2. GENERAL PROVISIONS

The Town and Country Planning (General) (Scotland) Regulations, 1948

1948 No. 1666 (S. 146)

Made - - - -	16*th July*, 1948
Laid before Parliament	19*th July*, 1948
Coming into Operation	20*th July*, 1948

In exercise of the powers conferred on me by sections 7, 17, 18, 20, 22, 25, 42, 76, 81, 101, 105 and 107, and paragraph 13 of the Tenth Schedule to the Town and Country Planning (Scotland) Act, 1947(a), and by section 22 of the Town and Country Planning (Scotland) Act, 1945(b), as amended by that Act, and of all other powers enabling me in that behalf, I hereby make the following Regulations:—

Citation and commencement.

1. These Regulations may be cited as the Town and Country Planning (General) (Scotland) Regulations, 1948, and shall come into force on the twentieth day of July, 1948.

Interpretation.

2.—(1) In these Regulations—

" the Act " means the Town and Country Planning (Scotland) Act, 1947.

(2) The Interpretation Act, 1889(c), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Notices under section 7 of the Act.

3.—(1) A notice under subsection (1) of section 7 of the Act (which relates to the right of owners of land designated by a development plan as subject to compulsory acquisition to require their interests to be acquired) shall be in writing specifying the interest to be acquired and shall be served on the local planning authority by delivering it at the offices of the authority addressed to the Clerk thereof, or by sending it by registered post addressed as aforesaid.

(2) Any such notice as is mentioned in paragraph (1) of this Regulation may be served at any time after the expiration of eight years in the case of agricultural land as defined in subsection (4) of section 49 of the Act, or of twelve years in any other case, from the date on which the plan, or the amendment of the plan, by virtue of which the land was first so designated, came into operation.

Claims for compensation and purchase notices.

4.—(1) A claim for compensation made to a local planning authority under any of the following sections of the Act, namely, sections 18, 20, 25 and 76, or a purchase notice served on a local planning authority under section 17 of the Act, or under that section as modified by section 20 or section 25 thereof, shall be in writing and shall be served on that authority by delivering it at the offices of the authority addressed to the Clerk thereof or by sending it by registered post addressed as aforesaid.

(a) 10 & 11 Geo. 6. c. 53. (b) 8 & 9 Geo. 6. c. 33. (c) 52 & 53 Vict. c. 63.

(2) The time within which any such claim or notice as is mentioned in paragraph (1) of this Regulation shall be served shall be a period of six months from the date of the direction, order or decision in respect of which such claim or notice is made or given:

Provided that such period may be extended by the Secretary of State in any particular case.

Notices, etc., to occupiers and persons having an interest in premises.

5. The manner in which a notice or document such as is referred to in subsection (2) of section 101 of the Act shall be marked in order that it shall be deemed to be duly served under head (*b*) of that subsection shall be by marking clearly and legibly upon the notice or document and upon the envelope containing it, the words " Important—This Communication affects your Property ".

Application of provisions of the Water (Scotland) Act, 1946, to steps required to be taken by enforcement notice.

6. The provisions of sections 57 and 68 of the Water (Scotland) Act, 1946(a), shall apply in relation to steps required to be taken by an enforcement notice under section 21 of this Act subject to the following adaptations and modifications:—

In section 57 for the words " local authority " where they occur there shall be substituted the words " local planning authority "; for the words " under this Part of this Act from a person as being the owner of the premises " there shall be substituted the words " under subsection (1) of section 22 of the Town and Country Planning (Scotland) Act, 1947, from the person who is then the owner of the land " and for the words " those premises " there shall be substituted the words " that land ".

In section 68 for the words " any premises " there shall be substituted the words " any land "; for the words " those premises " there shall be substituted the words " that land "; for the words from " executing any work " to the words " such enactment " there shall be substituted the words " taking any steps which he is required to take by an enforcement notice served under section 21 of the Town and Country Planning (Scotland) Act, 1947 "; after the word " enter " there shall be inserted the words " on the land " and for the words " executing the work " where they occur for the second time, there shall be substituted the words " taking those steps ".

Prescribed period under section 81.

7. For the purpose of subsection (3) of section 81 of the Act (which provides that where land has, since 1st July, 1948, ceased to be operational land of statutory undertakers, no development charge will be payable in respect of its use for the purpose prevailing generally in the case of contiguous or adjacent land, or in respect of any operations necessary for making that use, if the use is instituted or the operations are carried out within such period after the cessation as may be prescribed in these Regulations) the prescribed period shall be a period of five years.

Disputes as to prevailing use.

8.—(1) An application under section 105 of the Act for the determination of a dispute arising in relation to any land, as to what is the use which prevails generally in the case of contiguous or adjacent land, shall be made to the Central Land Board within 28 days from the date on which a notice that a dispute arises is served by one of the parties concerned on the other party or parties.

(2) Any such application shall be sent by registered post or delivered to the office of the Central Land Board in Scotland, and a copy of such

(a) 9 & 10 Geo. 6. c. 42.

application shall be sent to the other party to the dispute, unless such party is the Central Land Board.

(3) An appeal to the Secretary of State from a determination of the Central Land Board in any such dispute as aforesaid shall be made in writing giving the Board's reference number, if known, shall state the grounds of the appeal, and shall be sent by registered post to the Secretary, Department of Health for Scotland, St. Andrew's House, Edinburgh, 1, within 28 days from the date of such determination; and the appellant shall also send a copy of such appeal to the other party or parties to the dispute.

Transitory provisions as to the Restriction of Ribbon Development Acts.

9.—(1) Any application to a highway authority under the Restriction of Ribbon Development Act, 1935(**a**), for any consent which that authority have power to give under section 1 or section 2 of that Act, being an application which has not been determined by that authority before 1st July, 1948, shall be treated for the purposes of the Act as an application made to the local planning authority for planning permission, and shall be treated as having been so made on 1st July, 1948:

Provided that where, before 1st July, 1948, the highway authority have consulted with the Minister of Transport in accordance with the provisions of subsection (3) of section 4 of the Trunk Roads Act, 1936(**b**), the application shall not, provided any requirements of the Minister of Transport under that subsection are given effect to by the local planning authority, be treated as an application for development affecting trunk roads for the purposes of the Town and Country Planning (General Development) (Scotland) Order, 1948(**c**).

(2) Any decision of a highway authority on an application for such a consent under the Restriction of Ribbon Development Act, 1935, shall, unless the applicant has appealed against that decision under section 7 of that Act before 1st July, 1948, be treated for the purpose of section 14 of the Act, as the decision of a local planning authority on an application for planning permission.

(3) Any appeal to the Minister of Transport under the said section 7 which is pending on 1st July, 1948, shall be treated as an appeal to the Secretary of State under section 14 of the Act:

Provided that, where under the said section 7 any such local inquiry as is required by that section has been held before 1st July, 1948, the proviso to subsection (2) of section 13 of the Act, shall not apply in relation to any such appeal.

(4) Any such application as is referred to in paragraph (1) of this Regulation shall be sent by the highway authority to the local planning authority with any plans, drawings or other documents relating thereto and the highway authority shall notify the applicant accordingly.

Concurrent procedure under section 42(6) for development plans and compulsory purchase orders.

10. Where notice has been given by advertisement of the submission to the Secretary of State of a development plan, or of proposals for the amendment of such a plan, or of any proposal by the Secretary of State to make or amend such a plan, and the plan or proposals as submitted or the proposal of the Secretary of State designates any land as subject to compulsory acquisition, any proceedings required by the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947(**d**), to be taken for the purposes of an order or authorisation for the compulsory acquisition of such land or any part thereof under subsection (1)

(**a**) 25 & 26 Geo. 5. c. 47. (**b**) 1 Edw. 8 & 1 Geo. 6. c. 5.
(**c**) S.I. 1948 No. 1030, p. 4288 below. (**d**) 10 & 11 Geo. 6. c. 42.

of section 34 or subsection (1) of section 35 of the Act may be taken concurrently with any proceedings required by or under the Act to be taken in connection with the approval, making or amendment of such development plan:

Provided that no such order or authorisation shall be confirmed, made or given by a Minister before such plan or amendment has become operative.

Concurrent procedure for acquisition of land and extinguishment of rights of way.

11.—(1) Where under section 35 of the Act a compulsory purchase order for the acquisition of any land has been made by a local planning authority and submitted to the Secretary of State in accordance with the provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, or where any land has been acquired by a local planning authority under section 37 of the Act, the succeeding provisions of this Regulation shall apply in relation to the extinguishment of public rights of way over such land and the acquisition of land for the provision of alternative rights of way.

(2) The Secretary of State may on or after any such submission or acquisition publish in accordance with the provisions of paragraph 1 of the Sixth Schedule to the Act, as applied by section 22 of the Town and Country Planning (Scotland) Act, 1945, notice of an order proposed to be made under subsection (1) of section 22 of that Act, relating to the extinguishment of any such right of way.

(3) On or after the publication of any such notice, the Minister of Transport may prepare in draft, or a local highway authority may make, a compulsory purchase order under subsection (3) of the said section 22, for the acquisition of land for providing an alternative right of way.

(4) Any other proceedings required to be taken in connection with the making of an order under subsection (1) of section 22 of the Town and Country Planning (Scotland) Act, 1945, may be taken concurrently with the proceedings required to be taken in connection with such order as is mentioned in paragraph (1) of this Regulation, and any other proceedings for the making or confirmation of such compulsory purchase order as is referred to in paragraph (3) of this Regulation may be taken concurrently with either or both of the said proceedings:

Provided that:—

(*a*) no such order under the said subsection (1) of section 22 shall be made until the land over which the right of way subsists has been acquired by the local planning authority: and

(*b*) no such compulsory purchase order as is referred to in paragraph (3) of this Regulation shall be made by the Minister of Transport or confirmed, until the original right of way has been extinguished by an order under the said subsection (1) of section 22.

Dated this sixteenth day of July Nineteen hundred and forty-eight.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

EXPLANATORY NOTE

(This Note is not part of these Regulations, but is intended to indicate their general purport.)

These Regulations make provision for various procedural matters under the Town and Country Planning (Scotland) Act, 1947. Regulations 3, 4 and 5 prescribe the time and manner in which certain notices may be given and claims made under the Act. Regulation 6 adapts certain provisions of the Water (Scotland) Act, 1946, dealing with the recovery of expenses and powers of entry of owners of land, so as to apply them to proceedings under enforcement notices. Regulation 7 fixes at 5 years the period within which land which has ceased to be operational land of statutory undertakers may be developed without payment of development charge. Regulation 8 deals with the procedure for determining disputes as to what is the " prevailing use " of land by the Central Land Board and the Secretary of State. Regulation 9 is of a transitory nature, providing for the transfer to local planning authorities of applications under section 1 or section 2 of the Restriction of Ribbon Development Act, 1935, which have not been finally determined before 1st July, 1948, on which date those sections were repealed. Regulations 10 and 11 provide for proceedings being taken concurrently in respect of (i) development plans and compulsory purchase orders, and (ii) compulsory purchase orders and orders extinguishing rights of way.

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3. BUILDING PRESERVATION ORDER

The Town and Country Planning (Building Preservation Order) (Scotland) Regulations, 1948

1948 No. 2096 (S. 168)

Made - - - -	*15th September,* 1948
Laid before Parliament	*15th September,* 1948
Coming into Operation	*16th September,* 1948

In exercise of the powers conferred on me by sections 27 and 107 of the Town and Country Planning (Scotland) Act, 1947(a), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

1. These regulations may be cited as the Town and Country Planning (Building Preservation Order) (Scotland) Regulations, 1948, and shall come into operation on the 16th day of September, 1948.

2.—(1) In these regulations, unless the context otherwise requires—

" the Act " means the Town and Country Planning (Scotland) Act, 1947;

" order " means a building preservation order made under section 27 of the Act and includes an order amending or revoking such an order;

(a) 10 & 11 Geo. 6. c. 53.