



Town and Country Planning (Scotland) Act 1959

1959 CHAPTER 70 7 and 8 Eliz 2

PART V

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

43^{F1}

Textual Amendments

F1 Ss. 1–13, 17–22, 31–38(1)(a), 38(1)(c)–43, 49, 50(1)–(3)(5), 51–53, 55(1)(b)(2)(4)(5), Sch. 1–3, 5, 6, 8, 9 repealed by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), [Sch. 23](#)

44 **Compensation for damage to requisitioned land.**

- (1) In relation to compensation accruing due after the twenty-ninth day of October, nineteen hundred and fifty-eight, by virtue of paragraph (b) of subsection (1) of section two of the ^{M1}Compensation (Defence) Act, 1939 (which relates to compensation payable in respect of damage occurring to requisitioned land during the period of requisition), section fifty-five of the Act of 1954 (which limits the amount of that compensation) shall have effect as if any reference to the price which, at the relevant time and in the relevant circumstances, would be the compulsory purchase price of the land were a reference to the value which, at that time and in those circumstances, would be the value of such an interest in the land as is mentioned in paragraph (a) of subsection (2) of the said section fifty-five (that is to say, the dominium utile in the land, subject to any feu duty, any ground annual and any servitude or other restriction affecting the land at the relevant time, but otherwise free from burdens).
- (2) In this section “the relevant time” means the time when the compensation accrues due, and “in the relevant circumstances” means if the land were at the relevant time

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in the state in which it was when possession of the land was taken in the exercise of emergency powers.

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Marginal Citations
M1 1939 c. 75.

45 Acquisition of land in connection with town development schemes.

- (1) The power of the Secretary of State under subsection (1) of section thirteen of the ^{M2}Housing and Town Development (Scotland) Act, 1957, to authorise a receiving authority to acquire land compulsorily for purposes connected with a town development scheme under Part II of that Act shall, subject to the provisions of this section, be exercisable notwithstanding that it is not immediately necessary for the proper execution of the town development scheme that the land should be so acquired.
- (2) The compulsory acquisition of land shall not be authorised by virtue of the preceding subsection unless the Secretary of State is satisfied that it is likely to become, within ten years from the date on which he confirms the compulsory purchase order, necessary for the purpose mentioned in subsection (1) of this section that the land should be acquired as therein mentioned.
- (3) In this section “town development scheme” and “receiving authority” have the same meanings respectively as in the said Act of 1957.

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Marginal Citations
M2 1957 c. 38.

46 ^{F2}

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Textual Amendments
F2 S. 46 repealed by Roads (Scotland) Act 1970 (c. 20), Sch. 2

47 ^{F3}

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Textual Amendments
F3 S. 47 repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), Sch. 11 (with s. 128(1))

48 Amendment of s. 81 of Lands Clauses Consolidation (Scotland) Act, 1845

- (1) Section eighty-one of the ^{M3}Lands Clauses Consolidation (Scotland) Act, 1845 (which relates to expenses of conveyances) shall, in relation to any conveyance of lands granted after the commencement of this Act, have effect as if any reference therein to the charges and expenses of establishing the title to the lands included a reference

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to any expenses necessarily incurred by the seller in taking any action he may be requested by the promoters of the undertaking to take in connection with the conveyance in question

- (2) In this section “conveyance”, “seller” and “promoters of the undertaking” have the same meanings as in the said section eighty-one.

Marginal Citations

M3 1845 c. 19.

49 F4

Textual Amendments

F4 Ss. 1–13, 17–22, 31–38(1)(a), 38(1)(c)–43, 49, 50(1)–(3)(5), 51–53, 55(1)(b)(2)(4)(5), Sch. 1–3, 5, 6, 8, 9 repealed by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), **Sch. 23**

50 Application of Act to Crown.

(1) F5

- (4) In so far as any power conferred by section thirteen of the ^{M4}Housing and Town Development (Scotland) Act, 1957, is exercisable in respect of Crown land, that power as extended by section forty-five of this Act shall be exercisable in respect of Crown land to the like extent.

(5) F5

Textual Amendments

F5 Ss. 1–13, 17–22, 31–38(1)(a), 38(1)(c)–43, 49, 50(1)–(3)(5), 51–53, 55(1)(b)(2)(4)(5), Sch. 1–3, 5, 6, 8, 9 repealed by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), **Sch. 23**

Marginal Citations

M4 1957 c. 38.

51— F6

53.

Textual Amendments

F6 Ss. 1–13, 17–22, 31–38(1)(a), 38(1)(c)–43, 49, 50(1)–(3)(5), 51–53, 55(1)(b)(2)(4)(5), Sch. 1–3, 5, 6, 8, 9 repealed by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), **Sch. 23**

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54 Interpretation.

(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“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 Act of 1919” means the ^{M5}Acquisition of Land (Assessment of Compensation) Act, 1919;

“the Act of 1947” means the ^{M6}Town and Country Planning (Scotland) Act, 1947;

“the Act of 1954” means the ^{M7}Town and Country Planning (Scotland) Act, 1954;

[^{F7}“the Act of 1969” means the ^{M8}Town and Country Planning (Scotland) Act 1969]

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“compulsory acquisition” and “public authority possessing compulsory purchase powers” have the same meanings as in the Act of 1954;

“disposal” 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;

“function” means a power or a duty, and “grant-aided function”, in relation to a body, means a function in respect of which a grant or contribution (other than any grant under [^{F9}section 2 of the ^{M9}Local Government (Scotland) Act 1966] . . . ^{F10} is payable to that body by a government department out of moneys provided by Parliament [^{F11}or out of money paid out of the Scottish Consolidated Fund];

“government department” includes a Minister of the Crown;

“local enactment” means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

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“prescribed” (except in relation to matters required or authorised by this Act to be prescribed by an order) means prescribed by regulations under this Act;

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(2) In this Act, in relation to a compulsory acquisition in pursuance of a notice to treat, “the relevant interest” means the interest acquired in pursuance of that notice, “the relevant land” means the land in which the relevant interest subsists, and “the notice to treat” means the notice to treat in pursuance of which the relevant interest is acquired.

(3) Subject to the preceding subsections, and except in so far as the context otherwise requires, expressions used in this Act and in the Act of 1947 have the same meanings in this Act as in that Act.

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- (4) Subsections (3), (4), (6), (7) and (9) of section sixty-nine of the Act of 1954 (which relates to the interpretation of that Act) shall apply for the purposes of this Act as they apply for the purposes of that Act.
- (5) Subsections (2) and (3) of section one hundred and eight of the Act of 1947 shall apply for the purposes of the construction of references in this Act to the Third Schedule to the Act of 1947.
- (6) For the purposes of this Act a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—
 - (a) to both of them beneficially, or
 - (b) to both of them as trustee of one particular trust, or
 - (c) to both of them as personal representative of one particular person;and in this subsection “trustee” has the same meaning as in the ^{M10}Trusts (Scotland) Act, 1921.
- (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, feu-duty and ground annual.
- (8) Any reference in this Act to a sale of an interest in land by agreement in circumstances corresponding to a compulsory acquisition to which section one of this Act applies is a reference to a sale thereof to a public authority possessing compulsory purchase powers, being a sale in pursuance of a contract made after the twenty-ninth day of October, nineteen hundred and fifty-eight.
- (9) For the purposes of this Act development of land shall be taken to be initiated—
 - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
 - (b) if the development consists of a change in use, at the time when the new use is instituted;
 - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.
- (10) 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 including this Act.

Textual Amendments

- F7** Definition added by [Town and Country Planning \(Scotland\) Act 1969 \(c. 30\)](#), [Sch. 3](#)
- F8** Definitions repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), [Sch. Pt. XII](#)
- F9** Words substituted by [Local Government \(Scotland\) Act 1966 \(c. 51\)](#), [Sch. 5](#)
- F10** Words repealed with saving by [Housing \(Financial Provisions\) \(Scotland\) Act 1972 \(c. 46\)](#), s. 79(3), [Sch. 11 Pt. III](#) para.
- F11** [S. 54\(1\)](#): words inserted in definition of “grant aided function” (1.7.1999) by [S.I. 1999/1820](#), art. 4, [Sch. 2 Pt. I para. 30](#); [S.I. 1998/3178](#)

Marginal Citations

- M5** 1919 c. 57.
- M6** 1947 c. 53.
- M7** 1954 c. 73.

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M8	1969 c. 30.
M9	1966 s. 51.
M10	1921 c. 58.

54 Interpretation. S

(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“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 Act of 1919” means the ^{M13}Acquisition of Land (Assessment of Compensation) Act, 1919;

“the Act of 1947” means the ^{M14}Town and Country Planning (Scotland) Act, 1947;

“the Act of 1954” means the ^{M15}Town and Country Planning (Scotland) Act, 1954;

[^{F14}“the Act of 1969” means the ^{M16}Town and Country Planning (Scotland) Act 1969]

..... ^{F15}
“compulsory acquisition” and “public authority possessing compulsory purchase powers” have the same meanings as in the Act of 1954;

“disposal” 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;

“function” means a power or a duty, and “grant-aided function”, in relation to a body, means a function in respect of which a grant or contribution (other than any grant under [^{F16}section 2 of the ^{M17}Local Government (Scotland) Act 1966] . . . ^{F17} is payable to that body by a government department out of moneys provided by Parliament;

“government department” includes a Minister of the Crown;

“local enactment” means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

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“prescribed” (except in relation to matters required or authorised by this Act to be prescribed by an order) means prescribed by regulations under this Act;

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(2) In this Act, in relation to a compulsory acquisition in pursuance of a notice to treat, “the relevant interest” means the interest acquired in pursuance of that notice, “the relevant land” means the land in which the relevant interest subsists, and “the notice to treat” means the notice to treat in pursuance of which the relevant interest is acquired.

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- (3) Subject to the preceding subsections, and except in so far as the context otherwise requires, expressions used in this Act and in the Act of 1947 have the same meanings in this Act as in that Act.
- (4) Subsections (3), (4), (6), (7) and (9) of section sixty-nine of the Act of 1954 (which relates to the interpretation of that Act) shall apply for the purposes of this Act as they apply for the purposes of that Act.
- (5) Subsections (2) and (3) of section one hundred and eight of the Act of 1947 shall apply for the purposes of the construction of references in this Act to the Third Schedule to the Act of 1947.
- (6) For the purposes of this Act a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—
 - (a) to both of them beneficially, or
 - (b) to both of them as trustee of one particular trust, or
 - (c) to both of them as personal representative of one particular person;and in this subsection “trustee” has the same meaning as in the ^{M18}Trusts (Scotland) Act, 1921.
- (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, feu-duty and ground annual.
- (8) Any reference in this Act to a sale of an interest in land by agreement in circumstances corresponding to a compulsory acquisition to which section one of this Act applies is a reference to a sale thereof to a public authority possessing compulsory purchase powers, being a sale in pursuance of a contract made after the twenty-ninth day of October, nineteen hundred and fifty-eight.
- (9) For the purposes of this Act development of land shall be taken to be initiated—
 - (a) if the development consists of the carrying out of operations, at the time when those operations are begun;
 - (b) if the development consists of a change in use, at the time when the new use is instituted;
 - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in the preceding paragraphs.
- (10) 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 including this Act.

Textual Amendments

- F14** Definition added by [Town and Country Planning \(Scotland\) Act 1969 \(c. 30\)](#), [Sch. 3](#)
- F15** Definitions repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), [Sch. Pt. XII](#)
- F16** Words substituted by [Local Government \(Scotland\) Act 1966 \(c. 51\)](#), [Sch. 5](#)
- F17** Words repealed with saving by [Housing \(Financial Provisions\) \(Scotland\) Act 1972 \(c. 46\)](#), s. 79(3), [Sch. 11 Pt. III](#) para.

Marginal Citations

- M13** [1919 c. 57](#).

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- M14 1947 c. 53.
- M15 1954 c. 73.
- M16 1969 c. 30.
- M17 1966 s. 51.
- M18 1921 c. 58.

55 Minor and consequential amendments and repeals.

- (1) Subject to the following provisions of this section, and without prejudice to any amendments having effect by virtue of the preceding provisions of this Act,—
 - (a) the enactments specified in the Seventh Schedule to this Act shall have effect subject to the amendments specified in that Schedule; and
 - (b)^{F12}
- (2)^{F12}
- (3) The amendments of, . . . ^{F13}section fifty-five of the Act of 1954 specified in the Seventh . . . ^{F13}Schedules to this Act shall not have effect in relation to any compensation accruing due on or before the twenty-ninth day of October, nineteen hundred and fifty-eight.
- (4)^{F12}
- (5)^{F12}

Textual Amendments

- F12** Ss. 1–13, 17–22, 31–38(1)(a), 38(1)(c)–43, 49, 50(1)–(3)(5), 51–53, 55(1)(b)(2)(4)(5), Sch. 1–3, 5, 6, 8, 9 repealed by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), [Sch. 23](#)
- F13** Words repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), [Sch. Pt. XII](#)

56 Short title, citation, repeal of Town and Country Planning Act, 1959, commencement and extent.

- (1) This Act may be cited as the Town and Country Planning (Scotland) Act, 1959; and the Town and Country Planning (Scotland) Acts, 1947 to 1954, and this Act, except Part II thereof, may be cited together as the Town and Country Planning (Scotland) Acts, 1947 to 1959.
- (2) The ^{M11}Town and Country Planning Act, 1959, is hereby repealed; and (without prejudice to the operation of subsection (1) of section thirty-eight of the ^{M12}Interpretation Act, 1889, which relates to the effect of repeals and re-enactments) any enactment instrument or other document referring to that Act, or any provision of that Act, in its application to Scotland shall be construed as referring to this Act or, as the case may be, the corresponding provision of this Act.
- (3) The preceding provisions of this section shall come into operation on the passing of this Act, and, save as aforesaid, this Act shall come into operation on the sixteenth day of August, nineteen hundred and fifty-nine.
- (4) For the purposes of this Act and of the application thereto of section thirty-seven of the Interpretation Act, 1889 (which relates to the exercise of statutory powers between the passing and the commencement of an Act) references to the commencement of this

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Act shall, notwithstanding the provisions of section thirty-six of the said Act of 1889 with respect to the construction of the expression “commencement”, be construed as references to the time at which this Act, except subsections (1) and (2) of this section, comes into operation.

(5) This Act shall extend to Scotland only.

Marginal Citations

M11 1959 c. 53.

M12 1889 c. 63.

Status:

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Changes to legislation:

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