



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART VII

#### SPECIAL CONTROLS

#### CHAPTER I

#### TREES

*Compensation for loss or damage caused by orders etc.*

#### **166 Compensation in respect of requirement as to replanting of trees.**

- (1) This section applies where—
  - (a) a requirement is imposed by the planning authority or the Secretary of State 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, and
  - (b) the [<sup>F1</sup>Scottish Ministers decide not to provide financial assistance under section 71 of the Forestry and Land Management (Scotland) Act 2018] in respect of the replanting by reason 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.
- (2) Where this section applies, the 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.

*Changes to legislation: Town and Country Planning (Scotland) Act 1997, Section 166 is up to date with all changes known to be in force on or before 21 April 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) View outstanding changes*

- (3) The [<sup>F2</sup>Scottish Ministers] shall, at the request of the person under a duty to comply with such a requirement as is mentioned in subsection (1)(a), give a certificate stating—
- (a) whether they have decided not to [<sup>F3</sup>provide such financial assistance] as is mentioned in subsection (1)(b), and
  - (b) if so, the grounds for their decision.
- (4) A claim for compensation under this section must be served on the planning authority—
- (a) within 12 months from the date on which the requirement was made, or
  - (b) where an application has been made to the Secretary of State for the determination of any question relating to the reasonableness of a requirement, within 12 months from the date of the determination of the Secretary of State, but subject in either case to such extension of that period as the planning authority may allow.
- (5) Any question of disputed compensation under this section shall be determined in accordance with section 70 of the <sup>M1</sup>Countryside (Scotland) Act 1967.

#### Textual Amendments

- F1** Words in s. 166(1)(b) substituted (1.4.2019) by [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Amendments\) Regulations 2019 \(S.S.I. 2019/125\)](#), regs. 1(2), **9(3)(a)**
- F2** Words in s. 166(3) substituted (1.4.2019) by [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Amendments\) Regulations 2019 \(S.S.I. 2019/125\)](#), regs. 1(2), **9(3)(b)**
- F3** Words in s. 166(3)(a) substituted (1.4.2019) by [The Forestry and Land Management \(Scotland\) Act 2018 \(Consequential Amendments\) Regulations 2019 \(S.S.I. 2019/125\)](#), regs. 1(2), **9(3)(c)**

#### Marginal Citations

- M1** 1967 c. 86.

**Changes to legislation:**

Town and Country Planning (Scotland) Act 1997, Section 166 is up to date with all changes known to be in force on or before 21 April 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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)