



Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

1997 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER V

PREVENTION OF DETERIORATION AND DAMAGE

Compulsory acquisition of listed building in need of repair

- 45 Minimum compensation in case of listed building deliberately left derelict.**
- (1) If a planning authority—
 - (a) propose to acquire a building compulsorily under section 42, and
 - (b) are satisfied that the building has been deliberately allowed to fall into disrepair for the purpose of justifying its demolition and the development or redevelopment of the site or any adjoining site,they may make a direction for minimum compensation.
 - (2) Subject to the provisions of this section, if the Secretary of State acquires a building compulsorily under section 42 he may, if he is satisfied as mentioned in subsection (1) (b), include a direction for minimum compensation in the compulsory purchase order.
 - (3) Without prejudice to so much of paragraph 3(b) of Schedule 1 to the ^{M1}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (notices stating effect of compulsory purchase order or, as the case may be, draft order) as requires the notice to state the effect of the order, the notice required to be served in accordance with that provision shall—

Changes to legislation: Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Section 45 is up to date with all changes known to be in force on or before 03 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) include a statement that the authority have made 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
 - (b) 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 ^{M2}Land Compensation (Scotland) Act 1963, the principal Act or this Act—
- (a) that planning permission would not be granted for any development or redevelopment of the site of the building, and
 - (b) 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.
- (5) If—
- (a) a planning authority have made a direction for minimum compensation and the Secretary of State confirms the compulsory purchase order relating to the acquisition of the building in question, or
 - (b) the Secretary of State, under subsection (2) above, includes such a direction in a compulsory purchase order made by him,
- the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction.
- (6) Where a planning authority 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 28 days after the service of the notice mentioned in subsection (3), apply to the sheriff for an order that the planning authority’s 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.
- (7) If the sheriff is satisfied that the building has not been deliberately allowed to fall into disrepair for the purpose mentioned in subsection (1), he shall make the order applied for.
- (8) A person aggrieved by the decision of the sheriff on an application under subsection (6) may appeal against the decision to the Court of Session, but only on a question of law.
- (9) The rights conferred by subsections (6) and (8) shall not prejudice those conferred by section 42(4) and (6).

Marginal Citations

M1 1947 c. 42.

M2 1963 c. 51.

Changes to legislation:

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

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

- s. 82(1)(aa)-(ad) inserted by [2006 asp 17 s. 55\(5\)](#)