



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART X

STATUTORY UNDERTAKERS

Preliminary

216 Cases in which land is to be treated as not being operational land

- (1) This section applies where an interest in land is held by statutory undertakers for the purpose of carrying on their undertaking and—
 - (a) the interest was acquired by them on or after 8th December 1969, or
 - (b) it was held by them immediately before that date but the circumstances were then such that the land did not fall to be treated as operational land for the purposes of the 1947 Act.
- (2) Where this section applies in respect of any land then, notwithstanding the provisions of section 215, the land shall not be treated as operational land for the purposes of this Act unless it falls within subsection (3) or (4).
- (3) Land falls within this subsection if—
 - (a) there is, or at some time has been, in force with respect to it a specific planning permission for its development, and
 - (b) that development, if carried out, would involve or have involved its use for the purpose of the carrying on of the statutory undertakers' undertaking.
- (4) Land falls within this subsection if—
 - (a) the statutory undertakers' interest in the land was acquired by them as the result of a transfer under the provisions of the Transport Act 1968, the Gas Act 1986 or the Airports Act 1986 from other statutory undertakers, and

Status: This is the original version (as it was originally enacted).

- (b) immediately before transfer the land was operational land of those other undertakers.
- (5) A specific planning permission for the purpose of subsection (3)(a) is a planning permission—
- (a) granted on an application in that behalf made under Part III,
 - (b) granted by provisions of a development order granting planning permission generally for development which has received specific parliamentary approval,
 - (c) granted by a special development order in respect of development specifically described in the order,
 - (d) deemed to be granted by virtue of a direction of a government department under section 57(1), or
 - (e) deemed to be granted by virtue of paragraph 27 of Schedule 9 to the Post Office Act 1969.
- (6) In subsection (5)—
- (a) the reference in paragraph (a) to Part III includes a reference to Part III of the 1972 Act and the enactments in force before the commencement of that Act and replaced by Part III of it,
 - (b) the reference in paragraph (b) to development which has received specific parliamentary approval is a reference to development authorised—
 - (i) by a local or private Act of Parliament,
 - (ii) by an order approved by both Houses of Parliament, or
 - (iii) by an order which has been brought into operation in accordance with the provisions of the Statutory Orders (Special Procedure) Act 1945, being an Act or order which designates specifically both the nature of the development authorised by it and the land upon which it may be carried out, and
 - (c) the reference in paragraph (d) to section 57(1) includes a reference to section 37 of the 1972 Act and section 32 of the 1947 Act.
- (7) This section shall not apply to land in the case of which an interest of the Postmaster General's vested in the Post Office by virtue of section 16 of the Post Office Act 1969.
- (8) Where an interest in land is held by the Civil Aviation Authority this section shall not apply for the purpose of determining whether the land is operational land in relation to the Authority for the purposes of this Act.