



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART XIV

#### MISCELLANEOUS AND GENERAL PROVISIONS

##### *Miscellaneous and general provisions*

#### **277 Interpretation.**

- (1) In this Act, except in so far as the context otherwise requires and subject to the following provisions of this section and to any transitional provision made by the <sup>M1</sup>Planning (Consequential Provisions) (Scotland) Act 1997—

“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 1947 Act” means the <sup>M2</sup>Town and Country Planning (Scotland) Act 1947;

“the 1972 Act” means the <sup>M3</sup>Town and Country Planning (Scotland) Act 1972;

[<sup>F1</sup>“address”, in relation to electronic communications, means any number or address used for the purposes of such communications;]

“advertisement” means any word, letter, model, sign, placard, board, notice, awning, blind, 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 designed, or adapted for use and anything else used, or designed or adapted principally for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

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“aftercare condition” has the meaning given by paragraph 2(2) of Schedule 3;

“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;

<sup>F2</sup> . . . ;

“breach of condition notice” has the meaning given by section 145;

“breach of planning control” has the meaning given by section 123;

“bridleway” has the same meaning as in section 47 of the <sup>M4</sup>Countryside (Scotland) Act 1967;

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

“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 and references to the removal of buildings or works include demolition of buildings and filling in of trenches;

“building operations” has the meaning given by section 26;

“caravan site” has the meaning given by section 1(4) of the <sup>M5</sup>Caravan Sites and Control of Development Act 1960;

“common” includes any town or village green;

“compliance period”, in relation to an enforcement notice, shall be construed in accordance with section 135(11);

“compulsory acquisition” does not include the vesting in a person by an Act of Parliament [<sup>F3</sup>or of the Scottish Parliament] of property previously vested in some other person;

“conservation area” means an area designated under section 61 of the <sup>M6</sup>Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;

“depositing of mineral waste” means any process whereby a mineral-working deposit is created or enlarged and “depositing of refuse or waste materials” includes the depositing of mineral waste;

“development” has the meaning given by section 26, and “develop” shall be construed accordingly;

[<sup>F4</sup> “ development consent ” means development consent under the Planning Act 2008; ]

“development order” has the meaning given by section 30;

“development plan” shall be construed in accordance with section 24;

“disposal” <sup>F5</sup>... 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;

[<sup>F1</sup> “electronic communication” has the same meaning as in the Electronic Communications Act 2000 (c. 7);]

[<sup>F6</sup> “ enactment ” includes an Act of the Scottish Parliament, an enactment in any local or private Act of Parliament or in any private Act of the Scottish Parliament, and an order, rule, regulation, byelaw or scheme made under an

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Act of Parliament or of the Scottish Parliament, including an order or scheme confirmed by Parliament or by the Scottish Parliament; ]

“enforcement notice” means a notice under section 127;

“engineering operations” includes the formation or laying out of means of access to roads;

“enterprise zone scheme” means a scheme or modified scheme having effect to grant planning permission in accordance with section 55;

“erection”, in relation to buildings as defined in this subsection, includes, extension, alteration and re-erection;

“footpath” has the same meaning as in section 47 of the <sup>M7</sup>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 <sup>M8</sup>Conveyancing (Scotland) Act 1924, but excluding <sup>F5</sup>... a real burden ad factum praestandum and including a security constituted by way of ex facie absolute disposition, or
- (b) an assignation in security of a lease recorded under the <sup>M9</sup>Registration of Leases (Scotland) Act 1857,

and “heritable creditor” shall be construed accordingly;

“improvement”, in relation to a road, has the same meaning as in the <sup>M10</sup>Roads (Scotland) Act 1984;

“land” includes land covered with water and any building as defined by this section and, in relation to the acquisition of land under Part VIII, includes any interest in land and any servitude or right in or over land;

“Lands Tribunal” means the Lands Tribunal for Scotland;

“lease” includes a sub-lease, but does not include an option to take a lease;

“local authority” means a council constituted under section 2 of the <sup>M11</sup>Local Government etc. (Scotland) Act 1994;

[<sup>F7</sup>“local development plan ” shall be construed in accordance with section 15;]

[<sup>F7</sup>“local developments ” has the meaning given by section 26A;]

“local roads authority” has the same meaning as in the Roads (Scotland) Act 1984;

[<sup>F7</sup>“ major developments ” has the meaning given by section 26A;]

“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;

“minerals” includes all substances of a kind ordinarily worked for removal by underground or surface working;

“mining operations” has the meaning given by section 26;

“Minister” means any Minister of the Crown or other government department;

[<sup>F7</sup>“national developments” has the meaning given by section 3A(4)(b);]

[<sup>F7</sup>“ National Planning Framework” has the meaning given by section 3A(1);]

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“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 given by section 215;

“owner”, in relation to any land, includes (except in <sup>F8</sup>sections 35, 75, 75C, 75D and 75G]) 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 3 years;

“the planning Acts” means this Act, the <sup>M12</sup>Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the <sup>M13</sup>Planning (Hazardous Substances) (Scotland) Act 1997 and the <sup>M14</sup>Planning (Consequential Provisions) (Scotland) Act 1997;

“planning authority” has the meaning given by section 1;

“planning contravention notice” has the meaning given by section 125;

“planning decision” means a decision made on an application under Part III <sup>F9</sup>or section 242A];

“planning permission” means permission under Part III <sup>F10</sup>or permission granted on an application made under section 242A];

“planning permission granted for a limited period” has the meaning given by section 41(3);

“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;

“public gas transporter” has the same meaning as in Part I of the <sup>M15</sup>Gas Act 1986;

“purchase notice” has the meaning given by section 88;

“restoration condition” has the meaning given by paragraph 2(2) of Schedule 3;

“road” has the same meaning as in the <sup>M16</sup>Roads (Scotland) Act 1984;

“simplified planning zone” and “simplified planning zone scheme” shall be construed in accordance with section 49;

“statutory undertakers” and “statutory undertaking” have the meanings given by section 214;

“steps for the protection of the environment” has the meaning given by paragraph 5(3) of Schedule 8;

“stop notice” has the meaning given by section 140;

<sup>F11</sup> ...

<sup>F11</sup> ...

<sup>F11</sup> ...

“suspension order” and “supplementary suspension order” have the meanings given by paragraphs 5 and 6 respectively of Schedule 8;

<sup>F7</sup> “ temporary stop notice” shall be construed in accordance with section 144A; ]

“tree preservation order” has the meaning given by section 160;

<sup>F12</sup>“universal postal service provider” means a universal service provider within the meaning of <sup>F13</sup>Part 3 of the Postal Services Act 2011]; and references to the provision of a universal postal service shall be construed in accordance with <sup>F14</sup>that Part];]

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“urban development area” and “urban development corporation” have the same meaning as in section 171 of the <sup>M17</sup>Local Government, Planning and Land Act 1980;

“use”, in relation to land, does not include the use of land for the carrying out of any building or other operations on it;

“Valuation Office” means the Valuation Office of the Inland Revenue Department; <sup>F15</sup>...

<sup>F16</sup> “waste” includes anything which is waste for the purposes of section 75(2) of the Environmental Protection Act 1990 (c. 43); and ]

“the winning and working of minerals” includes the extraction of minerals from a mineral working deposit.

<sup>F17</sup>(2) .....

<sup>F18</sup>[( 3 ) If, in relation to anything required or authorised to be done under this Act, any question arises whether land of statutory undertakers is operational land, that question shall be determined by the Scottish Ministers.]

(4) 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.

<sup>F19</sup>(4A) Where an electronic communication is used for the purpose of serving on, or giving to, a person any notice or other document for the purposes of this Act, and the communication is received by that person—

- (a) at any time before the end of a day which is a working day, it shall be deemed to have been received on that day; or
- (b) at any time during a day which is not a working day, it shall be deemed to be received on the next working day,

and in this subsection “working day” means a day which is not a Saturday, Sunday, Christmas Eve, a bank holiday in Scotland under the Banking and Financial Dealings Act 1971, a day appointed for public thanksgiving or mourning or any other day which is a local or public holiday in an area in which the electronic communication is received.]

(5) With respect to references in this Act to planning decisions—

- (a) in relation to a decision altered on appeal [<sup>F20</sup>or review] by the reversal or variation of the whole or part of it, 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 planning authority and not to the decision of the Secretary of State on the appeal;
- <sup>F21</sup>(ba) in relation to a decision upheld on review under section 43A(8)(a) or (b), such references shall be construed as references to the decision of the person appointed under the scheme of delegation to determine the application and not to the decision of the planning authority on review; ]
- (c) in relation to a decision given on an appeal in the circumstances mentioned in section 47(2), such references shall be construed as references to the decision so given;

<sup>F22</sup>(ca) in relation to a decision given on a review under section 43A(8)(c), 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 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 47(2), the time when in accordance with that section notification of a decision of the planning authority is deemed to have been received.
- [<sup>F23</sup>(da) the time of a planning decision—
- (i) in the case where there is or was a review under section 43A(8)(a) or (b), shall be taken to be or have been the time of the decision as made by the person appointed under the scheme of delegation to determine the application (whether or not that decision is or was altered on review); or
- (ii) in the case of a decision given on a review under section 43A(8)(c), shall be taken to be or have been the time when the application is deemed to have been refused under section 43A(9).
- (6) Section 27 shall apply for determining for the purposes of this Act when development of land shall be taken to be initiated.
- (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, feuduty and ground annual.
- <sup>F24</sup>(8) .....
- <sup>F25</sup>(9) .....
- (10) Without prejudice to section 20(2) of the <sup>M18</sup>Interpretation Act 1978, 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.
- [ Any reference in this Act to registering an instrument (or any other document, however <sup>F26</sup>(11) described) in the Land Register of Scotland is to be construed as a reference to registering the information contained in the instrument (or other document) in that Register.]]

### Textual Amendments

- F1** Definitions of “address” and “electronic communication” in s. 277(1) inserted (28.7.2004) by [Town and Country Planning \(Electronic Communications\) \(Scotland\) Order 2004 \(S.S.I. 2004/332\)](#), arts. 1(1), **6(2)**
- F2** S. 277(1): definition of “the appropriate Minister” repealed (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, **Sch. 2 Pt. I para. 127(22)(a)**, Pt. IV; [S.I. 1998/3178](#), **art. 3**
- F3** Words in s. 277(1) inserted (1.4.2007) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 54(17)(a)(ii)**, 59(2); [S.S.I. 2007/130](#), **art. 2(2)**, sch.
- F4** Words in s. 277(1) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), s. 241(8), **Sch. 2 para. 58** (with s. 226); [S.I. 2010/101](#), **art. 2** (with **art. 6**)
- F5** Words in s. 277(1) repealed (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), **ss. 71, 77(2)**, **Sch. 12 para. 60(5)(a)**, **Sch. 13 Pt. 1** (with **ss. 58, 62, 75**); [S.S.I. 2003/456](#), **art. 2**
- F6** Words in s. 277(1) substituted (1.4.2007) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 54(17)(a)(iii)**, 59(2); [S.S.I. 2007/130](#), **art. 2(2)**, sch.
- F7** Words in s. 277(1) inserted (1.4.2007 for specified purposes, 25.6.2008 for specified purposes, 12.12.2008 for specified purposes, 28.2.2009 for specified purposes, 6.4.2009 for specified purposes, 3.8.2009 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 54(17)(a)**

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- (i), 59(2); S.S.I. 2007/130, art. 2(2)(3), sch., S.S.I. 2008/164, art. 2(2), sch. (as amended (1.6.2008) by S.S.I. 2008/191, art. 3), S.S.I. 2008/411, art. 2(2)(3)(c), S.S.I. 2009/70, art. 2, sch., S.S.I. 2009/100, art. 2, sch., S.S.I. 2009/219, art. 2, sch.
- F8** Words in s. 277(1) substituted (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 54(17)(a)(iv), 59(2); S.S.I. 2008/411, art. 2(2)(3)(c), S.S.I. 2010/400, art. 3, sch.
- F9** Words in s. 277(1) inserted (11.5.2006) by Planning and Compulsory Purchase Act 2004 (Commencement No.2 and Consequential Provisions) (Scotland) Order 2006 (S.S.I. 2006/243), arts. 1(1), 4(12)(a)
- F10** Words in s. 277(1) inserted (11.5.2006) by Planning and Compulsory Purchase Act 2004 (Commencement No.2 and Consequential Provisions) (Scotland) Order 2006 (S.S.I. 2006/243), arts. 1(1), 4(12)(b)
- F11** Words in s. 277(1) repealed (12.2.2023) by Planning (Scotland) Act 2019 (asp 13), s. 63(2), sch. 2 para. 1(13); S.S.I. 2023/10, reg. 3(2)(e)
- F12** Definition of “universal service provider” in s. 277 inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), Sch. 1 para. 115 (subject to art. 1(3))
- F13** Words in s. 277(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), Sch. 12 para. 151(a); S.I. 2011/2329, art. 3
- F14** Words in s. 277(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), Sch. 12 para. 151(b); S.I. 2011/2329, art. 3
- F15** Word in s. 277(1) omitted (27.3.2011) by virtue of The Waste (Scotland) Regulations 2011 (S.S.I. 2011/226), regs. 1(1), 4
- F16** Words in s. 277(1) inserted (27.3.2011) by The Waste (Scotland) Regulations 2011 (S.S.I. 2011/226), regs. 1(1), 4
- F17** S. 277(2) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 127(22)(b), Pt. IV; S.I. 1998/3178, art. 3
- F18** S. 277(3) substituted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 127(22)(c); S.I. 1998/3178, art. 3
- F19** S. 277(4A) inserted (28.7.2004) by Town and Country Planning (Electronic Communications) (Scotland) Order 2004 (S.S.I. 2004/332), arts. 1(1), 6(3)
- F20** Words in s. 277(5)(a) inserted (3.8.2009) by Planning etc. (Scotland) Act 2006 (Consequential Amendments) Order 2009 (S.S.I. 2009/256), arts. 1(3), 2(6)(a)
- F21** S. 277(5)(ba) inserted (3.8.2009) by Planning etc. (Scotland) Act 2006 (Consequential Amendments) Order 2009 (S.S.I. 2009/256), arts. 1(3), 2(6)(b)
- F22** S. 277(5)(ca) inserted (3.8.2009) by Planning etc. (Scotland) Act 2006 (Consequential Amendments) Order 2009 (S.S.I. 2009/256), arts. 1(3), 2(6)(c)
- F23** S. 277(5)(da) inserted (3.8.2009) by Planning etc. (Scotland) Act 2006 (Consequential Amendments) Order 2009 (S.S.I. 2009/256), arts. 1(3), 2(6)(d)
- F24** S. 277(8) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), Sch. 12 para. 60(5)(b), Sch. 13 Pt. 1 (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F25** S. 277(9) repealed (3.8.2009) by Planning etc. (Scotland) Act 2006 (asp 17), s. 59(2), sch.; S.S.I. 2009/219, art. 2, sch.
- F26** S. 277(11) added (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 54(17)(b), 59(2); S.S.I. 2008/411, art. 2(2)(3)(c), S.S.I. 2010/400, art. 3, sch.

#### Marginal Citations

- M1** 1997 c. 11.  
**M2** 1947 c. 53.  
**M3** 1972 c. 52.  
**M4** 1967 c. 86.  
**M5** 1960 c. 62.  
**M6** 1997 c. 9.

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- M7** 1967 c. 86.
- M8** 1924 c. 27.
- M9** 1857 c. 26.
- M10** 1984 c. 54.
- M11** 1994 c. 39.
- M12** 1997 c. 9.
- M13** 1997 c. 10.
- M14** 1997 c. 11.
- M15** 1986 c. 44.
- M16** 1984 c. 54.
- M17** 1980 c. 65.
- M18** 1978 c. 30.



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#### Changes and effects yet to be applied to :

- s. 277(1) words inserted by [2019 asp 13 Sch. 2 para. 5\(10\)](#)
- s. 277(5)(ba) words substituted by [2019 asp 13 Sch. 2 para. 7\(7\)\(a\)](#)
- s. 277(5)(ca) word substituted by [2019 asp 13 Sch. 2 para. 7\(7\)\(b\)](#)
- s. 277(5)(da)(i) words substituted by [2019 asp 13 Sch. 2 para. 7\(7\)\(c\)](#)
- s. 277(5)(da)(ii) word substituted by [2019 asp 13 Sch. 2 para. 7\(7\)\(d\)\(i\)](#)
- s. 277(5)(da)(ii) word substituted by [2019 asp 13 Sch. 2 para. 7\(7\)\(d\)\(ii\)](#)

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