
STATUTORY INSTRUMENTS

1992 No. 334 (C.9) (S.27)

TOWN AND COUNTRY PLANNING, SCOTLAND

**The Planning and Compensation Act 1991 (Commencement
No. 7 and Transitional Provisions) Order 1992**

Made - - - - 20th February 1992

The Secretary of State, in exercise of the powers conferred on him by section 84(2) and (3) of the Planning and Compensation Act 1991(1) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation

1. This Order may be cited as the Planning and Compensation Act 1991 (Commencement No. 7 and Transitional Provisions) Order 1992.

Interpretation

2. In this Order—

“the 1972 Act” means the Town and Country Planning (Scotland) Act 1972(2).

“the 1991 Act” means the Planning and Compensation Act 1991(1).

Provisions coming into force for certain purposes on 24th February 1992

3. Section 37 of the 1991 Act shall come into force on 24th February 1992 for the purpose of enabling the Secretary of State to make Regulations under section 84AA(10) of the 1972 Act.

Provisions coming into force on 26th March 1992

4. Subject to article 5 below, the following provisions of the 1991 Act shall come into force on 26th March 1992—

Section 33

Section 35

Section 36, except so far as it relates to breach of condition notices

(1) 1991 c. 34.

(2) 1972 c. 52.

(1) 1991 c. 34.

Sections 37 to 41

Section 43

Section 54

Section 56

Section 57 in so far as it relates to the provisions of Schedule 10 as referred to below

Section 61 in so far as it relates to the provisions of Schedule 13 as referred to below

Section 82

Section 84(6) so far as it gives effect to the repeals in Part IV of Schedule 19 specified in Schedule 1 to this Order

Schedule 10 in so far as it relates to paragraphs 4 to 8, 10, 12 and 13

Schedule 13 in so far as it relates to the provisions of that Schedule as set out in the first column of Schedule 2 to this Order and where there is an entry against that provision in the second column of that Schedule to the extent therein provided

Schedule 19 in so far as it relates to the repeals in Part IV of Schedule 19 specified in Schedule 1 to this Order.

Transitional provisions

5.—(1) Until such time as section 42 of the 1991 Act is brought fully into force—

- (a) an enforcement notice which relates to a failure to comply with any condition or limitation relating to the carrying out of building, engineering, mining or other operations, in, on, over or under land and subject to which planning permission was granted for the development of that land, may be issued only within the period of four years from the date of the breach; and
- (b) nothing in section 83B(3) of the 1972 Act prevents an enforcement notice which relates to a breach of planning control (other than a breach falling within section 83B(1) or (2) of the 1972 Act or paragraph (a) above) being issued where it appears to the planning authority that the breach occurred after the end of 1964.

(2) Subject to paragraph (3), the commencement of paragraph (b) of section 83B(4) shall not permit the taking of further enforcement action in respect of any existing breach of planning control where, immediately before the commencement of that paragraph, the planning authority could not have issued an enforcement notice relating to that breach.

(3) Paragraph (2) does not apply where any proceedings under the 1972 Act in respect of the breach pursuant to the issue or purported issue of an enforcement notice by the planning authority have not been finally determined before the commencement of paragraph (b) of section 83B(4).

St. Andrew's House,
Edinburgh
20th February 1992

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

SCHEDULE 1

Article 4

REPEALS IN PART IV OF SCHEDULE 19 (REPEALS: SCOTLAND)

Chapter	Short Title	Extent of Repeal
1972 c. 52	Town and Country Planning (Scotland) Act 1972	<p>In section 85, in subsection (5), the words “or for varying the terms of the notice in favour of the appellant”; and subsection (11).</p> <p>In section 88(1), the words “(other than the discontinuance of a use of land)”.</p> <p>In section 88(2), the words “(as defined in section 84(2) of this Act)”.</p> <p>In section 93, subsection (1)(k) and, in (5), the words “or for varying the terms of the notice in favour of the appellant”.</p> <p>In section 98(1), the words “on indictment” where second occurring.</p> <p>Section 98(3).</p> <p>In section 166(2)(c), the words from “or for its retention” to “granted”.</p> <p>In section 265, in subsection (1)(b), the words “58 or”; subsection (2A)(a); in subsection (4), the words “or 99”.</p> <p>In section 275(1) in the definition of “planning permission”, the words from “and in construing” to the end.</p>

SCHEDULE 2

Article 4

EXTENT OF COMMENCEMENT OF SCHEDULE 13

(PLANNING IN SCOTLAND: MINOR AND CONSEQUENTIAL AMENDMENTS)

Provision	Extent of commencement
Paragraph 8	

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Provision	Extent of commencement
Paragraph 10(a)	so far as it relates to the substitution of a reference to “27(1), 27A and 28A” by a reference to “27(1), 27A, 28A and 29”.
Paragraph 11(b)(iii)	
Paragraph 13	
Paragraph 16	
Paragraph 19	
Paragraph 20 (a), (b), (c) and (e) to (g)	except in so far as paragraph 20(c)(ii) relates to the substitution of section 85(5)(d) of the 1972 Act
Paragraph 21	
Paragraph 23	
Paragraph 24	
Paragraph 25	except in so far as the substituted section 89A relates to a breach of condition notice.
Paragraph 27	
Paragraph 29	
Paragraph 30	
Paragraph 35	
Paragraph 37	except in relation to the insertion of a reference to section 87AA.
Paragraph 38(a) to (d) and (f)	
Paragraph 39	
Paragraph 40(1)(a)	so far as it inserts a definition of “breach of planning control”.
Paragraph 40(1)(e) and (f)	
Paragraph 41(2)	
Paragraph 43(a)(iii)	except in relation to the insertion of a reference to “section 90A”.
Paragraph 43(a)(iv), (b)(ii) and (c)	
Paragraph 45	
Paragraph 46	except in relation to the insertion of a reference to “section 87AA”.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 3 of this Order brings into force on 24th February 1992 section 37 of the Planning and Compensation Act 1991 insofar as it enables the Secretary of State to make Regulations under section 84AA(10) of the 1972 Act.

Article 4 of this Order brings into force on 26th March 1992 the following provisions of the Planning and Compensation Act 1991 which apply to Scotland:—

section 33	(planning contravention notices)
section 35	(interdicts relating to breaches of planning control)
section 36	(time limits on enforcement action) except so far as it relates to breach of conditions notices
section 37	(enforcement notices)
section 38	(appeal against enforcement notices)
section 39	(execution of work required by enforcement notice)
section 40	(offence where enforcement notice not complied with)
section 41	(stop notices)
section 43	(rights of entry)
section 54	(trees)
section 56	(power to remove or obliterate placards and posters)
section 57 and Schedule 10	(listed buildings, conservation areas and hazardous substances) except so far as these provisions relate to hazardous substances
section 61 and Schedule 13	(planning: minor and consequential amendments—Scotland) so far as these provisions relate to the provisions of Schedule 13 to the 1991 Act listed in Schedule 2 to this Order, and to the extent specified in that Schedule
section 84(6) and Schedule 19	insofar as the repeal provisions in part IV of Schedule 19 are listed in Schedule 1 to this Order.

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Article 4 of this Order also brings into force on 26th March 1992 section 82 of the Planning and Compensation Act 1991, which makes procedural provision in respect of an Order in Council relating to home loss payments in Northern Ireland.

Article 5 of this Order contains transitional provisions required for the time being to preserve the existing time limits on enforcement action.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Planning and Compensation Act 1991 have been brought into force by commencement orders made before the date of this Order:

Provision	Date of commencement	S.I. No.
s.1 (England and Wales)	2 January 1992	1991/2905
s.3 (partially) (England and Wales)	25 November 1991	1991/2728
s.3 (so far as not yet in force) (England and Wales)	2 January 1992	1991/2905
s.4 (partially) (England and Wales)	2 January 1992	1991/2905
s.5 (partially) (England and Wales)	25 November 1991	1991/2728
s.5 (so far as not yet in force) (England and Wales)	2 January 1992	1991/2905
s.6(5) (partially) (England and Wales)	25 November 1991	1991/2728
s.6(6) (England and Wales)	13 October 1991	1991/2272
s.6 (so far as not yet in force) (England and Wales)	2 January 1992	1991/2905
ss.7, 8 and 9 (England and Wales)	2 January 1992	1991/2905
s.10 (partially) (England and Wales)	25 November 1991	1991/2728
s.11 (England and Wales)	2 January 1992	1991/2905
s.12(1) (partially) (England and Wales)	25 October 1991	1991/2272
s.12(1) (partially) (England and Wales)	25 November 1991	1991/2728
s.12(2), (3) (England and Wales)	25 October 1991	1991/2272
s.14 (England and Wales)	2 January 1992	1991/2905
s.15 (England and Wales)	25 September 1991	1991/2067

Provision	Date of commencement	S.I. No.
s.16 (partially) (England and Wales)	25 November 1991	1991/2728
ss.17 and 18 (England and Wales)	25 September 1991	1991/2067
ss.19 (partially) (England and Wales)	25 November 1991	1991/2728
s.19 (partially) (England and Wales)	2 January 1992	1991/2905
s.20 (partially) (England and Wales)	25 November 1991	1991/2728
ss.21 and 22 (England and Wales)	25 September 1991	1991/2067
s.23(7) (partially) (England and Wales)	25 November 1991	1991/2728
s.23 (so far as not yet in force) (England and Wales)	2 January 1992	1991/2905
s.25 (partially) (England and Wales)	25 September 1991	1991/2067
s.25 (partially) (England and Wales)	25 November 1991	1991/2728
s.25 (so far as not yet in force) (England and Wales)	2 January 1992	1991/2905
s.26 (England and Wales)	25 September 1991	1991/2067
s.27 (partially) (England and Wales)	25 November 1991	1991/2728
s.27 (so far as not yet in force) (England and Wales)	10 February 1992	1991/2905
s.28 (partially) (England and Wales)	25 November 1991	1991/2728
s.29 (England and Wales)	25 September 1991	1991/2067
s.30 (partially) (England and Wales)	2 January 1992	1991/2728
s.31 (so far as not already in force) (England and Wales)	25 September 1991	1991/2067
s.32 (partially) (England and Wales)	25 September 1991	1991/2067
s.32 (partially) (England and Wales)	25 October 1991	1991/2272
s.32 (partially) (England and Wales)	25 November 1991	1991/2728

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Provision	Date of commencement	S.I. No.
s.32 (partially) (England and Wales)	2 January 1992	1991/2905
s.32 (partially) (England and Wales)	10 February 1992	1991/2905
ss.47 and 48 (Scotland)	25 September 1991	1991/2092
s.49 (Scotland)	24 January 1992	1992/71
s.50 (Scotland)	25 September 1991	1991/2092
s.51 (Scotland)	24 January 1992	1992/71
s.52 (Scotland)	24 January 1992	1992/71
s.53 (Scotland)	24 January 1992	1992/71
s.57 (partially) (Scotland)	25 September 1991	1991/2092
s.60 (so far as not already in force) (Scotland)	25 September 1991	1991/2092
s.61 (partially) (Scotland)	25 September 1991	1991/2092
s.61 (partially) (Scotland)	13 October 1991	1991/2272
ss.62 to 69 (England and Wales)	25 September 1991	1991/2067
s.70 (partially) (England and Wales)	25 September 1991	1991/2067
s.70 (so far as not yet in force) (England and Wales)	2 January 1992	1991/2728
ss.71 to 79 (Scotland)	25 September 1991	1991/2092
s.80 (partially) (England and Wales)	25 September 1991	1991/2067
s.80 (partially) (Scotland)	25 September 1991	1991/2092
s.80 (so far as not yet in force in England and Wales)	2 January 1992	1991/2728
s.81 (England and Wales)	25 September 1991	1991/2067
s.83 (England, Wales, Scotland and Northern Ireland)	25 October 1991	1991/2272
s.84(6) (partially) (England and Wales)	25 September 1991	1991/2067
s.84(6) (partially) (Scotland)	25 September 1991	1991/2092
s.84(6) (partially) (England and Wales)	2 January 1992	1991/2905
s.84(6) (partially) (England and Wales)	10 February 1992	1991/2905
Schedules 1 and 2 (England and Wales)	25 September 1991	1991/2067

Provision	Date of commencement	S.I. No.
Schedule 3 (partially) (England and Wales)	25 September 1991	1991/2067
Schedules 3 to 5 (partially) (England and Wales)	25 November 1991	1991/2728
Schedule 3 (so far as not yet in force) (England and Wales)	2 January 1992	1991/2905
Schedule 4 (partially) (England and Wales)	25 November 1991	1991/2728
Schedule 4 (so far as not yet in force) (England and Wales)	10 February 1992	1991/2905
Schedule 5 (partially) (England and Wales)	25 November 1991	1991/2728
Schedule 6 (so far as not already in force) (England and Wales)	25 September 1991	1991/2067
Schedule 7 (partially) (England and Wales)	25 September 1991	1991/2067
Schedule 7 (partially) (England and Wales)	25 October 1991	1991/2272
Schedule 7 (partially) (England and Wales)	25 November 1991	1991/2728
Schedule 7 (partially) (England and Wales)	2 January 1992	1991/2905
Schedule 7 (partially) (England and Wales)	10 February 1992	1991/2905
Schedule 8	24 January 1992	1992/71
Schedule 9	24 January 1992	1992/71
Schedule 10 (partially) (Scotland)	25 September 1991	1991/2092
Schedule 12 (Scotland)	25 September 1991	1991/2092
Schedule 13 (partially) (Scotland)	25 September 1991	1991/2092
Schedule 13 (partially) (Scotland)	13 October 1991	1991/2272
Schedule 14 (England and Wales)	25 September 1991	1991/2067
Schedule 15 (partially) (England and Wales)	25 September 1991	1991/2067
Schedule 15 (so far as not yet in force) (England and Wales)	2 January 1992	1991/2728

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Provision	Date of commencement	S.I. No.
Schedules 16 and 17 (Scotland)	25 September 1991	1991/2092
Schedule 18 (partially) (England and Wales)	25 September 1991	1991/2067
Schedule 18 (partially) (Scotland)	25 September 1991	1991/2092
Schedule 18 (so far as not yet in force) (England and Wales)	2 January 1992	1991/2728
Schedule 19 (partially) (England, Wales and Scotland)	25 September 1991	1991/2067
Schedule 19 (partially) (Scotland)	25 September 1991	1991/2092
Schedule 19 (partially) (England and Wales)	2 January 1992	1991/2905
Schedule 19 (partially) (England and Wales)	10 February 1992	1991/2905