



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART X

STATUTORY UNDERTAKERS

Extension or modification of statutory undertakers' functions

228 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 [^{F1}Scottish Ministers] 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 planning authority or [^{F2}the Scottish Ministers] may be authorised under Part VIII or under Chapter V of Part I of the ^{M1}Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 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).
- (2) Those acts and events are—
 - (a) the acquisition under Part VIII or that Chapter 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 224 or 225;

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- (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);
 - (d) the revocation or modification of planning permission granted on any such application;
 - (e) the making of an order under section 71 or paragraph 1 of Schedule 8 in relation to any such land.
- (3) The powers conferred by this section shall also be exercisable where, on a representation made by a planning authority [^{F3}it appears to the Scottish Ministers] 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 planning authority ^{F4} . . . making the representation may be authorised under Part VIII or under Chapter V of Part I of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to acquire land or in connection with which the local authority ^{F4} . . . may compulsorily acquire land under any other enactment.
- (4) Where the powers conferred by this section are exercisable, the [^{F5}Scottish Ministers] 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—
- (a) to secure the services in question, as mentioned in subsection (1)(a) or (3), or
 - (b) to secure the adjustment in question, as mentioned in subsection (1)(b),
- as the case may be.
- (5) Without prejudice to the generality of subsection (4), an order under this section may make provision—
- (a) for empowering the statutory undertakers—
 - (i) to acquire (whether compulsorily or by agreement) any land specified in the order, and
 - (ii) 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), for giving effect to such financial arrangements between the planning authority ^{F6} . . . and the statutory undertakers as they may agree, or as, in default of 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 [^{F7}Scottish Ministers] to be expedient for the purposes of the order.
- (6) Orders under this section shall be subject to special parliamentary procedure.

Textual Amendments

- F1** Words in s. 228(1) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 127(11)(a)**; S.I. 1998/3178, **art. 3**
- F2** Words in s. 228(1)(a) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 127(11)(b)**; S.I. 1998/3178, **art. 3**
- F3** Words in s. 228(3) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 127(11)(c)(i)**; S.I. 1998/3178, **art. 3**

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- F4** Words in s. 228(3) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 127(11)(c)(ii)**, Pt. IV; S.I. 1998/3178, **art. 3**
- F5** Words in s. 228(4) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 127(11)(d)**; S.I. 1998/3178, **art. 3**
- F6** Words in s. 228(5)(c) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 127(11)(e)**; S.I. 1998/3178, **art. 3**
- F7** Words in s. 228(5)(d) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 127(11)(f)**; S.I. 1998/3178, **art. 3**

Marginal Citations

- M1** 1997 c. 9.

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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\(9\)\(c\)](#)