
STATUTORY INSTRUMENTS

1991 No. 2092 (C. 62) (S. 172)

**ACQUISITION OF LAND
TOWN AND COUNTRY PLANNING, SCOTLAND**

The Planning and Compensation Act 1991 (Commencement No. 2 and Transitional Provisions) (Scotland) Order 1991

Made - - - - 18th September 1991

The Secretary of State, in exercise of the powers conferred on him by section 84(2) and (3) of the Planning and Compensation Act 1991((1)) and all other powers enabling him in that behalf, hereby makes the following Order:

Citation

1. This Order may be cited as the Planning and Compensation Act 1991 (Commencement No. 2 and Transitional Provisions) (Scotland) Order 1991.

Interpretation

2. In this Order—

“commencement date” means the 25th September 1991; and

“the 1991 Act” means the Planning and Compensation Act 1991.

Commencement

3. Subject to article 4, the following provisions of the 1991 Act shall come into force on 25th September 1991:—

section 47;

section 48;

section 50;

section 57 in so far as it relates to the provisions of Schedule 10 referred to below;

section 60(1), (4), (6), (7) and (8);

section 61 in so far as it relates to the provisions of Schedule 13 referred to below;

sections 71 to 76;
 section 77;
 section 78;
 section 79;
 section 80 in so far as it relates to the provisions of Schedule 18 referred to below;
 section 84(6) in so far as it relates to the repeals in Part IV of Schedule 19 specified in Schedule 1 to this Order;
 Schedule 10 in so far as it relates to paragraphs 1 and 2;
 Schedule 12;
 Schedule 13 in so far as it relates to paragraphs 2, 5, 6, 7(a)(ii) and (iii) and (b), 9, 11(a) and (c), 12, 14, 28, 36, 38(e), 41(1), 43(a)(i) and (b)(i);
 Schedule 16;
 Schedule 17;
 Schedule 18 as it applies in relation to Scotland except in so far as it relates to the entries in respect of section 56J(8) and 56K(12) of the Town and Country Planning (Scotland) Act 1972((2)) in Part I;
 Schedule 19 in so far as it relates to the repeals in Part IV specified in Schedule 1 to this Order.

Cases where commencement limited

4. –

(1) The provisions of the 1991 Act mentioned in Part I of Schedule 2 to this Order shall not have effect in a case where any of the following events occurs before the commencement date in relation to the matter specified–

- (a) in relation to a compulsory purchase order not made by a Minister, the compulsory purchase order is made;
- (b) in relation to a compulsory purchase order made by a Minister, paragraph 3 of Schedule 1 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947((3)) as applied by paragraph 7(4) of that Schedule has been complied with;
- (c) in relation to a purchase notice within the meaning of Part IX of the Town and Country Planning (Scotland) Act 1972((4)), the following events:–
 - (i) in the case of a purchase notice served in accordance with section 169(1) of that Act, planning permission is refused or granted subject to conditions;
 - (ii) in the case of a purchase notice served in accordance with section 177(1) of that Act, planning permission is revoked or modified by the imposition of conditions by way of an order under section 42 of the Act;
 - (iii) in the case of a purchase notice served in accordance with section 178(1) of that Act, an order is made under section 49 of the Act;
- (d) in relation to a blight notice within the meaning of subsection (6) of section 181 of the said 1972 Act((5)), the land falls within any of the descriptions set out at subsection (1) of that section.

(2) 1972 c. 52.

(3) 1947 c. 42; paragraph 3 of Schedule 1 was modified by the Town and Country Planning (Scotland) Act 1972 (c. 52), section 107(3); section 107(3) of the 1972 Act was amended by the Local Government (Scotland) Act 1973 (c. 65), Schedule 23, paragraph 22(b).

(4) 1972 c. 52.

(5) Section 181(6) was amended by the Land Compensation (Scotland) Act 1973 (c. 56), sections 71(2)(b) and 77(2).

(2) A provision of the 1991 Act mentioned in the first column of an entry in Part II of Schedule 2 to this Order shall not have effect in a case where the date shown against that provision in the second column of the entry is, in relation to that case, before the commencement date.

(3) In Part II of that Schedule, except where a contrary intention appears—

- (a) an expression used in an entry in the second column which is also used in the provision of an Act mentioned in the corresponding entry in the first column has the same meaning as in that provision; and
- (b) a reference in an entry in the second column to a provision or Part of an Act is a reference to a provision or Part of the Act (other than the 1991 Act) mentioned in the corresponding entry in the first column.

St Andrew's House,
Edinburgh
18th September 1991

Ian Lang
One of Her Majesty's Principal Secretaries of
State

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

SCHEDULE 1

Article 3

REPEALS IN PART IV OF SCHEDULE 19 (REPEALS: SCOTLAND)

SCOTLAND

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1963 c. 51	Land Compensation (Scotland) Act 1963	In section 12, in rule 3, the words “the special needs of a particular purchaser or”. Section 23(4)(a) and (b). Section 25(8). Section 30(3).
1965 c. 36	Gas Act 1965	In Schedule 3, paragraph 3.
1968 c. 14	Public Expenditure and Receipts Act 1968	In Schedule 3, paragraph 7(a).
1972 c. 52	Town and Country Planning (Scotland) Act 1972	Section 19(5). Section 35. Section 36. In section 58(2)(a), “35, 36”. In section 106, the words from “other than” to the end. Part VII (except section 145). In section 155(5), the words from “and subsection (5)” to the end. In section 155(6), the words, “and in section 156 of this Act”. Section 156. Section 157(1). In section 157(3), the words from “(a)” to “(b)” and, in the proviso, the words “paragraph (a) or”. Section 157(4). Section 158. Section 160. Section 169(3). Section 231(3)(c).

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

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
		In section 244(2), the words, from “sub-section (4)” to “applied by”.
		Section 245.
		In section 246, the words “or 245”.
		Section 248.
		In section 249, the words “Without prejudice to section 248 of this Act, and”.
		Section 263.
		Section 264
		In section 265, subsection (5), the words “Part VII of”.
		In section 275(1) the definitions of “new development” and “previous apportionment”.
		In Schedule 6, paragraph 3 to 9 and 12.
		In Part I of Schedule 19, “section 158 except subsection (5)”.
1973 c. 56	Land Compensation (Scotland) Act 1973	Section 5(3)(a) and (b).
		In section 28, in subsection (1), the words “passed the resolution” in paragraph (ii), and the words “and” following paragraph (iii); and subsection (5).
		Section 31(6)
		Section 48(9)(b).
1980 c. 65	Local Government, Planning and Land Act 1980	Section 114(2).
1982 c. 16	Civil Aviation Act 1982	In section 53(1)(a), the word “158”.
1986 c. 31	Airports Act 1986	In section 61(1)(a), the word “158”.

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

SCHEDULE 2

Article 4

CASES WHERE COMMENCEMENT LIMITED

PART I

1. Section 73 (advance payments of compensation and interest).
2. Section 74 (planning assumptions in connection with acquisition of land by roads authorities).
3. Section 78 (time limit on validity of notice to treat).
4. Section 79 (further amendments relating to land compensation in Scotland) and Schedule 17 in so far as they relate to the following paragraphs of that Schedule:—
 - paragraphs 2 and 3 (local authority and statutory undertakers' land)
 - paragraph 5 (rules for assessment of compensation)
 - paragraph 6 (expenses in acquiring replacement land)
 - paragraph 14 (farm loss payments)
 - paragraph 15 (notice to quit agricultural holding; right to opt for notice of entry compensation)
 - paragraph 21 (advance payments of compensation and interest).
5. Section 80(1) (interest on compensation) and Schedule 18, Part I in so far as they relate to section 39(3) of the Land Compensation (Scotland) Act 1963⁽⁶⁾.
6. Section 84(6) and Schedule 19 in so far as they relate to the repeals in Part IV of Schedule 19 of section 12 of the Land Compensation (Scotland) Act 1963 and sections 31(6) and 48(9)(b) of the Land Compensation (Scotland) Act 1973⁽⁷⁾.

PART II

Provision commenced	Cases in which provision has no effect if date before commencement date
1. Section 47(1) (power of planning authority to decline to determine applications)	1. The date the application is received.
2. Section 60(6) (repeals, minor and consequential amendments of compensation provisions of the Town and Country Planning (Scotland) 1972 ⁽⁸⁾ Act and Schedule 12 in so far as they relate to the following paragraphs of that Schedule:	2.
(1) Paragraphs 8, 9, 26, 27 and 31	(1) The date a claim for compensation is duly made in accordance with section 143 of the Town and Country Planning (Scotland) Act 1972
(2) Paragraphs 15(d) and 16	(2) in a case where—

⁽⁶⁾ 1963 c. 51.

⁽⁷⁾ 1973 c. 56.

⁽⁸⁾ 1972 c. 52.

Provision commenced	Cases in which provision has no effect if date before commencement date
	<ul style="list-style-type: none"> (a) a notice under section 155 of that Act is given in consequence of an order under section 42 of that Act, the date of that order; (b) such notice is given in a case falling within section 154 of that Act, the date of the relevant planning decision refusing planning permission or granting it conditionally;
<p>3. Section 61 (Planning minor and consequential amendments) and Schedule 13 in so far as they relate to paragraph 36 of that Schedule</p>	<p>3. The date a claim for compensation is duly made in accordance with section 143 of the Town and Country Planning (Scotland) Act 1972</p>
<p>4. Section 72 (home loss payments)</p>	<ul style="list-style-type: none"> (a) (a) in a case where paragraph (a) or (b) of subsection (1) of section 27 of the Land Compensation (Scotland) Act 1973⁽⁹⁾ applies the date the event mentioned in paragraph (a) or (b) occurs; (b) in a case where paragraph (c) or (d) of that subsection applies, the date the land is acquired (or as the case may be) appropriated; (c) in a case where paragraph (e) of that subsection applies the date when the occupants have been required to remove; and (d) in a case where paragraph (f) of that subsection applies the date when the proceedings for the order for recovery of possession mentioned in that paragraph are started.
<p>5. Section 75 (certification of appropriate alternative development)</p>	<p>5. The date any of the circumstances mentioned in section 30(2) of the Land Compensation (Scotland) Act 1963⁽¹⁰⁾ arises.</p>
<p>6. Section 79 (further amendments relating to land compensation) and Schedule 17 in so far as they relate to the following paragraphs of that Schedule:—</p> <p>(1) paragraphs 7 to 10 (certification of appropriate alternative development)</p>	<p>(1) the date of the circumstances mentioned in section 30(2) of the Land Compensation (Scotland) Act 1963 arises;</p>

⁽⁹⁾ 1973 c. 56; section 27(1) was amended by the Housing Act 1974 (c. 44), Schedule 13, paragraph 42(1), the Housing Rents and Subsidies (Scotland) Act 1975 (c. 28), Schedule 3, paragraph 9, the Housing (Financial Provisions) (Scotland) Act 1978 (c. 14), Schedule 2, paragraph 12(a), the Housing (Scotland) Act 1986 (c. 65), section 20(2), and the Housing (Scotland) Act 1987 (c. 26), Schedule 23, paragraph 19(1).

⁽¹⁰⁾ 1963 c. 51.

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

Provision commenced	Cases in which provision has no effect if date before commencement date
(2) paragraph 20 (home loss payments)	(2) the relevant date shown in the entry in paragraph 4 of this column for section 72 of the 1991 Act.
7. Section 80(1) (interest on compensation) and Schedule 18 in so far as they relate to—	7.
(1) Section 2 of the Land Drainage (Scotland) Act 1930 (11)	(1) the date of application to the Sheriff for a warrant authorising the carrying out of work;
(2) Section 1 of the Land Drainage (Scotland) Act 1941 (12)	(2) the date on which the Secretary of State decides to proceed with execution of the works;
(3) Section 4 of the land Drainage (Scotland) Act 1958 (13)	(3) the date on which the Secretary of State makes the improvement order in accordance with the provisions of the said Act.
(4) Section 10(4)(a) of the Forestry Act 1967 (14)	(4) the date the application for a felling licence is refused;
(5) section 153 of the Town and Country Planning (Scotland) Act 1972 (15)	(5) the date of the order under section 42;
(6) section 154 of that Act	(6) the date the planning permission is refused or granted subject to conditions;
(7) section 159 of that Act	(7) the date of the order under section 49;
(8) section 161 of that Act	(8) the date of the order under paragraph 9 of Schedule 10;
(9) section 162 of that Act	(9) the date of the building preservation notice;
(10) section 163 of that Act	(10) the date the consent required by the tree preservation order is refused or granted subject to conditions;
(11) section 164 of that Act	(11) the date on which the requirement was imposed by the planning authority or the Secretary of State;
(12) section 165 of that Act	(12) the date the works are begun to be carried out;
(13) section 166 of that Act	(13) the date of the stop notice;
(14) Section 167A of that Act	(14) the date order made;
(15) section 176 of that Act	(15) the date of the purchase notice;
(16) section 201(5) of that Act	(16) the date of the order under section 201(2);

(11) 1930 c. 20.
(12) 1941 c. 13.
(13) 1958 c. 24.
(14) 1967 c. 10.
(15) 1972 c. 52.

Provision commenced	Cases in which provision has no effect if date before commencement date
(17) section 26(1) of that Act	(17) the date of the decision made in accordance with section 214 or (as the case may be) of the order under section 42;
(18) section 226(2) of that Act	(18) the date of the notice under section 219(1);
(19) section 18(1)(a) and (b) of the Reservoirs Act 1975 (16)	(19) the date of the entry on the land;
(20) section 7 of the Ancient Monuments and Archeological Areas Act 1979 (17)	(20) the date the scheduled monument consent is refused or granted subject to conditions;
(21) section 9 of that Act	(21) the date the works cease to be authorised;
(22) section 46 of that Act	(22) the date of entry on the land.
(23) section 10 of the Water (Scotland) Act 1980 (18)	(23) the date of the exercise of the powers under the 1980 Act by either the district council or water authority or water development board;
(24) Schedule 6 to that Act	(24) the date of the order;
(25) section 71(6) of the Roads (Scotland) Act 1984 (19)	(25) the date the damage is suffered;
(26) section 72 of that Act	(26) the date the damage is suffered;
(27) section 83(8) of that Act	(27) the date of the notice;
(28) section 88(2) of that Act	(28) the date on which damage is sustained;
(29) section 106 of that Act	(29) as regards compulsory acquisition, date on which compulsory purchase notice first published; as regards acquisition by agreement, date agreement made;
(30) section 116 of that Act	(30) the date the damage is sustained;
(31) section 121 of that Act	(31) the date on which damage done or materials removed;
(32) section 140 of that Act	(32) the date on which the power under section 140 is exercised.
8. Section 84(6) and Schedule 19 in so far as they relate to the repeals in Part IV of that Schedule of or in—	
(1) sections 25(8) and 30(3) of the Land Compensation (Scotland) Act 1963 (20) (certification of appropriate alteration development)	(1) the date any of the circumstances mentioned in section 30(2) arises;

(16) 1975 c. 23.
(17) 1979 c. 46.
(18) 1980 c. 45.
(19) 1984 c. 54.
(20) 1963 c. 51.

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

Provision commenced	Cases in which provision has no effect if date before commencement date
(2) sections 35, 36, 248 and 275(1) of the Town and Country Planning (Scotland) Act 1972 ⁽²¹⁾	(2) the date a claim for compensation is duly made in accordance with section 143;
(3) section 156 of the Town and Country Planning (Scotland) Act 1972	(3) in a case where— (i) a notice under section 155 is given in consequence of an order under section 42, the date of that order; (ii) such notice is given in a case falling within section 154, the date of the relevant planning decision refusing planning permission or granting it conditionally;
(4) in section 27(1) of the Land Compensation (Scotland) Act 1973 ⁽²²⁾	(4) the relevant date in the entry in paragraph 4 of this column for section 72 of the 1991 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 25th September 1991 the following provisions of the Planning and Compensation Act 1991—

- section 47 (power of planning authority to decline to determine applications);
- section 48 (assessment of environmental effects);
- section 50 (dismissal of appeals in cases of undue delay);
- section 57 (listed buildings, conservation areas and hazardous substances) and Schedule 10 in so far as they relate to paragraphs 1 and 2 of that Schedule;
- section 60(1), (4), (6), (7) and (8) (repeal of certain compensation provisions of the Town and Country Planning (Scotland) Act 1972) and Schedule 12;
- section 61 (planning: minor and consequential amendments – Scotland) and Schedule 13 in so far as they relate to paragraphs 2, 5, 6, 7(a)(ii) and (iii), 7(b), 9, 11(a) and (c), 12, 14, 28, 36, 38(e), 41(1), 43(a)(i) and (b)(ii) of that Schedule;
- sections 71-79 (land compensation – Scotland) and Schedules 16 and 17;
- section 80 (interest on compensation and payments on account) and Schedule 18 as it applies in relation to Scotland except in so far as it relates to the entries in respect of section 56J(8) and 56K(12) of the Town and Country Planning (Scotland) Act 1972 in Part I of that Schedule;
- section 84(6) (repeals) and Schedule 19 in so far as they relate to the repeals in Part IV of Schedule 19 specified in Schedule 1 to this Order.

⁽²¹⁾ 1972 c. 52.

⁽²²⁾ 1973 c. 56.

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

Article 4 of, and Schedule 2 to, the Order limit, as specified there, the commencement of—
 sections 47(1) (power of planning authority to decline to determine applications), 72 to 75, 78
 (land compensation – Scotland) and 80(1) (interest on compensation);
 in Schedule 17, paragraphs 2, 3, 5, 6, 7 to 10, 14, 15, 20 and 21 (amendments relating to land
 compensation);
 in Schedule 19, the repeals of or in sections 12, 25(8), 30(3) of the Land Compensation
 (Scotland) Act 1963 and sections 35, 36, 156, 248 and 275(1) of the Town and Country
 Planning (Scotland) Act 1972 and sections 27(1), 31(6) and 48(9)(b) of the Land Compensation
 (Scotland) Act 1973.

Section 60(7) of the 1991 Act prevents the repeals effected by section 60(1) of that Act affecting
 any claim for compensation under Part VII of the Town and Country Planning (Scotland) Act 1972
 duly made before 25th September 1991.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The order has been preceded by an earlier Order entitled the Planning and Compensation Act
 1991 (Commencement No.1 and Transitional Provisions) Order 1991 (S.I.1991/2067) commencing
 provisions of the Act relating to England and Wales subject to transitional provisions. The order was
 made on 9th September 1991 to come into force on 25th September 1991.

The following Table of this Note sets out the provisions of the Act and the subject matter of the
 provisions.

Column 1 <i>Provisions of the Act</i>	Column 2 <i>Subject Matter</i>
Section 15	Assessment of environmental effects
Section 17	Power of local planning authority to decline to determine applications
Section 18	Dismissal of appeals in cases of undue delay
Section 21	Mines and waste
Section 22	Old mining permissions
Section 25 and Schedule 3 so far as it relates to paragraph 1 of Part I of Schedule 3	Listed buildings, conservation areas and hazardous substances
Section 26	Status of development plans
Section 29	Functions of Historic Buildings and Monuments Commission
Section 31(1), (4) and Schedule 6 (in so far as they relate to paragraphs 2 to 4, 6 to 12 and 14 to 49 of that Schedule), (5) and (6)	Planning compensation repeals
Section 32 and Schedule 7 in so far as they relate to paragraphs 8, 9(2)(c), 10(1), 36, 51, 54(1) and (3)(a), 56 and 57(1), (2)(b), (3)(b) and (4)	Planning minor and consequential amendments

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

Column 1 <i>Provisions of the Act</i>	Column 2 <i>Subject Matter</i>
Section 62	Powers to acquire land which will be affected by public works
Section 63	Advance payments of compensation and interest
Section 64	Planning assumptions in connection with highway schemes
Section 65	Certification of appropriate alternative development
Section 66	Compensation where permission for additional development granted after acquisition
Section 67	Time limit on validity of notice to treat
Section 68	Home loss payments
Section 69	Home loss payments: spouses having statutory rights of occupation
Section 70 and Schedule 15 (except so far as they relate to paragraph 32)	Further amendments relating to land compensation
Section 80 and Schedule 18 as they apply in relation to England and Wales except so far as they relate to the entries relating to the Planning (Hazardous Substances) Act 1990 in Part I of that Schedule	Interest on compensation and payments on account
Section 81	Abolition of new street byelaws
Section 84(6) and Schedule 19 so far as they relate to Part II, III and V of that Schedule and the repeals in Parts I and IV of that Schedule specified in Schedule 1 of the Commencement Order.	Repeals