
STATUTORY INSTRUMENTS

1992 No. 478 (S.53)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (Special Enforcement Notices) (Scotland) Regulations 1992

<i>Made</i>	- - - -	<i>2nd March 1992</i>
<i>Laid before Parliament</i>		<i>5th March 1992</i>
<i>Coming into force</i>	- -	<i>26th March 1992</i>

The Secretary of State, in exercise of the powers conferred on him by section 3(9) of the Town and Country Planning Act 1984(1), section 273 of the Town and Country Planning (Scotland) Act 1972(2) (as applied by section 6(4) of the Town and Country Planning Act 1984) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

1. These Regulations may be cited as the Town and Country Planning (Special Enforcement Notices) (Scotland) Regulations 1992 shall come into force on 26th March 1992 and shall extend to Scotland only.
2. The provisions of the Town and Country Planning (Scotland) Act 1972(2) specified in the Schedule to these Regulations shall apply to special enforcement notices and to appeals against such notices under section 3(7) of the Town and Country Planning Act 1984 as if the references in those provisions to an enforcement notice were references to a special enforcement notice and subject to the further modifications specified in that Schedule.
3. The Town and Country Planning (Special Enforcement Notices) (Scotland) Regulations 1984(3) are hereby revoked.

(1) 1984 c. 10.
(2) 1972 c. 52; section 273 was amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), Schedule 3, paragraph 22, and by the Housing and Planning Act 1986 (c. 63), Schedule 6, Part IV, paragraph 6 and Schedule 9, paragraph 18(2).
(2) 1972 c. 52; section 273 was amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), Schedule 3, paragraph 22, and by the Housing and Planning Act 1986 (c. 63), Schedule 6, Part IV, paragraph 6 and Schedule 9, paragraph 18(2).
(3) S.I.1984/995.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

St. Andrew's House,
Edinburgh
2nd March 1992

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

SCHEDULE

Regulation 2

Column (1) Provisions of the Town and Country Planning (Scotland) Act 1972	Column (2) Modifications
Section 84AA(10)(4)	For the words “section 84 of this Act” and “section 85 of this Act” substitute “section 3(2) of the Town and Country Planning Act 1984” and “section 3(7) of that Act”.
Section 84AB(4)	In subsection (1)(b) for the words “section 84AA(9) of this Act” substitute “section 3(5) of the Town and Country Planning Act 1984”.
Section 85(10)	For the words “paragraphs (b) to (e) of subsection (1) of this section” substitute “section 3(7) of the Town and Country Planning Act 1984”.
Section 86(5)	<ol style="list-style-type: none"> Subsections (1) to (3) shall not apply. In subsection (4) for the words “has control of or an interest in” substitute “occupies” and delete the words “(other than the owner)”.
Section 87(6)	<ol style="list-style-type: none"> In subsection (4)(c) for the words “section 84AA(9)” substitute “section 3(5) of the Town and Country Planning Act 1984”. In subsection (6) for the words “have an interest in” substitute “be occupying”. In subsection (9) for the words “section 84 of this Act” substitute “section 3(6) of the Town and Country Planning Act 1984”.
Section 87A(7)	None.
Section 89(8)	In subsection (2) omit the words “to the extent that it is in contravention of Part III of this Act”.
Section 89A(1)(a)(9)	None.
Section 89A(3)(9)	The words “or breach of condition notice” shall be deleted.

(4) Section 84AA(10) and 84AB were inserted by the Planning and Compensation Act 1991 (c. 34), section 37.

(4) Section 84AA(10) and 84AB were inserted by the Planning and Compensation Act 1991 (c. 34), section 37.

(5) Section 86 was substituted by the Planning and Compensation Act 1991, section 40.

(6) Section 87 was substituted by the Town and Country Planning (Scotland) Act 1977 (c. 10), section 4; section 87(1) to (3) and (8) to (8E) were substituted by the Planning and Compensation Act 1991, section 41(1) and (2); section 87(4)(c), (5), (6) and (9) were amended by the Planning and Compensation Act 1991, Schedule 13, paragraph 21.

(7) Section 87A was added by Local Government and Planning (Scotland) Act 1982 (c. 43), section 44 and was amended by the Planning and Compensation Act 1991, Schedule 13, paragraph 22.

(8) Section 89(1) was amended by the Planning and Compensation Act 1991, Schedule 13, paragraph 24, section 89(4) was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 2, paragraph 24 and the Criminal Procedure (Scotland) Act 1975 (c. 21), section 289G (as inserted by the Criminal Justice Act 1982 (c. 48), section 54).

(9) Section 89A was substituted by the Planning and Compensation Act 1991, Schedule 13, paragraph 25.

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Column (1) Provisions of the Town and Country Planning (Scotland) Act 1972	Column (2) Modifications
Section 166(10)	<p>1. In subsection (2) for paragraphs (a) to (d) substitute—</p> <p>“(a) the special enforcement notice is quashed;</p> <p>(b) the special enforcement notice is varied so that any activity the carrying out of which is prohibited by the stop notice ceases to be a relevant activity within the meaning of section 87(2) of this Act;</p> <p>(c) the special enforcement notice is withdrawn by the planning authority;</p> <p>(d) the stop notice is withdrawn”.</p> <p>2. In subsection (3) for the words “a breach of planning control” substitute “development”.</p> <p>3. In subsection (6)(a) for the words “a breach of planning control” substitute “development”.</p> <p>4. In subsection (6)(b) delete “83C, 83D or”.</p>
Section 231(3)(f)(11)	For the words “section 85 of this Act” substitute “section 3(7) of the Town and Country Planning Act 1984”.
Section 270(12)	<p>For subsection (1) substitute—</p> <p>“(1) For the purpose of enabling a special enforcement notice to be issued by them under section 3(2) of the Town and Country Planning Act 1984, the planning authority may in writing request the occupier of any land to supply in writing details as to the occupation and current use of the land within such period, not being less than twenty-one days from the date of the written request, as the planning authority may specify.”.</p>

(10) Section 166 was amended by the Local Government (Scotland) Act 1973 (c. 65), section 172(2), the Town and Country Planning (Scotland) Act 1977 (c. 10), section 5(2) and the Planning and Compensation Act 1991, section 41(3) and Schedule 13, paragraphs 29 and 30.

(11) Section 231(3)(f) was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), section 47(b) and Schedule 4, Part I.

(12) Section 270(1) was substituted by the Town and Country Planning (Scotland) Act 1977 (c. 10), section 5(4); section 270(2) was amended by Criminal Procedure (Scotland) Act 1975 (c. 21), sections 289F and 289G (as inserted by the Criminal Justice Act 1982 (c. 48), section 54).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which replace the Town and Country Planning (Special Enforcement Notices) (Scotland) Regulations 1984 following the commencement of the relevant provisions contained in the Planning and Compensation Act 1991, apply to special enforcement notices those provisions of the Town and Country Planning (Scotland) Act 1972 (as amended by the 1991 Act) which are specified in the Schedule to these Regulations subject to modification where appropriate. The Regulations make no substantive changes to the previous Regulations.

The background to the Regulations is as follows:—

Section 3 of the Town and Country Planning Act 1984 empowers planning authorities (with the consent of the Crown) to issue special enforcement notices in respect of a development carried out on Crown land by persons such as trespassers at a time when there is no private right to occupy the land. Section 3(9) applies to special enforcement notices certain of the provisions of section 85 of the Town and Country Planning (Scotland) Act 1972 relating to enforcement notices issued in respect of breaches of planning control and empowers the Secretary of State to apply other provisions of the 1972 Act subject to modification.