



# Town and Country Planning (Scotland) Act 1972

## 1972 CHAPTER 52

### PART VI

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

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

#### **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 local planning authority for planning purposes, whether done by the local 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.

- (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 Lands Clauses Consolidation (Scotland) Act 1845 or under section 6 of the 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

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*Status: This is the original version (as it was originally enacted).*

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Acts or the injury arises from the execution of works on land acquired under those Acts.

- (4) Where a person deriving title from the local 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 local planning authority:

Provided that nothing in this subsection shall be construed as affecting any agreement between the local planning authority and any other person for indemnifying the local 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.