



Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

1997 CHAPTER 9

PART I **S**

LISTED BUILDINGS

CHAPTER III **S**

RIGHTS OF OWNERS ETC.

Compensation

25 Compensation where listed building consent revoked or modified. **S**

- (1) This section shall have effect where listed building consent is revoked or modified by an order under section 21 (other than an order which takes effect by virtue of section 23).
- (2) If, on a claim made to the planning authority within the prescribed time and in the prescribed manner, 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.
- (3) Subject to subsection (4), no compensation shall be paid under this section in respect of—
 - (a) any works carried out before the grant of the listed building consent which is revoked or modified, or

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- (b) 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.
- (4) For the purposes of this section, expenditure incurred in the preparation of plans for the purposes of any works, or upon other similar matters preparatory to any works, shall be taken to be included in the expenditure incurred in carrying out those works.

Modifications etc. (not altering text)

- C1** Ss. 6-25 applied (with modifications) (1.10.2015) by [The Planning \(Listed Building Consent and Conservation Area Consent Procedure\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/243\)](#), regs. 1, 15, [sch. 3](#) (with reg. 2)

26 Compensation for loss or damage caused by service of building preservation notice. S

- (1) This section applies where a building preservation notice ceases to have effect without the building having been included in a list compiled or approved by [^{F1}Historic Environment Scotland] under section 1.
- (2) Any person who at the time when the notice was served had an interest in the building shall, on making a claim to the planning authority within the prescribed time and in the prescribed manner, be entitled to be paid compensation by the authority in respect of any loss or damage directly attributable to the effect of the notice.
- (3) The loss or damage in respect of which compensation is payable under subsection (2) shall include a sum payable in respect of any 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 to it.

Textual Amendments

- F1** Words in s. 26(1) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 25](#) (with ss. 29, 30); [S.S.I. 2015/31](#), art. 2, [sch.](#); [S.S.I. 2015/196](#), art. 2, [sch.](#)

27 General provisions as to compensation for depreciation under this Part. S

- (1) For the purpose of assessing any compensation to which this section applies, the rules set out in section 12 of the ^{M1}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) This section applies to any compensation which is payable under section 25 or 26 in respect of depreciation of the value of an interest in land.
- (3) 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,

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- (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.
- (4) Except in so far as may be otherwise provided by any regulations made under this Act, any question of disputed compensation under section 25 or 26 shall be referred to and determined by the Lands Tribunal.
- (5) In relation to the determination of any such question, the provisions of sections 9 and 11 of the ^{M2}Land Compensation (Scotland) Act 1963 shall apply, subject to any necessary modifications and to the provisions of any regulations made under this Act.

Marginal Citations**M1** 1963 c. 51.**M2** 1963 c. 51.

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

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

- s. 82(1)(aa)-(ad) inserted by [2006 asp 17 s. 55\(5\)](#)