



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART XIV

MISCELLANEOUS AND GENERAL PROVISIONS

Miscellaneous and general provisions

271 Service of notices

- (1) Subject to the provisions of this section, any notice or other document required or authorised to be served or given under this Act may be served or given—
 - (a) by delivering it to the person on whom it is to be served or to whom it is to be given,
 - (b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address,
 - (c) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode, or, in a case where an address for service has been given by that person, at that address,
 - (d) in the case of a person on whom the notice is required to be served as being a person appearing from the valuation roll to have an interest in land, by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his address as entered in the valuation roll, or
 - (e) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.
- (2) Where the notice or document is required or authorised to be served on any person as having an interest in premises, and the name of that person cannot be ascertained after reasonable inquiry, or where the notice or document is required or authorised to

Status: This is the original version (as it was originally enacted).

be served on any person as an occupier of premises, the notice or document shall be taken to be duly served if—

- (a) being addressed to him either by name or by the description of “the owner”, “the lessee” or “the occupier”, as the case may be, of the premises (describing them) it is delivered or sent in the manner specified in subsection (1)(a), (b) or (c), or
- (b) it is so addressed and is marked in such manner as may be prescribed for securing that it shall be plainly identifiable as a communication of importance, and—
 - (i) it is sent to the premises in a prepaid registered letter or by the recorded delivery service and is not returned to the authority sending it, or
 - (ii) is delivered to some person on those premises, or is affixed conspicuously to some object on those premises.

(3) Where—

- (a) the notice or other document is required to be served on or given to all persons who have interests in or are occupiers of premises comprised in any land, and
- (b) it appears to the authority required or authorised to serve or give the notice or other document that any part of that land is unoccupied,

the notice or document shall be taken to be duly served on all persons having interests in, and on any occupiers of, premises comprised in that part of the land (other than a person who has given to that authority an address for the service of the notice or document on him) if it is addressed to “the owners and any lessees and occupiers” of that part of the land (describing it) and is affixed conspicuously to some object on the land.

272 Power to require information as to interests in land

- (1) For the purpose of enabling any order to be made or any notice or other document to be served by him or them under this Act, the Secretary of State or a local authority may in writing require the occupier of any land and any person who, either directly or indirectly, receives rent in respect of any land to supply in writing such information as to the matters mentioned in subsection (2) as may be so specified.
- (2) Those matters are—
 - (a) the nature of his interest in the land,
 - (b) the name and address of any other person known to him as having an interest in the land, whether as superior, owner, heritable creditor, lessee or otherwise,
 - (c) the purpose for which the land is currently being used,
 - (d) the time when that use began,
 - (e) the name and address of any person known to the person on whom the notice is served as having used the premises for that purpose, and
 - (f) the time when any activities being carried out on the premises began.
- (3) A notice under subsection (1) may require information to be given within a specified period which is not less than 21 days from the date of service on him.
- (4) Any person who has been required under subsection (1) to give any information and fails to give it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (5) Any person who has been so required to give any information and knowingly makes any misstatement in respect of it shall be guilty of an offence and liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum, and
 - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine or both.
- (6) It shall be a defence in any proceedings under subsection (4) that the accused did not know and had no reasonable cause to know the information required of him.

273 Offences by corporations

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) any person who was purporting to act in any such capacity,
- he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.
- (2) In subsection (1) “director”, in relation to any body corporate—
- (a) which was established by or under an enactment for the purpose of carrying on under national ownership an industry or part of an industry or undertaking, and
 - (b) whose affairs are managed by its members,
- means a member of that body corporate.

274 Combined applications

- (1) Regulations may provide for the combination in a single document, made in such form and transmitted to such authority as may be prescribed, of—
- (a) an application for planning permission in respect of any development and
 - (b) an application required, under any enactment specified in the regulations, to be made to a local authority in respect of that development.
- (2) Before making such regulations, the Secretary of State shall consult such local authorities or associations of local authorities as appear to him to be concerned.
- (3) Different provision may be made by any such regulations in relation to areas in which different enactments are in force.
- (4) If an application required to be made to a local authority under an enactment specified in any such regulations is made in accordance with the provisions of the regulations, it shall be valid notwithstanding anything in that enactment prescribing, or enabling any authority to prescribe, the form in which, or the manner in which, such an application is to be made.
- (5) Subsection (4) is without prejudice to—
- (a) the validity of any application made in accordance with the enactment in question, or
 - (b) any provision of that enactment enabling a local authority to require further particulars of the matters to which the application relates.

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- (6) In this section “application” includes a submission.
- (7) Subsection (1) shall apply in relation to applications for an approval required by a development order as it applies in relation to applications for planning permission.

275 Regulations and orders

- (1) The Secretary of State may make regulations—
 - (a) for prescribing the form of any notice, order or other document authorised or required by this Act to be served, made or issued by any planning authority which is a local authority,
 - (b) for any purpose for which regulations are authorised or required to be made under this Act, other than a purpose for which regulations are authorised or required to be made by another Minister, and
 - (c) for any of the purposes mentioned in section 28 of the Land Compensation (Scotland) Act 1963 (power to prescribe matters relevant to Part IV).
- (2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.
- (3) Any statutory instrument containing regulations made under this Act (except regulations which, by virtue of any provision of this Act, are of no effect unless approved by a resolution of each House of Parliament) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The power to make development orders under section 30 and to make orders under sections 5, 26(2)(f), 54 and 100(3)(a) or paragraph 7 or 8 of Schedule 1 shall be exercisable by statutory instrument.
- (5) Any statutory instrument which contains a development order or an order under section 5, 54 or 100(3)(a) or paragraph 4(5) or 5(5) of Schedule 9 shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Without prejudice to subsection (5), where a development order makes provision for excluding or modifying any enactment contained in a public general Act (other than an enactment specified in subsection (7)) the order shall not have effect until that provision is approved by a resolution of each House of Parliament.
- (7) The enactments referred to in subsection (6) are—
 - (a) section 32(1) of the Public Health (Scotland) Act 1897,
 - (b) any enactment making such provision as might by virtue of any Act of Parliament have been made in relation to the area to which the development order applies by means of a byelaw, order or regulation not requiring confirmation by Parliament, and
 - (c) any enactment which has been previously excluded or modified by a development order, and any enactment having substantially the same effect as any such enactment.
- (8) Without prejudice to section 14 of the Interpretation Act 1978, any power conferred by this Act to make an order shall include power to vary or revoke any such order by a subsequent order.

276 Act not excluded by special enactments

For the avoidance of doubt it is hereby declared that the provisions of this Act, and any restrictions or powers thereby imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any enactment in force at the passing of the 1947 Act, or by any local Act passed at any time during the Session of Parliament held during the regnal years 10 & 11 Geo. 6, for authorising or regulating any development of the land.

277 Interpretation

- (1) In this Act, except in so far as the context otherwise requires and subject to the following provisions of this section and to any transitional provision made by the Planning (Consequential Provisions) (Scotland) Act 1997—

“acquiring authority”, in relation to the acquisition of an interest in land (whether compulsorily or by agreement) or to a proposal so to acquire such an interest, means the government department, local authority or other body by whom the interest is, or is proposed to be, acquired;

“the 1947 Act” means the Town and Country Planning (Scotland) Act 1947;

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

“advertisement” means any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the foregoing provisions of this definition), includes any hoarding or similar structure used or designed, or adapted for use and anything else used, or designed or adapted principally for use, for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

“aftercare condition” has the meaning given by paragraph 2(2) of Schedule 3;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

“the appropriate Minister” has the meaning given by section 217;

“breach of condition notice” has the meaning given by section 145;

“breach of planning control” has the meaning given by section 123;

“bridleway” has the same meaning as in section 47 of the Countryside (Scotland) Act 1967;

“building” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

“building or works” includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly and references to the removal of buildings or works include demolition of buildings and filling in of trenches;

“building operations” has the meaning given by section 26;

“caravan site” has the meaning given by section 1(4) of the Caravan Sites and Control of Development Act 1960;

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“common” includes any town or village green;

“compliance period”, in relation to an enforcement notice, shall be construed in accordance with section 135(11);

“compulsory acquisition” does not include the vesting in a person by an Act of Parliament of property previously vested in some other person;

“conservation area” means an area designated under section 61 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;

“depositing of mineral waste” means any process whereby a mineral-working deposit is created or enlarged and “depositing of refuse or waste materials” includes the depositing of mineral waste;

“development” has the meaning given by section 26, and “develop” shall be construed accordingly;

“development order” has the meaning given by section 30;

“development plan” shall be construed in accordance with section 24;

“disposal”, except in section 191(9), means disposal by way of sale, excambion or lease, or by way of the creation of any servitude, right or privilege, or in any other manner, except by way of appropriation, gift or the creation of a heritable security, and “dispose of” shall be construed accordingly;

“enactment” includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, byelaw or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;

“enforcement notice” means a notice under section 127;

“engineering operations” includes the formation or laying out of means of access to roads;

“enterprise zone scheme” means a scheme or modified scheme having effect to grant planning permission in accordance with section 55;

“erection”, in relation to buildings as defined in this subsection, includes, extension, alteration and re-erection;

“footpath” has the same meaning as in section 47 of the Countryside (Scotland) Act 1967;

“functions” includes powers and duties;

“government department” includes any Minister of the Crown;

“heritable security” means—

- (a) a heritable security within the meaning of the Conveyancing (Scotland) Act 1924, but excluding a security by way of ground annual and a real burden *ad factum praestandum* and including a security constituted by way of *ex facie* absolute disposition, or
- (b) an assignation in security of a lease recorded under the Registration of Leases (Scotland) Act 1857,

and “heritable creditor” shall be construed accordingly;

“improvement”, in relation to a road, has the same meaning as in the Roads (Scotland) Act 1984;

“land” includes land covered with water and any building as defined by this section and, in relation to the acquisition of land under Part VIII, includes any interest in land and any servitude or right in or over land;

“Lands Tribunal” means the Lands Tribunal for Scotland;

“lease” includes a sub-lease, but does not include an option to take a lease;

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“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“local roads authority” has the same meaning as in the Roads (Scotland) Act 1984;

“mineral-working deposit” means any deposit of material remaining after minerals have been extracted from land or otherwise deriving from the carrying out of operations for the winning and working of minerals in, on or under land;

“minerals” includes all substances of a kind ordinarily worked for removal by underground or surface working;

“mining operations” has the meaning given by section 26;

“Minister” means any Minister of the Crown or other government department;

“open space” means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground;

“operational land” has the meaning given by section 215;

“owner”, in relation to any land, includes (except in section 35) any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking, and includes also a lessee under a lease of agreement, the unexpired period of which exceeds 3 years;

“the planning Acts” means this Act, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997 and the Planning (Consequential Provisions) (Scotland) Act 1997;

“planning authority” has the meaning given by section 1;

“planning contravention notice” has the meaning given by section 125;

“planning decision” means a decision made on an application under Part III;

“planning permission” means permission under Part III;

“planning permission granted for a limited period” has the meaning given by section 41(3);

“prescribed” (except in relation to matters expressly required or authorised by this Act to be prescribed in some other way) means prescribed by regulations under this Act;

“public gas transporter” has the same meaning as in Part I of the Gas Act 1986;

“purchase notice” has the meaning given by section 88;

“restoration condition” has the meaning given by paragraph 2(2) of Schedule 3;

“road” has the same meaning as in the Roads (Scotland) Act 1984;

“simplified planning zone” and “simplified planning zone scheme” shall be construed in accordance with section 49;

“statutory undertakers” and “statutory undertaking” have the meanings given by section 214;

“steps for the protection of the environment” has the meaning given by paragraph 5(3) of Schedule 8;

“stop notice” has the meaning given by section 140;

“suspension order” and “supplementary suspension order” have the meanings given by paragraphs 5 and 6 respectively of Schedule 8;

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- “tree preservation order” has the meaning given by section 160;
- “urban development area” and “urban development corporation” have the same meaning as in section 171 of the Local Government, Planning and Land Act 1980;
- “use”, in relation to land, does not include the use of land for the carrying out of any building or other operations on it;
- “Valuation Office” means the Valuation Office of the Inland Revenue Department; and
- “the winning and working of minerals” includes the extraction of minerals from a mineral working deposit.
- (2) If, in relation to anything required or authorised to be done under this Act, any question arises as to which Minister is or was the appropriate Minister in relation to any statutory undertakers, that question shall be determined by the Treasury.
 - (3) If any question so arises whether land of statutory undertakers is operational land, that question shall be determined by the Minister who is the appropriate Minister in relation to those undertakers.
 - (4) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of any enactment, is to be deemed to be served.
 - (5) With respect to references in this Act to planning decisions—
 - (a) in relation to a decision altered on appeal by the reversal or variation of the whole or part of it, such references shall be construed as references to the decision as so altered;
 - (b) in relation to a decision upheld on appeal, such references shall be construed as references to the decision of the planning authority and not to the decision of the Secretary of State on the appeal;
 - (c) in relation to a decision given on an appeal in the circumstances mentioned in section 47(2), such references shall be construed as references to the decision so given;
 - (d) the time of a planning decision, in a case where there is or was an appeal, shall be taken to be or have been the time of the decision as made by the planning authority (whether or not that decision is or was altered on that appeal) or, in the case of a decision given on an appeal in the circumstances mentioned in section 47(2), the time when in accordance with that section notification of a decision of the planning authority is deemed to have been received.
 - (6) Section 27 shall apply for determining for the purposes of this Act when development of land shall be taken to be initiated.
 - (7) In this Act any reference to a sale or purchase includes a reference to a sale or purchase by way of feu, and any reference to the price in relation to a sale or purchase includes a reference to grassum, feuduty and ground annual.
 - (8) Any reference in this Act to the dominium utile in relation to land which is not held on feudal tenure shall be construed as a reference to the interest in the land of the owner of it.
 - (9) References in the Planning Acts to any of the provisions in Part II of Schedule 18 include, except where the context otherwise requires, references to those provisions as modified under section 263(1) to (4).

- (10) Without prejudice to section 20(2) of the Interpretation Act 1978, references in this Act to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment.

278 Citation, commencement and extent

- (1) This Act may be cited as the Town and Country Planning (Scotland) Act 1997.
- (2) Except as provided in Schedule 3 to the Planning (Consequential Provisions) (Scotland) Act 1997, this Act shall come into force at the end of the period of 3 months beginning with the day on which it is passed.
- (3) Subject to subsection (4), this Act extends to Scotland only.
- (4) Section 70 and Schedule 7 extend also to England and Wales.