



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART VII

#### SPECIAL CONTROLS

#### CHAPTER I

#### TREES

*Compensation for loss or damage caused by orders etc.*

#### **165 Compensation in respect of tree preservation orders**

- (1) A tree preservation order may make provision for the payment by the planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage caused or incurred in consequence of—
  - (a) the refusal of any consent required under the order, or
  - (b) the grant of any such consent subject to conditions.
- (2) Except in so far as may be otherwise provided by section 166(5), any tree preservation order or any regulations made under this Act, any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal.
- (3) In relation to the determination of any such question, the provisions of sections 9 and 11 of the Land Compensation (Scotland) Act 1963 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

#### **166 Compensation in respect of requirement as to replanting of trees**

- (1) This section applies where—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) a requirement is imposed by the planning authority or the Secretary of State under a tree preservation order for securing the replanting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order, and
  - (b) the Forestry Commissioners decide not to make any grant or loan under section 1 of the Forestry Act 1979 in respect of the replanting by reason that the requirement frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry.
- (2) Where this section applies, the planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the requirement.
- (3) The Forestry Commissioners shall, at the request of the person under a duty to comply with such a requirement as is mentioned in subsection (1)(a), give a certificate stating—
  - (a) whether they have decided not to make such a grant or loan as is mentioned in subsection (1)(b), and
  - (b) if so, the grounds for their decision.
- (4) A claim for compensation under this section must be served on the planning authority—
  - (a) within 12 months from the date on which the requirement was made, or
  - (b) where an application has been made to the Secretary of State for the determination of any question relating to the reasonableness of a requirement, within 12 months from the date of the determination of the Secretary of State, but subject in either case to such extension of that period as the planning authority may allow.
- (5) Any question of disputed compensation under this section shall be determined in accordance with section 70 of the Countryside (Scotland) Act 1967.