



# Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

## 1972 CHAPTER 52

### PART VI

#### ACQUISITION AND APPROPRIATION OF LAND AND RELATED PROVISIONS

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

**C1** Pt. VI (ss. 102–122) applied by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 93, [Sch. 7 Pt. III para. 13](#) (with s. 335)

#### *Acquisition and appropriation of land*

### **102 Compulsory acquisition of land in connection with development and for other planning purposes.**

[<sup>F1</sup>(1) A local authority to whom this subsection applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily—

- (a) any land within their area which is suitable for and is required in order to secure the carrying out of one or more of the following activities, namely, development, redevelopment and improvement;
- (b) any land which is in their area and which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

(1A) A local authority and the Secretary of State in considering for the purposes of subsection (1)(a) above whether land is suitable for development, re-development or improvement shall have regard—

- (a) to the provisions of the development plan, so far as material;
- (b) to whether planning permission for any development on the land is in force; and

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- (c) to any other consideration which, on an application for planning permission for development on the land, would be material for the purpose of determining that application.
- (1B) Where a local authority exercise their powers under subsection (1) above in relation to any land, they shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily—
- (a) any land adjoining that land which is required for the purposes of executing works for facilitating its development or use; or
  - (b) where the land forms part of a common or open space, any land which is required for the purpose of being given in exchange for the land which is being acquired.
- (1C) It is immaterial by whom the local authority propose any activity or purpose mentioned in subsection (1) or (1B)(a) above is to be undertaken or achieved (and in particular the local authority need not propose to undertake that activity or achieve that purpose themselves.)]
- (2) Where under subsection (1) of this section the Secretary of State has power to authorise a local authority to whom this section applies to acquire any land compulsorily he may, after the requisite consultation, authorise the land to be so acquired by another authority, being a local authority within the meaning of this Act.
- (3) Before giving an authorisation under subsection (2) of this section, the Secretary of State shall—
- (a) where the land is [<sup>F2</sup>in a region, consult with the regional council;
  - (b) where the land is in an islands area, consult with the islands council;
  - (c) where the land is in a district, consult with the district council.]
- (4) The <sup>M1</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act.
- (5) The local authorities to whom this section applies are [<sup>F3</sup>regional, islands and district councils]

#### Textual Amendments

- F1** S. 102(1)(1A)-(1C) substituted for S. 102(1) by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 92\(4\)](#)
- F2** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 21\(a\)](#)
- F3** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 21\(b\)](#)

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

- C2** S. 102 amended (1.4.1983) by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 154A\(5\)](#) (as inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 7](#))

#### Marginal Citations

- M1** 1947 c. 42.

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### **103 Compulsory acquisition of land by Secretary of State for the Environment.**

- (1) The Secretary of State for the Environment may acquire compulsorily any land necessary for the public service.
- (2) The power of acquiring land compulsorily under this section shall include power to acquire a servitude or other right over land by the grant of a new right:

Provided that this subsection shall not apply to a servitude or other right over any land which would for the purposes of the <sup>M2</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 form part of a common or open space.

- (3) The said Act of 1947 shall apply to any compulsory acquisition by the Secretary of State for the Environment under this section as it applies to a compulsory acquisition by another Minister in a case falling within section 1(1) of that Act.

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

**C3** S. 103 amended by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 122](#)

#### **Marginal Citations**

**M2** 1947 c. 42.

### **104 Compulsory acquisition of listed building in need of repair.**

- (1) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, the Secretary of State may authorise the . . . <sup>F4</sup> planning authority for the district in which the building is situated to acquire compulsorily under this section the building and any land comprising or contiguous or adjacent to it which appears to the Secretary of State to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.
- (2) Where it appears to the Secretary of State, in the case of a building to which this section applies, that reasonable steps are not being taken for properly preserving it, he may be authorised under this section to acquire compulsorily the building and any land comprising or contiguous or adjacent to it which appears to him to be required for the purpose mentioned in subsection (1) of this section.
- (3) This section applies to any listed building, not being an excepted building as defined in section 56(2) of this Act.
- (4) The Secretary of State shall not make or confirm a compulsory purchase order for the acquisition of any building by virtue of this section unless he is satisfied that it is expedient to make provision for the preservation of the building and to authorise its compulsory acquisition for that purpose.
- (5) <sup>M3</sup>The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory acquisition of land under this section and accordingly shall have effect—
  - (a) as if this section had been in force immediately before the commencement of that Act; and

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- (b) as if references therein to the Minister of Transport and to the enactments specified in section 1(1)(b) of that Act included respectively references to the Secretary of State and to the provisions of this section.
- (6) Any person having an interest in a building which it is proposed to acquire compulsorily under this section may, within twenty-eight days after the service of the notice required to be served under paragraph 3(b) of Schedule 1 to the said Act of 1947, apply to the sheriff for an order prohibiting further proceedings on the compulsory purchase order; and, if the sheriff is satisfied that reasonable steps have been taken for properly preserving the building, he shall make an order accordingly.
- (7) Any person aggrieved by the decision of the sheriff on an application under subsection (6) of this section may appeal against the decision to the Court of Session, but on a question of law only.

#### Textual Amendments

**F4** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

#### Marginal Citations

**M3** 1947 c. 42.

### 105 Repairs notice as preliminary to compulsory acquisition under s. 104.

- (1) Neither a . . . <sup>F5</sup> planning authority nor the Secretary of State shall start the compulsory purchase of a building under section 104 of this Act unless at least two months previously they have served on the owner of the building, and not withdrawn, a notice under this section (in this section referred to as a “repairs notice”)—
- (a) specifying the works which they consider reasonably necessary for the proper preservation of the building; and
  - (b) explaining the effect of sections 104 to 107 of this Act.
- (2) Where a . . . <sup>F5</sup> planning authority or the Secretary of State have served a repairs notice, the demolition of the building thereafter shall not prevent them from being authorised under section 104 of this Act to acquire compulsorily the site of the building, if the Secretary of State is satisfied that he would have confirmed or, as the case may be, would have made a compulsory purchase order in respect of the building had it not been demolished.
- (3) A . . . <sup>F5</sup> planning authority or the Secretary of State may at any time withdraw a repairs notice served by them; and if they do so, they shall forthwith give notice of the withdrawal to the person who was served with the notice.
- (4) For the purposes of this section a compulsory acquisition is started when the . . . <sup>F5</sup> planning authority or the Secretary of State, as the case may be, serve the notice required by paragraph 3(b) of Schedule 1 to the <sup>M4</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

#### Textual Amendments

**F5** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

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#### Marginal Citations

M4 1947 c. 42.

### 106 Compensation on compulsory acquisition of listed building.

Subject to section 107 of this Act, for the purpose of assessing compensation in respect of any compulsory acquisition of land including a building which, immediately before the date of the compulsory purchase order, was listed, it shall be assumed that listed building consent would be granted for any works for the alteration or extension of the building. . . .<sup>F6F7</sup> . . . .

#### Textual Amendments

F6 Words repealed with saving by [Town and Country Amenities Act 1974 \(c. 32\), s. 6](#)

F7 Words in s. 106 repealed (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), ss. 60(6), 84(6), Sch. 12, para. 13, [Sch. 19](#), Pt. IV (with s. 84(5)); S.I. 1991/2092, [art.3](#)

### 107 Minimum compensation in case of listed building deliberately left derelict.

- (1) A. . . .<sup>F8</sup> planning authority proposing to acquire a building compulsorily under section 104 of this Act, if they are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or re-development of the site or any adjoining site, may [<sup>F9</sup>make a direction for minimum compensation.]
- (2) Subject to the provisions of this section, where the Secretary of State acquires a building compulsorily under section 104 of this Act, he may, if he is satisfied as mentioned in subsection (1) of this section, include a direction for minimum compensation in the compulsory purchase order.
- (3) The notice required to be served in accordance with paragraph 3(b) of Schedule 1 to the<sup>M5</sup> Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (notices stating effect of compulsory purchase order or, as the case may be, draft order) shall, without prejudice to so much of that paragraph as requires the notice to state the effect of the order, include a statement that the authority have made. . . .<sup>F10</sup> a direction for minimum compensation or, as the case may be, that the Secretary of State has included such a direction in the draft order prepared by him in accordance with paragraph 7 of that Schedule and shall in either case explain the meaning of the expression “direction for minimum compensation”.
- (4) a direction for minimum compensation, in relation to a building compulsorily acquired, is a direction that for the purpose of assessing compensation it is to be assumed, notwithstanding anything to the contrary in the<sup>M6</sup> Land Compensation (Scotland) Act 1963 or this Act, that planning permission would not be granted for any development or re-development of the site of the building and that listed building consent would not be granted for any works for the demolition, alteration or extension of the building other than development or works necessary for restoring it to, and maintaining it in, a proper state of repair; and if a compulsory purchase order is confirmed or made with the inclusion of such a direction, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.

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- (5) Where a . . . <sup>F8</sup> planning authority [<sup>F11</sup>make] a direction for minimum compensation, or the Secretary of State includes such a direction in a draft compulsory purchase order prepared by him, any person having an interest in the building may, within twenty-eight days after the service of the notice required by paragraph 3(b) of Schedule 1 to the said Act of 1947, apply to the sheriff for an order that the . . . <sup>F8</sup> planning authority's [<sup>F12</sup>direction for minimum compensation be reversed] or, as the case may be, that such a direction be not included in the compulsory purchase order as made by the Secretary of State; and if the sheriff is satisfied that the building has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1) of this section, he shall make the order applied for.
- (6) a person aggrieved by the decision of the sheriff on an application under subsection (5) of this section may appeal against the decision to the Court of Session, but on a question of law only.
- (7) The rights conferred by subsections (5) and (6) of this section shall not prejudice those conferred by section 104(6) and (7) of this Act.

#### Textual Amendments

- F8** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F9** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 22\(a\)](#)
- F10** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F11** Word substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 22\(c\)](#)
- F12** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 22\(c\)](#)

#### Marginal Citations

- M5** [1947 c. 42.](#)
- M6** [1963 c. 51.](#)

## 108 Extinguishment of rights over land compulsorily acquired.

- (1) Subject to the provisions of this section, upon the completion by the acquiring authority of a compulsory acquisition of land under this Part of this Act, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on, under or over the land and all other rights or servitudes in or relating to that land shall be extinguished, and any such apparatus shall vest in the acquiring authority.
- (2) Subsection (1) of this section shall not apply to any right vested in, or apparatus belonging to, statutory undertakers for the purpose of the carrying on of their undertaking [<sup>F13</sup>or to any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or to any telecommunication apparatus kept installed for the purposes of any such system.]
- (3) In respect of any right or apparatus not falling within subsection (2) of this section, subsection (1) of this section shall have effect subject—
- (a) to any direction given by the acquiring authority before the completion of the acquisition that subsection (1) of this section shall not apply to any right or apparatus specified in the direction; and

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- (b) to any agreement which may be made (whether before or after the completion of the acquisition) between the acquiring authority and the person in or to whom the right or apparatus in question is vested or belongs.
- (4) Any person who suffers loss by the extinguishment of a right or servitude or the vesting of any apparatus under this section shall be entitled to compensation from the acquiring authority.
- (5) Any compensation payable under this section shall be determined in accordance with the <sup>M7</sup>Land Compensation (Scotland) Act 1963.

#### Textual Amendments

**F13** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), [Sch. 4 para. 54\(3\)](#), [Sch. 5 para. 45](#)

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

**C4** [S. 108](#) extended by [Offshore Petroleum Development \(Scotland\) Act 1975 \(c.8\)](#), [s. 2\(1\)](#)

**C5** [S. 108\(2\)](#) extended by [Civil Aviation Act 1982 \(c. 16\)](#), [Sch. 2 para. 4](#); amended by [British Telecommunications Act 1981 \(c.38\)](#), [Sch. 3 para. 10\(2\)\(d\)](#)

**C6** [S. 108\(2\)](#), [117–119](#), [121](#), [138](#), [154\(3\)](#), [170–172](#), [175](#), [181](#), [195\(6\)](#), [198\(3\)](#), [199\(2\)](#), [202\(3\)](#), [205](#), [211](#), [212](#), [214](#), [216–230](#), [233\(7\)](#), [242](#), [259](#), [266\(6\)\(b\)](#), [275\(2\)](#), [Sch. 8](#), [Sch. 17 para. 1–3](#), [Sch. 18](#) extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), [s. 67\(1\)\(3\)](#), [Sch. 7 para. 2\(1\)\(xxv\)](#) (with [Sch. 8 para. 33](#))  
[Ss. 108\(2\)](#), [117–119](#), [121](#) extended (1.3.1996) by [1995 c. 45, s. 16\(1\)](#), [Sch. 4 para. 2\(1\)\(xix\)](#); [S.I. 1996/218](#), [art. 2](#)

**C7** [S. 108\(2\)](#) amended by the [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), [s. 112\(1\)](#), [Sch. 16 para. 1\(1\)\(xxiii\)](#) (with [s. 112\(3\)](#), [Sch. 17 paras. 33, 35\(1\)](#))

#### Marginal Citations

**M7** [1963 c. 51](#).

## 109 Acquisition of land by agreement.

- (1) A . . . <sup>F14</sup> planning authority, . . . <sup>F15</sup> may acquire by agreement—
- (a) any land which they require for any purpose for which a . . . <sup>F14</sup> planning authority may be authorised to acquire land under section 102 of this Act;
- (b) any building appearing to them to be of special architectural or historic interest; and
- (c) any land comprising or contiguous or adjacent to such a building which appears to [<sup>F16</sup>them] to be required for preserving the building or its amenities, or for affording access to it, or for its proper control or management.
- (2) The Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections 120 to 125 of the <sup>M8</sup>Lands Clauses Consolidation (Scotland) Act 1845) and sections 6 and 70 of the <sup>M9</sup>Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act, as originally enacted and not as amended for certain purposes by section 15 of the <sup>M10</sup>Mines (Working Facilities and Support) Act 1923, shall be incorporated with this section, and in construing those Acts as so incorporated this section shall be deemed to be the special Act and references to the promoters of the undertaking or to the company shall be construed as references to the authority authorised to acquire the land under this section.

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**Textual Amendments**

- F14** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F15** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F16** Word substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 23](#)

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

- C8** [S. 109](#) amended (1.4.1983) by [Local Government \(Scotland\) Act 1973 \(c.65\), s. 154A\(5\)](#) (as inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\), s. 7](#))
- C9** [S. 109](#) restricted (30.10.1995 for specified purposes and otherwise 1.4.1996) by [1973 c. 65, s. 171C](#) (as inserted (30.10.1995 for specified purposes and otherwise 1.4.1996) by [1994 c. 39, s. 171](#); [S.I. 1995/2866, arts. 2\(f\), 3\(a\)](#))

**Marginal Citations**

- M8** [1845 c. 19.](#)
- M9** [1845 c. 33.](#)
- M10** [1923 c. 20.](#)

**110 Acquisition of land for purposes of exchange.**

Without prejudice to the generality of the powers conferred by the preceding provisions of this Part of this Act, any power of a local authority to acquire land thereunder, whether compulsorily or by agreement, shall include power to acquire land required for giving in exchange for land appropriated under section 111 of this Act.

**111** <sup>F17</sup> .....

**Textual Amendments**

- F17** [Ss. 91\(1\), 111, 112](#) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 4](#)

*Powers exercisable in relation to land held for planning purposes, and other related powers*

**112** <sup>F18</sup> .....

**Textual Amendments**

- F18** [Ss. 91\(1\), 111, 112](#) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 4](#)

**113 Disposal of land held for planning purposes.**

(1) Where any land has been acquired or appropriated by a . . . <sup>F19</sup> planning authority for planning purposes, and is for the time being held by the authority for the purposes for which it was so acquired or appropriated, the authority may dispose of the land to such person, in such manner and subject to such conditions as may appear to them



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to be expedient in order to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out thereon, whether by themselves or by any other person, or to secure the erection, construction or carrying out thereon of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.

- (2) . . . . . <sup>F20</sup>
- (3) Subject to the provisions of subsection (6) of this section, any land disposed of under this section shall not, . . . <sup>F21</sup>, be disposed of otherwise than at the best price or on the best terms that can reasonably be obtained.
- (4) . . . . . <sup>F22</sup>
- (5) Where representations are made to the Secretary of State—
- (a) that a . . . <sup>F19</sup> planning authority have refused to dispose of any land under this section to any person or to agree with him as to the manner in which, or the terms or conditions on or subject to which, it is to be disposed of to him; and
  - (b) that the refusal constitutes unfair discrimination against that person or is otherwise oppressive,

the Secretary of State may cause the representations to be intimated to the authority; and after considering any statement in writing made to him by the authority, the Secretary of State may, if he thinks fit, cause a public local inquiry to be held and after considering the report of the person appointed to hold the inquiry (if any), may, if it appears to him that the representations are well founded and that it is expedient as mentioned in subsection (1) of this section that the authority should dispose of the land under this section to that person, require the authority to offer to dispose of it to him, and give directions as to the manner of the disposal and as to all or any of the terms or conditions on or subject to which it is to be offered to him.

- (6) In relation to land acquired or appropriated for planning purposes for a reason mentioned in section 102(1)(a). . . <sup>F23</sup> of this Act the powers conferred by this section on a . . . <sup>F19</sup> planning authority, . . . <sup>F21</sup>, shall be so exercised as to secure, so far as may be practicable, to persons who were living or carrying on business or other activities on any such land which the authority have acquired as mentioned in subsection (1) of this section, who desire to obtain accommodation on such land, and who are willing to comply with any requirements of the authority as to the development and use of such land, an opportunity to obtain thereon accommodation suitable to their reasonable requirements, on terms settled with due regard to the price at which any such land has been acquired from them.

In this subsection “development” includes redevelopment.

- (7) Where land is disposed of under this section by a . . . <sup>F19</sup> planning authority to any person for the erection of a church or other building for religious worship or buildings ancillary thereto, then, unless the parties otherwise agree, such disposal shall be by way of feu.
- (8) In relation to any such land as is mentioned in subsection (1) of this section, this section shall have effect to the exclusion of the provisions of any enactment, other than this Act, by virtue of or under which the . . . <sup>F19</sup> planning authority are or may be authorised to dispose of land held by them.

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#### Textual Amendments

- F19** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)  
**F20** [S. 113\(2\)](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)  
**F21** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)  
**F22** [S. 113\(4\)](#) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 4](#)  
**F23** Words repealed by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 92\(6\)](#)

### 114 Development of land held for planning purposes.

- (1) The functions of a . . . <sup>F24</sup> planning authority shall include power for the authority, notwithstanding any limitation imposed by law on the capacity of the authority by virtue of its constitution, to erect, construct or carry out any building or work on any land to which this section applies, not being a building or work for the erection, construction or carrying out of which, whether by that authority or by any other person, statutory power exists by virtue of, or could be conferred under, an alternative enactment.
- (2) This section applies to any land which has been acquired or appropriated by a . . . <sup>F24</sup> planning authority for planning purposes and is for the time being held by the authority for the purposes for which it was so acquired or appropriated.
- (3) . . . . . <sup>F25</sup>
- (5) The functions of a . . . <sup>F24</sup> planning authority shall include power for the authority, notwithstanding any such limitation as is mentioned in subsection (1) of this section, to repair, maintain and insure any buildings or works on land to which this section applies, and generally to deal therewith in a proper course of management.
- (6) Nothing in this section shall be construed as authorising any act or omission on the part of a . . . <sup>F24</sup> planning authority which is actionable at the instance of any person on any ground other than such a limitation as is mentioned in subsection (1) of this section.
- (7) In this section “alternative enactment” means any enactment which is not contained in this Part of this Act. . . <sup>F26</sup>

#### Textual Amendments

- F24** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)  
**F25** [Ss. 114\(3\)\(4\), 115\(2\), 118\(2\)](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)  
**F26** Words repealed by [Industrial Development Act 1982 \(c. 52\), s. 19, Sch. 3](#)

### 115 Special provisions as to features and buildings of architectural and historic interest.

- (1) In the exercise of the powers of appropriation, disposal and development conferred by the provisions of sections 112, 113 and 114(1) of this Act, a . . . <sup>F27</sup> planning authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings;. . . <sup>F28</sup>
- (2) . . . . . <sup>F29</sup>

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- (3) In this section [<sup>F30</sup>“preserving”], in relation to a building means the [<sup>F30</sup>preserving] thereof either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character, and “development” includes redevelopment.
- (4) This section is without prejudice to the provisions of section 262(5) of this Act.

#### Textual Amendments

- F27** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F28** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F29** Ss. 114(3)(4), 115(2), 118(2) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F30** Word substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 25](#)

### 116 Management etc. of listed buildings acquired by . . . <sup>F31</sup> planning authority or Secretary of State.

- (1) Where a . . . <sup>F31</sup> planning authority acquire any building or other land under section 104(1) or 109(1)(b) of this Act, they may make such arrangements as to its management, use or disposal as they consider appropriate for the purpose of its preservation.
- (2) Where the Secretary of State acquires any building or other land under section 104(2) of this Act, subsection (3) of section 5 of the <sup>M11</sup>Historic Buildings and Ancient Monuments Act 1953 (management, custody and disposal), except so much of it as refers to subsection (4) of that section, shall apply in relation thereto as it applies in relation to property acquired under that section.

#### Textual Amendments

- F31** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

#### Marginal Citations

- M11** 1953 c. 49.

### 117 Power to override servitudes and other rights.

- (1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired or appropriated by a . . . <sup>F32</sup> planning authority for planning purposes, whether done by the . . . <sup>F32</sup> planning authority or by a person deriving title from them, is authorised by virtue of this section if it is done in accordance with planning permission, notwithstanding that it involves interference with an interest or right to which this section applies, or involves a breach of a restriction as to the use of land arising by virtue of any deed or contract:

Provided that nothing in this subsection shall authorise interference with any right of way or right of laying down, erecting continuing or maintaining apparatus on, under or over land, being a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking [<sup>F33</sup> or a right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system.]

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*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part VI. (See end of Document for details)*

- (2) This section applies to the following interests and rights, that is to say, any servitude, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.
- (3) In respect of any interference or breach in pursuance of subsection (1) of this section, compensation shall be payable under section 61 of the <sup>M12</sup>Lands Clauses Consolidation (Scotland) Act 1845 or under section 6 of the <sup>M13</sup>Railways Clauses Consolidation (Scotland) Act 1845 to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with a purchase under those Acts or the injury arises from the execution of works on land acquired under those Acts.
- (4) Where a person deriving title from the . . . <sup>F32</sup> planning authority by whom the land in question was acquired or appropriated is liable to pay compensation by virtue of subsection (3) of this section, and fails to discharge that liability, the liability shall be enforceable against the . . . <sup>F32</sup> planning authority:
- Provided that nothing in this subsection shall be construed as affecting any agreement between the . . . <sup>F32</sup> planning authority and any other person for indemnifying the . . . <sup>F32</sup> planning authority against any liability under this subsection.
- (5) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than such an interference or breach as is mentioned in subsection (1) of this section.

#### Textual Amendments

**F32** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**F33** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\), Sch. 4 para. 54\(4\), Sch. 5 para. 45](#)

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

**C10** S. 117 extended by [Civil Aviation Act 1982 \(c. 16\), Sch. 2 para. 4](#); amended by [British Telecommunications Act 1981 \(c.38\), Sch. 3 para. 10\(2\)\(d\)](#)

**C11** S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(1\)\(3\), Sch. 7 para. 2\(1\)\(xxv\) \(with Sch. 8 para. 33\)](#)

**C12** S. 117 amended by [Electricity Act 1989 \(c. 29, SIF 44:1\), s. 112\(1\), Sch. 16 para. 1\(1\)\(xxiii\)](#)

**C13** Ss. 108(2), 117–119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), [Sch. 4 para. 2\(1\)\(xix\)](#); S.I. 1996/218, [art. 2](#)

#### Marginal Citations

**M12** 1845 c. 19.

**M13** 1845 c. 33.

## 118 Provisions as to churches and burial grounds.

- (1) Any land, consisting of a church or other building used or formerly used for religious worship, or the site thereof, or a burial ground, which has been acquired by a Minister, a . . . <sup>F34</sup> planning authority or statutory undertakers under this Part of this Act or compulsorily under any other enactment, or which has been appropriated by a . . . <sup>F34</sup>

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planning authority for planning purposes, may, subject to the following provisions of this section—

- (a) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and
- (b) in any other case, be used by any person in any manner in accordance with planning permission,

notwithstanding anything in any enactment relating to churches or such other buildings as aforesaid or to burial grounds or any obligation or restriction imposed under any deed or agreement or otherwise as respects that church or other building or burial ground:

F35

[<sup>F36</sup>(1A) In the case of land—

- (a) which has been acquired by the Secretary of State under section 79(1) of the National Health Service (Scotland) Act 1978; and
- (b) which is held, used or occupied by a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990,

subsection (1) of this section shall apply with the omission of paragraph (a) and, in paragraph (b), of the words “in any other case”.]

(2) ..... <sup>F37</sup>

(3) ..... <sup>F38</sup>, no authority shall be required for the removal and reinterment in accordance with the regulations of any human remains, or for the removal or disposal of any monuments.

(4) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment, obligation or restriction as is mentioned in subsection (1) of this section.

(5) In this section “burial ground” includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purposes of interment, and includes part of a burial ground; and “monument” includes a tombstone or other memorial and any fixtures or furnishings.

#### Textual Amendments

- F34** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F35** Proviso repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F36** [S. 118\(1A\)](#) inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 60(2), [Sch. 8 para. 7](#)
- F37** [Ss. 114\(3\)\(4\), 115\(2\), 118\(2\)](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
- F38** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

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

- C14** [S. 118](#) extended by [Airports Authority Act 1975 \(c. 78\), s. 17\(6\)\(7\)\(d\)](#) and [Civil Aviation Act 1982 \(c. 16\), Sch. 2 para. 4](#); modified by [Civil Aviation Act 1982 \(c.16\), s. 54\(1\)](#)
- C15** [S. 118](#) extended by [Telecommunications Act 1984 \(c. 12, SIF 96\), s. 35\(4\)\(a\)](#)
- C16** [S. 108\(2\), 117–119, 121, 138, 154\(3\), 170–172, 175, 181, 195\(6\), 198\(3\), 199\(2\), 202\(3\), 205, 211, 212, 214, 216–230, 233\(7\), 242, 259, 266\(6\)\(b\), 275\(2\)](#), [Sch. 8](#), [Sch. 17 para. 1–3](#), [Sch. 18](#) extended by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(1\)\(3\), Sch. 7 para. 2\(1\)\(xxv\)](#) (with [Sch. 8 para. 33](#))

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- C17** S. 118 applied by Airports Act 1986 (c. 31, SIF 9), s. 59(6)(b)
- C18** S. 118 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 2(2)(d)(9) (with s. 112(3), Sch. 17 para. 35(1))
- C19** Ss. 108(2), 117-119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), Sch. 4 para. 2(1)(xix); S.I. 1996/218, art. 2

## 119 Use and development of land for open spaces.

- (1) Any land being, or forming part of, a common or open space, which has been acquired by a Minister, a local authority or statutory undertakers under this Part of this Act or compulsorily under any other enactment, or which has been appropriated by a . . . <sup>F39</sup> planning authority for planning purposes, may—
- (a) in the case of land acquired by a Minister, be used in any manner by him or on his behalf for any purpose for which he acquired the land; and
  - (b) in any other case, be used by any person in any manner in accordance with planning permission,
- notwithstanding anything in any enactment relating to land of that kind, or in any enactment by which the land is specially regulated.
- (2) Nothing in this section shall be construed as authorising any act or omission on the part of any person which is actionable at the instance of any person on any ground other than contravention of any such enactment as is mentioned in subsection (1) of this section.

### Textual Amendments

- F39** Word repealed by Local Government (Scotland) Act 1973 (c. 65), s. 172(2)

### Modifications etc. (not altering text)

- C20** S. 119 extended by Civil Aviation Act 1982 (c. 16), Sch. 2 para. 4
- C21** S. 119 extended by Telecommunications Act 1984 (c. 12, SIF 96), s. 35(4)(b)
- C22** Ss. 108(2), 117-119, 121, 138, 154(3), 170-172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216-230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1-3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with Sch. 8 para. 33)
- C23** S. 119 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 2(2)(d)(9) (with s. 112(3), Sch. 17 para. 35(1))
- C24** Ss. 108(2), 117-119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), Sch. 4 para. 2(1)(xix); S.I. 1996/218, art. 2

## 120 Displacement of persons from land acquired or appropriated.

- (1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a . . . <sup>F40</sup> planning authority for the purposes for which it was acquired or appropriated, and the carrying out of redevelopment on the land will involve the displacement of persons residing in premises thereon, it shall be the duty of the authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacements from time to time becoming necessary as the redevelopment proceeds.

- (2) . . . . . <sup>F41</sup>

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- (3) If the Secretary of State certifies that possession of a house which has been acquired or appropriated by a . . . <sup>F42</sup> planning authority for planning purposes, and is for the time being held by the authority for the purposes for which it was acquired or appropriated, is immediately required for those purposes, nothing in the <sup>M14</sup>Rent (Scotland) Act 1971 shall prevent the acquiring or appropriating authority from obtaining possession of the house.
- (4) Where any land has been acquired by a Minister or a . . . <sup>F42</sup> planning authority under this Part of this Act, or has been appropriated by a . . . <sup>F42</sup> planning authority for planning purposes, and possession of any building on the land is required by that Minister or the . . . <sup>F42</sup> planning authority in question, as the case may be, for the purposes for which the land was acquired or appropriated, then, at any time after the tenancy of the occupier has expired or has been determined, the Minister or . . . <sup>F42</sup> planning authority in question may serve a notice on the occupier of the building requiring him to remove therefrom within a period of twenty-one days; and on the expiry of that period a certified copy of the notice to remove shall be sufficient warrant for ejection against the occupier or any party in his right in the event of non-compliance with the notice.  
(5)(6). . . . . <sup>F43</sup>

**Textual Amendments**

- F40** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F41** [S. 120\(2\)](#) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\), s. 1\(1\), Sch. 1 Pt. XIII](#)
- F42** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F43** [S. 120\(5\)\(6\)](#) repealed by [Land Compensation Act 1973 \(c. 26\), Sch. 3](#)

**Marginal Citations**

- M14** [1971 c. 28.](#)

*Supplementary provisions*

**121 Modification of incorporated enactments for purposes of Part VI.**

- (1) Where it is proposed that land should be acquired compulsorily under section 102 or 103 of this Act, and a compulsory purchase order relating to that land is submitted to the confirming authority in accordance with Part I of Schedule 1 to the <sup>M15</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, or, as the case may be, is made in draft by the Secretary of State for the Environment in accordance with Part II of that Schedule, the confirming authority or that Secretary of State, as the case may be, may disregard for the purposes of that Schedule any objection to the order or draft which, in the opinion of that authority or Secretary of State, amounts in substance to an objection to the provisions of the development plan defining the proposed use of that or any other land.
- (2) Where a compulsory purchase order authorising the acquisition of any land under section 102 of this Act is submitted to the Secretary of State in accordance with Part I of Schedule 1 to the said Act of 1947, then if the Secretary of State—
  - (a) is satisfied that the order ought to be confirmed so far as it relates to part of the land comprised therein; but
  - (b) has not for the time being determined whether it ought to be confirmed so far as it relates to any other such land, he may confirm the order so far as it relates

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to the land mentioned in paragraph (a) of this subsection, and give directions postponing consideration of the order, so far as it relates to any other land specified in the directions, until such time as may be so specified.

- (3) Where the Secretary of State gives directions under subsection (2) of this section, the notices required by paragraph 6 of Schedule 1 to the said Act of 1947 to be published and served shall include a statement of the effect of the directions.
- (4) In construing the Lands Clauses Acts and section 6 of the Railways Clauses Consolidation (Scotland) Act 1845, as incorporated by virtue of paragraph 1 of Schedule 2 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, in relation to any of the provisions of this Part of this Act—
- (a) references to the execution of the works or to the construction of the railway shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by section 117 of this Act;
  - (b) in relation to the erection, construction or carrying out of any buildings or works so authorised, references in section 6 of the said Act of 1845 to the company shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out; and
  - (c) references to the execution of the works shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of a Minister or statutory undertakers on land acquired by that Minister or those undertakers, where the buildings or works are erected, constructed or carried out for the purposes for which the land was acquired.

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

- C25** S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
- C26** S. 121 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 1(1)(xxiii)** (with s. 112(3), Sch. 17 paras. 33, 35(1))
- C27** Ss. 108(2), 117–119, 121 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

**Marginal Citations**

- M15** 1947 c. 42.

**122 Interpretation of Part VI.**

- (1) In this Part of this Act any reference to the acquisition of land for planning purposes is a reference to the acquisition thereof under section 102 or 109 of this Act and any reference to the appropriation of land for planning purposes is a reference to the appropriation thereof for purposes for which land can be or could have been acquired under those sections.
- (2) In relation to a . . . <sup>F44</sup> planning authority or body corporate, nothing in sections 117 to 119 of this Act shall be construed as authorising any act or omission on their part in contravention of any limitation imposed by law on their capacity by virtue of the constitution of the authority or body.
- (3) Any power conferred by section 118 or 119 of this Act to use land in a manner therein mentioned shall be construed as a power so to use the land, whether it involves the



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erection, construction or carrying out of any building or work, or the maintenance of any building or work, or not.

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**Textual Amendments**

**F44** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**Status:**

Point in time view as at 24/02/1992.

**Changes to legislation:**

There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part VI.