or adapted for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

[[F765]"aftercare condition" has the meaning assigned to it by section 27A(2) of this Act;**]**

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as graZing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly;

"the appointed day" means 1st July 1948;

"the appropriate Minister" has the meaning assigned to it by section 213 of this Act;

"area of extensive war damage" and "area of bad lay-out or obsolete development" mean respectively an area consisting of land shown to the satisfaction of the Secretary of State to have sustained war damage or, as the case may be, to be badly laid out or of obsolete development or consisting of Such land together with other land contiguous or adjacent thereto, being in

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each case land comprised in an area which is defined by a development plan as an area of comprehensive development;

"authority possessing compulsory purchase powers", in relation to the compulsory acquisition of an interest in land, means the person or body of persons effecting the acquisition, and, in relation to any other transaction relating to an interest in land, means any person or body of persons who could be or have been authorised to acquire that interest compulsorily for the purposes for which the transaction is or was effected:

. . . [F766]

"authority to whom Part II of the Act of 1959 applies" means a body of any of the descriptions specified in Schedule 4 to the Act of 1959;

"bridleway" has the same meaning as in section 47 of the [M86]Countryside (Scotland) Act 1967;

"building". . . [F767] 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;

"building or works" includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly;

"building operations" includes rebuilding operations, structural alterations of or additions to buildings, and other operations normally undertaken by a person carrying on business as a builder;

"caravan site" has the meaning assigned to it by section 1(4) of the [M87]Caravan Sites and Control of Development Act 1960;

"clearing", in relation to land, means the removal of buildings or materials from the land, the levelling of the surface of the land, and the carrying out of such other operations in relation thereto as may be prescribed;

"common" includes any town or village green;

"compulsory acquisition" does not include the vesting in a person by an Act of Parliament of property previously vested in some other person;

"conservation area" means an area designated under section 262 of this Act;

"development" has the meaning assigned to it by section 19 of this Act, and "develop" shall be construed accordingly;

[[F768]"development consisting of the winning and working of minerals" shall be construed in accordance with section 251(1A) of this Act;**]**

"development order" has the meaning assigned to it by section 21 of this Act;

"development plan" (subject to section 18 of, and paragraph 7 of Schedule 4 to, this Act) shall be construed in accordance with section 17 of this Act;

"disposal", except in section 113(7) of this Act, means disposal by way of sale, excambion or lease, or by way of the creation of any servitude, right or privilege, or in any other manner, except by way of appropriation, gift or the creation of a heritable security, and "dispose of" shall be construed accordingly;

[[F769]"district planning functions" has the meaning assigned to it by section 172 of the [M88]Local Government (Scotland) Act 1973;**]**

"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;

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"enforcement notice" means a notice under section 84 of this Act;

"engineering operations" includes the formation or laying out of means of access to **[**[F770]roads**]**;

[[F771]"enterprise zone scheme" means a scheme or modified scheme having effect to grant planning permission by virtue of Schedule 32 to the [M89]Local Government, Planning and Land Act 1980;**]**

"erection", in relation to buildings as defined in this subsection, includes extension, alteration and re-erection;

"established use certificate" has the meaning assigned to it by section 90 of this Act;

"feu charter" includes a feu contract and any other instrument by which land is feued;

"footpath" has the same meaning as in section 47 of the [M90]Countryside (Scotland) Act 1967;

"functions" includes powers and duties;

"government department" includes any Minister of the Crown;

"heritable security" means—

(a) a heritable security within the meaning of the [M91]Conveyancing (Scotland) Act 1924 exclusive of a security by way of ground annual and a real burden*ad factum praestandum*but inclusive of a security constituted by way of*ex facie*absolute disposition; or

(b) an assignation in security of a lease recorded under the [M92]Registration of Leases (Scotland) Act 1857;

and the expression "heritable creditor" shall be construed accordingly;

[[F772]"improvement", in relation to a road, has the same meaning as in the Roads (Scotland) Act 1984;**]**

. . . . . [F773]

. . . [F774]

"land" includes land covered with water and any building as defined by this section, and, in relation to the acquisition of land under Part VI of this Act, includes any interest in land and any servitude or right in or over land;

"Lands Tribunal" means Lands Tribunal for Scotland;

. . . [F774]

"lease" includes a sub-lease, but does not include an option to take a lease;

"listed building" has the meaning assigned to it by section 52(7) of this Act;

"listed building consent" has the meaning assigned to it by section 53(2) of this Act;

"listed building enforcement notice" has the meaning assigned to it by section 92 of this Act;

"listed building purchase notice" has the meaning assigned to it by section 179 of this Act;

[[F775]"local authority" means a regional, islands or district council;**]**

[[F776]"local roads authority" has the same meaning as in Roads (Scotland) Act 1984;**]**

". . . [F777] planning authority" has the meaning assigned to it by **[**[F778]section 172 of the [M93]Local Government (Scotland) Act 1973**]**;

"means of access" includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a **[**[F779]road**]**;

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[[F780]"mineral compensation modifications" has the meaning assigned to it by section 167A(3) of this Act;

"mineral-working deposit" has the meaning assigned to it by section 251(1A) of this Act;**]**

"minerals" includes all minerals or substances in or under land of a kind ordinarily worked for removal by underground or surface working;

"Minister" means any Minister of the Crown or other government department;

[[F781]"National Scenic Area" has the meaning assigned to it by section 262C of this Act.**]**

F782 . . .

"open space" means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground;

"operational land" has the meaning assigned to it by section 211 of this Act;

"owner", in relation to any land, includes (except in sections 24 and 26 of this Act) any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking, and includes also a lessee under a lease of agreement, the unexpired period of which exceeds three years;

"planning decision" means a decision made on an application under Part III of this Act;

"planning permission" means permission under Part III of this Act, and in construing references to planning permission to develop land or to carry out any development of land, or to applications for such permission, regard shall be had to section 29(2) of this Act;

"planning permission granted for a limited period" has the meaning assigned to it by section 27(2) of this Act;

"prescribed" (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act;

F782 . . .

"purchase notice" has the meaning assigned to it by section 169 of this Act;

[[F783]"relevant order" has the meaning assigned to it by section 167C(3) of this Act;**]**

"relocation of population or industry", in relation to any area, means the rendering available elsewhere than in that area (whether in an existing community or a community to be newly established) of accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and other requirements, being accommodation to be rendered available for persons or undertakings who are living or carrying on business or other activities in that area or who were doing so but by reason of war circumstances are no longer for the time being doing so, and whose continued or resumed location in that area would be inconsistent with the proper planning thereof;

"replacement of open space", in relation to any area, means the rendering of land available for use as an open space, or otherwise in an undeveloped state, in substitution for land in that area which is so used;

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[[F784]"restoration condition" has the meaning assigned to it by section 27A(2) of this Act;**]**

[[F785]"restriction on the winning and working of minerals" has the meaning assigned to it by section 167C(1) of this Act;

[[F786]"road" has the same meaning as in the Roads (Scotland) Act 1984;**]**

[[F787]"simplified planning zone" and "simplified planning zone scheme" shall be construed in accordance with section 21A of this Act;**]**

"special consultations" has the meaning assigned to it by section 167B of this Act;

"the statutory maximum" means the prescribed sum within the meaning of section 289B(6) of the [M94]Criminal Procedure (Scotland) Act 1975;**]**

. . . [F788]

"statutory undertakers" means persons authorised by any enactment, to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of. . . [F789],. . . [F790], hydraulic power or water, and "statutory undertaking" shall be construed accordingly;

[[F791]"steps for the protection of the environment" has the meaning assigned to it by section 49B(3) of this Act**]**

"stop notice" has the meaning assigned to it by section 87 of this Act;

[[F792]"suspension order" and "supplementary suspension order" have the meanings assigned to them by section 49B of this Act;**]**

"tree preservation order" has the meaning assigned to it by section 58 of this Act;

"use", in relation to land, does not include the use of land for the carrying out of any building or other operations thereon;

"Valuation Office" means the Valuation Office of the Inland Revenue Department;

"war damage" has the same meaning as in the [M95]War Damage Act 1943.

(2) If, in relation to anything required or authorised to be done under this Act, any question arises as to which Minister is or was the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury; and if any question so arises whether land of statutory undertakers is operational land, that question shall be determined by the Minister who is the appropriate Minister in relation to those undertakers.

(3) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.

(4) With respect to 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 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. . . [F777] 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 in the circumstances mentioned in section 34 of this Act, such references shall be construed as references to the decision so given;

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(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. . . [F777] planning authority (whether or not that decision is or was altered on that appeal) or, in the case of a decision given on an appeal in the circumstances mentioned in section 34 of this Act, the time when in accordance with that section notification of a decision of the. . . [F777] planning authority is deemed to have been received.

(5) Subject to section 40(1) of this Act, 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.

(6) Any reference in this Act to an assignation in security shall be construed as including a reference to an*ex facie* absolute assignation qualified as a security by a collateral agreement.

(7) In this Act any reference to a sale or purchase includes a reference to a sale or purchase by way of feu, and any reference to the price in relation to a sale or purchase includes a reference to grassum, feu-duty and ground annual.

(8) Any reference in this Act to the*dominium utile* in relation to land which is not held on feudal tenure shall be construed as a reference to the interest in the land of the owner thereof.

(9) References in this Act to any of the provisions in Part III or IV of Schedule 19 to this Act include, except where the context otherwise requires, references to those provisions as modified under section 256 or 257 of this Act.

(10) References in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.

Textual Amendments

F765 Definition inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **Sch. 2 para. 11(a)**

F766 Proviso repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. XIII**

F767 Words repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

F768 Definition inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 11(b)**

F769 Definition inserted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 32(c)**

F770 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(21)**(*a*) (with s. 128(1))

F771 Definition inserted by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 32 para. 19(5)**

F772 Definition substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(21)**(*b*) (with s. 128(1))

F773 Definition repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

F774 Definitions repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F775 Definition substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 32(a)**

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F776 Definition substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(21)**(*c*) (with s. 188(1))

F777 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F778 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 32(b)**

F779 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(21)**(*d*) (with s. 128(1))

F780 Definitions inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 11(c)**

F781 Definition inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 59**

F782 Words in s. 275(1) repealed (25.9.1991 subject to the limitations referred to in S.I. 1991/2092, art. 4, **Sch. 2 Pt. II**) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12 para. 31, **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**.

F783 Definition inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 11(d)**

F784 Definition inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), **Sch. 2 para. 11(e)**

F785 Definitions inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 11(e)**

F786 Definition inserted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(21)**(*e*) (with s. 128(1))

F787 Definitions inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(3), **Sch. 6 Pt. IV para. 7**

F788 Definition repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F789 Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(4), **Sch. 18** (with s. 112(3), Sch. 17 para. 35(1))

F790 Word repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**

F791 Definition inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 11(f)**

F792 Definition inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), s. 35, **Sch. 2 para. 11(g)**

Modifications etc. (not altering text)

C331 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)

C332 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C333 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)

C334 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

Marginal Citations

M81 1945 c. 33.

M82 1947 c. 53.

M83 1954 c. 73.

M84 1959 c. 70.

M85 1969 c. 30.

M86 1967 c. 86.

M87 1960 c. 62.

M88 1973 c. 65.

M89 1980 c. 65.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

M90 1967 c. 86.
M91 1924 c. 27.
M92 1857 c. 26.
M93 1973 c. 65.
M94 1975 c. 21.
M95 1943 c. 21.

276 Consequential amendments.

(1) Subject to section 18 of this Act, the enactments specified in Schedule 21 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.

(2) References in any Act to the acquisition of land under Part III of the Act of 1947 or to land acquired thereunder (including references which, by Schedule 12 to that Act, are to be construed as such) shall be respectively construed as, or as including (according as the context requires) references to the acquisition of land under Part VI of this Act and to land acquired thereunder.

277 Transitional provisions, savings and repeals.

(1) The transitional provisions and savings contained in Schedule 22 to this Act shall have effect.

(2) Subject to the provisions of that Schedule, the enactments specified in Schedule 23 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The inclusion in this Act of any express savings, transitional provision or amendment shall not be taken as prejudicing the operation of **[**[F793]sections 16(1) and 17(2)(a) of the [M96]Interpretation Act 1978**]** (which relate to the effect of repeals).

Textual Amendments
F793 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**

Marginal Citations
M96 1978 c. 30.

278 General vesting declarations.

(1) Schedule 24 to this Act shall have effect for the purpose of enabling any authority to whom this section applies to vest in themselves by a declaration land which they are authorised by a compulsory purchase order to acquire and, with respect to the effect of such a declaration, the payment and recovery of sums in respect of compensation for the acquisition of land so vested and other matters connected therewith.

(2) This section applies to any Minister or local or other public authority authorised to acquire land by means of a compulsory purchase order, and any such authority is in the said Schedule 24 referred to as an acquiring authority.

(3) This section shall not apply to the compulsory acquisition of land with respect to which a compulsory purchase order was in force before 8th December 1969.

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Modifications etc. (not altering text)

C335 S. 278 amended by Housing (Scotland) Act 1988 (c. 43, SIF 61), **s. 2(7)**

C336 S. 278 applied (with modifications) by Housing (Scotland) Act 1987 (c. 26, SIF 61), **s. 77(3)**

C337 S. 278 applied by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), **s. 36(3)**

C338 S. 278 extended (1.4.1991) by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), **s. 8(13)**
S. 278 modified (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), **s. 31(7)** (with s. 30(2)); S.I. 1992/817, art. 3(2), **Sch.1**

279 Commencement of certain provisions.

(1) The provisions of this Act referred to in subsection (2) of this section shall come into operation on a day appointed by an order made by the Secretary of State.

(2) The provisions of this Act referred to in this subsection are sections 58(5) and 59(1) to (3) of this Act and Schedule 7 to this Act.

(3) Different days may be appointed under this section for different purposes and, in particular, different days may be so appointed for the coming into operation or repeal of the same provisions in different areas.

(4) No order under this section relating to Schedule 7 to this Act shall be made unless a draft of the order has been approved by both Houses of Parliament.

(5) Any reference in this Act to the commencement of any provision referred to in subsection (2) of this section shall be construed as a reference to the day appointed for the coming into operation of that provision or, in the case of a provision which comes into operation on different days in different areas, shall, in relation to any area be construed as a reference to the day appointed for the coming into operation of that provision in that area.

(6) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation or repealed, including such adaptation of those provisions or of any other provisions of this Act then in force as appears to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).

(7) The Secretary of State shall maintain and keep up to date a register showing the effect of orders made under this section in such a way as enables members of the public to inform themselves—

(a) as to the provisions which have come, or are to be brought into operation or have been, or are to be, repealed, and on which date and in relation to which areas; and

(b) as to whether, in the case of a particular area, any transitional provision has been made by such an order.

(8) The register maintained under this section by the Secretary of State shall be kept at his principal offices in Edinburgh and shall be available for inspection by the public at reasonable hours.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Modifications etc. (not altering text)

C339 Power of appointment conferred by s. 279(1) fully exercised: S.I. 1975/1203, 1976/464

280 Commencement.

(1) Except as provided in sections 18 and 279 of this Act and subject to the following provisions of this section, this Act shall come into operation on the expiry of the period of one month beginning with the date on which it is passed; and the date of coming into operation of this Act as aforesaid is in this section referred to as "the commencement date".

(2) The following provisions of this Act, that is to say—

(a) sections 71 to 83 and 174, this section and paragraphs 24 and 25 of Schedule 22,

(b) sections 253(1)(b), 269, 271, 273 and 275 so far as they relate to any of the provisions of sections 71 to 83 and 174 or anything done or to be done under any such provision,

(c) Schedule 23 so far as it relates to the repeal of Part I of the [M97]Control of Office and Industrial Development Act 1965,

(d) any provisions which confer any power to make regulations or orders, or which (whether expressly or as construed in accordance with **[**[F794]section 14 of the [M98]Interpretation Act 1978**]** confer any power to revoke or vary any regulations or orders, and

(e) any provisions relating to the exercise of any such power,

shall come into operation on the passing of this Act; but no regulations or order shall be made under this Act so as to come into operation before the commencement date other than any regulations or order made under any of the provisions of sections 71 to 83 of this Act.

(3) In subsection (2) of this section the reference to provisions of this Act relating to the exercise of any such power as is therein mentioned includes a reference to any provisions of this Act whereby statutory instruments containing regulations or an order are subject to annulment in pursuance of a resolution of either House of Parliament, or whereby any regulations or order or any provisions thereof require the approval of each of those Houses.

(4) Any reference in this Act to the commencement of this Act is a reference to the coming into operation of so much of this Act as comes into operation on the commencement date, and any reference to the date of the commencement of this Act is a reference to that date; and if any Act passed after the passing of this Act refers to the commencement of this Act, subsections (2) and (3) of this section and section 18 of this Act shall be disregarded for the purpose of construing that reference in accordance with section 36 of the [M99]Interpretation Act 1889 (which relates to the meaning of "commencement" with reference to an Act).

(5) The preceding provisions of this section shall have effect without prejudice to the generality of **[**[F794]section 13 of the [M100]Interpretation Act 1978**]** (which relates to the exercise of statutory powers between the passing and the commencement of an Act).

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Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F794 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**

Modifications etc. (not altering text)

C340 Reference in s. 280(4) to "section 36 of the Interpretation Act 1889" to be construed as reference to Interpretation Act 1978 (c. 30), ss. 4(a), 23(1), **Sch. 1** (entry relating to Commencement): Interpretation Act 1978 (c. 30), **s. 25(2)**

Marginal Citations

M97 1965 c. 33.
M98 1978 c. 30.
M99 1889 c. 63.
M100 1978 c. 30.

281 Citations and extent.

(1) This Act may be cited as the Town and Country Planning (Scotland) Act 1972.

(2) The [M101]Town and Country Planning (Amendment) Act 1972 and this Act may be cited together as the Town and Country Planning (Scotland) Acts 1972.

(3) This Act, except so far as it provides for Joint Planning Inquiry Commissions. . . [F795], extends to Scotland only.

Textual Amendments

F795 Words repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3**

Marginal Citations

M101 1972 c. 42.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

[F796]SCHEDULES 1 AND 2[F796]

Textual Amendments

F796 Schs. 1, 2 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

[F797]SCHEDULES 3 AND 4[F797]

Textual Amendments

F797 Schs. 3, 4 repealed by S.I. 1977/794, **art. 2** (subject to savings in art. 3 as respects certain areas in relation to which proposals had been submitted prior to 16.5.1977)

SCHEDULE 5

Section 18.

DEVELOPMENT PLANS: TRANSITION FROM SCHEDULE 3 TO PART II OF THIS ACT

1 Until the repeal of Schedule 3 to this Act as respects any area (whether the whole or part of the district of a. . . [F798] planning authority), proposals for any alterations or additions to a development plan in force in the area shall not without the approval of the Secretary of State be submitted to him under paragraph 3 of that Schedule.

Textual Amendments

F798 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

2 On the repeal of the said Schedule as respects any area, the development plan which was in force in the area immediately before the repeal takes effect (hereafter in this Schedule referred to as "the old development plan") shall, subject to the following provisions of this Schedule, continue in force as respects that area and be treated for the purposes of this Act, any other enactment relating to town and country planning and the [M102]Land Compensation (Scotland) Act 1963 as being comprised in, or as being, the development plan therefor.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M102 1963 c. 51.

3 Subject to the following provisions of this Schedule, where by virtue of paragraph 2 of this Schedule the old development plan for any area is treated as being comprised in a development plan for that area and there is a conflict between any of its provisions and those of the structure plan for that area, the provisions of the structure plan shall be taken to prevail for the purposes of Parts III, IV, V, VI, VII and IX of this Act and Schedule 10 to this Act.

4 Where a structure plan is in force in any area, but no local plan is in force in that area, a street authorisation map prepared in pursuance of the [M103]Town and Country Planning (Development Plans) (Scotland) Regulations 1966 for that area shall—

(a) if in force immediately before the structure plan comes into force be treated for the purposes of this Act as having been adopted as a local plan by the. . . [F799] planning authority;

(b) if immediately before the structure plan comes into force it was under consideration by the Secretary of State be treated for those purposes as having been so adopted on being approved by the Secretary of State.

Textual Amendments
F799 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Marginal Citations
M103 S.I. 1966/1385.

5 Where a structure plan is in force in any area, but no local plan is in force in that area, then, for any of the purposes of the [M104]Land Compensation (Scotland) Act 1963—

(a) the development plan or current development plan shall as respects that area be taken as being whichever of the following plans gives rise to those assumptions as to the grant of planning permission which are more favourable to the owner of the land acquired, for that purpose, that is to say, the structure plan, so far as applicable to the area, and any alterations thereto, together with the Secretary of State's notice of approval of the plan and alterations, or the old development plan;

(b) land situated in an area defined in the current development plan as an area of comprehensive development shall be taken to be situated in whichever of the following areas leads to such assumptions as aforesaid, that is to say, any area wholly or partly within the area first-mentioned in this paragraph selected by the structure plan as an action area or the area so defined in the old development plan.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M104 1963 c. 51.

[[F800]5A On the adoption or approval of a local plan under section 12 of this Act, so much of any old development plan as relates to the same area shall cease to have effect, unless the Secretary of State by order directs subject to paragraph 7 of this Schedule, that the provisions of that old development plan shall continue in force to the extent specified in the order.**]**

Textual Amendments
F800 Para 5A inserted by Town and Country Plannng (Scotland) Act 1977 (c. 10), **s. 5(5)**

6 Subject to paragraph 7 of this Schedule, the Secretary of State may by order wholly or partly revoke a development plan continued in force under this Schedule whether in its application to the whole of the district of a. . . [F801] planning authority or in its application to part of that district and make such consequential amendments to the plan as appear to him to be necessary or expedient.

Textual Amendments
F801 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

7 Before making an order with respect to a development plan under **[**[F802]paragraph 5A or**]** paragraph 6 of this Schedule, the Secretary of State shall consult with the. . . [F803] planning authority for the district to which the plan relates.

Textual Amendments
F802 Words inserted by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(6)**
F803 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

8 Any reference in paragraphs 1 and 2 of this Schedule to the repeal of Schedule 3 to this Act shall, in a case where that repeal is brought into force by an order under section 18 of this Act on different days, be construed as a reference to a repeal of such of the provisions of the said Schedule as may be specified in the order.

9 In relation to any development plan continued in force by virtue of this Schedule, sections 231 and 232 of this Act shall have effect with the same substitutions as are specified in paragraphs 1 to 3 of Schedule 4 to this Act.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 6

Sections 19, 153, 158, 169 and 263.

DEVELOPMENT NOT CONSTITUTING NEW DEVELOPMENT

PART I

DEVELOPMENT NOT RANKING FOR COMPENSATION UNDER S. 158

1 The carrying out of any of the following works, that is to say—

(a) the rebuilding, as often as the person having the right to rebuild may desire, of any building which was in existence on the appointed day, or of any building which was in existence before that day but was destroyed or demolished after 7th January 1937, including the making good of war damage sustained by any such building;

(b) the rebuilding, as often as the person having the right to rebuild may desire, of any building erected after the appointed day which was in existence at a material date;

(c) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building, or which do not materially affect the external appearance of the building and (in either case) are works for making good war damage,

so long as (in the case of works falling within any of the preceding sub-paragraphs) the cubic content of the original building is not exceeded—

(i) in the case of a dwellinghouse, by more than one-tenth or 1,750 cubic feet, whichever is the greater; and

(ii) in any other case, by more than one-tenth.

2 The use as two or more separate dwellinghouses of any building which at a material date was used as a single dwellinghouse.

PART II

DEVELOPMENT RANKING FOR COMPENSATION UNDER S. 158

. . . . . .

F804 3

Textual Amendments

F804 Sch. 6 para. 3 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

. . . . . .

F805 4

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F805 Sch. 6, para. 4, repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

. . . . . .

F806 5

Textual Amendments

F806 Sch. 6, para. 5, repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

. . . . . .

F807 6

Textual Amendments

F807 Sch. 6, para. 6, repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

. . . . . .

F808 7

Textual Amendments

F808 Sch. 6 para. 7 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

. . . . . .

F809 8

Textual Amendments

F809 Sch. 6 para. 8 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12 para. 32(a), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

. . . . . .

F810 9

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F810 Sch. 6 para. 9 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12, para. 32(a), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

PART III

SUPPLEMENTARY PROVISIONS

10 Any reference in this Schedule to the cubic content of a building shall be construed as a reference to that content as ascertained by external measurement.

11 Where, after the appointed day, any buildings or works have been erected or constructed, or any use of land has been instituted, and any condition imposed under Part III of this Act, limiting the period for which those buildings or works may be retained, or that use may be continued, has effect in relation thereto, this Schedule shall not operate except as respects the period specified in that condition.

. . . . . .

[F811]12

Textual Amendments

F811 Sch. 6 para. 12 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12 para. 32(a), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

13 In this Schedule "at a material date" means at either of the following dates, that is to say—

(a) the appointed day; and

(b) the date by reference to which this Schedule falls to be applied in the particular case in question;

Provided that sub-paragraph (b) of this paragraph shall not apply in relation to any buildings, works or use of land in respect of which, whether before or after the date mentioned in that sub-paragraph, an enforcement notice served before that date has become or becomes effective.

14 (1) In relation to a building erected after the appointed day, being a building resulting from the carrying out of any such works as are described in paragraph 1 of this Schedule, any reference in this Schedule to the original building is a reference to the building in relation to which those works were carried out and not to the building resulting from the carrying out of those works.

[[F812](2) This paragraph does not apply for the purposes of sections 157 and 169 of this Act.**]**

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Textual Amendments

F812 Sch. 6, para. 14(2) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12**, para. 32(b) (with s. 84(5)); S.I. 1991/2092, **art.3**

[F813SCHEDULE 6A

SIMPLIFIED PLANNING ZONE SCHEMES]

Textual Amendments

F813 Sch. 6A inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(2)(3), **Sch. 6 Pt. III**

General

1 A simplified planning zone scheme shall consist of a map and a written statement, and such diagrams, illustrations and descriptive matter as the planning authority think appropriate for explaining or illustrating the provisions of the scheme, and shall specify—

(a) the development or classes of development permitted by the scheme,

(b) the land in relation to which permission is granted; and

(c) any conditions, limitations or exceptions subject to which it is granted;

and shall contain such other matters as may be prescribed.

Proposals to make or alter scheme

2 (1) A planning authority may at any time decide to make a simplified planning zone scheme or to alter a scheme adopted by them or, with the consent of the Secretary of State, to alter a scheme approved by him.

(2) An authority who decide to make or alter a simplified planning zone scheme shall—

(a) notify the Secretary of State of their decision as soon as practicable, and

(b) determine the date on which they will begin to prepare the scheme or the alterations.

Power of Secretary of State to direct making or alteration of scheme

3 (1) If a person requests a planning authority to make or alter a simplified planning zone scheme but the authority—

(a) refuse to do so, or

(b) do not within the period of three months from the date of the request decide to do so,

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he may, subject to sub-paragraph (2), require them to refer the matter to the Secretary of State.

(2) A person may not require the reference of the matter to the Secretary of State if—

(a) in the case of a request to make a scheme, a simplified planning zone scheme relating to the whole or part of the land specified in the request has been adopted or approved within the twelve months preceding his request;

(b) in the case of a request to alter a scheme, the scheme to which the request relates was adopted or approved, or any alteration to it has been adopted or approved, within that period.

(3) The Secretary of State shall, as soon as practicable after a matter is referred to him—

(a) send the authority a copy of any representations made to him by the applicant which have not been made to the authority, and

(b) notify the authority that if they wish to make any representations in the matter they should do so, in writing, within 28 days.

(4) The Secretary of State may, after—

(a) considering the matter and any written representations made by the applicant or the authority, and

(b) carrying out such consultations with such persons as he thinks fit,

give the authority a simplified planning zone direction.

(5) The Secretary of State shall notify the applicant and the authority of his decision and of his reasons for it.

4 (1) A simplified planning zone direction is—

(a) if the request was for the making of a scheme, a direction to make a scheme which the Secretary of State considers appropriate; and

(b) if the request was for the alteration of a scheme, a direction to alter it in such manner as he considers appropriate.

(2) In either case the direction may extend to—

(a) the land specified in the request to the authority,

(b) any part of the land so specified, or

(c) land which includes the whole or part of the land so specified;

and, accordingly, may direct that land shall be added to or excluded from an existing simplified planning zone.

Publicity and consultation: general

5 (1) A planning authority who propose to make or alter a simplified planning zone scheme shall proceed in accordance with this paragraph.

(2) Subject to paragraph 6(2) below, they shall take such steps as will in their opinion secure—

(a) that adequate publicity for their proposals is given in the area to which the scheme relates,

(b) that persons who may be expected to wish to make representations about the proposals are made aware that they are entitled to do so, and

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(c) that such persons are given an adequate opportunity of making such representations;

and they shall consider any representations made to them within the prescribed period.

(3) They shall then, having prepared the relevant documents, that is, the proposed scheme or alterations—

(a) make copies of the documents available for inspection at their office, and

(b) send a copy of them to the Secretary of State.

(4) Each copy of the documents made available for inspection shall be accompanied by a statement of the time within which objections may be made.

(5) The planning authority shall before preparing the proposed scheme or alterations consult the Secretary of State and any local roads authority in whose district the proposed zone or any part of it lies as to the effect of their proposals on existing or future roads; and when they have prepared the proposed scheme or alterations they shall send a copy to the Secretary of State and any such local roads authority.

Publicity and consultation: expedited procedure

6 (1) The documents sent by the planning authority to theSecretary of State under paragraph 5(3) shall be accompanied by a statement—

(a) of the steps which the authority have taken to comply with paragraph 5(2), and

(b) of the authority's consultations with other persons and their consideration of the views of those persons.

(2) Where a planning authority do not consider it appropriate to take the steps required by paragraph 5(2) of this Schedule in relation to proposals made by them under sub-paragraph (1) of that paragraph for the alteration of a simplified planning zone scheme, they may instead include, with the copies of those proposals made available for inspection and with the copy sent to the Secretary of State under paragraph (3) of that paragraph, a statement of their reasons for not taking such steps.

Objections: local inquiry or other hearing

7 (1) The planning authority may cause a local inquiry or other hearing to be held for the purpose of considering objections to their proposals for the making or alteration of a simplified planning zone scheme.

(2) They shall hold such a local inquiry or other hearing in the case of objections made in accordance with regulations unless all the persons who have made such objections have indicated in writing that they do not wish to appear.

(3) A local inquiry or other hearing shall be held by a person appointed by the Secretary of State or, in such cases as may be prescribed, by the authority themselves.

(4) Regulations may—

(a) make provision with respect to the appointment, and qualifications for appointment, of persons to hold a local inquiry or other hearing;

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(b) include provision enabling the Secretary of State to direct a planning authority to appoint a particular person, or one of a specified list or class of persons;

(c) make provision with respect to the remuneration and allowances of the person appointed.

(5) The Tribunals and Inquiries Act 1971 applies to a local inquiry or other hearing held under this paragraph as it applies to a statutory inquiry held by the Secretary of State, with the substitution in section 12(1) (statement of reasons for decision) for the references to a decision taken by the Secretary of State of references to a decision taken by a planning authority.

Adoption of proposals by planning authority

8 (1) After the expiry of the period afforded for making objections to proposals for the making or alteration of a simplified planning zone scheme or, if such objections were duly made within that period, after considering the objections so made, the planning authority may, subject to the following provisions of this paragraph and to paragraph 9 (calling in of proposals by Secretary of State), by resolution adopt the proposals.

(2) They may adopt the proposals as originally prepared or as modified so as to take account of—

(a) any such objections as are mentioned in sub-paragraph (1) any other objections to the proposals, or

(b) any other considerations which appear to the authority to be material.

(3) After copies of the proposals have been sent to the Secretary of State and before they have been adopted by the planning authority, the Secretary of State may, if it appears to him that the proposals are unsatisfactory, direct the authority to consider modifying the proposals in such respects as are indicated in the direction.

(4) An authority to whom a direction is given shall not adopt the proposals unless they satisfy the Secretary of State that they have made the modification necessary to conform with the direction or the direction is withdrawn.

Calling in of proposals for approval by Secretary of State

9 (1) After copies of proposals have been sent to the Secretary of State and before they have been adopted by the planning authority, the Secretary of State may direct that the proposals shall be submitted to him for his approval.

(2) In that event—

(a) the authority shall not take any further steps for the adoption of the proposals, and in particular shall not hold or proceed with a local inquiry or other hearing in respect of the proposals under paragraph 7; and

(b) the proposals shall not have effect unless approved by the Secretary of State and shall not require adoption by the authority.

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Approval of the proposals by Secretary of State

10 (1) The Secretary of State may after considering proposals submitted to him under paragraph 9 either approve them, in whole or in part and with or without modifications, or reject them.

(2) In considering the proposals he may take into account any matters he thinks are relevant, whether or not they were taken into account in the proposals as submitted to him.

(3) Where on taking the proposals into consideration the Secretary of State does not determine then to reject them, he shall, before determining whether or not to approve them—

(a) consider any objections to them in accordance with regulations,

(b) afford to any person who made such an objection which has not been withdrawn an opportunity of appearing before and being heard by a person appointed by him for the purpose, and

(c) if a local inquiry or other hearing is held, also afford such an opportunity to the authority and such other persons as he thinks fit,

except so far as objections have already been considered, or a local inquiry or other hearing into the objections has already been held, by the authority.

(4) In considering the proposals the Secretary of State may consult with, or consider the views of, any planning authority or any other person; but he is under no obligation to do so, or to afford an opportunity for the making of representations or objections, or to cause a local inquiry or other hearing to be held, except as provided by sub-paragraph (3).

Default powers

11 (1) Where by virtue of any of the preceding provisions of this Schedule—

(a) a simplified planning zone scheme or proposals for the alteration of such a scheme are required to be prepared, or

(b) steps are required to be taken for the adoption of any such scheme or proposals,

then, if the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the planning authority are not taking the steps necessary to enable them to prepare or adopt such a scheme or proposals within a reasonable period, he may make the scheme, or the alterations, as he thinks fit.

(2) Where under this paragraph anything which ought to have been done by a planning authority is done by the Secretary of State, the preceding provisions of this Schedule apply, so far as practicable, with any necessary modifications in relation to the doing of that thing by the Secretary of State and the thing so done.

(3) Where the Secretary of State incurs expenses under this paragraph in connection with the doing of anything which should have been done by a planning authority, so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by the authority to the Secretary of State.

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Regulations and directions

12 (1) Without prejudice to the preceding provisions of this Schedule, the Secretary of State may make regulations with respect to the form and content of simplified planning zone schemes and with respect to the procedure to be followed in connection with their preparation, withdrawal, adoption, submission, approval, making or alteration.

(2) Any such regulations may in particular—

(a) provide for the notice to be given of, or the publicity to be given to, matters included or proposed to be included in a simplified planning zone scheme and the adoption or approval of such a scheme, or of any alteration of it, or any other prescribed procedural step, and for publicity to be given to the procedure to be followed in these respects;

(b) make provision with respect to the making and consideration of representations as to matters to be included in, or objections to, any such scheme or proposals for its alteration;

(c) without prejudice to paragraph (*b*), provide for notice to be given to particular persons of the adoption or approval of a simplified planning zone scheme, or an alteration to such a scheme, if they have objected to the proposals and havenotified the planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge;

(d) require or authorise a planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;

(e) require a planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request in that behalf with copies of any document which has been made public for the purpose mentioned in paragraph 5(2) or has been made available for inspection under paragraph 5(3), subject (if the regulations so provide) to the payment of a reasonable charge;

(f) provide for the publication and inspection of a simplified planning zone scheme which has been adopted or approved, or any document adopted or approved altering such a scheme, and for copies of any such scheme or document to be made available on sale.

(3) Regulations under this paragraph may extend throughoutScotland or to specified areas only and may make different provision for different cases.

(4) Subject to the preceding provisions of this Schedule and to any regulations under this paragraph, the Secretary of State may givedirections to any planning authority or to planning authorities generally—

(a) for formulating the procedure for the carrying out of their functions under this Schedule;

(b) for requiring them to give him such information as he may require for carrying out any of his functions under this Schedule.

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SCHEDULE 7

Sections 33, 85, 91, 93, 99 and 279 and paragraph 7 of Schedule 10.

DETERMINATION OF CERTAIN APPEALS BY PERSON APPOINTED BY SECRETARY OF STATE

Modifications etc. (not altering text)

C341 Sch. 7 extended (1.1.1997) by 1995 c. 25, s. 96, **Sch. 13 para. 16(7)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
Sch. 7 extended (1.1.1997) by 1995 c. 25, s. 96, **Sch. 14 para. 9(7)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

Determination of appeals by appointed person

1 (1) An appeal to which this Schedule applies, being an appeal of a prescribed class, shall, except in such classes of case as may for the time being be prescribed or as may be specified in directions given by the Secretary of State, be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.

(2) Regulations made for the purpose of this paragraph may provide for the giving of publicity to any directions given by the Secretary of State under this paragraph.

(3) This paragraph shall not affect any provision contained in this Act or any instrument thereunder that an appeal shall lie to, or a notice of appeal shall be served on, the Secretary of State.

Powers and duties of person determining appeal

2 (1) A person appointed under this Schedule to determine an appeal shall have the like powers and duties in relation to the appeal as the Secretary of State under whichever are relevant of the following provisions, that is to say—

(a) in relation to appeals under section 33, **[**[F814]subsections (3), (5) and (7A)**]** of that section;

[[F815](aa) in relation to appeals under section 63A, subsections (4) and (6);**]**

(b) in relation to appeals under section 85, subsections (4) to (6) of that section;

(c) in relation to appeals under section 91, subsection (2) and (3) of that section;

(d) in relation to appeals under section 93, subsections (4) and (5) of that section;

(e) in relation to appeals under section 99, section 85(4) and (5) of this Act;

(f) in relation to appeals under paragraph 7 of Schedule 10 to this Act, sub-paragraph (3) of that paragraph.

(2) The provisions of section 33(4), [[F816]85(2D)] , 91(4), 93(2) and paragraph 7(4) of Schedule 10 to this Act relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an appeal which falls to be determined by a person appointed under this Schedule but before the determination of any such appeal the Secretary of State shall, unless (in the case of an appeal under section 36) the appeal is referred to a Planning

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Inquiry Commission under section 45 of this Act, ask the applicant or appellant, as the case may require, and the. . . [F817] planning authority whether they wish to appear before and be heard by the person so appointed, and—

(a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard as aforesaid; and

(b) the person so appointed shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.

(3) Subject to sub-paragraph (4) of this paragraph, the decision of a person appointed under this Schedule on any appeal to which this Schedule applies shall be final.

Textual Amendments

F814 Words in Sch. 7 para. 2(1)(a) substituted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 50(2), 61, **Sch. 13**, para. 41(1) (with s. 84(5)); S.I. 1991/2092, **art.3**.

F815 Sch. 7 para. 2(1)(*aa*) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 34(2)**

F816 S. 85(2D) substituted for 85(2) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11**, Pt.II para. 53

F817 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

[[F818]3A(1) The Secretary of State may by a further direction revoke a direction under paragraph 3 of this Schedule at any time before the determination of the appeal.

(2) A direction under this paragraph shall state the reasons for which it is given and shall be served on the person, if any, previously appointed to determine the appeal, the applicant or appellant, the planningauthority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section 26(3)(*a*) of this Act.

(3) Where a direction under this paragraph has been given, the provisions of this Schedule relevant to the appeal shall apply, subject to sub-paragraph (4), as if no direction under paragraph 3 had been given.

(4) Anything done by or on behalf of the Secretary of State in connection with the appeal which might have been done by the person appointed to determine the appeal (including any arrangements made for the holding of a hearing or local inquiry) shall, unless that person directs otherwise, be treated as having been done by him.**]**

(4) An appeal determined by any such person by virtue of this Schedule shall be treated for the purposes of this Act as having been determined by the Secretary of State.

Textual Amendments

F818 Sch. 7 para. 3A inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 42**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Determination of appeals by Secretary of State

3 (1) The Secretary of State may, if he thinks fit, direct that an appeal, which by virtue of paragraph 1 of this Schedule and apart from this sub-paragraph, falls to be determined by a person appointed by the Secretary of State shall instead be determined by the Secretary of State.

(2) A direction under this paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the applicant or appellant, the. . . [F819] planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section 26(3)(a) of this Act.

(3) Where in consequence of a direction under this paragraph an appeal to which this Schedule applies falls to be determined by the Secretary of State, the provisions of this Act which are relevant to the appeal shall, subject to the following provisions of this paragraph, apply to the appeal as if this Schedule had never applied to it.

(4) Where in consequence of a direction under this paragraph the Secretary of State determines an appeal himself, he shall, unless (in the case of an appeal under section 33) the appeal is referred to a Planning Inquiry Commission under section 45 of this Act, afford to the applicant or appellant, the. . . [F819] planning authority and any person who has made any such representations as aforesaid an opportunity of appearing before and being heard by a person appointed by the Secretary of State for that purpose either—

(a) if the reasons for the direction raise matters with respect to which either the applicant or appellant, or the. . . [F819] planning authority or any such person, have not made representations; or

(b) if the applicant or appellant or the. . . [F819] planning authority had not been asked in pursuance of paragraph 2(2) of this Schedule whether they wished to appear before and be heard by a person appointed to hear the appeal, or had been asked that question and had expressed no wish in answer thereto, or had expressed a wish to appear and be heard as aforesaid, but had not been afforded an opportunity of doing so.

(5) Except as provided by sub-paragraph (4) of this paragraph, where the Secretary of State determines an appeal in consequence of a direction under this paragraph he shall not be obliged to afford any person an opportunity of appearing before and being heard by a person appointed for the purpose, or of making fresh representations or making or withdrawing any representations already made; and in determining the appeal the Secretary of State may take into account any report made to him by any person previously appointed to determine it.

Textual Amendments

F819 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

[[F820]3A(1) The Secretary of State may by a further direction revoke a direction under paragraph 3 of this Schedule at any time before the deter*mination of the appeal.

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(2) A direction under this paragraph shall state the reasons for which it is given and shall be served on the person, if any, previously appointed to determine the appeal, the applicant or appellant, the planning authority and any person who has made representations relating to the subject matter of the appeal which the authority are required to take into account under section 26(3)(a) of this Act.

(3) Where a direction under this paragraph has been given, the provisions of this Schedule relevant to the appeal shall apply, subject to sub-paragraph (4), as if no direction under paragraph 3 had been given.

(4) Anything done by or on behalf of the Secretary of State in connection with the appeal which might have been done by the person appointed to determine the appeal (including any arrangements made for the holding of a hearing or local inquiry) shall, unless that person directs otherwise, be treated as having been done by him.**]**

Textual Amendments

F820 Sch. 7 para. 3A inserted by Housing and Planning Act 1986 (c. 63. SIF 123:2), s. 53(1), Sch.11 Pt. II para. 42

Appointment of another person to determine appeal

4 (1) Where the Secretary of State has appointed a person to determine an appeal under this Schedule the Secretary of State may, at any time before the determination of the appeal, appoint another person to determine it instead of the first-mentioned person.

(2) Paragraph 2 of this Schedule shall, subject to sub-paragraph (3) of this paragraph, apply in relation to an appeal which falls to be determined by a person appointed under this paragraph as they apply in relation to an appeal which falls to be determined by a person appointed under that paragraph.

(3) If before the appointment of a person under this paragraph to determine an appeal, the Secretary of State had with reference to the person previously appointed, asked the question referred to in paragraph 2(2) of this Schedule, the question need not be asked again with reference to the person appointed under this paragraph and any answers to the question shall be treated as given with reference to him, but—

(a) the consideration of the appeal or any inquiry or other hearing in connection therewith, if already begun, shall be begun afresh; and

(b) it shall not be necessary to afford any person an opportunity of making fresh representations or modifying or withdrawing any representations already made.

Local inquiries and hearings

5 (1) A person appointed under this Schedule to determine an appeal may (whether or not the parties have asked for an opportunity to appear and be heard) hold a local inquiry in connection with the appeal and shall hold such an inquiry if the Secretary of State directs him to do so.

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[[F821](1A) Where a person appointed under this Schedule to determine an appeal—

(a) holds a hearing by virtue of paragraph 2(2)(*b*) of this Schedule, or

(b) holds an inquiry by virtue of this paragraph,

an assessor may be appointed by the Secretary of State to sit with the appointed person at the hearing or inquiry to advise him on any matters arising notwithstanding that the appointed person is to determine the appeal.**]**

(2) Subject to sub-paragraph (3) of this paragraph, the expenses—

(a) of any hearing held by virtue of paragraph 2(2)(b) of this Schedule; and

(b) of any inquiry held by virtue of this paragraph,

shall be defrayed by the Secretary of State.

(3) Subsections (4) to (9) of section 267 of this Act shall **[**[F822]subject to sub-paragraph (4) below**]** apply to an inquiry held under this paragraph as they apply to an inquiry held under that section.

[[F823](4) The person appointed to determine the appeal has the same power to make orders under section 267(7) of this Act in relation to proceedings under this Schedule which do not give rise to an inquiry as he has in relation to such an inquiry.

(5) For the purposes of this paragraph, references to the Minister in subsections (7) and (8) of section 267 shall be read as references to the person appointed by the Secretary of State to determine the appeal.**]**

Textual Amendments

F821 Sch. 7 para. 5(1A) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 43**

F822 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 40(2)**(*a*)

F823 Sch. 7 para. 5(4)(5) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 40(2)**(*b*)

Stopping of appeals

6 If before or during the determination of an appeal under section 33 of this Act which is to be or is being determined in accordance with paragraph 1 of this Schedule, the Secretary of State forms the opinion mentioned in subsection (7) of that section, he may direct that the determination shall not be begun or proceeded with.

Supplementary provisions

7 (1) The [M105]Tribunals and Inquiries Act 1971 shall apply to a local inquiry or other hearing held in pursuance of this Schedule as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a person appointed to determine the relevant appeal under this Schedule.

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(2) The functions of determining an appeal and doing anything in connection therewith conferred by this Schedule on a person appointed to determine an appeal thereunder who is an officer of the Scottish Office shall be treated for the purposes of the [M106]Parliamentary Commissioner Act 1967 as functions of that office.

(3) In section 33(7) of this Act, for the words "and 65" there shall be substituted the words "65 and 72"; but the provisions of this sub-paragraph shall cease to have effect at the same time as the provisions referred to in section 83(1) of this Act whether or not the provisions of this sub-paragraph have by that time been brought into operation.

Marginal Citations

M105 1971 c. 62.

M106 1967 c. 13.

SCHEDULE 8

Section 45.

Construction of References in Sections 45 and 46 to "The Responsible Minister or Ministers"

Modifications etc. (not altering text)

C342 Sch. 8 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 5**

C343 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Sch. 8 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C344 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C345 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(9)**(*f*) (with Sch. 8 para. 33)
Sch. 8 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(10)(d)**; S.I. 1996/218, **art. 2**

C346 Ss. 214–227, 266(6)(*b*), 275(2), Sch. 8 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 3(2)(e) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

1 In relation to matters specified in the first column of the Table below (being matters mentioned in section 45(1) of this Act which may be referred to a Planning Inquiry Commission under that section) "the responsible Minister or Ministers" for the purposes of sections 45 and 46 of this Act are those specified opposite in the second column of the Table.

2 Where an entry in the second column of the Table specifies two or more Ministers, that entry shall be construed as referring to those Ministers acting jointly.

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TABLE

Referred Matter	Responsible Minister or Ministers
1. Application for planning permission or appeal under section 33 of this Act—	
(a) relating to land to which section 214(1) of this Act applies;	The Secretary of State and the appropriate Minister (if different).
(b) relating to other land.	The Secretary of State.
2. Proposal that a government department should give a direction under section 37 of this Act or that development should be carried out by or on behalf of a government department.	The Secretary of State and the Minister (if different) in charge of the government department concerned.

SCHEDULE 9

Section 47.

JOINT PLANNING INQUIRY COMMISSIONS

Modifications etc. (not altering text)

C347 Sch. 9 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

C348 References to subsections (2) to (5) and subsections (1) and (4) of section 290 of the Local Government Act 1933 to be construed as references to subsections (2) to (5) and subsections (1) and (4) of section 250 of the Local Government Act 1972: Local Government Act 1972 (c. 70), **s. 272(2)**

Interpretation

1 In relation to matters specified in the first column of the Table below (being matters which under section 47 of this Act may be referred to a Joint Planning Inquiry Commission), "the responsible Ministers" for the purposes of this Schedule are those specified opposite in the second column of the Table, acting jointly.

TABLE

Referred Matter	Responsible Ministers
1. Application for planning permission or appeal under section 33 of this Act—	
(a) relating to land to which section 214(1) of this Act or **[**[F824]section 266(1) of the Act of 1990**]** applies;	The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England and the appropriate Minister (if different).
(b) relating to other land.	The Secretaries of State for the time being having general responsibility in

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	planning matters in relation to Scotland and in relation to England.
2. Proposal that a government department should give a direction under section 37 of this Act or **[**[F824]section 90(1) of the Act of 1990**]**, or that development should be carried out by or on behalf of a government department.	The Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England and the Minister (if different) in charge of the government department concerned.

Textual Amendments

F824 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(2)(a)**

2 In this Schedule—

(a) **[**[F825] "Act of 1990" means the Town and Country Planning Act 1990**]**

(b) "commission" means a Joint Planning Inquiry Commission constituted under section 47 of this Act; and

(c) "referred matter" means a matter referred to a commission under that section.

Textual Amendments

F825 Words substituted by the Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123: 1, 2), s. 4, **Sch. 2 para. 27(2)(b)**

The reference

3 Two or more of the matters mentioned in subsection (1) of section 47 of this Act may be referred to the same commission if it appears to the responsible Ministers that they relate to proposals to carry out development for similar purposes on different sites.

4 Where a referred matter relates to a proposal to carry out development for any purpose at a particular site, the responsible Ministers may also refer to the commission the question whether development for that purpose should be instead carried out at an alternative site, whether in Scotland or in England, or partly in one and partly in the other.

5 The responsible Ministers shall, on referring a matter to a commission, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to them to be relevant to their inquiry.

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6 (1) A reference to a commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time.

(2) A reference of any other matter mentioned in subsection (1) of section 47 of this Act may be made at any time before, but not after, the determination of the relevant referred application or the relevant appeal or, as the case may be, the giving of the relevant direction, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.

Notice of reference to persons and authorities concerned

7 (1) Notice of the making of a reference to a commission shall be published in the prescribed manner, and a copy of the notice shall be served on the. . . [F826] planning authority for the area in which it is proposed that the relevant development shall be carried out.

(2) In the case of an application for planning permission referred under section 32 of this Act or **[**[F827]section 77 of the Act of 1990**]** or an appeal under section 33 of this Act or **[**[F827]section 78 of the Act of 1990**]**, notice shall also be served—

(a) on the applicant or appellant; and

(b) on any person who has made representations, relating to the subject matter of the application or appeal, which the. . . [F826] planning authority are required to take into account under section 26(2) or (3) of this Act or, as the case may be, **[**[F827]section 71(1) or (2) of the Act of 1990**]**.

(3) In the case of a proposal that a direction should be given by a government department under section 37 of this Act or **[**[F828]section 90(1) of the Act of 1990**]** with respect to any development, notice shall also be served on the local authority or statutory undertakers applying for authorisation to carry out that development.

(4) In this paragraph, "prescribed" means prescribed by regulations made by the Secretary of State and the Secretary of State for the Environment jointly in the exercise of their respective powers under this Act and **[**[F829]the Act of 1990**]**.

Textual Amendments

F826 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F827 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(2)(c)(i)**

F828 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(2)(c)(ii)**

F829 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(2)(c)(iii)**

Proceedings of commission on reference

8 A commission inquiring into a referred matter shall—

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(a) identify and investigate the considerations relevant to, or the technical or scientific respects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out, and assess the importance to be attached to those considerations or aspects;

(b) thereafter, comply with paragraph 9 below in respect of affording to persons an opportunity of appearing before, and being heard by, one or more members of the commission;

(c) report to the responsible Ministers on the said matter.

9 A commission shall afford the following persons an opportunity of appearing and being heard as aforesaid:—

(a) in any case, the local planning authority, if the authority so desire;

(b) in the case of a matter mentioned in section 45(1)(a), (b) or (c) of this Act or **[**[F830]section 101(2)(a), (b) or (c) of the Act of 1990**]**, the applicant, if he so desires; and

(c) in the case of an application or appeal mentioned in the said section 45(1)(a) or (b) or **[**[F831]the said section 101(2)(a) or (b)**]**, any person who has made representations relating to the subject matter of the application or appeal which the. . . [F832] planning authority are required to take into account under section 26(2) or (3) of this Act or **[**[F833]section 71(1) or (2) of the Act of 1990**]**.

Textual Amendments

F830 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(2)(d)**

F831 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(2)(e)(i)**

F832 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F833 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(2)(e)(ii)**

10 The provisions of sections 32(5) and 33(4) of this Act and **[**[F834]sections 77(5) and 79(2) of the Act of 1990**]** and the provisions of Schedule 7 to this Act and **[**[F835]Schedule 6 to the Act of 1990**]**, relating to the affording of an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State, shall not apply to an application for planning permission, or an appeal, referred to a commission.

Textual Amendments

F834 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(2)(f)(i)**

F835 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 27(2)(f)(ii)**

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Local inquiries

11 A commission shall, for the purpose of complying with paragraph 9 above, hold a local inquiry; and they may hold such an inquiry if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the. . . [F836] planning authority desire the opportunity of appearing and being heard.

Textual Amendments
F836 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

12 Where a commission are to hold a local inquiry in connection with a referred matter and it appears to the responsible Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this Schedule to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, the responsible Minister may direct that the two inquiries be held concurrently or combined as one inquiry.

13 For the purposes of the [M107]Tribunals and Inquiries Act 1971 a local inquiry held by a commission—

(a) if held in Scotland, shall be treated as one held by the Secretary of State in pursuance of a duty imposed by a statutory provision; and

(b) if held in England, shall be treated as one held by the Secretary of State for the Environment in pursuance of a duty so imposed.

Marginal Citations
M107 1971 c. 62.

14 (1) Subsections (4) to (9) of section 267 of this Act shall apply to a local inquiry held by a commission in Scotland as they apply to an inquiry held under that section.

(2) Subsections (2) to (5) of section 290 of the [M108]Local Government Act 1933 (evidence and costs at local inquiries) shall apply in relation to a local inquiry held by a commission in England as they apply in relation to an inquiry caused to be held by a department under subsection (1) of that section, with the substitution for references to a department (other than the first reference in subsection (4)) of references to the Secretary of State for the Environment.

Marginal Citations
M108 1933 c. 51.

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Supplementary

15 (1) A commission may, with the approval of the Ministers and at their expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to the commission to be relevant to a referred matter.

(2) In this paragraph "the Ministers" means the Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England, acting jointly; but their functions under this paragraph may, by arrangements made between them, be exercised by either acting on behalf of both.

16 Subject to the provisions of this Schedule, and to any directions given to them by the responsible Ministers, a commission shall have power to regulate their own procedure.

SCHEDULE 10

Section 54 and 56.

CONTROL OF WORKS FOR DEMOLITION, ALTERATION OR EXTENSION OF LISTED BUILDINGS

PART I

APPLICATIONS FOR LISTED BUILDING CONSENT

Form of application and effect of consent

1 **[**[F837](1) An application for listed building consent shall be made in such form as the planning authority may require and shall contain—

(a) sufficient particulars to identify the building to which it relates, including a plan, and

(b) such other plans and drawings as are necessary to describe the works which are the subject of the application

and such other particulars as may be required by the planning authority.

(1A) Provision may be made by regulations under this Act with respect to the manner in which applications for listed building consent are to be made, the manner in which such applications are to be advertised and the time within which they are to be dealt with by planning authorities or, as the case may be, by the Secretary of State.**]**

(2) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested therein.

Textual Amendments

F837 Sch. 10 para. 1(1)(1A) substituted for para. 1(1) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II**, para. 22

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2 (1) Regulations under this Act may provide that an application for listed building consent, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one or other of those described in section 24(1)(a) to (d) of this Act and any such regulations may—

(a) include requirements corresponding to sections 24(2) to (4) and 26(3) of this Act; and

(b) make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision of the regulations made by virtue of this sub-paragraph.

(2) If any person issues a certificate which purports to comply with the requirements of regulations made by virtue of this paragraph and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F838]level 3 on the standard scale**]**.

Textual Amendments

F838 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

F839

. . . . . .

3

Textual Amendments

F839 Sch. 10 Pt. I para. 3 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

Reference of applications to Secretary of State

4 (1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the. . . [F840] planning authority.

(2) A direction under this paragraph may relate either to a particular application, or to applications in respect of such buildings as may be specified in the direction.

(3) An application in respect of which a direction under this paragraph has effect shall be referred to the Secretary of State accordingly.

(4) Before determining an application referred to him under this paragraph, the Secretary of State shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.

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(5) The decision of the Secretary of State on any application referred to him under this paragraph shall be final.

Textual Amendments

F840 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

5 (1) Subject to the following provision of this paragraph, a. . . [F841] planning authority to whom application is made for listed building consent shall not grant such consent, unless they have notified the Secretary of State of the application (giving particulars of the works for which the consent is required) and either—

(a) a period of twenty-eight days has expired, beginning with the date of the notification, without the Secretary of State having directed the reference of the application to him; or

(b) the Secretary of State has notified the authority that he does not intend to require the reference of the application.

(2) The Secretary of State may at any time before the said period expires give notice to the authority that he requires further time in which to consider whether to require the reference of the application to him **[**[F842]; and if he gives such a notice the authority shall not grant the listed building consent until he has notified them that he does not intend to require the reference of the application.**]**

Textual Amendments

F841 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F842 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 23**

6 (1) The Secretary of State may give directions that, in the case of such descriptions of applications for listed building consent as he may specify, other than such consent for the demolition of a building, paragraph 5 of this Schedule shall not apply; and accordingly, so long as the directions are in force. . . [F843] planning authorities may determine applications of such descriptions in any manner they think fit, without notifying the Secretary of State.

(2) Without prejudice to the foregoing provisions of this Schedule, the Secretary of State may give directions to. . . [F843] planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify to him and to such other persons as may be so specified any applications made to them for listed building consent, and the decisions taken by the authorities thereon.

Textual Amendments

F843 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

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Appeal against decision

7 (1) **[**[F844]Where an application is made to the planning authority—

(a) for listed building consent, or

(b) for approval of the authority required by a condition imposed on the granting of listed building consent with respect to details of the works,

and the consent or approval is refused**]** by the authority or is granted by them subject to conditions, the applicant, if he is aggrieved by the decision, may by notice served in the prescribed manner within such period as may be prescribed, not being less than twenty-eight days from the receipt by him of notification of the decision, appeal to the Secretary of State.

(2) A person appealing under this paragraph may include in his notice thereunder, as the ground or one of the grounds of his appeal, a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 52 of this Act, or—

(a) in the case of a building to which subsection (8) of that section applies, that the Secretary of State should give a direction under that subsection with respect to the building; or

(b) in the case of a building subject to a building preservation notice under section 56 of this Act, that the building should not be included in a list compiled or approved under the said section 52.

(3) Subject to the following provisions of this paragraph, the Secretary of State may allow or dismiss an appeal thereunder, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, and—

(a) may deal with the application as if it had been made to him in the first instance; and

(b) may, if he thinks fit, exercise his power under section 52 of this Act to amend any list compiled or approved thereunder by removing from it the building to which the appeal relates or his power under subsection (8) of that section to direct that that subsection shall no longer apply to the building.

(4) Before determining an appeal under this paragraph, the Secretary of State shall, if either the applicant or the. . . [F845] planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) The decision of the Secretary of State on any appeal under this paragraph shall be final.

(6) Schedule 7 to this Act applies to appeals under this paragraph.

Textual Amendments

F844 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 16(2)**

F845 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

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Appeal in default of decision

8 **[**[F846](1)**]** Where an application is made to the. . . [F847] planning authority for listed building consent, then unless within the prescribed period from the date of the receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either—

(a) give notice to the applicant of their decision on the application; or

(b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under paragraph 4 of this Schedule,

the provisions of paragraph 7 of this Schedule shall apply in relation to the application as if listed building consent had been refused by the authority and as if notification of their decision had been received by the applicant at the end of the prescribed period or at the end of the said extended period, as the case may be.

[[F848](2) Sub-paragraph (1) of this paragraph applies to an application to the planning authority for approval by the authority required by a condition imposed on the granting of listed building consent with respect to details of the works as it applies to an application for listed building consent, with the following modifications—

(a) for references to the prescribed period substitute references to the period of two months from the date of the receipt of the application, and

(b) omit paragraph (b) and the word "or" preceding it.**]**

Textual Amendments

F846 Sch. 10 para. 8 renumbered as para. 8(1) by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 para. 16(3)**

F847 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F848 Sch. 10 para. 8(2) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 para. 16(3)**

PART II

REVOCATION OF LISTED BUILDING CONSENT

9 (1) If it appears to the. . . [F849] planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify listed building consent in respect of any works to a building, being consent granted on an application made under Part I of this Schedule, the authority, subject to the following provisions of this paragraph, may by order revoke or modify the consent to such extent as (having regard to those matters), they consider expedient.

(2) Except as provided in paragraph 11 of this Schedule, an order under this paragraph shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where a. . . [F849] planning authority submit an order to the Secretary of State for confirmation under this paragraph, the authority shall serve notice on the owner, on the lessee and on the occupier of the building affected and on any other person

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who in their opinion will be affected by the order; and if within such period as may be specified in that notice (not being less than twenty-eight days after the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the. . . [F849] planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) The power conferred by this paragraph to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

Textual Amendments

F849 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

10 (1) If it appears to the Secretary of State, after consultation with the. . . [F850] planning authority, to be expedient that an order under paragraph 9 of this Schedule should be made, he. . . [F851] may himself make such an order; and any order so made by the Secretary of State shall have the like effect as if it had been made by the authority and confirmed by the Secretary of State under that paragraph.

(2) The provisions of paragraph 9 of this Schedule shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order by virtue of this paragraph, in relation to the making thereof by the Secretary of State and in relation to the service of copies thereof as so made.

Textual Amendments

F850 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F851 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

11 (1) The following provisions shall have effect where the. . . [F852] planning authority have made an order under paragraph 9 of this Schedule but have not submitted the order to the Secretary of State for confirmation by him, and—

(a) the owner, lessee and occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order. . . [F853]

(b) . . . [F853]

(2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—

(a) the period (not being less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and

(b) the period (not being less than fourteen days from the expiration of the period referred to in paragraph (a) of this sub-paragraph) at the expiration of which,

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if no such notice is given to the Secretary of State, the order may take effect by virtue of this paragraph and without being confirmed by the Secretary of State.

(3) The authority shall also serve notice to the same effect on the persons mentioned in sub-paragraph (1)(a) of this paragraph, and the notice shall include a statement to the effect that no compensation is payable under section 161 of this Act in respect of an order under paragraph 9 of this Schedule which takes effect by virtue of this paragraph and without being confirmed by the Secretary of State.

(4) The authority shall send a copy of any advertisement published under sub-paragraph (2) of this paragraph to the Secretary of State, not more than three days after the publication.

(5) If within the period referred to in sub-paragraph (2)(a) of this paragraph no person claiming to be affected by the order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in sub-paragraph (2)(b) of this paragraph, take effect by virtue of this paragraph and without being confirmed by the Secretary of State as required by paragraph 9(2) of this Schedule.

(6) This paragraph does not apply to an order revoking or modifying a listed building consent granted by the Secretary of State.

Textual Amendments

F852 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F853 Word and para. 11 (1)(b) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

PART III

PROVISIONS APPLICABLE ON LAPSE OF BUILDING PRESERVATION NOTICE

12 The provisions of this Part of this Schedule apply where a building preservation notice ceases to be in force by virtue of section 56(3) of this Act, otherwise than by reason of the building to which it relates being included in a list compiled or approved under section 52 of this Act.

13 The fact that the building preservation notice has ceased to be in force shall not affect the liability of any person to be prosecuted and punished for an offence under section 53 or 94 of this Act committed by him with respect to the said building while the notice was in force.

14 Any proceedings on or arising out of an application for listed building consent made while the building preservation notice was in force shall lapse and any listed building consent granted with respect to the building, while the notice was in force, shall also lapse.

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15 Any listed building enforcement notice served by the. . . [F854] planning authority while the building preservation notice was in force shall cease to have effect and any proceedings thereon under sections 92 and 93 of this Act shall lapse, but section 95(1) and (2) of this Act shall continue to have effect as respects any expenses incurred by the **[**[F855]planning authority**]** owner, lessee or occupier as therein mentioned and with respect to any sums paid on account of such expenses.

Textual Amendments

F854 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F855 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 33**

VALID FROM 24/01/1992

[[F856]SCHEDULE 10A

REGISTRATION OF OLD MINING PERMISSIONS**]**

Textual Amendments

F856 Sch. 10A inserted (24.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 52, **Sch.9** (with s. 84(5)); S.I. 1992/71, **art. 2**

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[F877]SCHEDULE 11[F877]

Textual Amendments

F877 Sch. 11 repealed by S.I. 1975/1203, **art. 3 Sch.**

SCHEDULE 12

Section 90.

PROVISIONS AS TO ESTABLISHED USE CERTIFICATES

Application for certificate and appeal against refusal thereof

1 An application for an established use certificate shall be made in such manner as may be prescribed by a development order, and shall include such particulars, and be verified by such evidence, as may be required by such an order or by any

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directions given thereunder, or by the. . . [F878] planning authority or, in the case of an application referred to the Secretary of State, by him.

Textual Amendments

F878 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

2 Provision may be made by a development order for regulating the manner in which applications for established use certificates are to be dealt with by. . . [F879] planning authorities, and, in particular—

(a) for requiring the authority to give any applicant for such a certificate, within such time as may be prescribed by the order, such notice as may be so prescribed as to the manner in which his application has been dealt with;

(b) for requiring the authority to give to the Secretary of State and to such other persons as may be prescribed by or under the order, such information as may be so prescribed with respect to applications for such certificates made to the authority, including information as to the manner in which any such application has been dealt with.

Textual Amendments

F879 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

3 (1) A development order may provide that an application for an established use certificate, or an appeal against the refusal of such an application, shall not be entertained unless it is accompanied by a certificate in such form as may be prescribed by the order and corresponding to one or other of those described in section 24(1)(a) to (d) of this Act; and any such order may—

(a) include requirements corresponding to section 24(2), (3) and (4), and section 26(3) of this Act; and

(b) make provision as to who, in the case of any land, is to be treated as the owner for the purposes of any provision of the order made by virtue of this sub-paragraph.

(2) If any person issues a certificate which purports to comply with any provision of a development order made by virtue of sub-paragraph (1) above and which contains a statement which he knows to be false or misleading in a material particular, or recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F880]level 3 on the standard scale**]**.

Textual Amendments

F880 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F**, 289G (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**)

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Provisions with respect to grant of certificate

4 An established use certificate shall be in such form as may be prescribed by a development order and shall specify—

(a) the land to which the certificate relates and any use thereof which is certified by the certificate as established;

(b) by reference to the paragraphs of section 90(1) of this Act, the grounds on which that use is so certified; and

(c) the date on which the application for the certificate was made, which shall be the date at which the use is certified as established.

5 Where the Secretary of State or a person appointed by him under Schedule 7 to this Act to determine an appeal grants an established use certificate, the Secretary of State or that person shall give notice to the. . . [F881] planning authority of that fact.

Textual Amendments

F881 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

6 In section 31 of this Act references to applications for planning permission shall include references to applications for established use certificates; and the information which may be prescribed as being required to be contained in a register kept under that section shall include information with respect to established use certificates granted by the Secretary of State or by a person appointed by him under Schedule 7 to this Act to determine an appeal.

[[F882] SCHEDULE 13

ADJUSTMENT OF CLAIM HOLDINGS]

Textual Amendments

F882 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F883 PART I

ADJUSTMENT OF CLAIM HOLDINGS ASSIGNED TO CENTRAL LAND BOARD AS SECURITY FOR DEVELOPMENT CHARGES]

Textual Amendments

F883 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F884 1

Textual Amendments

F884 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F885 2

Textual Amendments

F885 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F886 3

Textual Amendments

F886 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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F887 4

Textual Amendments

F887 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F888]5

Textual Amendments

F888 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

[[F889]PART II

ADJUSTMENT BY REFERENCE TO PAYMENTS IN RESPECT OF WAR-DAMAGED LAND]

Textual Amendments

F889 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F890]6

Textual Amendments

F890 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F891]7

Textual Amendments

F891 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F892]8

Textual Amendments

F892 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F893]9

Textual Amendments

F893 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F894]10

Textual Amendments

F894 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

[F895]PART III

Textual Amendments

F895 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F896]11

Textual Amendments

F896 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F897]12

Textual Amendments

F897 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F898]13

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Textual Amendments

F898 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F899]14

Textual Amendments

F899 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19**, Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F900]15

Textual Amendments

F900 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F901]16

Textual Amendments

F901 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

[F902]PART IV

Textual Amendments

F902 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F903]17

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F903 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F904 18

Textual Amendments

F904 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F905 19

Textual Amendments

F905 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F906 20

Textual Amendments

F906 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F907 21

Textual Amendments

F907 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F908 22

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Textual Amendments

F908 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

[F909]PART V

Textual Amendments

F909 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F910]23

Textual Amendments

F910 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F911]24

Textual Amendments

F911 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F912]25

Textual Amendments

F912 Sch. 13 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

[F913]PART VI

Textual Amendments

F913 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 60(4), 84(6), **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**

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[F914]26

Textual Amendments

F914 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F915]27

Textual Amendments

F915 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F916]28

Textual Amendments

F916 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F917]29

Textual Amendments

F917 Sch. 13 repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

[F918]SCHEDULE 14

Textual Amendments

F918 Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F919]1

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F919 Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F920 2

Textual Amendments

F920 Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F921 3

Textual Amendments

F921 Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F922 4

Textual Amendments

F922 Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt.IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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F923 5

Textual Amendments

F923 Sch. 14 repealed (25. 9. 1991) by Planning and Compensation Act (c. 34, SIF 123;2), s. 60(4), Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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[F924]SCHEDULE 15

Textual Amendments

F924 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

[[F925]Determination of relevant area]

Textual Amendments

F925 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F926]1

Textual Amendments

F926 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

[[F927]Preliminary calculations]

Textual Amendments

F927 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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Textual Amendments

F928 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

[[F929]Apportionment of unexpended balance between interests]

Textual Amendments

F929 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

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[F930]3

Textual Amendments

F930 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

[[F931]Application of Schedule to past acquisitions]

Textual Amendments

F931 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

. . . . . .

[F932]4

Textual Amendments

F932 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

[[F933]Interpretation]

Textual Amendments

F933 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt. IV** (with s. 84(5)); S.I. 1991/2092, **art. 3**; S.I. 1995/2045, art. 3, **Sch.**

. . . . . .

[F934]5

Textual Amendments

F934 Sch. 15 repealed (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(4), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1991/2092, **art.3**; S.I. 1995/2045, art. 3, **Sch.**

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SCHEDULE 16

Sections 157, 158, 169 and 263.

CONDITION TREATED AS APPLICABLE TO REBUILDING AND ALTERATIONS

1 Where the building to be rebuilt or altered is the original building, the amount of gross floor space in the building as rebuilt or altered which may be used for any purpose shall not exceed by more than ten per cent. the amount of gross floor space which was last used for that purpose in the original building.

2 Where the building to be rebuilt or altered is not the original building, the amount of gross floor space in the building as rebuilt or altered which may be used for any purpose shall not exceed the amount of gross floor space which was last used for that purpose in the building before the rebuilding or alteration.

3 In determining under this Schedule the purpose for which floor space was last used in any building, no account shall be taken of any use in respect of which an effective enforcement notice has been or could be served or, in the case of a use which has been discontinued, could have been served immediately before the discontinuance.

4 For the purposes of this Schedule gross floor space shall be ascertained by external measurement; and where different parts of a building are used for different purposes, floor space common to those purposes shall be apportioned rateably.

5 In relation to a building erected after the appointed day, being a building resulting from the carrying out of any such works as are described in paragraph 1 of Schedule 6 to this Act, any reference in this Schedule to the original building is a reference to the building in relation to which those works were carried out and not to the building resulting from the carrying out of those works.

SCHEDULE 17

Section 179.

PROCEEDINGS ON LISTED BUILDING PURCHASE NOTICE

Action by [F935] planning authority on whom listed building purchase notice is served

Textual Amendments
F935 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

1 (1) The [F936] planning authority on whom a listed building purchase notice is served, shall, before the end of the period of three months beginning with the date of service of that notice, serve on the owner or lessee by whom the purchase notice was served a notice stating either—

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(a) that the authority are willing to comply with the purchase notice; or

(b) that another [F936] planning authority or statutory undertakers specified in the notice under this sub-paragraph have agreed to comply with it in their place; or

(c) that for reasons specified in the notice under this sub-paragraph, the authority are not willing to comply with the purchase notice and have not found any other [F936] planning authority or statutory undertakers who will agree to comply with it in their place **[**[F937]and that they have transmitted to the Secretary of State a copy of the purchase notice and of the notice under this sub-paragraph.**]**

(2) Where the [F936] planning authority on whom a listed building purchase notice is served by an owner or lessee have served on him a notice in accordance with sub-paragraph (1)(a) or (b) of this paragraph the authority, or the other [F936] planning authority or statutory undertakers specified in the notice, as the case may be, shall be deemed to be authorised to acquire the interest of the owner or lessee compulsorily in accordance with the provisions of section 104 of this Act, and to have served a notice to treat in respect thereof on the date of service of the notice under sub-paragraph (1) of this paragraph.

(3) Where the authority on whom a listed building purchase notice is served by an owner or lessee propose to serve on him a notice in accordance with sub-paragraph (1)(c) of this paragraph **[**[F938]then, before they take steps to serve that notice, they shall transmit to the Secretary of State a copy of the purchase notice together with a copy of the notice which they propose to serve under sub-paragraph (1)(*c*)**]**; and section 171 of this Act shall then apply in relation to the purchase notice as it applies in relation to a purchase notice under section 169 of this Act with the substitution for references therein to the Secretary of State taking action under section 172 of this Act of references to his taking action under paragraph 2 of this Schedule.

Textual Amendments

F936 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

F937 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 35(2)**(*a*)

F938 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 35(2)**(*b*)

Modifications etc. (not altering text)

C351 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Sch. 17 paras. 1-3 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C352 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C353 Para. 1 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

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Action by Secretary of State in relation to listed building purchase notice

2 (1) Subject to the following provisions of this paragraph, if the Secretary of State is satisfied that the conditions specified in section 179(1)(a) to (c) of this Act are fulfilled in relation to a listed building purchase notice, he shall confirm the notice:

Provided that, if he is satisfied that the said conditions are fulfilled only in respect of part of the land, he shall confirm the notice only in respect of that part and the notice shall have effect accordingly.

(2) The Secretary of State shall not confirm the purchase notice unless he is satisfied that the land comprises such land contiguous or adjacent to the building as is in his opinion required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.

(3) If it appears to the Secretary of State to be expedient to do so in the case of a listed building purchase notice served on account of listed building consent being refused or granted subject to conditions, he may, in lieu of confirming the purchase notice, grant listed building consent for the works in respect of which the application was made or, where such consent for those works was granted subject to conditions, revoke or amend those conditions so far as it appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of those works.

(4) If it appears to the Secretary of State to be expedient to do so, in the case of a listed building purchase notice served on account of listed building consent being revoked or modified by an order under Part II of Schedule 10 to this Act, he may, in lieu of confirming the notice, cancel the order revoking the consent or, where the order modified the consent by the imposition of conditions, revoke or amend those conditions so far as appears to him to be required in order to enable the land to be rendered capable of reasonably beneficial use by the carrying out of the works in respect of which the consent was granted.

(5) If it appears to the Secretary of State that the land, or any part of it, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any other works for which listed building consent ought to be granted, he may in lieu of confirming the listed building purchase notice or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that listed building consent for those works shall be granted in the event of an application being made in that behalf.

(6) If it appears to the Secretary of State that the land, or any part of the land, could be rendered capable of reasonably beneficial use within a reasonable time by the carrying out of any development for which planning permission ought to be granted, he may, in lieu of confirming the listed building purchase notice, or in lieu of confirming it so far as it relates to that part of the land, as the case may be, direct that planning permission for that development shall be granted in the event of an application being made in that behalf.

(7) If it appears to the Secretary of State, having regard to the probable ultimate use of the building or the site thereof, that it is expedient to do so, he may, if he confirms the notice, modify it either in relation to the whole or in relation to any part of the land, by substituting another [F939] planning authority or statutory undertakers for the authority on whom the notice was served.

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(8) In section 171 of this Act as applied by paragraph 1(3) of this Schedule, any reference to the taking of action by the Secretary of State under this paragraph is a reference to the taking by him of any such action as is mentioned in sub-paragraphs (1) or (3) to (7) of this paragraph, or to the taking by him of a decision not to confirm the purchase notice on the grounds that any of the conditions referred to in sub-paragraph (1) of this paragraph are not fulfilled.

Textual Amendments

F939 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Modifications etc. (not altering text)

C354 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Sch. 17 paras. 1-3 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C355 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C356 Para. 2 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

Effect of Secretary of State's action in relation to listed building purchase notice

3 (1) Where the Secretary of State confirms a listed building purchase notice, the authority on whom the notice was served (or, if under paragraph 2(7) of this Schedule the Secretary of State modified the notice by substituting another authority or statutory undertakers for that authority, that other authority or those statutory undertakers) shall be deemed to be authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 104 of this Act and to have served a notice to treat in respect thereof on such date as the Secretary of State may direct.

(2) If, before the end of the relevant period, the Secretary of State has neither confirmed the purchase notice nor taken any such action in respect thereof as is mentioned in sub-paragraphs (3) to (6) of paragraph 2 of this Schedule, and has not notified the owner or lessee by whom the notice was served that he does not propose to confirm the notice, the notice shall be deemed to be confirmed at the end of that period and the authority on whom the notice was served shall be deemed to have been authorised to acquire the relevant interest compulsorily in accordance with the provisions of section 104 of this Act and to have served a notice to treat in respect thereof at the end of that period.

(3) In this paragraph—

(a) "the relevant interest" means the owner's or lessee's interest in the land or, if the purchase notice is confirmed by the Secretary of State in respect of only part of the land, the owner's or lessee's interest in that part;

(b) "the relevant period" is **[**[F940], subject to sub-paragraph (3A) of this paragraph,**]** whichever of the following periods first expires, that is to say—

(i) the period of nine months beginning with the date of the service of the purchase notice; and

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(ii) the period of six months beginning with the date on which a copy of the purchase notice was transmitted to the Secretary of State.

[F941(3A) The relevant period does not run if the Secretary of State has before him at the same time both a copy of the listed building purchase notice transmitted to him under paragraph 1(3) of this Schedule and an appeal notice under any of the following provisions of this Act relating to any of the land to which the purchase notice relates—

section 93 (appeal against listed building enforcement notice), or

paragraph 7 or 8 of Schedule 10 (appeal against refusal of listed building consent, &c.).]

(4) Where the Secretary of State has notified the owner or lessee by whom a listed building purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice (including any decision to confirm the notice only in respect of part of the land, or to give any direction as to the granting of listed building consent) and that decision of the Secretary of State is quashed under the provisions of Part XII of this Act, the purchase notice shall be treated as cancelled, but the owner or lessee may serve a further listed building purchase notice in its place.

(5) For the purposes of any regulations made under this Act as to the time within which a listed building purchase notice may be served, the service of a listed building purchase notice under sub-paragraph (4) of this paragraph shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with these regulations if the decision to refuse listed building consent or to grant it subject to conditions (being the decision in consequence of which the notice is served) had been made on the date on which the decision of the Secretary of State was quashed as mentioned in sub-paragraph (4) of this paragraph.

Textual Amendments

F940 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 37(2)**

F941 Sch. 17 para. 3(3A) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 37(2)**

Modifications etc. (not altering text)

C357 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Sch. 17 paras. 1-3 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C358 S. 202(3), 205, 211, 212, 214–230, 233(7), 242, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 paras. 1–3 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)

C359 Para. 3 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**; amended by British Telecommunications Act 1981 (c. 38), **Sch. 3 para. 12**

Special provision as to compensation where listed building purchase notice served

4 Where in consequence of listed building consent being revoked or modified by an order under Part II of Schedule 10 to this Act, compensation is payable by virtue of

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section 161 of this Act in respect of expenditure incurred in carrying out any works to the building in respect of which the consent was granted, then if a listed building purchase notice is served in respect of an interest in the land, any compensation payable in respect of the acquisition of that interest in pursuance of the notice shall be reduced by an amount equal to the value of the works in respect of which compensation is payable by virtue of that section.

SCHEDULE 18

Section 206.

PROCEDURE IN CONNECTION WITH ORDERS RELATING TO FOOTPATHS AND BRIDLEWAYS

Modifications etc. (not altering text)

C360 S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(*b*), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
Sch. 18 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

C361 Sch. 18 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(7)(a)(9)** (with s. 112(3), Sch. 17 paras. 33, 35(1))

C362 Sch. 18 extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

PART I

CONFIRMATION OF ORDERS

1 (1) Before an order under section **[**[F942]198A, 199, [F943], 201**]** or 203(1)(b) of this Act is submitted to the Secretary of State for confirmation or confirmed as an unopposed order, the authority by whom the order was made shall give notice in the prescribed form—

(a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order;

(b) naming a place in the area in which the land to which the order relates is situated where a copy of the order may be inspected free of charge at all reasonable hours; and

(c) specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.

(2) Subject to sub-paragraph (3) of this paragraph, the notice to be given under sub-par agraph (1) of this paragraph shall be given—

(a) by publication in the Edinburgh Gazette and in at least one local newspaper circulating in the area in which the land to which the order relates is situated; and

(b) by serving a like notice on—

(i) every owner, occupier and lessee (except tenants for a month or a period less than a month and statutory tenants within the meaning of the [M109]Rent (Scotland) Act 1971) of any of that land;

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(ii) every **[**[F944]local authority**]** whose area includes any of that land;

(iii) any statutory undertakers to whom there belongs, or by whom there is used, for the purposes of their undertaking, any apparatus under, in, on, over, along or across that land; and

(iv) any person named in the order by virtue of section 199(2)(d) of this Act; and

(c) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any footpath or bridleway as is to be stopped up, diverted or extinguished by virtue of the order.

(3) Except in the case of an owner, occupier or lessee being a local authority or statutory undertakers, the Secretary of State may in any particular case direct that it shall not be necessary to comply with sub-paragraph (2)(b)(i) of this paragraph; but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to "the owners and any occupiers" of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.

Textual Amendments

F942 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 23(a)**

F943 Figure repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

F944 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 23 para. 34**

Marginal Citations

M109 1971 c. 28.

2 If no representations or objections are duly made, or if any so made are withdrawn, the authority by whom the order was made may, instead of submitting the order to the Secretary of State themselves confirm the order (but without any modification).

3 (1) If any representation or objection duly made is not withdrawn, the Secretary of State shall, before confirming the order, if the objection is made by a local authority, cause a local inquiry to be held, and in any other case either—

(a) cause a local inquiry to be held; or

(b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose,

and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm the order, with or without modifications:

Provided that in the case of an order under section **[**[F945]198A, **[**[F946]or 199**]]** of this Act, if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purpose of their undertaking, or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

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(2) Notwithstanding anything in the foregoing provisions of this paragraph, the Secretary of State shall not confirm an order so as to affect land not affected by the order as submitted to him, except after—

(a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made;

(b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by the Secretary of State for the purpose; and

(c) considering the report of the person appointed to hold the inquiry or to hear representations or objections as the case may be;

and, in the case of an order under section **[**[F945]198A, **[**[F947]or 199**]]** of this Act, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking, or over the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

Textual Amendments

F945 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 23(b)**

F946 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(22)**(*a*) (with s. 128(1))

F947 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(22)**(*b*) (with s. 128(1))

4 (1) The Secretary of State shall not confirm an order under section **[**[F948]198A, 199, [F949] or 201**]** of this Act which extinguishes a right of way over land under, in, on, over, along or across which there is any apparatus belonging to or used by statutory undertakers for the purposes of their undertaking, unless the undertakers have consented to the confirmation of the order; and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

(2) The consent of statutory undertakers to any such order shall not be unreasonably withheld; and any question arising under this paragraph whether the withholding of consent is unreasonable, or whether any requirement is reasonable, shall be determined by whichever Minister is the appropriate Minister in relation to the statutory undertakers concerned.

Textual Amendments

F948 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 23(c)**

F949 Figure repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

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5 Regulations under this Act may, subject to this Part of this Schedule, make such provision as the Secretary of State thinks expedient as to the procedure on the making, submission and confirmation of orders under sections **[**[F950]198A, 199, [F951], 201**]** and 203(1)(b) of this Act.

Textual Amendments

F950 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 23(a)**

F951 Figure repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

PART II

PUBLICITY FOR ORDERS AFTER CONFIRMATION

6 As soon as may be after an order under section **[**[F952]198A, 199, [F953], 201**]** or 203(1)(b) of this Act has been confirmed by the Secretary of State or confirmed as an unopposed order, the authority by whom the order was made shall publish, in the manner required by paragraph 1(2) of this Schedule, a notice in the prescribed form, describing the general effect of the order, stating that it has been confirmed, and naming a place where a copy thereof as confirmed may be inspected free of charge at all reasonable hours, and shall—

(a) serve a like notice and a copy of the order as confirmed on any persons on whom notices were required to be served under the said paragraph 1(2); and

(b) cause a like notice to be displayed in the like manner as the notice required to be displayed under the said paragraph 1(2):

Provided that no such notice or copy need be served on a person unless he has sent to the authority a request in that behalf, specifying an address for service.

Textual Amendments

F952 Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **Sch. 3 para. 23(a)**

F953 Figure repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

SCHEDULE 19

Sections 250, 251, 256, 257 and 259 and paragraphs 70 and 71 of Schedule 22.

PROVISIONS OF THIS ACT REFERRED TO IN SECTIONS 250, 251, 256, 257 AND 259 AND PARAGRAPHS 70 AND 71 OF SCHEDULE 22

PART I

Sections 1 and 2.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Section 19.

Section 20 except subsection (7).

Section 21 except subsection (6).

Section 22.

Section 26(1).

[[F954]Section 26A**]**

Textual Amendments

F954 Words in Sch. 19 Pt. I inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13 para. 43(a)(i)** (with s. 84(5)); S.I. 1991/2092, **art.3**

Section 27.

Section 28(1).

Sections 29 and 30.

Section 31(2) and (4).

Section 32 with the omission in subsection (4) of the reference to sections 23 and 24.

Section 33(1) to (6) with the omission in subsection (5) of the reference to section 24.

Section 34.

Section 37.

Section 42.

Section 48 to 51.

Section 52 except subsections (6), (8) and (9).

Section 58.

[[F955]Sections 61 to 63A**]**.

Textual Amendments

F955 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 60**

Section 86.

Sections 88 to 89.

Section 98.

Sections 100 and 101.

Sections 108 to 115.

Sections 117 to 122.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Section 153.

Section 154 with the omission in subsection (2) of the references to sections 155 to 157.

[F956] . . .

Textual Amendments

F956 Words in Sch. 19 Pt. I repealed (25. 9. 1991) by Planning and Compensation Act 1991 (C. 34, SIF 123:2), ss. 60(6), 84(6), Sch. 12 para. 33, Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, **art.3**

Section 159.

Section 163.

Section 165.

Sections 167 and 168.

Section 169(1) to (4).

Sections 170 to 172.

Sections 175 to 178.

Section 180(1).

Section 198.

Section 203 except subsection (1)(b).

Section 204.

Sections 207 and 208.

Section 209.

Section 211.

Sections 213 to 220.

Sections 222 to 225.

Section 226 except subsection (3).

Section 227 except subsections (4) and (6)(b).

Sections 228 to 230.

Section 231(1) except paragraphs (d) and (e).

Section 232.

Section 236 with the omission in subsection (2) of the references to section 233.

[F957]Sections 241 and 242.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F957 Words repealed Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

Section 250.

Sections 251 and 252.

Section 253(1) (the reference, in paragraph (b), to Part III being construed as not referring to sections 23 and 24 and the reference, in that paragraph, to Part IV being construed as not referring to sections 71 to 83) and section 253(2) to (5) and (7).

Section 254.

Section 256.

Section 258.

Section 260.

Section 265 except subsections (4) and (5).

Section 266.

Section 270.

Schedules 1 and 2.

Schedule 6.

Schedule 20.

Schedule 22, paragraphs 27 to 32, 38, 40 and 74 to 79.

Any other provisions of this Act in so far as they apply, or have effect for the purposes of, any of the provisions specified above.

PART II

Section 3.

Sections 4 to 18.

Sections 23(2) to (6) except subsection (2)(a) and the reference to it in subsection (6), and subsection (8).

Section 25(2)(b) and (3).

Section 26(4).

Section 28(2) and (3).

Section 31(3).

Section 33(7) **[**[F958]to**]** (8).

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F958 Words in Sch. 19, Pt. ii substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 43(b)(i) (with s. 84(5)); S.I. 1991/2092, **art.3**

Sections 38 to 41.

Sections 43 to 47.

Section 52(8) and (9).

Sections 53 and 54.

Section 56.

[F959]Sections [F959] and 85.

Textual Amendments

F959 Words repealed Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

Section 87.

Sections 90 to 96.

Section 99(4).

Sections 102 to 107.

Sections 160 to 162.

Section 166.

Section 169(5) and (6).

Section 173.

Section 179.

Section 186.

Sections 190 and 191.

Sections 199 to 202.

Section 203(1)(b).

Sections 205 and 206

Section 210.

Section 212.

Section 221.

Section 226(3).

Section 227(4) and (6)(b).

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Section 240.

Section 243.

Section 257.

Section 271.

Schedules 5, 7, 8, 9, 10, 12, 17 and 18 and paragraphs 14 to 17, 20, 26, 33, 34, 36, 48, 49 and 65 of Schedule 22.

Any other provisions of this Act in so far as they apply, or have effect for the purposes of, any of the provisions specified above.

PART III

Modifications etc. (not altering text)
C363 Pt. III modified by s. 1981/829, reg. 3

Sections 19 to 22.

Section 26(1), (5) and (6).

Section 27.

Section 28(1).

Sections 29 and 30.

Section 31 except subsection (3).

Sections 32 to 34.

Section 37.

Section 42.

Sections 48 to 51.

Section 52 except subsections (2) and (7) to (9).

Section 58.

[[F960]Sections 61 to 63A**]**.

Textual Amendments
F960 Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 60**

[F961]Sections 84 to 91.

Textual Amendments
F961 Words repealed Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Section 98.

Sections 100 and 101.

Section 166.

PART IV

Section 25(2)(b) and (3).

Section 26(4).

Section 28(2) and (3).

Section 52(2) and (7) to (9).

Section 53.

Section 54.

Section 56.

Sections 92 to 96.

Sections 104 to 107.

Sections 160 to 162.

Section 169(5) and (6).

Section 179.

[[F962]Sections 231 and 233**]**

Textual Amendments
F962 Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 50, **Sch. 9 Pt. II para. 24**

Schedules 10 and 17.

SCHEDULE 20

Section 273(6).

ENACTMENTS EXEMPTED FROM SECTION 273(6) OF THIS ACT

1 Section 32(1) of the [M110]Public Health (Scotland) Act 1897.

Marginal Citations
M110 1897 c. 38.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

2 Section 158 of the [M111]Burgh Police (Scotland) Act 1892, as extended by section 104(2)(h) of the [M112]Burgh Police (Scotland) Act 1903.

Marginal Citations
M111 1892 c. 55.
M112 1903 c. 33.

F963 . . . . . .

3

Textual Amendments
F963 Sch. 20 para. 3 repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11** (with s. 128(1))

4 Any enactment making such provision as might by virtue of any Act of Parliament have been made in relation to the area to which the order applies by means of a byelaw, order or regulation not requiring confirmation by Parliament.

5 Any enactment which has been previously excluded or modified by a development order, and any enactment having substantially the same effect as any such enactment.

SCHEDULE 21

Sections 18 and 276.

CONSEQUENTIAL AMENDMENTS

PART I

THE [M113]LAND COMPENSATION (SCOTLAND) ACT 1963 (C. 51)

Marginal Citations
M113 1963 c. 51.

In the Land Compensation (Scotland) Act 1963 any reference to an area defined in the current development plan as an area of comprehensive development shall be construed as a reference to an action area for which a local plan is in force **[**[F964]or to a comprehensive development area as the case may be.**]**.

Textual Amendments
F964 Words added by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(7)**

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART II

Modifications etc. (not altering text)

C364 The text of Sch. 21 Pt. II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

The Finance Act 1931 (c. 28)

In section 28(6) (inserted by the Land Commission Act 1967), for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " the Town and Country Planning (Scotland) Act 1972 ".

In Schedule 2, in paragraph (viii) (inserted by the Land Commission Act 1967), for the words "section 12(5) of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " section 31(2) of the Town and Country Planning (Scotland) Act 1972 ".

The Building Restrictions (War-Time Contraventions) Act 1946 (c. 35)

In section 8(5), in paragraph (c), after the word "1947" there shall be inserted the words " or of paragraph 28 of Schedule 22 to the Town and Country Planning (Scotland) Act 1972 ", and the words "under Part II of that Act" shall be omitted; and at the end of paragraph (d) there shall be added the words " or by paragraph 28 of Schedule 22 of the Town and Country Planning (Scotland) Act 1972 ".

The Town and Country Planning (Scotland) Act 1947 (c. 53)

In section 44(1), for the words "this Part of this Act" there shall be substituted the words " Part VI of the Town and Country Planning (Scotland) Act 1972 ".

The Building (Scotland) Act 1959 (c. 24)

Section 17(2) shall be amended as follows:—

(a) for paragraph (b) there shall be substituted the following paragraph—

"(b) subject to a building preservation notice under section 56 of the Town and Country Planning (Scotland) Act 1972";

(b) in paragraph (c), for the words "section 28 of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " section 52 of the said Act of 1972 ";

(c) after the words "Act of 1931" there shall be inserted the words " the said Act of 1972 ".

The Town and Country Planning (Scotland) Act 1959 (c. 70)

For section 27(5)(b) there shall be substituted the following paragraph:—

"(b) to section 113 of the Town and Country Planning (Scotland) Act 1972".

In Schedule 4, in paragraph 2, for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " the Town and Country Planning (Scotland) Act 1972 ".

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

The Gas Act 1965 (c. 36)

In section 4(7), for the words "the Town and Country Planning (Scotland) Acts 1947 to 1963" and "section 32 of the Town and Country Planning (Scotland) Act 1947" there shall be substituted respectively the words " the Town and Country Planning (Scotland) Act 1972 " and " section 37 of that Act ".

In section 28(1)—

(a) in the definition of "local planning authority", for the words "section 2 of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " section 1 of the Town and Country Planning (Scotland) Act 1972 ";

(b) in the definition of "planning permission", for the words "Part III of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " Part III of the Town and Country Planning (Scotland) Act 1972 ".

In Schedule 3—

(a) in paragraph 7(2), for the word "1947" there shall be substituted the word " 1972 ";

(b) in paragraph 9(a), for the words "section 19 of the Town and Country Planning (Scotland) Act 1954", "Part II of the said Act of 1954" and "sections 23 and 24 of the said Act of 1954" there shall be substituted respectively the words " section 135 of the Town and Country Planning (Scotland) Act 1972 ", " Part VII of the said Act of 1972 " and " sections 35 and 36 of the said Act of 1972 ".

The Housing (Scotland) Act 1966 (c. 49)

In section 18, in subsection (1), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

"(a) in relation to which a building preservation notice served under section 56 of the Town and Country Planning (Scotland) Act 1972 is in force, or

(b) which is a listed building within the meaning of section 52(7) of that Act",

and in subsection (2), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

"(a) subject to a building preservation notice served under the said section 56, or

(b) a listed building within the meaning of said section 52(7)".

The Local Government (Scotland) Act 1966 (c. 51)

In section 9(5), for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " the Town and Country Planning (Scotland) Act 1972 ".

In section 10(4), for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " the Town and Country Planning (Scotland) Act 1972 ".

In section 25(3)(c), for the words from "of a building" to "notified" there shall be substituted the words " of a building preservation notice as defined by section 56 of the Town and Country Planning (Scotland) Act 1972 or are included in a list compiled or approved under section 52 of that Act or are notified ".

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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In section 41, for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " the Town and Country Planning (Scotland) Act 1972 ".

The Land Commission Act 1967 (c. 1)

In section 15, for the words set out in the first column below (in each place where they occur in that section) there shall be substituted the words set out opposite to them in the second column below —:

"the Scottish Act of 1945"	" the Act of 1972 "
"section 21"	" section 117 "
"section 24"	" sections 219 and 220 "
"Schedule 4"	" sections 226(2) and 227 "
"section 35 of the Scottish Act of 1947"	" section 102 "
"subsection (1) of the said section 24"	" section 219(1) "
"section 86 of the Scottish Act of 1947"	" section 259 "

In section 58(3), for the words "section 113(1) of the Scottish Act of 1947" there shall be substituted the words " section 275(1) of the Act of 1972 ".

In section 89(6)(b), for the words "section 113(1) of the Scottish Act of 1947" there shall be substituted the words " section 275(1) of the Act of 1972 ".

In section 99—

(a) in subsection (1), after the words " "the Act of 1971" means the Town and Country Planning Act 1971" there shall be inserted the words " "the Act of 1972" means the Town and Country Planning (Scotland) Act 1972 ";

(b) in subsection (2)(b), for the words from "Part I" to the end of the paragraph there shall be substituted the words " any of paragraphs 1, 2, 3 and 5 to 9 of Schedule 6 to the Act of 1972, as read with Part III of that Schedule "; and

(c) in subsection (8), for the words from "section 113(1)" to "1959 (interpretation)" there shall be substituted the words " and section 275(1) (interpretation) of the Act of 1972 ".

In Schedule 15, in paragraph (viii), for the words "section 12(5) of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " section 31 of the Town and Country Planning (Scotland) Act 1972 ".

In Schedule 16, in Part II, for the words "section 27 of the Scottish Act of 1945" there shall be substituted the words " section 118 of the Act of 1972 " and for the words "said section 27" there shall be substituted the words

" said section 118 ".

The Forestry Act 1967 (c. 10)

In section 9(4)(d), for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " the Town and Country Planning (Scotland) Act 1972 ".

In section 35, for the words "section 26 of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " section 58 of the Town and Country Planning (Scotland) Act 1972 ".

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

In Schedule 3, in paragraph 2, for the words "section 13 of the Town and Country Planning (Scotland) Act 1947" and "the said section 13" there shall be substituted respectively the words " section 32 of the Town and Country Planning (Scotland) Act 1972 " and

" the said section 32 "; and in paragraph 3, for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " the Town and Country Planning (Scotland) Act 1972 ".

The Agriculture Act 1967 (c. 22)

In section 50(3)(b), for the words "section 113(1) of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " section 257(1) of the Town and Country Planning (Scotland) Act 1972 ".

In section 52(2)(g), for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " the Town and Country Planning (Scotland) Act 1972 ".

The Civic Amenities Act 1967 (c. 69)

[F965]In section 30(1), for the words " "the Scottish Planning Act" means the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " "the Scotiish Planning Act" means the Town and Country Planning (Scotland) Act 1972 ".

Textual Amendments

F965 Entry repealed by Refuse Disposal (Amenity) Act 1978 (c. 3), **Sch. 2**

The Public Expenditure and Receipts Act 1968 (c. 14)

In Schedule 3, for paragraph 7(a) there shall be substituted:—

"(a) The Town and Country Planning (Scotland) Act 1972 section 134(9)".

The Agriculture (Miscellaneous Provisions) Act 1968 (c. 34)

In section 14(2), for the words "sections 34, 35 or 39(3) of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " section 102 or 110 of the Town and Country Planning (Scotland) Act 1972 ".

The Transport Act 1968 (c. 73)

In section 108—

(a) in subsection (2), for the words "section 31 of the Town and Country Planning (Scotland) Act 1947", "the said Act of 1947" and "the said section 31" there shall be substituted respectively the words " section 63 of the Town and Country Planning (Scotland) Act 1972 ", " the said Act of 1972 " and " the said section 63 ";

(b) in subsection (3), for the words "the said Act of 1947" there shall be substituted the words " the Town and Country Planning (Scotland) Act 1947 ".

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

In section 112(3)(d), for the words "section 31 of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " section 63 of the Town and Country Planning (Scotland) Act 1972 ".

In section 139(1)(b) and (c), for the words "section 17 of the Town and Country Planning (Scotland) Act 1947", "section 38 of the Town and Country Planning (Scotland) Act 1959" and "section 41 of the Act of 1959" there shall be susbtituted respectively the words " section 169, 177 or 178 of the Town and Country Planning (Scotland) Act 1972 ",

" section 182 of the said Act of 1972 " and " section 185 of the said Act of 1972 ".

In section 141(2), for the words "section 113(1) of the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words " section 275(1) of the Town and Country Planning (Scotland) Act 1972 ".

The Post Office Act 1969 (c. 48)

In section 58, for the words set out in the first column below there shall be substituted the words set out opposite to them in the second column below:—

"Subsections (4) to (6) and subsection (9) of section 99 of the Town and Country Planning (Scotland) Act 1947"	" Sections 265(8) and 266(1) to (3) and (6) of the Town and Country Planning (Scotland) Act 1972 "
"the said section 99"	" the said section 265 "
"section 99(4)"	" section 266(1) "
"section 99(9)"	" section 265(8) "

In Schedule 4—

(a) in paragraph 92(1), for the words from "section 70(1)" to "undertakers)" and for the words "section 113(1) of the Act of 1947" there shall be substituted respectively the words " section 212(1) of the Town and Country Planning (Scotland) Act 1972 " and " section 211 of that Act "; and in paragraph 92(2), for the words "The said section 70" there shall be substituted the words " The said section 212 ".

(b) in paragraph 93(1), sub-paragraphs (iii), (vi), (xvi) and (xxxii) shall be omitted and after sub-paragraph (xxxiii) there shall be inserted—

"(xxxiv) sections 19, 37, 45, 46, 108(2), 117, 118, 119, 138, 154(3), 170, 171, 172, 175, 181, 195(6), 199(2), 202(3), 205, 212, 214 to 230, 233(7), 242 and 266(6)(b) of, and Schedules 8 and 9, paragraphs 1 to 3 of Schedule 17, and Schedule 18 to, the Town and Country Planning (Scotland) Act 1972".

(c) in paragraph 93(2), sub-paragraphs (a), (d), (h) and (r) shall be omitted and after sub-paragraph (s) there shall be inserted—

"(t) sections 195(6), 214 to 230 and 266(6)(b) of, and Schedule 8 and paragraph 4 of Schedule 18 to, the Town and Country Planning (Scotland) Act 1972".

(d) in paragraph 93(4), sub-paragraphs (a), (b) and (i) shall be omitted and after sub-paragraph (j) there shall be inserted—

"(k) sections 138(3), 154(3) and 214 to 230 of, and Schedule 8 to, the Town and Country Planning (Scotland) Act 1972".

In Schedule 9—

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997) is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in paragraph 27, for the words set out in the first column below (in each place where they occur in that paragraph) there shall be substituted the words set out opposite to them in the second column below:—

"Parts VII and XII of the Town and Country Planning Act 1971"	" Parts VII and XII of the Town and Country Planning (Scotland) Act 1972 "
"Section 78 of the Town and Country Planning Act 1971"	" Section 76 of the Town and Country Planning (Scotland) Act 1972 "
"Section 34 of the Town and Country Planning Act 1971"	" Section 31 of the Town and Country Planning (Scotland) Act 1972 "
"Minister of Housing and Local Government"	" Secretary of State "
"section 70 of the Town and Country Planning (Scotland) Act 1969"	" section 212 of the Town and Country Planning (Scotland) Act 1972 "
"the Town and Country Planning (Scotland) Act 1947"	" the Town and Country Planning (Scotland) Act 1972 "
"sections 66 and 67 of the Town and Country Planning (Scotland) Act 1969"	" sections 38 and 39 of the Town and Country Planning (Scotland) Act 1972 "
"Subsections (5) and (7) of section 43 of the Town and Country Planning Act 1971"	" Subsections (5) and (7) of section 40 of the Town and Country Planning (Scotland) Act 1972 "
"sections 41 and 42 of that Act"	" sections 38 and 39 of that Act "

(b) in paragraph 28, for the words set out in the first column below there shall be substituted the words set out opposite to them in the second column below:—

"section 83 of the Town and Country Planning (Scotland) Act 1947"	" section 253 of the Town and Country Planning (Scotland) Act 1972 "
"section 36 of the Town and Country Planning (Scotland) Act 1959"	" section 24 of the said Act of 1972 "
"the said Act of 1947" (in paragraph 28(2))	" the said Act of 1972 "

(c) in paragraph 29, for the words "section 72(1) of the Town and Country Planning (Scotland) Act 1947" and "section 15 of the Town and Country Planning (Scotland) Act 1969" there shall be substituted respectively the words " paragraph 28 of Schedule 22 to the Town and Country Planning (Scotland) Act 1972 " and " section 84 of the said Act of 1972 ".

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 22

Section 277.

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

GENERAL PROVISIONS

1 (1) In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision in this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.

(2) Sub-paragraph (1) of this paragraph applies, in particular, to any order, regulation, rule, development plan or amendment or alteration of a development plan, application, objection, representation, determination, decision, reference, appeal, declaration, agreement, arrangement, claim or apportionment made, payment made or recovered, report or proposal submitted, list or amendment of a list compiled or made, permission granted, consent, approval or authorisation given, certificate, permit, information or direction issued or given, enforcement or other notice or copy served, published or registered, inquiry held, delegation effected, register kept and requirement imposed.

(3) In relation to any permission which (whether by virtue of an enactment repealed by this Act or otherwise) was deemed to be granted under an enactment repealed by this Act, sub-paragraph (1) of this paragraph shall apply as it applies to permission granted under such an enactment.

(4) Sub-paragraph (1) of this paragraph shall not apply to any regulations or order revoked as from the commencement of this Act in the exercise of the powers conferred by section 280 of this Act.

2 Without prejudice to section 276 of, and Schedule 21 to, this Act, where any Act (whether passed before, or in the same Session as this Act) or any document refers, either expressly or by implication, to an enactment repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

3 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

4 Without prejudice to paragraph 1 of this Schedule, any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to an event which has occurred, under or for the purposes of or by reference to or in contravention of any provisions of this Act shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes

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of or by reference to or in contravention of the corresponding provisions of the enactments repealed by this Act.

5 (1) Nothing in this Act shall affect the enactments repealed thereby in their operation in relation to offences committed before the commencement of this Act.

(2) Where an offence, for the continuance of which a penalty was provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence has been committed under the corresponding provision of this Act.

6 (1) Any reference in this Act to an order or scheme made or confirmed under an enactment which is not repealed by, and re-enacted (with or without modifications) in, this Act, shall be construed as a reference to any order or scheme so made or confirmed whether before or after the commencement of this Act.

(2) Without prejudice to sub-paragraph (1) of this paragraph, any reference in this Act to an order or scheme made or confirmed under an enactment contained in the [M114]New Towns (Scotland) Act 1968, or under any other such enactment as is mentioned in that sub-paragraph, shall be construed as including a reference to any order or scheme made or confirmed under any corresponding provisions of an enactment repealed by the said Act of 1968, or repealed by the enactment in question, as the case may be.

Marginal Citations
M114 1968 c. 16

PART II

CENTRAL AND LOCAL ADMINISTRATION

Transfer of property and officers to [F966] planning authorities

Textual Amendments
F966 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

7 Nothing in this Act shall affect, or be treated as having affected, the operation of any regulations made by virtue of section 97 of the Act of 1947 (provisions for transfer of property and officers to [F967] planning authorities and for other matters consequential upon or supplementary to section 2 of that Act) in so far as any such regulations do not have effect in accordance with paragraph 1 of this Schedule.

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Textual Amendments

F967 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

PART III

DEVELOPMENT PLANS

Effect of existing commencement orders

8 (1) In relation to so much of any order made under section 104 of the Act of 1969 (commencement) as brings into operation any of the provisions of that Act specified in the Table below, paragraphs 1 and 2 of this Schedule shall have effect subject to this paragraph.

(2) So far as the order brings any of the said provisions into operation it shall have effect as if it were an order made under section 18(2) of this Act repealing the provisions of this Act set out opposite to the first-mentioned provisions in the said Table.

(3) Any transitional provision made by the order in connection with any of the said provisions of the Act of 1969 which it brings into operation shall be construed so as to produce a corresponding effect in connection with the provisions of this Act which by virtue of this paragraph it is treated as repealing.

TABLE

Provision of Act of 1969 brought into operation	***Provision of this Act treated as repealed***
In Schedule 9, paragraph 4.	In Schedule 4, paragraphs 2, 3, 4 and 6.
In Schedule 9, paragraph 34.	In Schedule 4, paragraph 8.
In Schedule 11, the repeal of sections 3 to 9 of the Act of 1947.	In Schedule 4, paragraph 9, and in Schedule 3, the corresponding provision.
In Schedule 11, the repeal of section 33 of the Act of 1947.	In Schedule 4, paragraph 5.
In Schedule 11, the repeal of the definition of "development plan" in section 113(1) of the Act of 1947.	In Schedule 4, paragraph 7.

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PART IV

GENERAL PLANNING CONTROL

Planning permission: general

9 Subsection (1) of section 20 of this Act applies (subject to the provisions of that section) to the carrying out of development whether before or after the commencement of this Act, except that it does not apply to development carried out on or before the appointed day.

10 In sections 23 and 24 of this Act references to an application for planning permission do not include references to any application made before 16th August 1959.

11 Subsection (2)(b) of section 23, and the other provisions of that section relating to subsection (2)(b), do not apply to any application made before 18th May 1970.

12 Where by virtue of the proviso to subsection (3) of section 3 of the [M115]Town and Country Planning (Amendment) Act 1951 (works for making good war damage which were begun between the appointed day and 13th December 1950) any works were, immediately before the commencement of this Act, treated for the purposes of that Act as if planning permission had been granted unconditionally in respect thereof, those works shall be so treated for the purposes of this Act also.

Marginal Citations
M115 1951 c. 19.

Review of planning decisions and orders under Part V of Act of 1954

13 For the purposes of paragraph 1 of this Schedule, any direction given under section 47(3) or (4) of the Act of 1954, whether before or (by virtue of paragraph 66 of this Schedule) after the commencement of this Act, as well as any direction given under section 23 of that Act, shall be treated as a direction which could have been given under section 35 of this Act.

Duration of planning permission

14 Sections 38 and 39 of this Act do not apply to planning permissions granted or deemed to have been granted before 8th December 1969.

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15 (1) Subject to sub-paragraph (2) of this paragraph, every planning permission granted or deemed to have been granted before 8th December 1969 shall, if the development to which it relates had not been begun before the beginning of 1969, be deemed to have been granted subject to a condition that the development must be begun not later than the expiration of five years beginning with 8th December 1969.

(2) Sub-paragraph (1) of this paragraph does not apply—

(a) to any planning permission which was granted or deemed to be granted before 8th December 1969 subject to an express condition that the development to which it relates should be begun, or be completed, not later than a specified date or within a specified period; or

(b) to any such planning permission as is mentioned in section 38(3) of this Act.

16 (1) Subject to sub-paragraph (2) of this paragraph, where before 8th December 1969 outline planning permission (as defined by section 39 of this Act) has been granted for development consisting in or including the carrying out of building or other operations, and the development has not been begun before the beginning of 1969, that planning permission shall be deemed to have been granted subject to conditions to the following effect—

(a) that, in the case of any reserved matter (as defined in that section), application for approval must be made not later than the expiration of three years beginning with 8th December 1969; and

(b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates—

(i) the expiration of five years from 8th December 1969; or

(ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

(2) Sub-paragraph (1) of this paragraph does not apply to any planning permission granted before 8th December 1969 subject to an express condition that the development to which it relates should be begun, or be completed, or that application for approval of any reserved matter should be made, not later than a specified date or within a specified period.

17 (1) In sections 27(3), 40(1), (5), (6) and (7), 41 and 43(6) of this Act references to sections 38 and 39 of this Act shall respectively include references to paragraphs 15 and 16 of this Schedule.

(2) In sections 136(3), 158(7), 169(4) and 226(5) of this Act references to the conditions referred to in sections 38 and 39 of this Act shall include references to the conditions referred to in paragraphs 15 and 16 of this Schedule.

18 Until the coming into operation of the first regulations to be made for the purposes of paragraph (c) of section 40(3) of this Act (or the corresponding enactment previously in force), regulations made for the purposes of section 99(2) of the [M116]Land Commission Act 1967 shall have effect as if made also for the purposes of that paragraph.

Status: *Point in time view as at 25/09/1991. This version of this Act contains provisions that are not valid for this point in time.*
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Marginal Citations
M116 1967 c. 1.

PART V

ADDITIONAL CONTROL IN SPECIAL CIRCUMSTANCES

Buildings of architectural or historic interest

19 Section 53(1) of this Act does not apply to any works executed or caused to be executed before 3rd August 1970.

20 (1) Where, before 3rd August 1970, consent under a building preservation order was given, either by the [F968] planning authority or by the Secretary of State on appeal, for the execution of any works, the consent shall operate in respect of those works as listed building consent, subject to the same conditions (if any) as were attached to the consent under the building preservation order.

(2) In the case of demolition works for which consent was given under a building preservation order compliance with section 53(2)(b) of this Act shall not be required.

Textual Amendments
F968 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Replacement of trees

21 Section 57 of this Act does not apply in relation to planning permission granted before 28th August 1967.

F969 . . . . . .

22—25.

Textual Amendments
F969 Sch. 22 paras. 22–25 repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

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PART VI

ENFORCEMENT OF CONTROL

Enforcement notices under enactments in force before 8th December 1969

26 (1) This paragraph applies to any enforcement notice which was served before 8th December 1969 on the owner, lessee and occupier of the land to which it related under section 21 of the Act of 1947 or to which paragraph 27 or 28 of this Schedule applies.

(2) In relation to any such notice—

(a) the provisions of this Act (other than this Schedule) shall not apply;

(b) notwithstanding their repeal or amendment by the Act of 1969, the provisions of the Act of 1947 and of any other Act passed before the Act of 1969 shall, subject to the subsequent provisions of this Schedule, have effect as they would have had effect in relation to the notice if the Act of 1969 and this Act had not been passed.

(3) Nothing in this paragraph shall prevent the withdrawal, on or after 8th December 1969, of an enforcement notice so served or the service thereafter of an enforcement notice under Part V of this Act.

Enforcement notices served by virtue of section 72 of Act of 1947

27 (1) This paragraph applies to any enforcement notice served before the commencement of this Act by virtue of section 72 of the Act of 1947 (which related to development contravening planning control under the enactments repealed by that Act), being a notice which had not ceased for all purposes to have effect before the commencement of this Act.

(2) The repeal by this Act of the said section 72 shall not invalidate any enforcement notice to which this paragraph applies.

28 In so far as an enforcement notice could, if this Act had not been passed, have been served by virtue of section 72 of the Act of 1947 at a time on or after the date of the commencement of this Act, in respect of any works or use of land of a description to which that section applied, there shall subsist by virtue of this paragraph a corresponding power in the like circumstances to serve an enforcement notice (to the like effect as that which could have been so served) in respect of those works or that use of land.

29 (1) Where an enforcement notice served by virtue of paragraph 28 of this Schedule, was or is served in respect of any works being government war works within the meaning of the [M117]Requisitioned Land and War Works Act 1945, then, subject to the following provisions of this paragraph—

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(a) if the steps required by the notice have been taken by the owner, lessee or occupier of the land, any expenses reasonably incurred in that behalf shall be recoverable from the authority by whom the notice was served;

(b) where the steps required by the notice have been taken by that authority, the authority shall not be entitled, under section 22 of the Act of 1947, to recover the expenses incurred by them in that behalf.

(2) Where under section 2(1)(b) of the [M118]Compensation (Defence) Act 1939 compensation has been paid equal to the full cost (as estimated for the purposes of that compensation) of taking the steps required by the enforcement notice, sub-paragraph (1) of this paragraph shall not apply.

(3) Where compensation has been paid in respect of the land, being either compensation under the said section 2(1)(b) but not equal to the full cost (as so estimated) of taking those steps, or being compensation under section 3(4) of that Act, the amount which by virtue of sub-paragraph (1) of this paragraph is recoverable from the authority by whom the enforcement notice was served, or, as the case may be, is not recoverable by that authority, shall be reduced so far as may be just having regard to the compensation so paid.

Marginal Citations

M117 1945 c. 43.

M118 1939 c. 75.

30 (1) The power of a [F970] planning authority under Part III of this Act to grant planning permission for the retention on land of buildings or works constructed or carried out before the date of application, or for the continuance of a use of land instituted before that date, shall include power to grant such permission in respect of any buildings or other works, or use of land, in respect of which that authority are empowered to serve an enforcement notice by virtue of paragraph 28 of this Schedule.

(2) Where permission is so granted, paragraphs 27 to 29 of this Schedule shall cease to apply to the works or use to which the permission relates, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

Textual Amendments

F970 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

31 Where in pursuance of paragraph 76(3) of this Schedule permission is granted for the retention on land of works, or the continuance of a use, authorised as mentioned in the said paragraph 76(3), such of the provisions of paragraphs 27 to 30 of this Schedule as (apart from this paragraph) would be applicable thereto shall cease to apply to those works or that use, but without prejudice to the application thereto of any provisions of Part V of this Act with respect to the contravention of conditions subject to which planning permission has been granted.

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32 The repeal by this Act of section 72 of the Act of 1947 shall not affect the operation of any regulations made under subsection (8) of that section (which enabled provision to be made by regulations for applying the provisions of that section to contraventions, committed before the appointed day, of restrictions under enactments other than those relating to town and country planning) or of the provisions of that section as applied by any such regulations.

Enforcement of building preservation orders

33 The repeal by the Act of 1969 of section 27 of the Act of 1947 shall not prevent a [F971] planning authority from taking such proceedings as could have been taken but for the repeal to enforce any building preservation order made under that section and for securing the restoration of a building to its former state; and in relation to any such proceedings the provisions of the order, and of any provisions of the Act of 1947 incorporated therein, shall continue to have the same effect as if the Act of 1969 had not been passed.

Textual Amendments
F971 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Enforcement of duties as to trees

34 Subsection (3) of section 99 of this Act shall not have effect in relation to a notice served under that section before 8th December 1969, but in relation to such a notice subsection (5)(b) of section 14 of the [M119]Civic Amenities Act 1967 shall apply in the form in which it was originally enacted.

Marginal Citations
M119 1967 c. 69.

PART VII

ACQUISITION OF LAND ETC.

Consent of Minister to acquisition, appropriation or disposal of land

35 Nothing in Part I of this Schedule shall be construed as validating any transaction whereby a local authority purported, in the exercise of a power conferred by an enactment repealed by this Act, but without the consent of the Minister then required by that enactment—

(a) to acquire land by agreement in pursuance of a contract made before 16th August 1959; or

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(b) to appropriate or dispose of land before that date,

notwithstanding that the transaction could have been validly effected without that consent under the corresponding provisions of Part VI of this Act.

Existing compulsory purchase orders

36 (1) Sections 102 and 103 of this Act shall not apply, and (notwithstanding their repeal by the Act of 1969) sections 34 and 35 of the [M120]Act of 1947 shall continue to apply to any land the acquisition of which was, immediately before 8th December 1969, authorised by a compulsory purchase order made by a local authority or statutory undertakers or by a Minister, or was then proposed to be authorised by such an order which had not been confirmed by a Minister or, as the case may be, had been prepared in draft by a Minister, but with respect to which a notice had then been published in accordance with paragraph 3(a) of Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

(2) The validity of a compulsory purchase order made under section 34, 35 or 38 of the Act of 1947 shall not be affected by the repeal by the Act of 1969 of the section under which the order was made; and a compulsory purchase order made (but not confirmed), or made in draft, before the repeal of that section took effect may be confirmed or made thereunder as if the Act of 1969 had not been passed.

Marginal Citations
M120 1947 c. 42.

37 The repeals effected by this Act shall not affect the validity of any order authorising the compulsory acquisition of any land—

(a) under section 34(2) of the Act of 1947 (which enabled the Minister of Works or the Postmaster-General, during the period before a development plan had become operative with respect to any area, to be authorised in certain circumstances to acquire land compulsorily);

(b) under section 35(2) of that Act (which enabled certain local authorities, during any such period, to be authorised in certain circumstances to acquire land compulsorily); or

(c) under subsection (3) of section 35 of that Act in a case where the power conferred by that subsection was exercisable in lieu of the exercise of the power conferred by subsection (2) thereof,

or of any notice served or other thing done in pursuance of any such order.

38 Any compulsory purchase order made or confirmed under Part I of the Act of 1945 (whether before or after the appointed day) shall, if in force immediately before the commencement of this Act, continue in force and shall have effect as if it had been made under the [M121]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 as applied by Part VI of this Act.

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Marginal Citations
M121 1947 c. 42.

Application of Part VI to land acquired or authorised to be acquired under previous enactments

39 The provisions of Part VI of this Act shall have effect in relation to land acquired, or authorised to be acquired, in pursuance of any such order as is mentioned in paragraph 37 of this Schedule as if—

(a) in the case of land acquired, or authorised to be acquired, by a local authority, the land had been acquired, or authorised to be acquired, by that local authority under section 102 of this Act;

(b) in the case of land acquired, or authorised to be acquired, by a Minister, the land had been acquired, or authorised to be acquired, by that Minister under section 103 of this Act.

40 For the purposes of Part VI of this Act—

(a) any land acquired by a local authority in pursuance of a compulsory purchase order under Part I of the Act of 1945 shall be deemed to have been acquired under section 102 of this Act;

(b) any land acquired by a Minister in pursuance of any such order shall be deemed to have been acquired by him under section 103 of this Act;

(c) any land acquired by a local authority by agreement under the Act of 1945 shall be deemed to have been acquired under section 109 of this Act.

41 The reference in subsection (1) of section 122 of this Act to the acquisition of land under section 102 or 109 of this Act shall include a reference to the acquisition of land under section 35 or 37 of the Act of 1947; and the reference in that subsection to the appropriation of land for purposes for which land can be or could have been acquired under the provisions there mentioned is a reference to the appropriation of land for those purposes whether before or after the commencement of this Act.

Provisions as to Central Land Board

42 Section 117 of this Act shall have effect in relation to land acquired by the Central Land Board under section 40 of the Act of 1947 as it has effect in relation to land acquired by a local authority for planning purposes (as defined by section 122(1) of this Act).

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PART VIII

COMPENSATION UNDER PART VII OF THIS ACT

Compensation under Part V of Act of 1954

43 (1) Subject to the following provisions of this paragraph, for the purposes of the construction of sections 147 to 150 of this Act in accordance with Part I of this Schedule, any compensation (whether by way of principal or interest) under Part V of the Act of 1954, and any claim for, or notice registered in respect of, any such compensation, as well as any compensation under Part II of that Act, or any claim for, or notice registered in respect of, compensation under the said Part II, shall be treated as compensation or, as the case may be, a claim for, or a notice registered in respect of compensation, under provisions of that Act corresponding to those of Part VII of this Act.

(2) For the purposes of the construction of section 147 of this Act in accordance with sub-paragraph (1) of this paragraph in relation to Part V of the Act of 1954, any reference to a planning decision shall be construed as including a reference to an order under section 19 of the Act of 1947.

(3) Where compensation under Part V of the Act of 1954 became or becomes payable in respect of an order modifying planning permission, then (notwithstanding anything in the preceding provisions of this paragraph) the provisions of sections 148 and 150 of this Act shall not apply to development in accordance with that permission as modified by the order.

Provision excluding recovery of compensation

44 For the purposes of the construction, in accordance with Part I of this Schedule, of section 149(4) of this Act—

(a) the provisions of section 54(6) of the Act of 1954 as originally enacted; and

(b) those provisions as applied by any regulations made under section 54(8) of that Act,

as well as the provisions of the said section 54(6) as amended by section 49 of the Act of 1959, shall be treated as provisions corresponding to those of section 244 of this Act.

PART IX

COMPENSATION UNDER PART VIII OF THIS ACT

Compensation to statutory undertakers

45 Subsection (3) of section 154 of this Act shall not apply where the refusal or grant of planning permission referred to in subsection (1)(c) of that section was before 8th December 1969.

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Contribution by Secretary of State towards compensation

46 For the purposes of the construction of section 156(1) of this Act in accordance with Part I of this Schedule, any compensation which could have been claimed and would have been payable under Part V of the Act of 1954, as well as any compensation which could have been claimed and would have been payable under Part II of that Act, shall be treated as compensation which could have been claimed and would have been payable under provisions of that Act corresponding to the provisions of Part VII of this Act.

Recovery of compensation

47 For the purposes of the construction of section 157(3) of this Act in accordance with Part I of this Schedule, any grant paid—

(a) under the provisions of the section substituted by section 52 of the Act of 1954 for section 89 of the Act of 1947, but without the amendments made by the [M122]Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 or the [M123]Local Government (Scotland) Act 1966; or

(b) under the provisions of Part IX of the Act of 1947 as originally enacted,

as well as any grant paid under the provisions of the said section 89 shall be treated as a grant paid under provisions corresponding to those of Part XIII of this Act.

Marginal Citations

M122 1958 c. 64.

M123 1966 c. 51.

PART X

BLIGHT NOTICES

Notices served before 8th December 1969 or 18th May 1970

48 In relation to a notice served under section 38 of the Act of 1959 before 8th December 1969 or (in the case of such a notice served by a heritable creditor) 18th May 1970, and to any hereditament or agricultural unit which is the subject of the notice, sections 183 to 196 of this Act shall, on and after that date, have effect as if they contained the provisions in Part IV of and Schedule 5 to the Act of 1959 without any of the amendments made by Part IV of the Act of 1969.

Temporary inclusion of additional description of blighted land

49 (1) For the purposes of the application of sections 181 to 196 of this Act to an area to which this paragraph applies—

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(a) the description of land contained in section 38(1)(b) of the Act of 1959 shall be included among the specified descriptions as defined in section 181(6) of this Act; and

(b) in sections 182(3) and 195(2) of this Act references to paragraph (b) of section 181(1) of this Act shall include references to the said section 38(1)(b).

(2) This paragraph applies to any area for which no local plan is in force under Part II of this Act—

(a) allocating any land in the area for the purposes of such functions as are mentioned in section 181(1)(a) of this Act; or

(b) defining any land in the area as the site of proposed development for the purposes of any such functions.

PART XI

HIGHWAYS

Modifications etc. (not altering text)

C365 Sch. 22 Pt. XI (para. 50) amended by Telecommunications Act 1984 (c. 12, SIF 96), Sch. 4 para. 54(12), **Sch. 5 para. 45**

Provisions as to telegraphic lines

50 (1) In relation to an order made under section 46 of the Act of 1947 before 1st October 1969 or, as the case may be, an order under section 22 of the Act of 1945 in respect of which the notice required by Schedule 6 to the Act of 1947 was published before that date, section 209(1), (2) and (3) of this Act shall have effect as if references to a telegraphic line belonging to or used by the Post Office were references to a telegraphic line belonging to or used by the Postmaster-General.

(2) Where the period referred to in paragraph (a) of subsection (3) of section 209 of this Act began to run before, and was current on, the said date, that paragraph shall have effect as if the reference to notice having been given by the Post Office before the end of that period included a reference to notice having been so given by the Postmaster-General, and paragraph (c) of that subsection shall have effect as if the reference to the Post Office included a reference to the Postmaster-General.

PART XII

STATUTORY UNDERTAKERS

Application of ss. 214 to 220 to matters arising before 8th December 1969

51 (1) This paragraph shall have effect as respects the application, by virtue of Part I of this Schedule, of the provisions of this Act hereinafter specified in relation to matters

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arising before 8th December 1969 (in this paragraph referred to as "the relevant date").

(2) In relation to any application for planning permission made before the relevant date or any appeal from the decision on an application so made, section 214 of this Act shall have effect as if it contained provisions corresponding to paragraph 1(1) of Schedule 5 to the Act of 1947 and as if subsection (2)(b) were omitted.

(3) In relation to any decision made before the relevant date, section 215 of this Act shall have effect as if it contained provisions corresponding to paragraph 2(1)(a) of the said Schedule 5.

(4) In relation to any order of which notice has been given under paragraph 3(2) of the said Schedule 5 before the relevant date, section 216 of this Act shall have effect as if it contained provisions corresponding to the said paragraph 3(2).

(5) In relation to any order of which notice has been given under paragraph 4(2) of the said Schedule 5 before the relevant date, section 217 of this Act shall have effect as if it contained provisions corresponding to the said paragraph 4(2).

(6) In relation to a compulsory purchase order made or confirmed before the relevant date, section 218 of this Act shall have effect as if it contained provisions corresponding to section 42(4)(b) of the Act of 1947.

(7) In relation to any order made before the relevant date under section 24 of the Act of 1945, section 220 of this Act shall have effect as if it contained provisions corresponding to section 24(7) of the Act of 1945.

Extinguishment of rights: notices served before 8th December 1969

52 In relation to a notice served before 8th December 1969, section 219(1) of this Act shall have effect with the omission—

(a) of the words from "if satisfied" to "appropriated"; and
(b) of the words from "of twenty-eight days" to "as may be".

Application of section 219 to land acquired by Central Land Board

53 In section 219(1) of this Act, the reference to land acquired by a Minister, a local authority or statutory undertakers under Part VI of this Act shall be construed as including a reference to land acquired by the Central Land Board under Part IV of the Act of 1947, as well as to land acquired under the said Part IV by a Minister, a local authority or statutory undertakers.

Right to compensation for decisions made before 8th December 1969

54 In its application, by virtue of Part I of this Schedule, to a decision made before 8th December 1969, section 226 of this Act shall have effect as if for subsection (1)(a) there were substituted provisions corresponding to paragraph 1(a) or (b) of Schedule 4 to the Act of 1945 and as if subsection (5) contained a proviso corresponding to paragraph 2(2) of Schedule 5 to the Act of 1947.

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Enactments applying section 24 of Act of 1945

55 (1) This paragraph shall have effect for the purposes of any enactment which applies the provisions of section 24 of the Act of 1945 with adaptations consisting of or including adaptations of the references in that section to a purchasing authority or to the purchasing or appropriating authority.

(2) Any such enactment shall be construed (in accordance with Part I of this Schedule or **[**[F972]sections 16(1) and 17(2)(a) of the [M124]Interpretation Act 1978**]** as applying the provisions of section 219 and section 226(2) of this Act with corresponding adaptations of the references in those provisions to a Minister, a [F973] planning authority or statutory undertakers, or to the acquiring or appropriating authority, as the case may require.

Textual Amendments

F972 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**

F973 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Marginal Citations

M124 1978 c. 30.

PART XIII

VALIDITY OF PLANNING DECISIONS ETC.

Orders made and action taken before 16th August 1959

56 (1) Notwithstanding anything in Part I of this Schedule, the provisions of section 231 of this Act shall not have effect in relation to—

(a) any order made before 16th August 1959 under any of the provisions of the Act of 1947 corresponding to the provisions of this Act under which the orders mentioned in subsection (2) of that section can be made; or

(b) any action on the part of the Secretary of State taken before the said 16th August under any of the provisions of that Act or of the Act of 1954 corresponding to the provisions of this Act under which action of the descriptions mentioned in subsection (3) of that section can be taken,

and section 233 does not apply to any such order or action as is mentioned in this sub-paragraph.

(2) In relation to any action which, in accordance with any provisions of the Act of 1947 corresponding to provisions of Part XI of this Act, was required to be taken by the Secretary of State and the appropriate Minister, the reference in sub-paragraph (1) of this paragraph to the Secretary of State shall be construed as a reference to the Secretary of State and the appropriate Minister.

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57 Section 234 of this Act does not apply to any decision of the Secretary of State made before 16th August 1959 under any of the provisions of the Act of 1947 corresponding to the provisions of this Act mentioned in subsection (2) of that section.

Directions under Part V of Act of 1954

58 For the purposes of the construction, in accordance with Part I of this Schedule, of section 231(3)(c) of this Act (but without prejudice to paragraph 56(1) of this Schedule) any directions given on or after 16th August 1959 by the Secretary of State under section 47(3) or (4) of the Act of 1954, as well as any direction given by the Secretary of State on or after that day under section 23 of that Act, shall be treated as a direction given under provisions of that Act corresponding to the provisions of section 35 of this Act.

PART XIV

FINANCIAL PROVISIONS

Grants

59 Nothing in this Act shall affect the payment (whether before or after the commencement of this Act) of any grant in respect of any period before the commencement of this Act.

F974 . . . . . .

60

Textual Amendments

F974 Sch. 22 para. 60 repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**

Recovery of sums from acquiring authorities

61 (1) In relation to any acquisition or sale of an interest in land in pursuance of a notice to treat served, or contract made, before 30th October 1958—

(a) section 244 of this Act shall not apply;

(b) the repeals effected by this Act shall not affect any right of recovering any sum in respect thereof under the provisions of section 54(6) of the Act of 1954 as originally enacted, or under those provisions as applied by regulations made under section 54(8) of that Act.

(2) Subject to sub-paragraph (1) of this paragraph, section 244 of this Act shall have effect in relation to interests in land acquired or sold as therein mentioned whether before or after the commencement of this Act; and for the purposes of the

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construction of that section in accordance with Part I of this Schedule, any notice recorded under the provisions of section 29 of the Act of 1954 as applied by Part V of that Act, as well as any notice recorded under those provisions as applied by Part IV of that Act, shall be treated as a notice recorded under provisions of that Act corresponding to the provisions of this Act referred to in section 244 of this Act, and references in that section to compensation specified in a notice shall be construed accordingly.

62 Section 245 of this Act shall have effect in relation to interests in land acquired or sold as therein mentioned whether before or after the commencement of this Act, except that it shall not have effect in relation to any acquisition or sale in pursuance of a notice to treat served, or contract made, before 13th August 1947.

Treatment of sums received under section 248(4) before 1st April 1968

63 Any sums received by the Secretary of State before 1st April 1968 by virtue of the provisions re-enacted in the provisions mentioned in section 248(4) of this Act shall be treated as paid in satisfaction, or part satisfaction, of such one or more of the instalments payable under subsections (2) and (3) of that section as the Treasury may determine.

PART XV

SPECIAL CASES

Minerals

64 In relation to any time before 10th April 1966, section 252 of this Act shall have effect as if for references to the [M125]Mines (Working Facilities and Support) Act 1966 there were substituted references to the [M126]Mines (Working Facilities and Support) Act 1923; and accordingly regulations made before that date which are in force at the commencement of this Act under section 78 of the Act of 1947, shall have effect as if made under the said section 252 and as if, in relation to any time on or after the said 10th April, references in them to the said Act of 1923 were references to the corresponding provisions of the said Act of 1966.

Marginal Citations
M125 1966 c. 4.
M126 1923 c. 20.

National Coal Board

65 Until the coming into operation of the first regulations made under section 259 of this Act after 8th December 1969 the provisions of the Act of 1947 applied by

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regulations under section 86(1) of that Act in relation to the National Coal Board and land of that Board shall have effect as so applied as if Part XI of this Act contained provisions corresponding to the Act of 1947 without the amendments made by sections 70 to 72 of the Act of 1969.

PART XVI

MISCELLANEOUS AND SUPPLEMENTARY

Rights and liabilities in respect of certain payments

66 (1) The repeals effected by this Act shall not affect any right to, or claim for, or any liability in respect of, any payment under an enactment to which this paragraph applies; and any such right, claim or liability shall have effect and may be enforced, and moneys in respect of any such payment shall be applicable or may be raised, in accordance with the provisions of the enactment in question (including the provisions of any other enactment which, immediately before the commencement of this Act, had effect for the purposes of that enactment) as if this Act had not been passed, and any direction or proceedings relating thereto may be given, brought or continued accordingly.

(2) This paragraph applies to the following enactments, that is to say—

(a) Parts I and V of the Act of 1954;

(b) section 54(1) to (5) of that Act;

(c) the scheme made under section 56 of the Act of 1947;

(d) any other enactment which (if contained in an Act) was not repealed by, and re-enacted (with or without modifications) in this Act or (if not contained in an Act) has effect otherwise than by virtue of an enactment so repealed and re-enacted.

(3) Without prejudice to the preceding provisions of this paragraph, any proceedings relating to any such claim as is mentioned in section 124(1) of this Act may be brought or continued, and shall be determined in accordance with the relevant provisions (that is to say, the provisions of the Act of 1947 and of Schedule 1 to the Act of 1954 and any other enactment having effect for the purposes thereof) as if this Act had not been passed.

(4) Sub-paragraph (1) of this paragraph shall have effect in relation to any such right, claim or liability as is therein mentioned notwithstanding that, immediately before the commencement of this Act, the right, claim or liability had not yet accrued or been made or become enforceable, as the case may be.

Provided that, in relation to any such claim which had not been made before the commencement of this Act, so much of that sub-paragraph as provides that the claim shall have effect in accordance with the provisions therein mentioned shall be construed as providing that the claim may be made in accordance with those provisions, and, when made, shall have effect accordingly.

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Registration of payments under s. 58 of Act of 1954

67 (1) The repeals effected by this Act shall not affect the operation of subsection (1) of section 58 of the Act of 1954, in so far as that subsection would have continued to have effect if this Act had not been passed.

(2) In subsection (1) of the said section 58, the references to subsection (7) of section 54 of that Act and to paragraph (a) of the proviso to that subsection shall be construed as including references respectively to subsection (1) and to subsection (2) of section 245 of this Act.

Entitlement to, and amount of, compensation etc. in cases arising before 25th February 1963

68 Notwithstanding Part I of this Schedule, the following provisions of this Act, that is to say, sections 157(4), 158(3)(c) and (6), in section 169(2) the words "or which would contravene the condition set out in Schedule 16 to this Act", section 169(3), section 263(1) to (4), paragraph 14 of Schedule 6 and Schedule 16 do not affect—

(a) any determination arising out of a notice to treat served before 25th February 1963, or served at any time in respect of a purchase notice or notice under section 38(2) of the Act of 1959 (or any corresponding enactment previously in force) which was served before that date;

(b) any other determination under the Act of 1947 in respect of or arising out of a purchase notice served before that date;

(c) any claim for compensation under section 18(1) or 20 of the Act of 1947 (or any corresponding enactment previously in force) which arose before that date.

F975 . . . . . .

69

Textual Amendments

F975 Sch. 22 Pt. XVI para. 69 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F976 . . . . . .

70

Textual Amendments

F976 Sch. 22 para. 70 repealed by S.I. 1985/1014, **art. 3**

Saving in respect of works below high-water mark

71 Nothing in the provisions of this Act specified in Part I of Schedule 19 to this Act shall authorise the execution of any works (whether of construction, demolition or

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alteration) on, over or under tidal lands below high-water of ordinary spring tides, except—

(a) with the consent of any persons whose consent would have been required if this Act had not been passed; and

(b) in accordance with such plans and sections, and subject to such restrictions and conditions as may be approved by the Board of Trade or the Secretary of State before the works are begun.

Land Compensation (Scotland) Act 1963 s. 39

72 Any reference in this Act to the power conferred by section 39 of the [M127]Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall, in relation to any notice to treat falling within section 48 of that Act, be construed as a reference to the corresponding power conferred by section 5(2) of the [M128]Acquisition of Land (Assessment of Compensation) Act 1919.

Marginal Citations

M127 1963 c. 51.

M128 1919 c. 57.

References to Ministers: previous Transfer of Functions Orders

73 (1) Where the functions of a Minister under any enactment re-enacted or referred to in this Act have at any time been exercisable by another Minister or other Ministers, references in the relevant provision of this Act shall, as respects any such time, be construed as references to the other Minister or Ministers.(2)In this paragraph"Minister" includes the Board of Trade and the Treasury.

Schemes and agreements under enactments repealed by Act of 1947

74 (1) The repeal effected by this Act shall not affect the operation of—

(a) any such scheme as was mentioned in paragraph 6 of Schedule 10 to the Act of 1947 (which related to certain schemes made under the [M129]Town and Country Planning (Scotland) Act 1932 and the [M130]Town Planning (Scotland) Act 1925) in so far as, by virtue of that paragraph, the scheme continued to have effect immediately before the commencement of this Act; or

(b) any order made under that paragraph (which empowered the Minister to make provision by order for winding up any such scheme) in so far as the order continued to have effect immediately before the commencement of this Act.

(2) Any power to make orders under paragraph 6 of that Schedule shall continue to be exercisable notwithstanding the said repeal.

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Marginal Citations
M129 1932 c. 49.
M130 1925 c. 17.

75 (1) The repeal effected by this Act shall not affect the operation of any such agreement as was mentioned in paragraph 10 of Schedule 10 to the Act of 1947 (which related to certain agreements made before the appointed day for restricting the planning, development or use of land), or of any order discharging or modifying a restriction imposed by such an agreement, in so far as any such agreement or order was in force immediately before the commencement of this Act; and any such agreement may be enforced as if this Act had not been passed.

(2) Nothing in any such agreement shall be construed as restricting the exercise, in relation to land to which the agreement applies, of any powers exercisable by any Minister or authority under this Act, so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Secretary of State by virtue of paragraph 5 of Schedule 4 to this Act, or as requiring the exercise of any such powers otherwise than in accordance with such provisions or directions.

(3) If the Secretary of State is satisfied, on application made to him by any person being a party to any such agreement, or a person entitled to land affected thereby, that any restriction on the development or use of the land imposed by the agreement is inconsistent with the proper planning or development of the area comprising the land, he may by order discharge or modify that restriction so far as appears to him to be expedient.

(4) Without prejudice to sub-paragraph (3) of this paragraph, if any person being a party to any such agreement (whether as originally made or as modified under that sub-paragraph), or a person entitled to land affected thereby, claims that the agreement ought to be modified or rescinded, having regard to the provisions of this Act or to anything done under this Act or under the Act of 1947, he may refer to arbitration the question whether the agreement should be so modified or rescinded, and the arbiter may make such award as appears to him to be just having regard to all the circumstances.

Development authorised under enactments repealed by Act of 1947

76 (1) Where any works on land existing at the appointed day, or any use to which land was put on that day, had been authorised by a permission granted subject to conditions under a scheme under the [M131]Town and Country Planning (Scotland) Act 1932 (or under an enactment repealed by that Act) or under an order made under section 10(1) of that Act (in the subsequent provisions of this Schedule referred to as "a planning scheme" and "an interim development order") the provisions of Parts III and V of this Act, the provisions of Part IX of this Act relating to purchase notices, and the provisions of sections 214 to 217 of this Act, shall apply in relation to those works or that use as if the conditions had been imposed on the grant of planning permission.

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(2) Without prejudice to the generality of sub-paragraph (1) of this paragraph, where any such permission was granted subject to conditions (in whatever form) restricting the period for which the works or use might be continued on the land, then, if that period had not expired at the appointed day and the works were or are not removed, or the use discontinued, at the end of that period, the provisions of Part V of this Act relating to enforcement notices shall apply in relation thereto as if the works had been carried out, or the use begun, as the case may be, at the end of that period and without the grant of planning permission in that behalf.

(3) The power of a [F977] planning authority under Part III of this Act to grant permission for the retention on land of buildings or works constructed or carried out before the date of the application, or the continuance of any use of land instituted before that date, shall include power to grant such permission in respect of any works or use authorised by a permission granted subject to any such conditions as are mentioned in sub-paragraph (2) of this paragraph.

(4) Where at any time before the appointed day it was determined under the [M132]Building Restrictions (War-Time Contraventions) Act 1946 that any works on land or any use of land should be deemed to comply with planning control (within the meaning of that Act) subject to any conditions specified in the determination, the provisions of this paragraph shall apply in relation to those works or that use as if those conditions had been imposed on the grant of permission under a planning scheme or an interim development order.

(5) Provisions may be made by regulations under this Act for applying the preceding provisions of this paragraph, subject to such adaptations and modifications as may be specified in the regulations, to works on land carried out, or uses of land begun, at any time before the appointed day, in accordance with permission granted subject to conditions under any enactment repealed by the Act of 1947, other than the enactments relating to town and country planning; and for the purposes of this provision any works or use in respect of which a notice was served under subsection (1) of section 1 of the [M133]Restriction of Ribbon Development (Temporary Development) Act 1943 or was deemed by virtue of subsection (4) of that section to have been so served, shall be treated as carried out or begun in accordance with permission granted subject to a condition restricting the period for which the works or use might be continued on the land.

Textual Amendments

F977 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Marginal Citations

M131 1932 c. 49.
M132 1946 c. 35.
M133 1943 c. 34.

77 (1) Where permission for any development of land was granted, at any time after 10th November 1943 and before the appointed day, on an application in that behalf made under an interim development order, then, if and so far as that development was not carried out before the appointed day and the permission was in force immediately before that day, planning permission shall be deemed to have been

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granted in respect thereof subject to the like conditions (if any) as were imposed by the permission under the interim development order as it had effect immediately before the appointed day:

Provided that this sub-paragraph shall not apply in relation to any development for which permission was required before the appointed day under the [M134]Restriction of Ribbon Development Act 1935 unless that permission was also granted.

(2) The provisions of section 42 of this Act shall apply in relation to planning permission which is deemed to have been granted by virtue of this paragraph as if it had been granted on an application under Part III of this Act; and, in relation to any order made under that section for the revocation or modification of any such permission, any reference in section 153(3) of this Act to the grant of permission shall be construed as a reference to the grant of the permission under the interim development order.

(3) Where permission for any development of land was granted as mentioned in sub-paragraph (1) of this paragraph, and permission for that development was also granted under the Restriction of Ribbon Development Act 1935 then, if the permission so granted under the said Act of 1935 was granted subject to conditions, those conditions shall be treated for the purposes of this paragraph as conditions imposed by the permission granted under the interim development order.

Marginal Citations

M134 1935 c. 47.

78 (1) Where any works for the erection or alteration of a building had been begun but not completed before the appointed day, then if—

(a) immediately before that day those works could have been completed in conformity with the provisions of a planning scheme or of permission granted thereunder, or in accordance with permission granted by or under an interim development order; and

(b) where any permission was required under the Restriction of Ribbon Development Act 1935 for the carrying out of those works, that permission was granted,

planning permission shall be deemed to have been granted in respect of the completion of those works.

(2) The planning permission deemed to have been granted by virtue of this paragraph shall be deemed to have been so granted subject to any conditions applicable thereto under the scheme or the permission granted by or under the interim development order, as the case may be, and to any conditions imposed by the permission (if any) granted under the [M135]Restriction of Ribbon Development Act 1935 and shall include permission to use the building, when erected or altered—

(a) where the purpose for which it could be so used was prescribed by or under the planning scheme, or by the permission granted by or under the interim development order, as the case may be, for that purpose;

(b) in any other case, for the purpose for which the building, or the building as altered, was designed.

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(3) In relation to any such works as are mentioned in sub-paragraph (1) of this paragraph, being works in respect of which permission was granted after 10th November 1943, on an application in that behalf made under an interim development order, the provisions of this paragraph shall have effect in substitution for the provisions of paragraph 77 of this Schedule.

Marginal Citations
M135 1935 c. 47.

79 (1) Any reference in Part VII of this Act, or in Schedule 13 thereto, to a planning decision shall, where the context so admits, include a reference to any decision deemed to have been made by virtue of the provisions of paragraph 77 or paragraph 78 of this Schedule.

(2) Sub-paragraph (1) of this paragraph shall have effect without prejudice to the provisions of Part I of this Schedule.

Supplementary

80 (1) Where in this Act (including this Schedule except Part I thereof) express provision is made in respect of any matter, the provisions of Part I of this Schedule, in so far as they are applicable to that matter, shall have effect subject to that express provision.

(2) Except as provided by sub-paragraph (1) of this paragraph, the mention in any provisions of this Act (including this Schedule except Part I thereof) of any matter to which Part I of this Schedule is applicable shall not be construed as affecting the generality of the provisions of Part I of this Schedule.

SCHEDULE 23

Section 277.

REPEALS

Modifications etc. (not altering text)
C366 The text of Sch. 23 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.

Chapter	Short Title	Extent of Repeal
8 & 9 Geo. 6. c. 33.	The Town and Country Planning (Scotland) Act 1945.	The whole Act.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act 1947.	Sections 1 to 43.

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		Section 44(2).
		Section 46 except subsection (8).
		Sections 47 to 108.
		Section 109(2) to (6).
		Sections 110 to 112.
		Section 113(2) to (4).
		Schedules 1 to 7.
		In Schedule 8, the entry relating to the Town and Country Planning (Scotland) Act 1945.
		Schedules 9 to 11.
12 & 13 Geo. 6. c. 32.	The Special Roads Act 1949.	Section 9(2) and (4).
12 & 13 Geo. 6. c. 67.	The Civil Aviation Act 1949.	Section 30(5).
		In Schedule 4, paragraph 10(a).
14 Geo. 6. c. 39.	The Public Utilities Street Works Act 1950.	In Schedule 5, the entry relating to the Town and Country Planning (Scotland) Act 1947.
14 & 15 Geo. 6. c. 19.	The Town and Country Planning (Amendment) Act 1951.	The whole Act.
14 & 15 Geo. 6. c. 60.	The Minerals Workings Act 1951.	Section 31.
		Section 43(3).
1 & 2 Eliz. 2. c. 16.	The Town and Country Planning Act 1953.	The whole Act.
2 & 3 Eliz. 2. c. 73.	The Town and Country Planning (Scotland) Act 1954.	Sections 1 to 54.
		Sections 56 to 68.
		Section 70.
		Schedules 1 to 9.
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act 1957.	In Schedule 1, in Part II, the words “A Planning Inquiry Commission constituted under Part VI of the Town and Country Planning (Scotland) Act 1969” and the words “A Joint Planning

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		Inquiry Commission constituted under Part VI of the Town and Country Planning (Scotland) Act 1969”.
7 & 8 Eliz. 2. c. 70.	The Town and Country Planning (Scotland) Act 1959.	Sections 1 to 13.
		Sections 17 to 22.
		Sections 31 to 43.
		Section 49.
		Section 50 except subsection (4).
		Sections 51 to 53.
		Section 55, except subsections (1)(a) and (3).
		Schedules 1 to 3.
		Schedules 5 and 6.
		Schedule 7, except the entry relating to section 55 of the Town and Country Planning (Scotland) Act 1954.
		Schedules 8 and 9.
8 & 9 Eliz. 2. c. 18.	The Local Employment Act 1960.	Sections 16 to 22.
		Section 26(1) and (3).
8 & 9 Eliz. 2. c. 62.	The Caravan Sites and Control of Development Act 1960.	Sections 21 and 22.
1963 c. 17.	The Town and Country Planning Act 1963.	The whole Act.
1965 c. 16.	The Airports Authority Act 1965.	Section 17(7)(d).
1965 c. 33.	The Control of Office and Industrial Development Act 1965.	The whole Act.
1966 c. 4.	The Mines (Working Facilities and Support) Act 1966.	In Schedule 2, paragraph 3.
1966 c. 34.	The Industrial Development Act 1966.	Part III.
		Section 31(3).

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		In Schedule 3, in Part II, the entry relating to section 17 of the Local Employment Act 1960, and Part III.
1966 c. 51.	The Local Government (Scotland) Act 1966.	Section 8.
1967 c. 69.	The Civic Amenities Act 1967.	Section 1.
		Section 3.
		Section 6.
		Section 8.
		Section 11.
		Part II except section 15(2).
		In section 28(1), paragraph (a) and, in paragraph (c), the words “section 6, section 14”.
		In section 30(1), the definition of “the Scottish Planning Act of 1969”.
1968 c. 13.	The National Loans Act 1968.	Section 11.
1968 c. 41.	The Countryside Act 1968.	Sections 25 and 26.
1969 c. 30.	The Town and Country Planning (Scotland) Act 1969.	Sections 1 to 27.
		Section 28 except paragraph (b).
		Sections 29 to 31.
		Sections 33 to 38.
		Sections 40 to 57.
		Sections 60 to 97.
		Sections 99 to 101.
		Secion 102(a).
		Section 105.
		Section 107.
		Section 108(2).
		Schedules 1 to 9.
		Schedule 10 except paragraph 11.

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		Schedule 11.
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraphs 37, 42 and 92(3).
		In Schedule 9, in paragraph 27, in each of sub-paragraphs (7), (9) and (15), the words from "In the application" to the end of the sub-paragraph.
1970 c. 43.	The Trees Act 1970.	Section 1.
1971 c. 18.	The Land Commission (Dissolution) Act 1971.	In Schedule 2, paragraphs 3 and 4 and Appendix B.
1971 c. 62.	The Tribunals and Inquiries Act 1971.	In Schedule 3, the entries relating to the Town and Country Planning (Scotland) Act 1959 and the Town and Country Planning (Scotland) Act 1969.
1971 c. 75.	The Civil Aviation Act 1971.	In section 14(9), in paragraph (c), the words from "and for" to the end of the paragraph, and paragraph (d).
		In Schedule 5, paragraph 9(3).
1972 c. 5.	The Local Employment Act 1972.	In Schedule 3, the entry relating to the Local Employment Act 1960.
1972 c. 42.	The Town and Country Planning (Amendment) Act 1972.	Sections 7(2) and 12(1)(b).

SCHEDULE 24

Section 278

GENERAL VESTING DECLARATIONS

Modifications etc. (not altering text)

C367 Sch. 24 applied by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), **s. 36(3)**

C368 Sch. 24 extended by Land Compensation (Scotland) Act 1973 (c. 56), **ss. 46(4)**, 49(5)

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PART I

GENERAL PROVISIONS

Execution of general vesting declarations

1 (1) Where a compulsory purchase order authorising an acquiring authority to acquire any land has come into operation, the authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form (in this Schedule referred to as "a general vesting declaration") vesting the land in themselves as from the end of such period as may be specified in the declaration (not being less than twenty-eight days) from the date on which the service of notices required by paragraph 4 below is completed.

(2) A general vesting declaration shall contain a particular description of the lands affected or a description by reference of those lands in the manner provided by section 61 of the [M136]Conveyancing (Scotland) Act 1874.

Modifications etc. (not altering text)
C369 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

Marginal Citations
M136 1874 c. 94.

2 (1) Before making a general vesting declaration with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include in the notice of the making or confirmation of the order which is required to be published or served by paragraph 6 of Schedule 1 to the [M137]Acquisition Act 1947 or any other provision of the relevant enactments corresponding to that paragraph, or in a notice given subsequently and before the service of the notice to treat in respect of that land—

(a) such a statement of the effect of paragraphs 1 to 8 of this Schedule as may be prescribed; and

(b) a notification to the effect that every person who, if a general vesting declaration were made in respect of all the land comprised in the order in respect of which notice to treat has not been given, would be entitled to claim compensation in respect of any such land is invited to give information to the authority making the declaration in the prescribed form with respect to his name and address and the land in question.

(2) The requirements of the relevant enactments with respect to the publication and service of a notice of the making or confirmation of a compulsory purchase order shall apply to a notice under this paragraph given subsequently to the first-mentioned notice.

Marginal Citations
M137 1947 c. 42.

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3 A general vesting declaration shall not be executed before the end of the period of two months beginning with the date of the first publication of the notice complying with paragraph 2(1) above, or such longer period, if any, as may be specified in the notice:

Provided that, with the consent in writing of every occupier of any of the land specified in the declaration, the acquiring authority may execute a general vesting declaration before the end of that period of two months, or of the longer period so specified, as the case may be.

4 As soon as may be after executing a general vesting declaration, the acquiring authority shall serve—

(a) on every occupier of any of the land specified in the declaration (other than land in which there subsists a short tenancy or a long tenancy which is about to expire); and

(b) on every other person who has given information to the authority with respect to any of that land in pursuance of the invitation published and served under paragraph 2(1) above,

a notice in the prescribed form specifying the land and stating the effect of the declaration.

5 For the purposes of this Schedule, a certificate by the acquiring authority that the service of notices required by paragraph 4 above was completed on a date specified in the certificate shall be conclusive evidence of the fact so stated.

Effect of general vesting declaration

6 At the end of the period specified in a general vesting declaration, the provisions of the Lands Clauses Acts and of section 6 of the [M138]Railways Clauses Consolidation (Scotland) Act 1845 (both as incorporated by Schedule 2 to the [M139]Acquisition Act 1947) and of the Land Compensation (Scotland) Act 1963 shall apply as if, on the date on which the declaration was made, a notice to treat had been served on every person on whom, under section 17 of the [M140]Lands Clauses Consolidation (Scotland) Act [M141]1845 (on the assumption that they required to take the whole of the land specified in the declaration and had knowledge of all the parties referred to in that section) the acquiring authority could have served such a notice, other than—

(a) any person entitled to an interest in the land in respect of which such a notice had actually been served before the end of that period; and

(b) any person entitled to a short tenancy or a long tenancy which is about to expire.

Modifications etc. (not altering text)

C370 Sch. 24 para. 6 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 paras. 1–3** (with s. 335)

C371 Paras. 6–8 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

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Marginal Citations

M138 1845 c. 33.
M139 1947 c. 42.
M140 1845 c. 19.
M141 1845 c. 19.

7 At the end of the period specified in a general vesting declaration, the land specified in the declaration, together with the right to enter upon and take possession of it, shall vest in the acquiring authority as if the circumstances in which under the said Act of 1845 an authority authorised to purchase land compulsorily have any power to expede a notarial instrument (whether for vesting land or any interest in land in themselves or for extinguishing the whole or part of any feu-duty, ground annual or rent, or other payment or incumbrance) had arisen in respect of all the land and all interests therein, and the acquiring authority had duly exercised that power accordingly at the end of that period.

Modifications etc. (not altering text)

C372 Sch. 24 paras. 7, 37 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), Sch. 6 paras. 1, **2** (with s. 335)
C373 Paras. 6–8 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

8 Where any land specified in a general vesting declaration is land in which there subsists a short tenancy or a long tenancy which is about to expire—

(a) the right of entry conferred by paragraph 7 above shall not be exercisable in respect of that land unless, after serving a notice to treat in respect of that tenancy, the acquiring authority have served upon every occupier of any of the land in which the tenancy subsists a notice stating that, at the end of such period as is specified in the notice (not being less than fourteen days) from the date on which the notice is served, they intend to enter upon and take possession of such land as is specified in the notice, and that period has expired; and

(b) the vesting of the land in the acquiring authority shall be subject to the tenancy until that period expires, or the tenancy comes to an end, whichever first occurs.

Modifications etc. (not altering text)

C374 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)
C375 Paras. 6–8 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**
C376 Para. 8 modified by Land Compensation (Scotland) Act 1973 (c. 56), **s. 51**

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Recovery of compensation overpaid

9 The provisions of paragraphs 10 to 14 below shall have effect where, after the acquiring authority have made a general vesting declaration in respect of any land, a person claims compensation in respect of the acquisition by the authority of an interest in any land by virtue of the declaration, and the authority pay compensation in respect of that interest.

Modifications etc. (not altering text)

C377 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C378 Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

10 If, in a case falling within paragraph 9 above, it is subsequently shown—

(a) that the land, or the claimant's interest in it, was subject to an incumbrance which was not disclosed in the particulars of his claim; and

(b) that by reason of that incumbrance the compensation paid exceeded the compensation to which the claimant was entitled in respect of that interest,

the acquiring authority may recover the amount of the excess from the claimant.

Modifications etc. (not altering text)

C379 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C380 Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

11 If in a case falling within paragraph 9 above, it is subsequently shown that the claimant was not entitled to the interest in question, either in the whole or in part of the land to which the claim related, the acquiring authority may recover from him an amount equal to the compensation paid, or to so much of that compensation as, on a proper apportionment thereof, is attributable to that part of the land, as the case may be.

Modifications etc. (not altering text)

C381 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C382 Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

12 Any question arising under paragraph 10 or 11 above—

(a) as to the amount of the compensation to which the claimant was entitled in respect of an interest in land; or

(b) as to the apportionment of any compensation paid,

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shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such question, the provisions of section 9 of the [M142]Land Compensation (Scotland) Act 1963 shall apply, subject to any necessary modifications.

Modifications etc. (not altering text)

C383 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C384 Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

Marginal Citations

M142 1963 c. 51.

13 Subject to paragraph 12 above, any amount recoverable by the acquiring authority under paragraph 10 or 11 above shall be recoverable in any court of competent jurisdiction.

Modifications etc. (not altering text)

C385 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C386 Paras. 9–13 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

14 Any sum recovered under paragraph 10 or 11 above in respect of land by an acquiring authority who are a local authority shall be applied towards the repayment of any debt incurred in acquiring or redeveloping that land or if no debt was so incurred shall be paid into the account out of which the compensation in respect of the acquisition of that land was paid.

Penalty for false information in claiming compensation

15 (1) If any person for the purpose of obtaining for himself or for any other person any compensation in respect of the acquisition by the acquiring authority of an interest in land by virtue of a general vesting declaration—

(a) knowingly or recklessly makes a statement which is false in a material particular; or

(b) with intent to deceive produces, furnishes, sends or otherwise makes use of any book, account, or other document which is false in a material particular; or

(c) with intent to deceive withholds any material information,

he shall be guilty of an offence.

(2) Any person guilty of an offence under this paragraph shall (without prejudice to the recovery of any sum under paragraph 10 or 11 above) be liable—

(a) on summary conviction, to a fine not exceeding £400;

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(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

PART II

SUPPLEMENTARY PROVISIONS

16 The provisions contained in this Part of this Schedule shall have effect for the purposes of paragraphs 6 to 8 above.

Modifications etc. (not altering text)

C387 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C388 Para. 16 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

Exclusion of power of entry under the Acquisition Act 1947

17 Paragraph 3 of Schedule 2 to the [M143]Acquisition Act 1947 (power to enter upon land after service of notice to treat) shall not apply to land specified in a general vesting declaration under this Act.

Modifications etc. (not altering text)

C389 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C390 Para. 17 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

Marginal Citations

M143 1947 c. 42.

Restriction on withdrawal of constructive notice to treat

18 The power conferred by section 39 of the [M144]Land Compensation (Scotland) Act 1963 to withdraw notice to treat shall not be exercisable, in respect of a notice to treat which is deemed to be served under paragraphs 6 to 8 above, at any time after the interest in respect of which the notice is deemed to be served has vested in an acquiring authority by virtue of paragraph 7 above.

Modifications etc. (not altering text)

C391 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C392 Para. 18 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

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Marginal Citations
M144 1963 c. 51.

Objection to severance

19 Paragraph 4 of Schedule 2 to the Acquisition Act 1947 shall not apply to land in respect of which a general vesting declaration is made under this Act.

Modifications etc. (not altering text)
C393 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)
C394 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

20 (1) If a general vesting declaration under this Act comprises part only of a house, building or factory, or of a park or garden belonging to a house, any person who is able to sell the whole of the house, building, factory, park or garden may by notice served on the acquiring authority (in this Part of this Schedule referred to as a "notice of objection to severance") require them to purchase his interest in the whole.

(2) Except as provided by paragraph 29 below, a notice of objection to severance served by any person shall not have effect if it is served more than twenty-eight days after the date on which the notice required by paragraph 4 above is served on him.

Modifications etc. (not altering text)
C395 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)
C396 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**
C397 Sch. 24 para 20(2) modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 4** (with s. 335)

21 Where a notice of objection to severance is served in respect of a person's interest in any land (in this Part of this Schedule referred to as "the land proposed to be severed"), and is so served within the time allowed in accordance with paragraph 20(2) above, then, notwithstanding anything in paragraph 7 above,—

(a) that interest shall not vest in the acquiring authority, and

(b) if he is entitled to possession of that land, the acquiring authority shall not be entitled to enter upon or take possession of it,

until the notice has been disposed of in accordance with the following provisions of this Schedule.

Modifications etc. (not altering text)
C398 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

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C399 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

22 Within three months after a person has served on an acquiring authority a notice of objection to severance, the acquiring authority shall either—

(a) serve notice on him withdrawing the notice to treat deemed to have been served on him in respect of his interest in the land proposed to be severed, or

(b) serve notice on him that the general vesting declaration shall have effect, in relation to his interest in the land proposed to be severed, as if the whole of that land had been comprised in the declaration (and in the compulsory purchase order, if part only of that land was comprised in that order), or

(c) refer the notice of objection to severance to the Lands Tribunal and notify him that it has been so referred.

Modifications etc. (not altering text)

C400 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C401 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

23 If the acquiring authority do not take action in accordance with the last preceding paragraph within the period allowed by that paragraph, then at the end of that period they shall be deemed to have acted in accordance with sub-paragraph (a) of that paragraph.

Modifications etc. (not altering text)

C402 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C403 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

24 Where in accordance with paragraph 22 or 23 above the notice to treat deemed to have been served in respect of a person's interest in the land proposed to be severed is withdrawn, or is deemed to have been withdrawn,—

(a) that interest shall not vest in the acquiring authority by virtue of the general vesting declaration, and

(b) if he is entitled to possession of that land, the acquiring authority shall not be entitled by virtue of that declaration to enter upon or take possession of it.

Modifications etc. (not altering text)

C404 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C405 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

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25 Where an acquiring authority take action in accordance with sub-paragraph (b) of paragraph 22 above, the general vesting declaration (and, where applicable, the compulsory purchase order) shall have effect as mentioned in that sub-paragraph, whether apart from this Schedule the acquiring authority could have been authorised to acquire the interest in question in the whole of the land proposed to be severed or not.

Modifications etc. (not altering text)

C406 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C407 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

26 Where in accordance with paragraph 22(c) above an acquiring authority refer a notice of objection to severance to the Lands Tribunal, and on that reference the Tribunal determines that the part of the land proposed to be severed which is comprised in the general vesting declaration can be taken—

(a) in the case of a house, building or factory, without material detriment, or

(b) in the case of a park or garden, without seriously affecting the amenity or convenience of the house,

paragraph 21 above shall thereupon cease to have effect in relation to that notice.

Modifications etc. (not altering text)

C408 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C409 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

C410 Para. 26 amended by Land Compensation (Scotland) Act 1973 (c. 56), **s. 54(1)**

27 (1) If on such a reference the Lands Tribunal does not make a determination in accordance with the last preceding paragraph, the Tribunal shall determine the area of that land (being the whole of it or a part of it which includes the part comprised in the general vesting declaration) which the acquiring authority ought to be required to take; and the general vesting declaration shall have effect, in relation to the interest in that area of the person who served the notice of objection to severance, as if the whole of that area had been comprised in the general vesting declaration, whether apart from this Schedule the acquiring authority could have been authorised to acquire that interest in the whole of that area or not.

(2) Where the preceding sub-paragraph applies, and part of the area determined by the Lands Tribunal was not comprised in the compulsory purchase order, the general vesting declaration shall have effect as mentioned in the preceding sub-paragraph as if the whole of that area had been comprised in the compulsory purchase order as well as in the declaration.

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Modifications etc. (not altering text)

C411 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C412 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

28 Where by virtue of paragraph 22(a), 23, 25 or 27 above a general vesting declaration is to have effect in relation to a different area of land from that originally comprised in the declaration, the acquiring authority shall alter accordingly the description of the land affected by the declaration.

Modifications etc. (not altering text)

C413 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C414 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

29 (1) Where in accordance with paragraph 20(1) above a person is entitled to serve a notice of objection to severance, and it is proved—

(a) that he never received the notice required by paragraph 4 above to be served on him, or received that notice less than twenty-eight days before, or on or after, the date on which the period specified in the general vesting declaration expired, and

(b) that a notice of objection to severance served by him was served not more than twenty-eight days after the date on which he first had knowledge of the execution of the general vesting declaration,

that notice shall have effect notwithstanding that it is served after the time allowed in accordance with paragraph 20(2) above has expired.

(2) Where, in the circumstances specified in the preceding sub-paragraph, a person serves a notice of objection to severance after the end of the period specified in the general vesting declaration,—

(a) paragraphs 21 and 24 above shall not have effect in relation to that notice;

(b) paragraph 22 above shall have effect in relation to that notice as if sub-paragraph (a) of that paragraph were omitted;

(c) paragraph 23 above shall have effect in relation to that notice with the substitution, for the words "sub-paragraph (a)", of the words "sub-paragraph (b)"; and

(d) paragraph 26 above shall not have effect in relation to that notice, but without prejudice to the making by the Tribunal of any such determination as is mentioned in that paragraph.

Modifications etc. (not altering text)

C415 Sch. 24 para. 29 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), Sch. 6 paras. 1, **5** (with s. 335)

C416 Paras. 19–29 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

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Compensation

30 Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority by virtue of paragraphs 6 to 8 above, the acquiring authority shall be liable to pay the like compensation, and the like interest on the compensation agreed or awarded, as they would have been required to pay if they had taken possession of the land under paragraph 3 of Schedule 2 to the [M145]Acquisition Act 1947.

Modifications etc. (not altering text)

C417 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C418 Paras. 30, 31 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

Marginal Citations

M145 1947 c. 42.

31 Sections 56 to 60 and sections 63 to 66 of the [M146]Lands Clauses Consolidation (Scotland) Act 1845 (absent and untraced owners) and sections 117 to 119 of the said Act (interests omitted from purchase) shall not apply to the compensation to be paid for any interest in land in respect of which a notice to treat is deemed to have been served by virtue of paragraphs 6 to 8 above.

Modifications etc. (not altering text)

C419 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C420 Paras. 30, 31 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

Marginal Citations

M146 1845 c. 19.

Charges and tenancies

32 (1) Where land specified in a general vesting declaration under this Act is, together with other land not so specified, charged with a charge, such proportion of the charge as may be apportioned under section 109 of the Lands Clauses Consolidation (Scotland) Act 1845, to the first mentioned land shall, subject to sub-paragraph (3) of this paragraph, be treated as having been extinguished by virtue of paragraphs 6 to 8 above on the vesting of that land in the acquiring authority under those paragraphs.

(2) Where by virtue of the preceding sub-paragraph a portion of a charge is treated as having been extinguished, the provisions of sections 108 to 111 of the said Act of 1845 shall have effect as if the extinguishment had taken place under section 110 of that Act.

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(3) If, in the circumstances described in sub-paragraph (1) of this paragraph, the person entitled to the charge and the owner of the land subject thereto enter into an agreement to that effect, the said sections 108 to 111, shall have effect as if, at the time of the vesting of the land in the acquiring authority under paragraphs 6 to 8 above, the person entitled to the charge had released that land from the charge on the condition mentioned in section 109 of the said Act of 1845; and in that case no part of the charge shall be treated as having been extinguished as regards the remaining part of the land charged therewith.

(4) In this paragraph "charge" means any such feu-duty, ground annual or rent or other payment or incumbrance as is mentioned in the words introductory to sections 107 to 111 of the said Act of 1845.

Modifications etc. (not altering text)

C421 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C422 Paras. 32–34 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

33 Where land specified in a general vesting declaration under this Act is, together with other land not so specified, comprised in a tenancy for a term of years unexpired, section 112 of the [M147]Lands Clauses Consolidation (Scotland) Act 1845, shall have effect in relation thereto as if for references to the time of the apportionment of rent therein mentioned there were substituted references to the time of the vesting of the tenancy in the acquiring authority.

Modifications etc. (not altering text)

C423 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C424 Paras. 32–34 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

Marginal Citations

M147 1845 c. 19.

34 Where any of the land specified in a general vesting declaration under this Act has become vested in an acquiring authority under paragraphs 6 to 8 above, any person who, in consequence thereof, is relieved from any liability (whether in respect of a feu-duty, ground annual, rent, interest on a heritable security or any other payment) and makes any payment as in satisfaction or part satisfaction of that liability shall, if he shows that when he made the payment he did not know of the facts which constituted the cause of his being so relieved, or of one or more of those facts, be entitled to recover the sum paid from the person to whom it was paid.

Modifications etc. (not altering text)

C425 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

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C426 Paras. 32–34 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

Miscellaneous

35 Where, after land has become vested in an acquiring authority under paragraphs 6 to 8 above, a person retains possession of any document relating to the title to the land, he shall be deemed to have given to the acquiring authority an acknowledgment in writing of the right of the acquiring authority to production of that document and to delivery of copies thereof and (except where he retains possession of the document as heritable creditor or as trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof.

Modifications etc. (not altering text)

C427 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C428 Paras. 35–37 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

36 (1) The time within which a question of disputed compensation, arising out of an acquisition of an interest in land in respect of which a notice to treat is deemed to have been served by virtue of paragraphs 6 to 8 above, may be referred to the Lands Tribunal shall be six years from the date at which the person claiming compensation, or a person from whom he derives title, first knew, or could reasonably be expected to have known, of the vesting of the interest by virtue of those paragraphs.

(2) In reckoning the period of six years referred to in sub-paragraph (1) of this paragraph, no account shall be taken of any period during which the person claiming compensation or the person from whom he derives title was in minority or less age or was under legal disability.

Modifications etc. (not altering text)

C429 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C430 Paras. 35–37 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

37 At the end of the period specified in a general vesting declaration or, if a notice of objection to severance is served under this Schedule, when that notice has been disposed of in accordance with the provisions of this Schedule, that declaration, if still being proceeded with or, as the case may be, that declaration as altered under paragraph 28 above, shall be recorded in the General Register of Sasines, and on being so recorded shall have the same effect as a conveyance registered in accordance with section 80 of the Lands Clauses Consolidation (Scotland) Act 1845.

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Modifications etc. (not altering text)

C431 Sch. 24 paras. 7, 37 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), Sch. 6 paras. 1, **2** (with s. 335)

C432 Paras. 35–37 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

PART III

INTERPRETATION

38 (1) In this Schedule "short tenancy" means a tenancy for a year or from year to year or any lesser interest, and "long tenancy which is about to expire", in relation to a general vesting declaration, means a tenancy granted for an interest greater than a short tenancy, but having at the date of the declaration a period still to run which is not more than the specified period (that is to say, such period, longer than one year, as may for the purposes of this paragraph be specified in the declaration in relation to the land in which the tenancy subsists).

(2) In determining for the purposes of this paragraph what period a tenancy still has to run at the date of a general vesting declaration it shall be assumed—

(a) that the tenant will exercise any option to renew the tenancy, and will not exercise any option to terminate the tenancy, then or thereafter available to him, and

(b) that the landlord will exercise any option to terminate the tenancy then or thereafter available to him.

Modifications etc. (not altering text)

C433 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

C434 Paras. 38, 39 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

39 In this Schedule—

"Acquisition Act 1947" means the [M148]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

"relevant enactments", in relation to an acquiring authority, means the enactments under which that authority may acquire or be authorised to acquire land compulsorily and which prescribe a procedure for effecting the compulsory acquisition of land by them by means of a compulsory purchase order;

"land", in relation to compulsory acquisition by an acquiring authority, has the same meaning as in the relevant enactments.

Modifications etc. (not altering text)

C435 Sch. 24 paras. 1(2), 8–13, 16–28, 30–36, 38, 39 modified by Housing (Scotland) Act 1987 (c. 26, SIF 61), s. 77(3), **Sch. 6 para. 1** (with s. 335)

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C436 Paras. 38, 39 modified by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 27 paras. 15–20**

Marginal Citations

M148 1947 c. 42.

Status:
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