



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

## 1997 CHAPTER 9

### PART IV

#### SUPPLEMENTAL

#### 81 Interpretation.

(1) In this Act, except in so far as the context otherwise requires—

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

“building preservation notice” has the meaning given in section 3(1),

“conservation area” means an area for the time being designated under section 61,

“conservation area consent” has the meaning given in section 66(1),

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

“listed building” has the meaning given in section 1(4),

“listed building consent” has the meaning given in section 7(7),

“listed building enforcement notice” has the meaning given in section 34(1),

“listed building purchase notice” has the meaning given in section 28(1),

“period for compliance”, in relation to a listed building enforcement notice, has the meaning given in section 34(5),

“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,

[<sup>F2</sup>“site notice” has the meaning given in section 41B(4),

“stop notice” has the meaning given in section 41A(2),

“temporary stop notice” means a notice issued under section 41F(1),]

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“the principal Act” means the <sup>M1</sup>Town and Country Planning (Scotland) Act 1997, and

“town scheme agreement” has the meaning given in section 71.

(2) Subject to subsection (6), and except in so far as the context otherwise requires, the following expressions have the same meaning as in the principal Act—

“acquiring authority”

“advertisement”

“building”

“compulsory acquisition”

“development order”

“development”

“development plan”

“enactment”

“disposal”

“functions”

“government department”

“land”

“lease”

“minerals”

“local authority”

“Minister”

“owner”

“the planning Acts”

“planning authority”

“planning permission”

“public gas transporter”

“use”

“Valuation Office”

(3) In this Act “statutory undertakers” has the same meaning as in the principal Act except that—

(a) in sections 29 to 32 it shall be deemed to include references to [<sup>F3</sup>electronic communications operators and former PTOs] ,

(b) in sections 29 to 32 and 80(2) it shall be deemed to include [<sup>F4</sup>a universal service provider in connection with the provision of a universal postal service], and

(c) in sections 29 to 32, 46(2)(a) and 80(2) it shall be deemed to include the Civil Aviation Authority, [<sup>F5</sup>a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)], a public gas transporter and a holder of a licence under section 6 of the <sup>M2</sup>Electricity Act 1989.

[<sup>F6</sup>(3A) The undertaking of a universal service provider so far as relating to the provision of a universal postal service shall be taken to be his statutory undertaking for the purposes of this Act; and references in this Act to his undertaking shall be construed accordingly.

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(3B) In subsection (3) and (3A) above, “universal service provider” has the same meaning as in <sup>F7</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>F8</sup>that Part].

(4) References in the planning Acts to any of the provisions mentioned in section 73 include, except where the context otherwise requires, references to those provisions as modified under that section.

(5) 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>F9</sup>(5A) 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.]

(6) For the purposes of subsection (1)(b) of section 51 and subsection (2) as it applies for the purposes of that subsection the definition of “building” in the principal Act shall apply with the omission of the words “but does not include plant or machinery comprised in a building”.

<sup>F10</sup>(7) .....

(8) Without prejudice to section 20(2) of the <sup>M3</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.

#### Textual Amendments

- F1** Words in s. 81(1) inserted (28.7.2004) by [The Town and Country Planning \(Electronic Communications\) \(Scotland\) Order 2004 \(S.S.I. 2004/332\)](#), arts. 1(1), **11(2)**
- F2** Words in s. 81(1) inserted (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 23(4)**, 33(2); S.S.I. 2011/174, art. 2, sch.; S.S.I. 2011/372, art. 2, sch.
- F3** Words in s. 81(3) substituted (17.9.2003) by [The Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), **Sch. 1 para. 14(3)**
- F4** Words in s. 81(3)(b) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 116(2)** (subject to art. 1(3))
- F5** By 2000 c. 38, s. 37, **Sch. 5 para. 12**; S.I. 2001/869, **art. 2**, (1.4.2001) it is provided that after the words “the Civil Aviation Authority” in s. 81(3)(b) there shall be inserted the words “a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)”
- F6** S. 81(3A)(3B) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 116(3)** (subject to art. 1(3))

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- F7** Words in s. 81(3B) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 150(a)**; S.I. 2011/2329, art. 3
- F8** Words in s. 81(3B) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 150(b)**; S.I. 2011/2329, art. 3
- F9** S. 81(5A) inserted (28.7.2004) by The Town and Country Planning (Electronic Communications) (Scotland) Order 2004 (S.S.I. 2004/332), arts. 1(1), **11(3)**
- F10** S. 81(7) repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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**Modifications etc. (not altering text)**

- C1** S. 81(2): power to modify conferred (27.5.1997) by 1980 c. 65, **Sch. 30 Pt. II para. 14** (as substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 31(12)**)

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**Marginal Citations**

- M1** 1997 c. 8.  
**M2** 1989 c. 29.  
**M3** 1978 c. 30.

**82 Regulations and orders.**

- (1) The Secretary of State may make regulations—
- (a) for prescribing the form of any notice, order or other document authorised or required by this Act to be served, made or issued by a planning authority which is a local authority;
  - (b) for any purpose for which regulations are authorised or required to be made under this Act.
- (2) Any power conferred by this Act to make regulations—
- [<sup>F11</sup>(a)] shall be exercisable by statutory instrument.
  - [<sup>F12</sup>(b)] may be exercised so as to make different provision for different purposes.]
- (3) [<sup>F13</sup>Subject to subsection (3A),] any statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F14</sup>(3A) A statutory instrument containing regulations made under section 39A(5) is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.]
- (4) The power to make orders under sections 7(5), 54(5) and 67(7)
- [<sup>F15</sup>(a)] shall be exercisable by statutory instrument.
  - [<sup>F16</sup>(b)] may be exercised so as to make different provision for different purposes.]
- (5) Any statutory instrument which contains an order under section 54(5) or 67(7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F17</sup>(6) Any power conferred by this Act to make regulations or orders includes power to make such incidental, supplemental, consequential, transitory, transitional or saving provision as the Scottish Ministers consider necessary or expedient.]
- (7) Without prejudice to section 14 of the Interpretation Act 1978, any power conferred by this Act to make an order shall include power to vary or revoke any such order by a subsequent order.

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### Textual Amendments

- F11** Words in s. 82(2) renumbered as s. 82(2)(a) (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 30(2)(a)**, 33(2); S.S.I. 2011/174, art. 2, sch.
- F12** S. 82(2)(b) inserted (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 30(2)(b)**, 33(2); S.S.I. 2011/174, art. 2, sch.
- F13** Words in s. 82(3) inserted (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 30(3)**, 33(2); S.S.I. 2011/174, art. 2, sch.
- F14** S. 82(3A) inserted (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 30(4)**, 33(2); S.S.I. 2011/174, art. 2, sch.
- F15** Words in s. 82(4) renumbered as s. 82(4)(a) (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 30(5)(a)**, 33(2); S.S.I. 2011/174, art. 2, sch.
- F16** S. 82(4)(b) inserted (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 30(5)(b)**, 33(2); S.S.I. 2011/174, art. 2, sch.
- F17** S. 82(6) substituted (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 30(6)**, 33(2); S.S.I. 2011/174, art. 2, sch.

### 83 Short title, commencement and extent.

- (1) This Act may be cited as the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- (2) This Act shall come into force at the end of the period of 3 months beginning with the day on which it is passed.
- (3) This Act extends to Scotland only.

**Changes to legislation:**

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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\(5\)](#)