STATUTORY INSTRUMENTS

1970 No. 597 (S.42)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (General) (Scotland) Regulations 1970

Made - - - -	15*th April* 1970
Laid before Parliament	28*th April* 1970
Coming into Operation	18*th May* 1970

In exercise of the powers conferred on me by sections 17, 18, 20, 25, 42, 46, 76, 101, and 107 of the Town and Country Planning (Scotland) Act 1947(a), section 22 of the Town and Country Planning (Scotland) Act 1945(b) as amended by that Act, sections 38, 39 and 52 of the Town and Country Planning (Scotland) Act 1959(c) and sections 21, 35, 81, 91 and 103 of the Town and Country Planning (Scotland) Act 1969(d) 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 1970, and shall come into force on 18th May 1970.

Interpretation

2.—(1) In these regulations—

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

"the 1945 Act" means the Town and Country Planning (Scotland) Act 1945;

"the 1959 Act" means the Town and Country Planning (Scotland) Act 1959;

"the 1969 Act" means the Town and Country Planning (Scotland) Act 1969.

(2) References 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.

(3) The Interpretation Act 1889(e) shall apply for the interpretation of these regulations as it applies for interpretation of an Act of Parliament.

(a) 1947 c. 53.
(b) 1945 c. 33.
(c) 1959 c. 70.
(d) 1969 c. 30.
(e) 1889 c. 63.

Notices and counter-notices relating to planning blight

3. The forms set out in Schedule 1 hereto or forms substantially to the like effect are the prescribed forms of blight notice for the purposes of section 38 of the 1959 Act and section 35 of the 1969 Act, and of the counter-notice for the purposes of section 39 of the 1959 Act.

Claims for compensation and purchase notices

4.—(1) A claim for compensation made to a local planning authority under section 18, 20, 25 or 76 of the Act, or section 21 or 91 of the 1969 Act, 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 so addressed by prepaid post.

(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*) in the case of a claim for compensation, 6 months; and

(*b*) in the case of a purchase notice, 12 months,

from the date of the decision in respect of which the claim or notice is made or given:

Provided that the 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 section 101(2) 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 by enforcement notice to be taken

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 15 of the 1969 Act or by a notice under section 31 of the 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 section 22(1) 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

(a) 1946 c. 42.

steps which he is required to take by an enforcement notice served under section 15 of the Town and Country Planning (Scotland) Act 1969 or by a notice served under section 31 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".

Advertisement and notice of unopposed order revoking or modifying planning permission

7. The advertisement, for the purposes of section 81(2) of the 1969 Act, of an order made under section 19 of the Act shall be in the form set out in Form 1 of Schedule 2 to these regulations or in a form substantially to the like effect; and the notice required to be served by section 81(3) of the 1969 Act shall be in the form set out in Form 2 of that Schedule or in a form substantially to the like effect.

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

8.—(1) Where under section 35 of the Act or section 29 of the 1969 Act a compulsory purchase order for the acquisition of any land has been made by a local authority and submitted to the Secretary of State in accordance with the provisions of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947**(a)** 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 1945 Act notice of an order proposed to be made under section 22(1) of that Act, relating to the extinguishment of any such right of way.

(3) On or after the publication of any such notice, the Secretary of State may prepare in draft, or a local highway authority may make a compulsory purchase order under section 22(3) of that Act 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 the said section 22(1) of the 1945 Act 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 section 22(1) shall be made until the land over which the right of way subsists has been acquired by the local authority; and

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

(a) 1947 c. 42.

Revocations

9.—(1) The regulations specified in Schedule 3 to these regulations are hereby revoked to the extent specified in Column 3 thereof.

(2) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if the regulations revoked by these regulations were Acts of Parliament repealed by an Act of Parliament.

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.
15th April 1970.

Regulation 3

SCHEDULE 1

Form 1

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1959

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

BLIGHT NOTICE

To (*a*)
at (*b*)
[I] [We]* (*c*)

in terms of section 38(2) of the Town and Country Planning (Scotland) Act 1959 (hereinafter called "the Act of 1959") HEREBY GIVE YOU NOTICE:—

1. [I am] [We are]* entitled to the interest set out in the First Schedule hereto in the [hereditament] [agricultural unit]* described in the Second Schedule hereto.

2. [The] [Part of the]* [hereditament] [agricultural unit]* has been included in land falling within [paragraph (*d*) of section 38(1) of the Act of 1959] [paragraph (*d*) of section 34(1) of the Town and Country Planning (Scotland) Act 1969]*

3. Since then, [I] [we]* have made reasonable endeavours to sell [my] [our] interest but have been unable to sell it except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the [hereditament] [agricultural unit]* were so included. Particulars of those endeavours are set out [below] [in the letter accompanying this notice]*.(*e*)

4. [My] [our]* interest qualifies for protection under Part IV of the Act of 1959 because (*f*)

EITHER

[the annual value of the hereditament does not exceed the prescribed limit of annual value and [my] [our]* interest is that of owner-occupier(s) of the hereditament within the meaning of section 42(2) of the Act of 1959]*

OR

[[my] [our]* interest is that of resident owner-occupier(s) of the hereditament within the meaning of section 42(4) of the Act of 1959]*

OR

[[my] [our] interest* is that of owner-occupier(s) of the agricultural unit within the meaning of section 42(3) of the Act of 1959]*

5. [I] [We]* therefore require you to purchase [my] [our]* interest in the [hereditament] [agricultural unit]*.

6. In this notice a reference to any provision of the Act of 1959 is to be construed as a reference to that provision as amended by, or having effect in accordance with, Part IV of and Schedule 3 to the Town and Country Planning (Scotland) Act 1969.

Dated 19 . Signed

[On behalf of]*

FIRST SCHEDULE

Particulars of interest in land, together with the names and addresses of any heritable creditors and a note of any ground burdens thereon.

SECOND SCHEDULE

Particulars of the [hereditament] [agricultural unit]*(*h*)

Form 2

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1959

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

HERITABLE CREDITOR'S BLIGHT NOTICE

To (*a*)

at (*b*)

[I] [We]* (*c*)

in terms of section 35(2) of the Town and Country Planning (Scotland) Act 1969 (hereinafter called "the Act of 1969") HEREBY GIVE YOU NOTICE:—

1. [I am] [We are]* entitled as heritable creditor(s) (by virtue of a power which has become exercisable) to sell the interest (hereinafter called "the said interest") set out in the First Schedule hereto in the [hereditament] [agricultural unit]* described in the Second Schedule hereto, giving immediate vacant possession of the land.

2. [The] [Part of the]* [hereditament] [agricultural unit]* has been included in land falling within [paragraph (*d*) of section 38(1) of the Town and Country Planning (Scotland) Act 1959] [paragraph (*d*) of section 34(1) of the Act of 1969]*.

3. Since then, [I] [we]* have made reasonable endeavours to sell the said interest but have been unable to sell it except at a price substantially lower than that for which it might reasonably have been expected to sell if no part of the [hereditament] [agricultural unit]* were so included. Particulars of these endeavours are set out [below] [in the letter accompanying this notice]*.(*e*)

4. [I am] [We are]* entitled to take advantage of the provisions of Part IV of the Town and Country Planning (Scotland) Act 1959 (hereinafter called "the Act of 1959") because (*f*)

EITHER

[the annual value of the hereditament does not exceed the prescribed limit of annual value and the person entitled (otherwise than as heritable creditor) to the said interest *either* is an owner-occupier of the hereditament within the meaning of section 42(2) of the Act of 1959 *or* was such an owner-occupier on an earlier date not more than six months before the service of this notice, on which earlier date, namely 19 , the particulars in paragraph 2 above were correct in relation to the hereditament (*g*)]*

OR

[the person entitled (otherwise than as heritable creditor) to the said interest *either* is a resident owner-occupier of the hereditament within the meaning of section 42(4) of the Act of 1959 *or* was such a resident owner-occupier on an earlier date, not more than six months before the service of this notice, on which earlier date, namely 19 , the particulars in paragraph 2 above were correct in relation to the hereditament (*g*)]*

OR

[the person entitled (otherwise than as heritable creditor) to the said interest *either* is an owner-occupier of the agricultural unit within the meaning of section 42(3) of the Act of 1959 *or* was such an owner-occupier on an earlier date, not more than six months before the service of this notice, on which earlier date, namely 19 , the particulars in paragraph 2 above were correct in relation to the agricultural unit (*g*)]*

5. [I] [We]* therefore require you to purchase the said interest in the [hereditament] [agricultural unit]*.

6. In this notice a reference to any provision of the Act of 1959 is to be construed as a reference to that provision as amended by, or having effect in accordance with, Part IV of, and Schedule 3 to, the Act of 1969.

Signed

Dated 19 . [On behalf of]*

FIRST SCHEDULE

Particulars of interest in land, together with the names and addresses of any other known heritable creditors and a note of any ground burdens thereon known to the claimant.

SECOND SCHEDULE

Particulars of the [hereditament] [agricultural unit](h)*

Notes to Forms 1 *and* 2

(*a*) Insert name of authority to be served.

(*b*) Insert principal address of authority.

(*c*) Insert full name(s) and address(es) of person(s) serving this notice.

(*d*) Insert appropriate paragraph

(*e*) Particulars of the steps taken to sell the land should be given here or in an accompanying letter, and should include dates, price asked and any offers received.

(*f*) The claimant should choose which paragraph is to form part of the notice and delete the other two.

(*g*) Within the paragraph chosen, *underline* those words after "*either*" which are appropriate to the case.

(*h*) A plan should be attached to identify the land, if this is necessary.

*Delete where inappropriate.

Form 3

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1959

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

COUNTER-NOTICE OBJECTING TO BLIGHT NOTICE

To: (*a*)

THE (*b*) HEREBY GIVE YOU NOTICE under section 39(1) of the Town and Country Planning (Scotland) Act 1959 that they OBJECT to the Blight Notice served by you on 19 under [section 38(2) of that Act] [section 35(2) of the Town and Country Planning (Scotland) Act 1969]* in respect of the [hereditament] [agricultural unit]* described as

(*c*)

The grounds on which objection is taken are (*d*)—

Dated 19

On behalf of the

(*b*)

Notes to Form 3

(*a*) Insert name and address of addressee.

(*b*) Insert name of authority.

(*c*) Insert particulars.

(*d*) These must specify the grounds on which the authority object to the notice (being one or more of the grounds specified in section 39(2) of the Town and Country Planning (Scotland) Act 1959 or, where relevant, in section 35(8) or 36(1) of the Town and Country Planning (Scotland) Act 1969.

*Delete where inappropriate.

SCHEDULE 2 Regulation 7

FORM 1

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

ADVERTISEMENT UNDER SECTION 81(2) OF THE MAKING OF A

REVOCATION ORDER OR MODIFICATION ORDER

Planning permission for (*a*)

at (*b*)

NOTICE IS HEREBY GIVEN that the (*c*) council have made an order under section 19 of the Town and Country Planning (Scotland)

Act 1947 to [revoke the above planning permission] [to the following extent (*d*)] [modify the above planning permission as follows (*e*)]*

The council have been notified in writing by the owner and the occupier of the land [and by all other persons who in the council's opinion will be affected by the order]* that they do not object to the order; and it appears to the council that no claim for compensation is likely to arise under section 20 of the Town and Country Planning (Scotland) Act 1947.

Any person who will be affected by the order and who wishes for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State must give notice in writing to that effect to the Secretary, Scottish Development Department, St. Andrew's House, Edinburgh not later than 19 (*f*).

If no such notice has been given by that date, the order will take effect, by virtue of the provisions of section 81 of the Town and Country Planning (Scotland) Act 1969, on 19 (*g*) without being confirmed by the Secretary of State, and no compensation will be payable in respect of the order under section 20 of the Town and Country Planning (Scotland) Act 1947.

Dated 19 . Signature of Clerk to the Local Planning Authority.

FORM 2

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969

NOTICE UNDER SECTION 81(3) OF THE MAKING OF A REVOCATION ORDER OR MODIFICATION ORDER

Planning permission for (*a*) at (*b*)

TAKE NOTICE that the (*c*) council have made an order under section 19 of the Town and Country Planning (Scotland) Act 1947 to [revoke the above planning permission] [to the following extent (*d*)] [modify the above planning permission as follows (*e*)]*.

The council have been notified in writing by the owner and the occupier of the land [and by all other persons who in the council's opinion will be affected by the order]* that they do not object to the order; and it appears to the council that no claim for compensation is likely to arise under section 20 of the Town and Country Planning (Scotland) Act 1947:

If you will be affected by the order and wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State you should give notice in writing to that effect to the Secretary, Scottish Development Department, St. Andrew's House, Edinburgh, not later than 19 (*f*).

If no such notice has been given by that date, the order will take effect, by virtue of the provisions of section 81 of the Town and Country Planning (Scotland) Act 1969, on 19 (*g*) without being confirmed by the Secretary of State, and no compensation will be payable in respect of the order under section 20 of the Town and Country Planning (Scotland) Act 1947.

Dated 19. Signature of Clerk to the Local Planning Authority.

*Delete where inappropriate.

Notes to Forms 1 *and* 2

(*a*) Insert description of the development for which permission has been granted.

(*b*) Insert site or locality of development.

(*c*) Insert name of council.

(*d*) Insert particulars of extent of revocation.

(e) Insert particulars of modification.

(*f*) Insert a date not less than 28 days later than the date on which the relevant advertisement first appears.

(*g*) Insert a date not less than 14 days later than the date to which note (*f*) relates.

*Delete where inappropriate.

SCHEDULE 3 Regulation 9

Column 1 Regulations revoked	Column 2 References	Column 3 Extent of revocation
The Town and Country Planning (Prescribed Forms of Notices) (Scotland) Regulations 1959.	S.I. 1959/1363 (1959 II, p. 2661).	In regulation 2 the words "and subsection (2) of section 38" and "and of counter notice for the purposes of subsection (1) of section 39"; and in the Schedule, Forms 6 and 7.
The Town and Country Planning (General) (Scotland) Regulations 1963.	S.I. 1963/949 (1963 II, p. 1600).	The whole regulations.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations re-enact the Town and Country Planning (General) (Scotland) Regulations 1963, with amendments which take into account the provisions of the Town and Country Planning (Scotland) Act 1969.
The principal changes are:—

(*a*) Amendments taking account of changes made by the 1969 Act are made to the forms of blight notice and counter-notice prescribed for the purposes of sections 38 and 39 of the Town and Country Planning (Scotland) Act 1959 and a new form, called a heritable creditor's blight notice, is prescribed under section 35 of the 1969 Act (which empowers certain heritable creditors to require the purchase of their interest in property "blighted" by planning proposals);

(*b*) The Regulations prescribe the time within which, and the manner in which, claims for compensation are to be made under section 21 (compensation for loss due to stop notice) and section 91 (conversion of highway for vehicles into a footpath or bridleway) of the 1969 Act;

(*c*) The Regulations prescribe forms of advertisement and individual notice to be used for the purposes of section 81 of the 1969 Act where a local planning authority make an order revoking or modifying planning permission and do not submit it to the Secretary of State for confirmation;

(*d*) Provision is made empowering concurrent proceedings to be taken for the extinguishment of public rights of way under section 35 of the Act and the acquisition of land under section 29 of the Act of 1969.

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