



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART X

#### STATUTORY UNDERTAKERS

##### *Extinguishment of rights of statutory undertakers, etc.*

#### **224 Extinguishment of rights of statutory undertakers: preliminary notices.**

- (1) This section applies where any land has been acquired by a Minister, a planning authority or statutory undertakers under Part VIII of this Act or Chapter V of Part I of the <sup>M1</sup>Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 or compulsorily under any other enactment or has been appropriated by a planning authority for planning purposes, and—
  - (a) there subsists over that land a right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, being a right of way or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, or
  - (b) there is on, under or over the land apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking.
- (2) For the purposes of this section the relevant period, in relation to a notice served in respect of any right or apparatus, is the period of 28 days from the date of service of the notice or such longer period as may be specified in it in relation to that right or apparatus.
- (3) If the acquiring or appropriating authority is satisfied that the extinguishment of the right or, as the case may be, the removal of the apparatus is necessary for the purpose of carrying out any development with a view to which the land was acquired or appropriated, they may serve on the statutory undertakers a notice—
  - (a) stating that at the end of the relevant period the right will be extinguished, or

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- (b) requiring that before the end of that period the apparatus shall be removed.
- (4) The statutory undertakers on whom a notice is served under subsection (3) may, before the end of the period of 28 days from the date of service of the notice, serve a counter-notice on the acquiring or appropriating authority—
- (a) stating that they object to all or any of the provisions of the notice, and
  - (b) specifying the grounds of their objection.
- (5) If no counter-notice is served under subsection (4)—
- (a) any right to which the notice relates shall be extinguished at the end of the relevant period, and
  - (b) if at the end of that period any requirement of the notice as to the removal of any apparatus has not been complied with, the acquiring or appropriating authority may remove the apparatus and dispose of it in any way the authority may think fit.
- (6) If a counter-notice is served under subsection (4) on a planning authority or on statutory undertakers, the authority or undertakers may either—
- (a) withdraw the notice (without prejudice to the service of a further notice), or
  - (b) apply to the [<sup>F1</sup>Scottish Ministers] for an order under this section embodying the provisions of the notice, with or without modification.
- (7) If a counter-notice is served under subsection (4) on [<sup>F2</sup>the Scottish Ministers]—
- (a) [<sup>F2</sup>the Scottish Ministers] may withdraw the notice (without prejudice to the service of a further notice), or
  - (b) [<sup>F2</sup>the Scottish Ministers] may make an order under this section embodying the provisions of the notice, with or without modification.
- (8) In this section any reference to the appropriation of land for planning purposes shall be construed in accordance with section 201(1) as if this section were in Part VIII.

#### Textual Amendments

- F1** Words in s. 224(6) substituted by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 127(7)(a)**; S.I. 1998/3178, **art. 3**
- F2** Words in s. 224(7) substituted by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 127(7)(b)**; S.I. 1998/3178, **art. 3**

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

- C1** Ss. 224-227 applied (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 4 para. 4(5)(6)(c)** (with **Sch. 18**); S.I. 2003/1900, arts. 1(2), 2(1), **Sch. 1** (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- C2** Ss. 224-227 applied (with modifications) (11.8.2004) by Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004 (asp 10), **Sch. 9 para. 1** (with s. 33)
- C3** Ss. 224-227 applied (with modifications) (27.4.2006) by Edinburgh Tram (Line Two) Act 2006 (asp 6), **Sch. 9 para. 1** (with s. 75)
- C4** Ss. 224-227 applied (with modifications) (8.5.2006) by Edinburgh Tram (Line One) Act 2006 (asp 7), **sch. 9 para. 1** (with ss. 76, 84)
- C5** Ss. 224-227 applied (with modifications) (24.7.2006) by Waverley Railway (Scotland) Act 2006 (asp 13), **sch. 8** (with ss. 50(2), 51)
- C6** Ss. 224-227 applied (15.1.2007) by Glasgow Airport Rail Link Act 2007 (asp 1), **sch. 7 para. 1** (with s. 50)

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- C7** Ss. 224-227 applied (with modifications) (19.4.2007) by [Edinburgh Airport Rail Link Act 2007 \(asp 16\)](#), [sch. 7](#) (with [ss. 52, 60](#))
- C8** Ss. 224-227 applied (with modifications) (8.5.2007) by [Airdrie-Bathgate Railway and Linked Improvements Act 2007 \(asp 19\)](#), [sch. 7](#) (with [ss. 48, 59](#))
- C9** Ss. 224-227 applied (with modifications) (1.6.2010) by [The Network Rail \(Waverley Steps\) Order 2010 \(S.S.I. 2010/188\)](#), [art. 1](#), [sch. 7 para. 1](#)
- C10** Ss. 224-227 applied (with modifications) (18.3.2011) by [Forth Crossing Act 2011 \(asp 2\)](#), [ss. 57, 80\(2\)](#) (with [ss. 69, 78](#)); [S.S.I. 2011/38](#), [art. 2](#), [sch.](#)
- C11** Ss. 224-227 applied (11.4.2017) by [The Network Rail \(Glasgow Queen Street Station\) Order 2017 \(S.S.I. 2017/100\)](#), [art. 1](#), [sch. 7 para. 1\(1\)](#) (with [art. 37](#), [sch. 7 paras. 1\(6\), 2](#))

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### Marginal Citations

- M1** 1997 c. 9.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)