SCOTTISH LAW COMMISSION
(Scot Law Com No 157)

Town and Country Planning (Scotland) Bill
Planning (Listed Buildings and Conservation Areas) (Scotland) Bill
Planning (Hazardous Substances) (Scotland) Bill
Planning (Consequential Provisions) (Scotland) Bill

Report on the consolidation of certain enactments relating to Town and Country Planning in Scotland

Presented to Parliament by the Lord Advocate
by Command of Her Majesty
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Report on the consolidation of certain enactments relating to Town and Country Planning in Scotland

To the Right Honourable the Lord Mackay of Drumadoon, QC, Her Majesty's Advocate.

The Bills which are the subject of this Report consolidate certain enactments relating to town and country planning in Scotland. In order to produce a satisfactory consolidation recommendations which are set out in Appendix 1 to this Report are made.

The bodies and persons listed in Appendix 2 were consulted in connection with the recommendations. The comments received from those consulted have been taken into account in framing the recommendations. There is no outstanding objection to any of our recommendations.

(Signed) BRIAN GILL, *Chairman, Scottish Law Commission*

24 October 1996

Appendix 1

List of Recommendations

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RECOMMENDATIONS

In this Appendix "the 1972 Act" means the Town and Country Planning (Scotland) Act 1972 (c.52).

1. Application of certain provisions of the 1972 Act as respects the failure of authorities to take decisions on applications

Section 33 of the 1972 Act gives a right to appeal to the Secretary of State against the refusal or conditional grant of planning permission by a planning authority. By virtue of section 34 an appeal under section 33 can also be made where the planning authority have failed to take any decision on an application for planning permission within a prescribed period of its being made. Sections 56F(1) and 56K(10) of the 1972 Act apply sections 33 and 34 to applications for hazardous substances consent and applications for the continuation of such consent. Similar provision to sections 33 and 34 is also made in paragraphs 7 and 8 of Schedule 10 to the 1972 Act as respects appeals against the refusal or conditional grant of listed building consent.

In a number of contexts in the 1972 Act it is assumed that an appeal will be from a decision, even though this is not the case when an appeal is brought on a failure to take a decision, and this produces anomalous results.

Section 214(1) of the 1972 Act provides that certain applications and appeals made by statutory undertakers should be determined by the Secretary of State and the appropriate Minister (as defined in section 213). Under subsection (1)(b) this provision applies to appeals made to the Secretary of State under Part III from the decision on an application for planning permission. In the case of an appeal by virtue of section 34, the planning authority will not have made any decision and therefore the wording of subsection (1)(b) does not cover such appeals. It is considered that there is no reason why the different kinds of appeal should be differently treated and that the difference was an inadvertent result of the reference to a decision. The same problem occurs in section 205(2)(c) of the 1972 Act (procedure for making certain roads orders in anticipation of planning permission). We therefore **recommend**:

> **1. That, for the purposes of sections 205(2)(c) and 214(1)(b) of the 1972 Act, appeals made under section 33 by virtue of section 34 should be treated in the same way as other appeals under section 33.**

Effect is given to these recommendations in clause 47(5) of the Town and Country Planning (Scotland) Bill.

2. Application of regime relating to completion notices, stop notices and listed building enforcement notices to notices served by the Secretary of State

Section 260(5) of the 1972 Act gives the Secretary of State power to serve completion notices under section 41, enforcement notices under section 84, stop notices under section 87 and listed building enforcement notices under section 92 of the 1972 Act if he thinks it expedient. Section 96(1) of the 1972 Act confers a further power in identical terms as respects listed

building enforcement notices. In terms of sections 260(5) and 96(1) a notice served by the Secretary of State has the same effect as a notice served by a planning authority.

As respects an enforcement notice served by the Secretary of State, the proviso to section 260(5) applies sections 86, 88 and 89 of the 1972 Act (which relate to enforcement notices served under section 84) with the substitution for any references to the planning authority of references to the Secretary of State. As respects a listed building enforcement notice served by the Secretary of State, the proviso to section 260(5) applies sections 94 and 95 (which relate to such notices served under section 92) with the same substitution.

It is not clear from those provisions how much of the regime relating to each type of notice was intended to apply to notices served by the Secretary of State. In particular, the references in sections 260(5) and 96(1) to notices served by the Secretary of State having the same effect as notices served by the planning authority leave room for doubt as to how far provisions as to the criteria for issuing a notice, requirements as to form and content, service and publicity, and rights to make representations about a notice are intended to apply.

The proviso to section 260(5), and section 96(2), apply certain provisions of the 1972 Act in the case of certain notices, but without any consistency of approach. The proviso, for example, applies section 86 (offence of failure to comply with an enforcement notice) and section 94 (offence of failure to comply with listed building enforcement notice), but not section 87(8) to (8E) (offence of contravention of stop notice). In relation to enforcement notices the proviso does not apply section 84AA (contents and effect of notice), 84AB (variation and withdrawal of notice) or 89A (effect of planning permission on enforcement notice).

We consider that there should be a consistent approach in relation to each type of notice to which sections 260(5) and 96(2) relate. There is no obvious reason why the Secretary of State should not be subject to the same general regime as a planning authority in relation to a particular type of notice. We therefore **recommend**:

> **2.1 That the proviso to section 260(5) of the 1972 Act is amended to provide that the provisions of the 1972 Act relating to completion notices, enforcement notices, stop notices and listed building enforcement notices apply, so far as relevant, in the case of a notice which the Secretary of State is entitled to serve by virtue of section 260(5) or 96, but with the substitution for any reference to the planning authority of a reference to the Secretary of State and any other necessary modifications; and**
>
> **2.2 That section 96 of the 1972 Act, which duplicates section 260(5) as respects listed building enforcement notices, is repealed.**

Effect is given to these recommendations in clauses 63(4), 139(4) and 142(4) of the Town and Country Planning (Scotland) Bill, clause 41(4) of the Planning (Listed Building and Conservation Areas) (Scotland) Bill and Schedule 1 to the Planning (Consequential Provisions) (Scotland) Bill.

3. Compensation for orders under section 49 of the 1972 Act relating to mineral working

Section 49 of the 1972 Act enables orders to be made by the planning authority requiring that any use of land should be discontinued or that any buildings or works should be altered or removed. Section 159 of the 1972 allows claims for compensation to be made in respect of such orders.

Section 49 was amended by the Town and Country Planning (Minerals) Act 1981 (c.36) and the Planning and Compensation Act 1991 (c.34) so that development consisting of the winning and working of minerals or involving the deposit of mineral waste is to be treated as a use of the land for the purposes of the section and an order under section 49 in relation to such development may require the removal of plant or machinery.

The 1981 Act also amended Part VIII of the 1972 Act relating to compensation. It inserted a new section 159B providing that where certain requirements (including mineral compensation requirements) were satisfied in relation to an order under section 49, section 159 was to have effect subject to certain modifications ("mineral compensation modifications") made by regulations under section 167A of the 1972 Act, also inserted by the 1981 Act.

The 1991 Act repealed section 159B of the 1972 Act and substituted a new version of section 167A under which regulations may provide, in relation to orders under section 49 with respect to mineral working or the deposit of mineral waste, that section 159 has effect subject to prescribed modifications.

Section 159(1) was not, however, modified by either the 1981 Act or the 1991 Act to take account of the changes in section 49, and therefore still only applies where an order under section 49 requires buildings or works (but not plant or machinery) to be altered or removed.

The power to modify section 159 by regulations under section 167A is, it appears, concerned with restricting the circumstances in which compensation may be payable under section 159 and the basis on which the compensation is assessed. It is doubtful whether regulations under section 167A could modify section 159 by extending section 159(1) to cover section 49 orders relating to plant or machinery.

The failure of the 1981 Act to amend section 159(1) so as to take into account the possibility of an order being made under section 49 requiring plant or machinery to be removed appears to have been a mistake. We therefore **recommend**:

> **3. That section 159(1) of the 1972 Act is amended to apply also to orders under section 49 requiring plant or machinery to be removed.**

Effect is given to this recommendation in clause 83(1) of the Town and Country Planning (Scotland) Bill.

4. Modifications required by virtue of application of certain provisions relating to purchase notices by sections 177 and 178 of the 1972 Act

Section 169 of the 1972 Act enables an owner or lessee of land in respect of which planning permission is refused or granted conditionally to serve a purchase notice if the conditions set out in subsection (1)(a) to (c) of that section are satisfied. Section 177 of the 1972 Act enables an owner or lessee of land in respect of which planning permission has been revoked or modified to serve a purchase notice if the conditions set out in subsection (1)(a) to (c) of that section are satisfied. Section 178 of the 1972 Act enables "any person entitled to an interest in land" in respect of which an order has been made under section 49 of the Act to serve a purchase notice if the conditions set out in subsection (1)(a) and (b) of that section are satisfied.

Sections 177 and 178 apply a number of provisions in Part IX of the Act which apply to purchase notices served under section 169(1) of the Act. Some modifications of these provisions are made for the purposes of the application but further modifications are necessary to make the application fully effective.

Section 178(3)(a) modifies section 172(1) (which provides that where the Secretary of State is satisfied that the conditions specified in section 169(1)(a) to (c) are fulfilled in relation to a purchase notice he must confirm the notice) by substituting for the reference to the conditions so specified (which are the appropriate ones for an order to be served under that section) a reference to the conditions under section 178(1)(a) and (b) which are the ones necessary for serving a notice under section 178. No similar substitution is, however, made by section 177 in relation to orders under that section. Since the conditions mentioned in section 169(1) are not appropriate for the purposes of section 177, this appears to be a mistake. We therefore **recommend**:

> **4.1 That section 177(3) of the 1972 Act is amended so that it applies section 172(1) to a purchase notice served by virtue of section 177(1) with the substitution for the reference to the conditions specified in section 169(1)(a) to (c) of a reference to the conditions specified in section 177(1)(a) to (c).**

Effect is given to this recommendation in clause 92(1) of the Town and Country Planning (Scotland) Bill.

Sections 177 and 178 both apply section 173 without any modification. That section gives the Secretary of State power to refuse to confirm a purchase notice in cases where planning permission is refused or granted subject to conditions and the land in question already has a restricted use by virtue of a previous planning permission. The references to the refusal or conditional grant of planning permission are not appropriate in the circumstances of section 177 or 178. We therefore **recommend**:

> **4.2 That section 173 of the 1972 Act should apply in the circumstances in which purchase notices may be served under sections 177 and 178.**

Effect is given to this recommendation in clause 93(1) of the Town and Country Planning (Scotland) Bill.

Under section 169 of the 1972 Act a purchase notice may be served by "any owner or lessee of the land" where planning permission has been refused or is granted subject to conditions

and certain other conditions are satisfied. Section 178(2) applies section 170 (action by planning authority on whom purchase notice is served), section 173 and section 175 (the effect of the Secretary of State's action in relation to a purchase notice). These sections contain references to "The owner or lessee" (or in the case of section 173 "the owner") of the land in question. Section 178 contains several modifications of the applied provisions, but does not modify these references to the owner of the land so that in relation to notices served under section 178 they are taken as references to a person entitled to an interest in the land, which may include persons who are not within the definition of "owner" in section 275 of the 1972 Act. We therefore **recommend**:

> **4.3 That in relation to notices under section 178 of the 1972 Act references to the owner or lessee, or the owner, of the land in the provisions applied by section 178 should, unless the context otherwise requires, be taken to be references to any person entitled to an interest in the land who has served a notice under that section.**

Effect is given to this recommendation in clause 99(2) of the Town and Country Planning (Scotland) Bill.

5. Power to refuse to confirm purchase notice under section 169 of the 1972 Act

Section 169 of the 1972 Act enables an owner or lessee of land in respect of which planning permission is refused or granted conditionally to serve a purchase notice. Section 173 of the 1972 Act gives the Secretary of State power to refuse to confirm a purchase notice served by an owner in cases where the land in question already has a restricted use by virtue of a previous planning permission.

Sections 170 to 172 and 175 of the 1972 Act make further provisions as to the procedure in dealing with a purchase notice served under section 169. All those sections apply to such a notice served by an owner or lessee.

There is no obvious reason why the Secretary of State's power under section 173 to refuse to confirm a purchase order should not be available in relation to a notice served by a lessee. The omission of a reference to a lessee in section 173(1) appears to be a mistake, and we **recommend**:

> **5. That section 173 of the 1972 Act is amended to refer to a purchase notice under section 169 served by an owner or lessee.**

Effect is given to this recommendation in clause 93(1) of the Town and Country Planning (Scotland) Bill.

6. Application of the 1972 Act and the Land Compensation (Scotland) Act 1973 to crofters etc.

Section 11 of the Crofting Reform (Scotland) Act 1976 (c.21) provided that the interests of a crofter in his croft and a cottar in his subject qualified for protection under sections 181 to 196 of the 1972 Act and sections 64 to 77 of the Land Compensation (Scotland) Act 1973 (c.56) relating to planning blight. Schedule 1 to the 1976 Act made textual amendments to various provisions of the 1972 and 1973 Acts in consequence.

The crofting legislation was consolidated in the Crofters (Scotland) Act 1993 (c.44). That Act repealed section 11 of and Schedule 1 to the Crofting Reform (Scotland) Act 1976. It did not, however, contain a saving for the amendments made to the 1972 and 1973 Acts by Schedule 1 to the 1976 Act, nor did it re-enact those amendments.

As the Crofters (Scotland) Act 1993 was a consolidation, it must be taken not to have changed the law. We consider that the absence from that Act of a saving for amendments made by Schedule 1 to the Crofting Reform (Scotland) Act 1976 was an oversight. We therefore **recommend**:

> **6. That the amendments made to the 1972 Act and the Land Compensation (Scotland) Act 1973 by Schedule 1 to the Crofting Reform (Scotland) Act 1976 should continue to have effect notwithstanding the repeal of that Schedule by the Crofters (Scotland) Act 1993.**

Effect is given to this recommendation in clauses 101(5), 104(7), 105(7), 106(5), 109(4), 111(7), 116(4), 119(4) and 122(1) of the Town and Country Planning (Scotland) Bill.

7. Application of section 64(6) of the Land Compensation (Scotland) Act 1973 and section 187(1) of the 1972 Act to successors of deceased claimants under a blight notice

Section 189 of the 1972 Act makes provision for the case where the claimant under a blight notice dies after serving the notice. It provides that the person who has succeeded to his interest in the property in question steps into his shoes for the purposes of section 183(1) (service on claimant of counter-notice), section 184(1) (right of claimant to require objection in counter-notice to be referred to Lands Tribunal), and section 185(3) (right of claimant to accept proposal in counter-notice and withdraw original claim) of the 1972 Act.

There are, however, other provisions of a similar nature which are not referred to in section 189, viz. section 64(6) of the Land Compensation (Scotland) Act 1973 (c.56) (service of substitute counter-notice on claimant) and section 187(1) of the 1972 Act (period within which person who served blight notice may withdraw it). It is doubtful whether these provisions apply to the person who has succeeded to the claimant's interest.

It seems probable that section 64(6) was forgotten because it occurred in the 1973 Act, and that section 187(1) was overlooked because it does not refer expressly to the claimant. There seems no reason why a deceased claimant's successor should not enjoy the same rights as the deceased under these provisions, and we **recommend**:

> **7. That the provisions specified in section 189(2) of the 1972 Act as applying to a deceased claimant's successor should include section 64(6) of the Land Compensation (Scotland) Act 1973 and section 187(1) of the 1972 Act.**

Effect is given to this recommendation in clause 112(1) of the Town and Country Planning (Scotland) Bill.

8. Restrictions on objections to blight notices served by personal representatives and heritable creditors

Section 73 of the Land Compensation (Scotland) Act 1973 (c.56) provides for the service of a blight notice by personal representatives after the death of a person with an interest in

blighted land, and subsection (3) of that section sets out the grounds on which objection may be made to such a notice in a counter-notice under section 183 of the 1972 Act.

Section 190 of the 1972 Act enables a heritable creditor of an interest in blighted land to serve a blight notice. Subsection (6) of that section sets out the grounds on which objections may be made to such a notice in a counter-notice under section 183.

Both section 73(3) of the 1973 Act and section 190(6) of the 1972 Act allow a counter-notice under section 183 of the 1972 Act to contain, in appropriate cases, an objection on the ground set out in section 183(2)(d). Section 183(3) provides that an objection may not be made on that ground if it may be made on the grounds set out in section 183(2)(b). That qualification is not, however, applied by either section 73(3) of the 1973 Act or section 190(6) of the 1972 Act.

We see no reason why an objection on the grounds set out in section 183(2)(d) made by virtue of section 73(3) of the 1973 Act or section 190(6) of the 1972 Act should not be subject to the restriction in section 183(3) in the same way as an objection made under section 183 itself. We therefore **recommend**:

> **8.1 That section 73(3) of the Land Compensation (Scotland) Act 1973 and section 190(6) of the 1972 Act are amended to make them subject to section 183(3) of the 1972 Act.**

Effect is given to this recommendation in clauses 112(5) and 113(5) of the Town and Country Planning (Scotland) Bill.

Section 73(3) of the 1973 Act is subject to section 69(2) (which precludes objection in a counter-notice on the grounds set out in section 183(2)(b) and (c) of the 1972 Act where the blight notice is served by reason of the existence of a housing action area) and section 75(2) (which limits the circumstances in which a counter-notice may include an objection on the grounds set out in section 183(2)(c) where the blight notice requires the purchase of an agricultural unit by virtue of section 74 of the 1973 Act). There are no similar restrictions in section 190(6) of the 1972 Act in relation to blight notices served by heritable creditors.

We see no reason for the difference, which we suspect arose because the provisions were in different Acts. We **recommend:**

> **8.2 That section 190(6) of the 1972 Act is amended to make it subject to sections 69(2) and 75(2) of the Land Compensation (Scotland) Act 1973.**

Effect is given to this recommendation in clause 113(5) of the Town and Country Planning (Scotland) Bill.

9. Period for compliance with enforcement order and stop notice

Section 86 of the 1972 Act (as substituted by the Planning and Compensation Act 1991 (c.34)) imposes criminal liability in respect of failure to comply with an enforcement notice within the period for compliance specified in the notice in accordance with section 84AA(9) of the 1972 Act. Under section 84AB(1)(b) the planning authority may extend the period for compliance.

Section 87 (as amended by the 1991 Act) provides for a stop notice served under that section to cease to have effect on various events, including the expiry of the period for compliance with the enforcement notice which preceded the stop notice.

Section 88 gives the planning authority power, where an enforcement notice has not been complied with within the period for compliance specified in the notice or such extended period as the authority allow, to do the work themselves and recover the cost.

The lack of consistency in the references to the period for compliance with an enforcement notice is confusing and produces odd results. It is, for example, apparently an offence to fail to comply with an enforcement notice within the period specified in the notice, even where the planning authority have agreed to extend that period.

We consider that, for consistency, sections 86 and 87 should adopt the same approach as section 88. We therefore **recommend**:

> **9. That in sections 86 and 87 of the 1972 Act references to the period for compliance with an enforcement notice are amended to refer to the period for compliance specified in the notice or such extended period as the planning authority may allow.**

Effect is given to this recommendation in clause 135(11) of the Town and Country Planning (Scotland) Bill.

10. Appeal against refusal or failure to decide application for certificate of lawful use or development

Sections 90 and 90A of the 1972 Act provide for the grant by planning authorities of certificates as to the lawfulness of an existing or proposed use of buildings or land or operations which have been or are proposed to be carried out in relation to any land. The current version of section 90 was substituted for the previous version by the Planning and Compensation Act 1991 (c.34).

Regulations or a development order may, by virtue of section 90B(3) of the 1972 Act, prescribe a time within which the applicant must be notified of the manner in which his application has been dealt with.

Section 91(2) of the 1972 Act makes provision for an applicant to appeal to the Secretary of State against a refusal, in whole or in part, of an application for a certificate under section 90 or 90A.

Subsection (5) of section 90, in its original version, provided that for the purposes of section 91(2) if a planning authority failed to notify the applicant of their decision within the prescribed time (or any agreed extension of that time) the application was deemed to have been refused.

The absence of a provision equivalent to section 90(5) in its original version leaves room for the argument that the applicant no longer has a right of appeal under section 91(2) in the situation where the planning authority fail to decide the application within the prescribed time. We do not consider that this was an intended consequence of the changes made by the 1991 Act and we therefore **recommend**:

10. 1 That section 91(2) of the 1972 Act is amended to provide for an appeal to the Secretary of State by an applicant for a certificate under section 90 or 90A where the planning authority have failed to notify him of their decision within the time prescribed by regulations or a development order or such extended time as may be agreed.

The right of appeal afforded by section 91 of the 1972 Act is not subject to any time limit. This contrasts with other appeal provisions in that Act. The right of appeal cannot have been intended to be open-ended, and we consider that provision should be made for a time limit to be specified. Section 33(2) of the 1972 Act provides that appeals against planning decisions are to be made by notice served within such time (not being less than 28 days) as may be prescribed by regulations or a development order and we consider that similar provision should be made in relation to the time limit for appeals under section 91. We therefore **recommend**:

10. 2 That section 91(2) of the 1972 Act is amended to require notice of an appeal to the Secretary of State against a refusal, or a deemed refusal, of an application for a certificate under section 90 or 90A to be given within a period (not being less than 28 days) prescribed by regulations or a development order.

Effect is given to these recommendations in clause 154 of the Town and Country Planning (Scotland) Bill.

11. Disposal by planning authority of land acquired under section 102(1B) of the 1972 Act

Section 113 of the 1972 Act makes provision for disposal by a planning authority of land acquired or appropriated for planning purposes. Subsection (6) provides that where the land was acquired or appropriated for a reason mentioned in section 102(1)(a), a planning authority shall so exercise their power as to give persons living or carrying on business or activities on the land an opportunity, on certain conditions, to obtain suitable accommodation on it.

As originally enacted, the reference in subsection (6) of section 113 was to section 102(1)(a) to (c). Section 102 was amended by section 92(4) of the Local Government, Planning and Land Act 1980 (c.65), which substituted subsections (1) to (1C) for the previous subsection (1). Section 92(6) of the 1980 Act amended the reference to section 102(1) of the 1972 Act in section 113 (6) of that Act by limiting it to section 102(1)(a).

The new subsection (1B) of section 102 is broadly equivalent to the old subsection (1)(c). It is not apparent why the 1980 Act did not further amend section 113(6) by inserting a reference to section 102(1B) to preserve the relationship between section 113(6) and section 102. We suspect that the omission was an oversight. We therefore **recommend**:

11. That the reference to section 102 of the 1972 Act in section 113(6) of that Act is amended to include a reference to subsection (1B) as well as to subsection (1)(a).

Effect is given to this recommendation in clause 191(7) of the Town and Country Planning (Scotland) Bill.

12. Expenditure under temporary stopping up order for purposes of mineral working

Section 32 of the Mineral Workings Act 1951 (c.60), as substituted by the Roads (Scotland) Act 1984 (c.54), provides that orders may be made under section 198, 198A and 199 of the 1972 Act stopping up or diverting public roads on a temporary basis to enable extraction of minerals.

Under subsection (2) of section 32 of the 1951 Act, without prejudice to sections 198, 198A and 199 of the 1972 Act, any such order may impose a liability for repair of any substituted road on a person liable for repair of the road being stopped up. The subsection provides that such an order which contains a provision under section 198(3) or 199(2) of the 1972 Act requiring payment of any cost or expenditure may provide for payment of a capital sum of the estimated total amount.

Section 198A(2) makes provision in relation to orders under section 198A similar to that in sections 198(3) and 199(2). There is no obvious reason why section 198A(2) should not be referred to in section 32(2) of the 1951 Act consistently with the reference to the other sections. We therefore **recommend**:

> **12. That section 32(2) of the Mineral Workings Act 1951 is amended to include, in addition to the references to sections 198(3) and 199(2) of the 1972 Act, a reference to section 198A(2) of that Act.**

Effect is given to this recommendation in clause 213(4) of the Town and Country Planning (Scotland) Bill.

13. Use of default powers under section 260 of the 1972 Act to make certain orders relating to operational land of statutory undertakers

Section 260(1) of the 1972 Act provides that the Secretary of State may make orders under section 42 of the 1972 Act revoking or modifying planning permission or orders under section 49, 49A or 49B relating to the discontinuance of a use of land or of mineral working. It provides that any order so made shall have effect as if it had been made by the planning authority and confirmed by the Secretary of State under Part III or IV of the Act.

Sections 216 and 217 of the 1972 Act provide that in relation to the operational land of statutory undertakers the provisions of Part III of the Act relating to the revocation or modification of planning permission or orders have effect as if for any reference to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.

It is not clear how section 260 is intended to operate in relation to orders to which section 216 or 217 applies, and we **recommend**:

> **13. That, in relation to an order to which sections 216 or 217 of the 1972 Act applies, the default powers under section 260(1) should be exercisable by the Secretary of State and the appropriate Minister and the orders should have effect as if confirmed by both.**

Effect is given to this recommendation in clauses 221 and 222 of the Town and Country Planning (Scotland) Bill.

14. Amendment of section 217 of the 1972 Act to extend that section to orders relating to minerals

Section 217 of the 1972 Act provides –

> *"The provisions of Part III of this Act with respect to the making of orders requiring the discontinuance of any use of land or imposing conditions on the continuance thereof, or requiring buildings or works on land to be altered or removed, shall have effect, in relation to operational land of statutory undertakers, as if, for any reference therein to the Secretary of State, there were substituted a reference to the Secretary of State and the appropriate Minister."*

The expression "the appropriate Minister" is defined in section 213 in relation to the different kinds of statutory undertakers. Section 217 was drafted so as to cover the terms of section 49 of the 1972 Act as originally enacted. That section was, however, substantially amended by the Town and Country Planning (Minerals) Act 1981 (c.36) which enabled orders to be made where land was used for the winning and working of minerals and enabled orders in respect of such use to make wider provision. For example, such an order may require that any plant or machinery used for winning and working minerals should be altered or removed and may impose a number of special conditions relating to mineral working and the restoration of the land afterwards.

The 1981 Act also inserted sections 49A to 49G in the 1972 Act, which enable orders to be made prohibiting the resumption of the winning and working of minerals and for the protection of the environment once mineral working has ceased. The conditions which may be imposed are the same as those which may be imposed by an order under section 49 in relation to mineral working.

The terms of section 217 are wide enough to cover an order under section 49 relating to mineral use and the conditions which may be imposed by such an order. They are not wide enough to cover requirements that plant and machinery be altered or removed and it must be very doubtful whether they are wide enough to cover orders prohibiting the resumption of the winning and working of minerals or orders after the suspension of such working under sections 49A and 49B and conditions imposed by such orders.

There appears no reason to distinguish between orders under section 49 requiring buildings or works to be altered or removed and such orders requiring plant or machinery to be removed, nor any reason to distinguish between orders under section 49 as respects mineral working and orders under section 49A or 49B. We therefore **recommend**:

> **14. That section 217 of the 1972 Act is amended so as to make it clear that it covers under section 49 requiring the alteration or removal of machinery, orders under sections 49A and 49B, and the conditions imposed by such orders.**

Effect is given to this recommendation in clause 222 of the Town and Country Planning (Scotland) Bill.

15. Procedure on orders for extinguishment of rights of statutory undertakers and telecommunications code system operators

Section 219 of the 1972 sets out a procedure for making an order extinguishing certain rights of statutory undertakers and telecommunications code system operators in relation to land

compulsorily acquired or appropriated for planning purposes. Following the service of a notice of the proposed extinguishment of rights, the undertakers or operators potentially affected may, under subsection (2), serve a counter-notice objecting to the proposal.

Under section 220(2), if such a counter-notice has been served, the Ministers must give the undertakers or operators a further opportunity to object and, if an objection is made, must hold an inquiry. Unlike the other provisions of the 1972 Act with respect to inquiries, section 220 does not expressly give the undertaker or operator (and, where appropriate, the planning authority or statutory undertakers on whom the counter-notice was served) the right to appear before and be heard by the person appointed to hold the inquiry. We do not believe that the absence of such a provision is intended to produce a different procedure in relation to inquiries under section 220, and we therefore **recommend**:

> **15. That section 220(2) of the 1972 Act is amended to provide for objectors and, where appropriate, the planning authority or statutory undertakers on whom a counter-notice was served, to have the right to appear before and be heard by the person appointed to hold the inquiry under that provision.**

Effect is given to this recommendation in clause 227(3) of the Town and Country Planning (Scotland) Bill.

16. Time limit for challenges to certain orders under section 233 of the 1972 Act

Section 233 of the 1972 Act provides for challenges to be made as to the validity of certain orders which are specified in section 231. The time limit for these challenges is 6 weeks after the confirmation of the orders, but this ignores the possibility that certain orders may come into effect without confirmation. These are orders revoking or modifying planning permission, which may come into effect under section 43 of the 1972 Act, and the parallel orders under Part II of Schedule 10 revoking or modifying listed buildings consent, which may take effect under paragraph 11 of that Schedule. We therefore **recommend**:

> **16. That the time limit for challenge under section 233 of the 1972 Act as to the validity of orders revoking or modifying planning permission taking effect by virtue of section 43, and orders revoking or modifying listed building consent taking effect by virtue of paragraph 11 of Schedule 10, is specified as 6 weeks from the date on which the order in question takes effect without confirmation.**

Effect is given to this recommendation in clause 239(3) of the Town and Country Planning (Scotland) Bill and in clause 58(3) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

17. War-time breaches of planning control by the Crown in relation to land subject to a resolution to prepare a scheme under the Town and Country Planning (Scotland) Act 1932

The Building Restrictions (War-time Contraventions) Act 1946 (c.35) contains provision regarding war-time works which did not comply with building laws or planning control. Section 7(3)(a) defines non-compliance with planning control as including works carried out, or a use of land begun, in contravention of an interim development order or permission under such an order, where the land was subject to a resolution to prepare a scheme under the Town and Country Planning Act 1932 (c.48).

The Town and Country Planning Act 1932 as enacted extended to Scotland as well as England and Wales, Schedule 6 containing the modifications of the Act in its application to Scotland. Under section 57(2) of that Act, however, a copy of the Act as it applied to Scotland was prepared and certified by the Clerk of the Parliaments as if it were a separate Act which had received Royal Assent on the same day as the Town and Country Planning Act 1932. On that being done the 1932 Act ceased to apply to Scotland and the Scottish version of the Act took effect as a separate Act cited as the Town and Country Planning (Scotland) Act 1932 (c.49). In consequence of the enactment of the Scottish Act, the reference to the Town and Country Planning Act 1932 in section 7(3) of the Building Restrictions (War-time Contraventions) Act 1946 is incorrect.

Despite the passage of time, we consider that the error should be rectified and we **recommend**:

> **17. That the reference in section 7(3)(a) of the Building Restrictions (War-time Contraventions) Act 1946 to the Town and Country Planning Act 1932 (c.48) is amended to refer to the Town and Country Planning (Scotland) Act 1932 (c.49).**

Effect is given to this recommendation in clause 251(7)(a) of the Town and Country Planning (Scotland) Bill.

18. Contributions towards expenses incurred in connection with the alteration or replacement of development plans

Section 242(2)(a) of the 1972 Act enables any local authority and any statutory undertakers to contribute towards expenses incurred by a planning authority in or in connection with the carrying out of a survey or the preparation of a structure plan or a local plan under Part II of that Act.

It is doubtful whether this provision would enable contributions to be made towards expenses incurred in connection with the alteration or replacement of these plans. There seems no reason, however, why such contributions should not be covered. We therefore **recommend**:

> **18. That section 242(2)(a) of the 1972 Act is amended so as to extend to contributions towards expenses incurred by a planning authority in or in connection with the alteration or replacement of a structure plan or a local plan.**

Effect is given to this recommendation in clause 255(2)(a) of the Town and Country Planning (Scotland) Bill.

19. Amendment of the definition of "planning permission" for the purposes of the 1972 Act so as to include permission granted by enterprise zone schemes

Section 275(1) of the 1972 Act contains a definition of planning permission as permission granted under Part III of that Act. Since the enactment of that Act it has become possible for planning permission to be granted by an enterprise zone scheme made under Schedule 32 to the Local Government, Planning and Land Act 1980 (c.65). But the 1980 Act failed to amend the definition of planning permission in section 275(1) so as to include such permission. It is considered, however, that no distinction was intended to be drawn between permission granted by enterprise zone schemes and permission under Part III of the 1972 Act (which

does include the very similar sort of permission granted by simplified planning zone schemes) and there is no reason why the two permissions should be treated differently. We therefore **recommend**:

> **19. That the definition of planning permission in section 275(1) of the 1972 Act should include permission granted under Schedule 32 to the 1980 Act and suitable consequential amendments be made in other provisions referring to planning permission granted under Part III of the 1972 Act.**

Effect is given to this recommendation in clause 277(1) of the Town and Country Planning (Scotland) Bill and Schedule 2 to the Planning (Consequential Provisions) (Scotland) Bill.

20. Powers and duties of persons appointed by the Secretary of State to determine appeals under section 99 of the 1972 Act

Paragraph 2 of Schedule 7 to the 1972 Act specifies the powers and duties which apply to a person appointed by the Secretary of State under that Schedule to determine certain appeals. In relation to appeals under section 99, the powers and duties under section 85(4) and (5) are to apply.

Section 85 was amended by the Local Government and Planning (Scotland) Act 1982 (c.43) which substituted subsections (2) to (2D) for the previous subsection (2). Subsection (2C) gives the Secretary of State power to dispose of an appeal where one of the parties fails to comply with a procedural requirement. Subsection (2D) requires the Secretary of State to allow both parties an opportunity to appear before and be heard by a person appointed by him.

Both these subsections appear relevant to the determination of an appeal by a person appointed under Schedule 7, and we suspect that the failure to amend paragraph 2(1)(e) of Schedule 7 to include a reference to subsections (2C) and (2D) of section 85 was an oversight. We therefore **recommend**:

> **20. That paragraph 2(1)(e) of Schedule 7 to the 1972 Act is amended to include a reference to subsections (2C) and (2D) of section 85 of that Act.**

Effect is given to this recommendation in paragraph 2(1)(d) of Schedule 4 to the Town and Country Planning (Scotland) Bill.

21. Effect of certain proposals concerning structure plans and local plans as respects blight

Section 181(1) of the 1972 Act sets out the classes of land which are blighted land for the purposes of the Act and are therefore classes of land in respect of which a blight notice may be served requiring the appropriate authority to purchase the land.

Section 181(1)(a) refers to land indicated in a structure plan as land which may be required for certain purposes. Section 64(1) of the Land Compensation (Scotland) Act 1973 (c.56) provides that the reference in section 181(1)(a) to a structure plan is also to include a reference to –

"(a) a structure plan which has been submitted to the Secretary of State under section 5 of [the 1972] Act;

(b) proposals for alterations to a structure plan which have been submitted to the Secretary of State under section 8 of that Act;

(c) modifications proposed to be made by the Secretary of State in any such plan or proposals as are mentioned in the preceding paragraphs, being modifications of which he has given notice in accordance with regulations under Part II of that Act."

But under section 64(4) of the 1973 Act land subject to such proposals ceases to be blighted land if the proposals are withdrawn.

Section 37(a) of the Local Government and Planning (Scotland) Act 1982 (c.43) amended section 8(1) of the 1972 Act by providing that structure plans may be repealed and replaced as well as being simply altered. No amendment of section 64(1) of the 1973 Act was made in consequence of this change but there seems no reason why proposals for the repeal and replacement of a plan should be treated differently from proposals for the original plan or alterations to it and we therefore **recommend**:

21. 1 That section 64 of the Land Compensation (Scotland) Act 1973 is amended so as to extend to proposals for the repeal and replacement of a structure plan and their withdrawal.

Effect is given to this recommendation in paragraph 1(4) and (5) of Schedule 14 to the Town and Country Planning (Scotland) Bill.

By virtue of section 181(1)(b) of the 1972 Act certain land allocated for certain functions by a local plan is among the classes of land which are blighted land for the purposes of the Act and are therefore classes of land in respect of which a blight notice may be served requiring the appropriate authority to purchase the land. Section 64(2) of the Land Compensation (Scotland) Act 1973 provides that the reference in section 181(1)(b) to a local plan is also to include a reference to –

"(a) a local plan of which copies have been made available for inspection under section 10(2) of the [1972 Act];

(b) proposals for alterations to a local plan of which copies have been made available for inspection under section 13(2) of that Act;

(c) modifications proposed to be made by the planning authority or the Secretary of State in any such plan or proposals as are mentioned in the preceding paragraphs, being modifications of which notice has been given by the authority or the Secretary of State in accordance with regulations under Part II of that Act."

But under section 64(4) of the 1973 Act land subject to such proposals ceases to be blighted land if the proposals are withdrawn.

Section 40 of the Local Government and Planning (Scotland) Act 1982 amended section 13(1) of the 1972 Act by providing that a planning authority may make proposals for the repeal or replacement of a local plan, but no amendment of section 64 was made in consequence of this change. There seems no reason why section 64 should not apply to the repeal and replacement of a local plan as well as the alteration of it. We therefore **recommend**:

21.2 That section 64 of the Land Compensation (Scotland) Act 1973 be amended so as to extend to proposals for the repeal and replacement of a local plan and their withdrawal.

Effect is given to this recommendation in paragraph 2(2) and (3) of Schedule 14 to the Town and Country Planning (Scotland) Bill.

22. Publication of notices under section 204 of the 1972 Act on different days

Section 204(1) of the 1972 Act requires the Secretary of State when making certain orders relating to roads to publish a notice in at least one local newspaper circulating in the relevant area and in the Edinburgh Gazette giving specified details of the order.

Subsection (2) requires the Secretary of State to publicise the notice "not later than the date on which that notice is so published". This provision assumes that the notice will be published in the newspapers in question and in the Gazette on the same date. It may, however, be published in different newspapers and in the Gazette on different dates. We therefore **recommend**:

22. That section 204(2) of the 1972 Act is amended to refer to the last day on which publication has taken place.

Effect is given to this recommendation in paragraph 1(1) and (2) of Schedule 16 to the Town and Country Planning (Scotland) Bill.

23. Publicity of confirmed road orders

Paragraph 6 of Schedule 18 to the 1972 Act provides for publicity to be given to orders under section 198A, 199, 201 or 203(1)(b) of the 1972 Act after their confirmation by the Secretary of State. It provides for the publication, by the authority making an order, of a notice which, among other things, must name a place where a copy of the order as confirmed may be inspected. In general the paragraph 6 procedure is parallel to that under paragraph 1 of the Schedule which lays down the publicity to be given to proposed orders before they are submitted for confirmation, but the place to be named in a notice under paragraph 1 is to be one "in the area in which the land to which the order relates is situated" and we consider that the same requirement should apply in the case of notices under paragraph 6(1). We therefore **recommend**:

23. That paragraph 6 of Schedule 18 to the 1972 Act is amended to require the place named in a notice under that paragraph to be a place in the area in which the land to which the notice relates is situated.

Effect is given to this recommendation in paragraph 11(1)(a)(iii) of Schedule 16 to the Town and Country Planning (Scotland) Bill.

24. Listed building works not complying with any condition to count as unauthorised works

Under section 53(1) of the 1972 Act it is an offence to carry out unauthorised works to a listed building. Subsection (2)(a) provides that works are authorised if the planning authority or the Secretary of State have granted written consent for the execution of the

works and the works are executed in accordance with the terms of the consent and of any conditions attached to the consent under section 54 of the 1972 Act.

Section 53(4) of the 1972 Act provides that, without prejudice to the general offence in section 53(1), it is an offence for a person to execute works to a listed building without complying with any condition attached to the listed building consent.

Section 54A of the 1972 Act, which was inserted by the Housing and Planning Act 1986 (c.63), provides for listed building consent to be granted subject to a condition as to the period within which the work must be carried out.

The 1986 Act amended section 53(4) of the 1972 Act by repealing the reference to conditions under "section 54", thus allowing the subsection to apply also to conditions under section 54A. The need to make a corresponding amendment in section 53(2)(a) appears to have been overlooked. We therefore **recommend**:

> **24. That section 53(2)(a) of the 1972 Act is amended so as to extend to all conditions and not just conditions imposed under section 54.**

This is essentially a formal amendment for the purposes of consistency, since breach of any condition will be an offence under section 53(4) whether it is or is not under section 53(1), and breach of either section 53(1) or section 53(4) is a ground for the service of a listed building enforcement notice under section 92 of the 1972 Act.

Effect is given to this recommendation in clause 7(1) and (2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

25. Cancellation of listed building purchase notice on quashing of Secretary of State's decision to confirm it

Paragraph 3(4) of Schedule 17 to the 1972 Act (proceedings on listed building purchase notice) provides –

> *"(4) Where the Secretary of State has notified the owner or lessee by whom a listed building purchase notice has been served of a decision on his part to confirm, or not to confirm, the notice (including any decision to confirm the notice only in respect of part of the land, or to give any direction as to the granting of listed building consent) and that decision of the Secretary of State is quashed under the provisions of Part XII of this Act, the purchase notice shall be treated as cancelled, but the owner or lessee may serve a further listed building purchase notice in its place."*

It is considered that this provision is defective in two respects. First, the words in parenthesis expressly bring in decisions to give directions under paragraph 2(5) as to the granting of listed building consent but do not refer to the decision to give a direction under paragraph 2(6) as to the granting of planning permission, although the decision to give either sort of direction precludes confirmation of the listed building purchase notice. There seems to be no reason for this omission.

Second, there is no reason why cancellation of the notice should depend on the Secretary of State's decision being notified to the owner or lessee. The only material factor is that the notice has been quashed.

We therefore **recommend**:

> **25. That paragraph 3(4) of Schedule 17 to the 1972 Act is amended to include a reference to a direction as to the granting of planning permission and to omit the reference to notification of the Secretary of State's decision to the owner or lessee.**

Effect is given to this recommendation in clause 32(7) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

26. Extended period of service of listed building purchase notice served in consequence of decision to revoke or modify listed building consent where decision as to notice is quashed

Paragraph 3(5) of Schedule 17 to the 1972 Act provides –

> *"(5) For the purposes of any regulations made under this Act as to the time within which a listed building purchase notice may be served, the service of a listed building notice under sub-paragraph (4) of this paragraph shall not be treated as out of time if the notice is served within the period which would be applicable in accordance with these regulations if the decision to refuse listed building consent or to grant it subject to conditions (being the decision in consequence of which the notice is served) had been made on the date on which the decision of the Secretary of State was quashed as mentioned in sub-paragraph (4) of this paragraph."*

There is a lacuna in sub-paragraph (5) because the decision in consequence of which the notice is served may be a decision to revoke or modify listed building consent (cf section 179 of the 1972 Act) but sub-paragraph (5) refers only to a decision to refuse listed building consent or grant it subject to conditions. We therefore **recommend**:

> **26. That paragraph 3(5) of Schedule 17 to the 1972 Act is extended to include a reference to a decision to revoke or modify listed building consent.**

Effect is given to this recommendation in clause 32(8) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

27. Recovery of planning authority's expenses in executing work required by listed building enforcement notice

Section 95 of the 1972 Act gives a planning authority power to carry out work required by a listed building enforcement notice where the work has not been carried out by the end of the compliance period, and to recover from the owner or lessee of the land their expenses in carrying out the work.

Subsection (3) of section 95 applies subsections (3) and (4) of section 88 of the 1972 Act in relation to a listed building enforcement notice as they apply to an enforcement notice, and continues –

> *"and any regulations made by virtue of this subsection may provide for the charging on the land on which the building stands of any expenses recoverable by a planning authority under subsection (1) of this section."*

As originally enacted, section 88(3) and (4) of the 1972 Act made provision for certain sections of the Water (Scotland) Act 1946 (c.42) to be applied by regulations, subject to

adaptations and modifications, in relation to any steps required to be taken by an enforcement notice. The provisions of the 1946 Act were section 57, which limited the liability in respect of expenses of persons holding premises as agents or trustees, and section 68, which gave power to require an occupier to permit work to be carried out by the owner of the premises.

Section 88 was amended by the Local Government and Planning (Scotland) Act 1982 (c.43) Schedule 2 paragraph 23(b), which substituted subsections (3) to (5) for subsections (3) and (4). The new subsections (3) and (5) make express provision broadly equivalent to that which could be made by regulations under the old subsections (3) and (4). The new subsection (4) gives a planning authority carrying out works under section 88(1) power to remove and sell materials from the land in question and to deduct their expenses from the proceeds.

The 1982 Act made no consequential amendment to section 95(3), which continues to refer only to subsections (3) and (4) of section 88 and to the making of regulations. Since section 88(3) and (4) no longer provides for the making of regulations, we consider that the failure to amend section 95(3) at the same time as section 88(3) and (4) was an oversight. We see no reason why subsections (3) to (5) of section 88 should not apply in relation to a listed building enforcement notice as they apply to an enforcement notice. In addition, the reference in section 95(3) to charging expenses on the land is one to which Scots law would have difficulty in giving a meaning, and we suspect that it is the result of the uncritical adoption of the equivalent English provision currently to be found in section 42(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9).

We therefore **recommend**:

> **27. That section 95(3) of the 1972 Act is replaced by a provision applying subsections (3) to (5) of section 88 in relation to a listed building enforcement notice.**

Effect is given to this recommendation in clause 38(6) and (7) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

28. Directions for minimum compensation on compulsory acquisition of derelict listed building

Under section 107(1) of the 1972 Act, as originally enacted, a planning authority which proposed to acquire compulsorily a listed building which had been deliberately allowed to fall into disrepair was given a power to include in the compulsory purchase order submitted to the Secretary of State for confirmation an application for a direction for minimum compensation.

Under section 107(2) the Secretary of State has power to include a direction for minimum compensation in a compulsory purchase order where he acquires a listed building compulsorily in such circumstances.

Section 107(4) provides that a direction for minimum compensation is a direction that, in assessing compensation, it is to be assumed that planning permission for the development or redevelopment of the site of the building would not be granted and that listed building

consent would be granted only for works necessary to restore and maintain the building in a proper state of repair. The subsection continues –

> *"and if a compulsory purchase order is confirmed or made with the inclusion of such a direction, the compensation in respect of the compulsory acquisition shall be assessed in accordance with the direction."*

Section 107(1) was amended by the Local Government (Scotland) Act 1973 (c.65) to confer on the planning authority power to make a direction for minimum compensation rather than merely to include an application for such a direction in the compulsory purchase order submitted to the Secretary of State for confirmation. Consequential amendments were made in subsections (3) and (5). No amendment was, however, made to section 107(4).

Given that a planning authority may make a direction for minimum compensation under section 107(1) and that there is no requirement for such a direction to be included in the compulsory purchase order, it appears that the failure to amend section 107(4) was an oversight. We therefore **recommend**:

> **28. That section 107(4) of the 1972 Act is amended to provide that compensation in respect of compulsory acquisition is to be assessed in accordance with a direction for minimum compensation where –**
>
> **(a) a planning authority have made such a direction and the Secretary of State has confirmed the compulsory acquisition order relating to the acquisition in question; or**
>
> **(b) the Secretary of State, under section 107(2), includes such a direction in a compulsory purchase order made by him.**

Effect is given to this recommendation in clause 45(5) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

29. Power to manage amenity land acquired under section 109(1)(c) of the 1972 Act

Section 116 of the 1972 Act enables a planning authority which has acquired any building or land under that Act to manage it. Section 116(1) refers to "any building or other land" acquired under section 104(1) or 109(1)(b) of the 1972 Act. The power of acquisition under section 104(1) includes contiguous or adjacent land, whereas section 109(1)(b) is confined to the building itself, contiguous and adjacent land being covered by section 109(1)(c).

The omission from section 116(1) of a reference to amenity land acquired under section 109(1)(c) appears to have been a mistake which arose when section 38(5) of the Town and Country Planning (Scotland) Act 1947 (c.53) was consolidated in the 1972 Act.

Section 38(5), as amended by paragraph 20 of Schedule 9 to the Town and Country Planning (Scotland) Act 1969 (c.30), was consolidated as section 109(1)(b) and (c) of the 1972 Act.

Section 8(1) of the Civic Amenities Act 1967 (c.69), from which section 116 of the 1972 Act derives, refers in its application to Scotland to section 38(5) of the 1947 Act. Section 116 of the 1972 Act should therefore have referred to section 109(1)(b) and (c). We **recommend**:

29. That section 116(1) of the 1972 Act is amended to include a reference to land acquired under section 109(1)(c).

Effect is given to this recommendation in clause 48(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

30. Prevention of excessive recovery under section 10A(8) of the Town and Country Planning (Amendment) Act 1972

Section 10A of the Town and Country Planning (Amendment) Act 1972 (c.42) enables grants to be made towards the preservation and enhancement of conservation areas. Subsection (8) of that section provides that nothing in that section entitles a grantor to recover (by virtue of a breach of more than one condition or disposals of several parts of an interest in the grant property) amounts in the aggregate exceeding the amount of the grant. The words in parenthesis do not, however, provide an exhaustive description of the circumstances in which amounts in the aggregate exceeding the amount of the grant may be recovered since this could also occur if there were one breach of a condition and one part disposal. We **recommend**:

30. That section 10A(8) of the Town and Country Planning (Amendment) Act 1972 is amended to exclude excessive recovery in any circumstances.

Effect is given to this recommendation in clause 70(8) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

31. Amendment to Parts II and IV of Schedule 19 to the 1972 Act so as to include sections 54A, 54B, 54C and 54D of that Act

Schedule 19 to the 1972 Act consists of four Parts which list provisions of the 1972 Act which are referred to in particular sections of that Act. Section 54 of the 1972 Act, which relates to conditions attaching to listed building consent, is mentioned in Parts II and IV of that Schedule. Those references to that section appear to have been overlooked when sections 54A, 54B, 54C and 54D were added to the 1972 Act, although these sections are supplementary to section 54, relating respectively to conditions as to the duration of listed building consent, the date of such consent, intimation of notices affecting such consent, and applications for the variation or discharge of conditions attaching to such consent. The result is that section 257 (application to planning authorities of provisions as to listed buildings), which refers to the relevant parts of Schedule 19, applies section 54 but not sections 54A to 54D although these sections relate to section 54.

There appears to be no reason for such a distinction, and we therefore **recommend**:

31. That section 257 of the 1972 Act should apply as if sections 54A to 54D were included in Parts II and IV of Schedule 19.

Effect is give to this recommendation in clause 73(3) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

32. Right of entry in case of offences under sections 55 of the 1972 Act

Section 265(4)(a) of the 1972 Act confers power on any person duly authorised in writing by the Secretary of State, a planning authority or a local authority to enter any land for the purposes of ascertaining whether an offence appears to have been committed under section 55 of the 1972 Act (damage to listed buildings). (Following the reorganisation of local government effected by the Local Government etc. (Scotland) Act 1994 (c.39), the planning authority and the local authority are now the same body.) The wording of section 265(4)(a) contrasts with that of section 265(3) under which a power of entry is given for the purpose of ascertaining whether an offence has been or is being committed with respect to any building on the land under section 53 of 94 of Schedule 10.

It is considered that these small discrepancies have only arisen as a result of historical accident and are not justified especially since the offence under section 55 can be a continuing offence. We therefore **recommend**:

> **32. That the power of entry in section 265(4)(a) of the 1972 Act in relation to section 55 offences should be brought into line with that in section 265(3) so that it enables entry to be made where the offence has been or is in the process of being committed.**

Effect is given to this recommendation in clause 76(2)(c) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

33. Contribution by Ministers towards compensation payable as a result of service of listed building purchase notice

Section 241 of the 1972 Act provides that where compensation is payable by a local authority under that Act in consequence of any decision or order given or made under certain provisions of it and that decision or order was given or made wholly or partly in the interest of a service which is provided by a government department and the cost of which is defrayed out of money provided by Parliament, the Minister responsible for the administration of that service may pay that authority a contribution towards the compensation.

Among the provisions of the 1972 Act to which section 241 applies are those of Part IX relating to purchase notices. Listed building purchase notices are not specifically mentioned. There seems to be no reason for any difference in treatment between these two sorts of notice in this respect. We **recommend**:

> **33. That the provisions of Part IX of the 1972 Act relating to listed building purchase notices should be included among those mentioned in section 241 of that Act.**

Effect is given to this recommendation in clause 80(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

34. Inadvertent repeal of section 273(9) of the 1972 Act

Section 273(9) of the 1972 Act was repealed by Part IV of Schedule 12 to the Housing and Planning Act 1986 (c.63).

Under paragraph 18(2)(c) of Schedule 9 to the 1986 Act section 273(9) is amended to add a reference to section 56AA (power to restrict exemption of certain ecclesiastical buildings) added by paragraph 18(1) of Schedule 9.

In view of this express amendment it is clear that the repeal of section 273(9) was a mistake, and we therefore **recommend**:

> **34. That effect is not given to the repeal of section 273(9) of the 1972 so far as it relates to section 56AA of that Act.**

Effect is given to this recommendation in clause 82(6) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Bill.

35. Application of the 1972 Act to deemed hazardous substances consents under section 38 of the Housing and Planning Act 1986 (c.63)

Section 38 of the Housing and Planning Act 1986 (c.63) contains transitional provisions with respect to the introduction of the requirement for hazardous substances consent. Under that section, hazardous substances consent is deemed to be granted in certain circumstances where a hazardous substance was present on, under or over land in the period prior to the coming into force of the new consent regime.

Section 56G of the 1972 Act, inserted by the 1986 Act, provides that hazardous substances consent is deemed to be granted if a government department gives a direction to that effect when granting statutory authorisation required for related development by a local authority or statutory undertakers. Section 56G(3) provides that the 1972 Act (except Part XII) applies to such deemed hazardous substances consent as it applies to hazardous substances consent granted by the Secretary of State on an application referred to him under section 32 of the 1972 Act as applied by section 56F.

Section 38 of the 1986 Act contains no provision equivalent to section 56G(3) of the 1972 Act and it is not clear how far the provisions of the 1972 Act apply to a deemed hazardous substances consent under section 38. Sections 56N (registers) and 56O (health and safety requirements) of the 1972 Act apply expressly to deemed hazardous substances consents under section 38 of the 1986 Act, but other provisions of the 1972 Act dealing with hazardous substances consents do not mention deemed consents under section 38.

We see no reason why deemed hazardous substances consents under section 38 of the 1986 Act should be treated differently from deemed consents under section 56G of the 1972 Act and we **recommend**:

> **35. That the provisions of the 1972 Act should apply to deemed hazardous substances consent under section 38 of the Housing and Planning Act 1986 (c.63) as they apply to deemed hazardous substances consent under section 56G of that Act.**

Effect is give to this recommendation in clause 9(3) of the Planning (Hazardous Substances) (Scotland) Bill.

36. Limitation on conditions which may be imposed when hazardous substances consent is modified on change of control of land

Under section 56K of the 1972 Act as added by section 35 of the Housing and Planning Act 1986 (c.63), hazardous substances consent is revoked on a change of control of the land to which it relates unless an application for its continuation has been made before the change. Subsection (4) of section 56K gives the planning authority power to modify the consent, when an application is made to them, in any way they consider appropriate. Under subsection (9) they have power in particular to make the consent subject to conditions with respect to any of the matters mentioned in section 56E(5). These are conditions with respect to any of the following –

> *"(a) how and where any hazardous substance to which the consent relates is to be kept or used;*
>
> *(b) times between which any such substance may be present;*
>
> *(c) the permanent removal of any such substance –*
>
> *(i) on or before the date specified in the consent; or*
>
> *(ii) before the end of a period specified in it and commencing on the date on which it is granted;*
>
> *(d) the consent being conditional on the commencement or complete or partial execution of development on the land which is authorised by a specific planning permission".*

Under section 56E(5) a planning authority may grant consent subject to conditions as to how a hazardous substance is to be kept or used only if the conditions are conditions to which the Health and Safety Executive have advised the authority that any consent they might grant should be subject.

The imposition of conditions under section 56K does not occur on the grant of consent but on the modification of a consent already granted. It follows that the restriction in section 56E(5) does not apply to any such conditions.

As a modification of consent under section 56K(4) is in effect a new grant there appears to be no justification for the restriction not applying to a modification of consent as it applies to a grant of consent. We therefore **recommend**:

> **36. That section 56K of the 1972 Act is amended so that the power to modify hazardous substances consent by imposing conditions is subject to the same restriction as in section 56E(5) in relation to conditions as to how a hazardous substance is to be kept or used.**

Effect is given to this recommendation in clause 16(6) of the Planning (Hazardous Substances) (Scotland) Bill.

37. Appeals against refusal or conditional grant of consent required on grant of hazardous substances consent

Sections 56F(1) and 56K(10) of the 1972 Act as added by the Housing and Planning Act 1986 (c.63) apply sections 33 and 34 of the 1972 Act (appeals against planning decisions and

appeals in default of decision) in relation to applications for hazardous substances consent and applications for the continuation of such consents on a change of control in the land respectively. These sections are in similar terms and provide that sections 33 and 34 shall have effect in relation to those sorts of applications and to decisions on those applications as though they were applications for planning permission but with certain modifications.

Section 33(1) provides –

> *"(1) Where an application is made to a planning authority –*
>
> *(a) for planning permission to develop land;*
>
> *(b) for an approval of that authority required under a development order; or*
>
> *(c) for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission, and that permission, consent, agreement or approval is refused by that authority or is granted by them subject to conditions, the applicant, if he is aggrieved by their decision, may appeal to the Secretary of State."*

It is not clear from the words applying section 33(1) whether it is intended that the right of appeal exists solely in the case corresponding to paragraph (a), ie a refusal or conditional grant of the application in question, or whether the reference in sections 56F(1) and 56K(10) to decisions on the applications in question is also intended to apply to the case corresponding to paragraph (c), ie the refusal or conditional grant of applications for any consent, agreement or approval of the authority required by them on a grant of hazardous substances consent.

It is considered that it would be anomalous for a right of appeal to exist in the case of refusal or conditional grant of consent, agreement or approval required on the grant of planning permission but not in the case of such a refusal or conditional grant of a consent, agreement or approval required on the grant of hazardous substances consent. It seems likely that it was intended to confer a right of appeal in the latter case and that the doubt arises from the fact that it is conferred by reference to section 33(1) and not set out in full in sections 56F and 56K. We **recommend**:

> **37. That sections 56F(1) and 56K(10) of the 1972 Act are amended to make clear that as respects hazardous substances consent they confer a right of appeal in the circumstances specified in section 33(1) of that Act.**

It this is done it follows that the provisions of section 34 in respect of appeals in default of decision and of sections 231 and 233 relating to challenges on such appeals should also apply to such applications for consents, agreements and approvals.

Effect is given to this recommendation in clauses 19 and 20 of the Planning (Hazardous Substances) (Scotland) Bill.

38. Inclusion in registers relating to hazardous substances consent of information relating to all deemed hazardous substances consents

Under section 56N of the 1972 Act as added by section 35 of the Housing and Planning Act 1986 (c.63), planning authorities are obliged to keep registers relating to applications for hazardous substances consent, and for continuation of hazardous substances consent, made

to them and, under subsection (1)(b), consent deemed to be granted under section 38 of the 1986 Act.

It is considered that information in respect of consents deemed to be granted under section 56F of the 1972 Act or paragraph 7 of Schedule 8 to the Electricity Act 1989 (c.29), by virtue of a direction given by a government department or the Secretary of State when granting an authorisation required for related development, should also be included in registers kept under section 56N so that those registers contain information about all sorts of consents. We **recommend**:

> **38. That section 56N of the 1972 Act is amended to include references to consents deemed to be granted under section 56G of that Act and paragraph 7 of Schedule 8 to the Electricity Act 1989.**

Effect is given to this recommendation in clause 27(1)(c) of the Planning (Hazardous Substances) (Scotland) Bill.

39. Power to prescribe fees for applications for continuation of hazardous substances consent referred to the Secretary of State

Section 56DA of the 1972 Act, inserted by the Environmental Protection Act 1990 (c.43), allows regulations to prescribe fees for applications for, or for the continuation of, hazardous substances consent which are dealt with other than by a planning authority. Subsection (1)(b) of section 56DA applies to applications for, or for the continuation of, hazardous substances consent referred to the Secretary of State under section 32 of the 1972 Act as having effect by virtue of section 56F.

Section 56F, however, applies section 32 of the 1972 Act only in relation to application for hazardous substances consent. Applications for the continuation of such consent are dealt with in section 56K, subsection (10) of which applies section 32 in relation to such applications.

The reference to applications for the continuation of hazardous substances consent in the opening words of section 56DA(1) indicates that the regulation-making power was intended to apply to such applications. The failure of subsection (1)(b) to achieve this by including a reference to section 56K as well as to 56F appears to be an oversight. We therefore **recommend**:

> **39. That section 56DA(1)(b) of the 1972 Act is amended to include a reference to section 32 of that Act as having effect by virtue of section 56K.**

Effect is given to this recommendation in clause 29(1) of the Planning (Hazardous Substances) (Scotland) Bill.

40. Rights of entry in connection with compensation following modification or revocation of hazardous substances consent

Section 56J(8) of the 1972 Act applies section 159 of that Act (which provides for compensation where an order is made under section 49) to the case where a planning authority modify or revoke a hazardous substances consent under section 56J(3).

Section 56K(12) of the 1972 Act makes provision for compensation in respect of loss or damage attributable to the modification or revocation of a hazardous substances consent by a planning authority following an application to them for the continuation of the consent on a change of the person in control of the land in question.

Section 265(6) of the 1972 Act gives valuation officers and persons authorised by a planning authority a right to enter land to survey it or estimate its value in connection with claims for compensation under certain provisions of the 1972 Act. Those provisions include Part VIII (in which section 159 is situated) but not section 56K.

It is arguable, therefore, that the right of entry under section 265(6) is available in relation to compensation claims under section 56J(8) but not those under section 56K(12). We cannot see any reason for such a distinction and we therefore **recommend**:

> **40. That section 265(6) of the 1972 Act is amended to include a reference to compensation payable by a planning authority under section 56K(12) of that Act.**

Effect is given to this recommendation in clause 33(3) of the Planning (Hazardous Substances) (Scotland) Bill.

41. Deemed hazardous substances consent for public gas transporters

Section 56G of the 1972 Act empowers a government department, on granting to statutory undertakers a statutory authorisation for a development which would require hazardous substances consent, to direct that such consent is deemed to be granted.

Paragraph 2(1)(xxv) of Schedule 7 to the Gas Act 1986 (c.44) deemed a public gas supplier to be a statutory undertaker for the purposes of various specified provisions of the 1972 Act. Paragraph 8 of Part II of Schedule 7 to the Housing and Planning Act 1986 (c.63) amended that list to include a reference to section 56G, in consequence of the insertion in the 1972 Act of the new hazardous substances provisions.

Paragraph 2(1)(xix) of Schedule 4 to the Gas Act 1995 (c.45) similarly provided that a public gas transporter is deemed to be a statutory undertaker for the purposes of various provisions of the 1972 Act. The list of provisions, however, replicates that originally found in the Gas Act 1986 and fails to mention section 56G. This appears to have been an oversight, and we therefore **recommend**:

> **41. That section 56G of the 1972 Act is included in the provisions of that Act listed in paragraph 2(1)(xix) of the Gas Act 1995 as applying to public gas transporters as if they were statutory undertakers.**

Effect is given to this Recommendation in clause 38(4) of the Planning (Hazardous Substances) (Scotland) Bill.

42. Repeal of section 18(7) and (8) of the 1972 Act

Section 18(7) and (8) of the 1972 Act imposes an obligation on the Secretary of State to prepare and maintain a register indicating in which areas the structure and local plan regime of Part II of the 1972 Act has come into force. The provisions as to development plans in Part II of the 1972 Act were brought into force by orders made on a selective basis area by

area, finally coming into operation for all areas in May 1975. The registers also recorded the orders bringing into force Part I of Schedule 21 to the 1972 Act when a structure plan for an area was approved and came into force, but there have been structure plans in force for the whole of Scotland since 1989.

Section 18(7) and (8) does not have any application in relation to sections 4A and 5(1A) to (1D) of the 1972 Act, inserted by the Local Government etc, (Scotland) Act 1994 (c.39), which make provision regarding the designation by the Secretary of State of new structure plan areas and the making of new structure plans following the local government reorganisation effected by the 1994 Act.

It is considered that subsections (7) and (8) of section 18 were therefore of transitory value only. Now that orders have been made for all the areas to which the regime may apply, we **recommend**:

> **42. That subsections (7) and (8) of section 18 of the 1972 Act are repealed as serving no further useful purpose.**

Effect is given to this recommendation in Schedule 1 to the Planning (Consequential Provisions) (Scotland) Bill.

43. Functions which may be given to urban development corporations

Under section 149 of the Local Government, Planning and Land Act 1980 (c.65) urban development corporations may be the planning authority for their area if it is so provided by order. Such an order may give them functions under the provisions mentioned in Part I of Schedule 30 to that Act. Those provisions include sections 84 and 87 of the 1972 Act, which give power to serve enforcement notices and stop notices, and many of the supplementary provisions about those matters. They do not include section 87A, which was inserted in the 1972 Act by the Local Government and Planning (Scotland) Act 1982 (c.43) and imposes duties on planning authorities to keep a register of enforcement notices which relate to land in their area.

There seems no reason why urban development corporations with enforcement functions should not also have the function of keeping the associated registers. We consider that the failure to amend Part I of Schedule 30 to the 1980 Act was an oversight. We therefore **recommend**:

> **43. That functions under section 87A of the 1972 Act are included among those which can be given to urban development corporations under section 149 of the Local Government, Planning and Land Act 1980 (c.65).**

Effect is given to this recommendation in the amendment of Part I of Schedule 30 to the 1980 Act in Schedule 2 to the Planning (Consequential Provisions) (Scotland) Bill.

Appendix 2

BODIES AND PERSONS CONSULTED ON RECOMMENDATIONS

Scottish Office
Department of the Environment
Department of the Environment (Northern Ireland)
Ministry of Defence

****

All Scottish local authorities

****

AA
Action of Churches Together in Scotland
Peter P C Allan (Town Planning Consultants) Ltd
Ancient Monuments Board for Scotland
Anderson Strathearn WS
Angus Matheson Associates
Architectural Heritage Fund
Architectural Heritage Society of Scotland
Argyll and the Islands Enterprise
Association for the Protection of Rural Scotland
Association of Chambers of Commerce
Association of Conservation Officers
Association of Consulting Engineers
Association of Preservation Trusts
Association of Scottish Community Councils
Atkins – Scotland WS
Auris Environmental
Babtie Environmental Sciences
Babtie Geotechnical
BACMI
John Ballantyre
Baptist Church
Barbour Index
James Barr and Son
Barton Wilmore Partnership
Baxter Clark and Paul
Beazer Homes (Scotland) Ltd
Steve Beebe Associates
Bell and Scott WS
Bell College of Technology

Bell-Ingram
Bernard Thorpe and Partners
Blyth and Blyth Group
Bishop Robertson Chalmers
Richard Bowden
BP Exploration
Brechin Robb
British Coal
British Gas
British Holiday and Home Parks Association
British Rail Property Board
British Telecom
British Waterways
Brodies WS
Colin Buchanan and Partners
Building Design Partnership
W and J Burness WS
Richard Bush
Caird Environmental Ltd
Cairngorms Partnership
R P S Cairns Ltd
Caithness and Sutherland Enterprise
Cala Homes (Scotland) Ltd
Cameron Farningham Associates
CBI Scotland
CBT
Central Scotland Water Development Board
Centre for Environment and Business in Scotland
Chapman Warren
Charlton Smith Partnership
Chartered Institute of Housing
Chesterton Consulting
Chief Rabbi
Chief Valuer (Scotland)
Church of Scotland
Citizens' Advice Scotland
Clay Colliery Co Ltd
Clifford Chance
Coal Authority
Cockburn Association
Commissioner for Local Administration
Comprehensive Design
Confederation of UK Coal Producers
Congregational Federation
Congregational Union of Scotland
Controller of Audit
Convention of Scottish Local Authorities
David Cooper
Coopers and Lybrand

Council for British Archaeology
Council for Scottish Archaeology
Council on Tribunals, Scottish Committee
William Cowie Partnership
Crown Estate Office
Cyclists' Touring Club
Ruth Day
Deloitte and Touche
Development Planning Partnership
Donalds
Dounreay Service Contractors
Drivers Jonas
DTZ Debenham Thorpe
Dumfries and Galloway Enterprise
Dunbartonshire Enterprise
Duncan of Jordanstone College of Art
Dundas and Wilson CS
Dundee Institute of Technology
East of Scotland Development Corporation
EDAW CR Planning
Edinburgh College of Art
Edinburgh New Town Conservation Committee
Edinburgh Old Town Renewal Trust
Enterprise Ayrshire
Environmental Health (Scotland) Unit
EPEC Ltd
ERM
Europa Nostra
Eve Gerard
Faculty of Advocates
W A Fairhurst and Partners
Fairhurst Environmental DIV
Farming and Wildlife Advisory Group
Federation of Civil Engineering Contractors
Federation of Small Businesses
Fife Enterprise
Fluor Daniel Ltd
Brian Foot and Associates
Forestry Commission
Forth Valley Enterprise
Free Church of Scotland
Free Presbyterian Church
Friends of the Earth Scotland
Garden History Society
Gillespies
Glasgow Building Preservation Trust
Glasgow Development Agency
Glasgow Polytechnic
Glasgow West Conservation Trust

Grampian Enterprise Ltd
Aileen M Grant
Greek Orthodox Church
Grimley G R Eve
Halcrow Fox and Associates
Halliday, Fraser, Munro Planning
Haniford Di Ciacca Semple Fraser
Headland South Ltd
Healey and Baker
Health and Safety Executive
G L Hearn and Partners
Jane Henry
Heriot-Watt University
Highland and Islands Enterprise
T C Hill
Hillier Parker
Historic Buildings Council for Scotland
Historic Houses Association
Historic Scotland
P Holmes
Holford Associates
Miss Jamese Hunter
Institute of Chartered Foresters
Institute of Management
Institution of Civil Engineers
Inverness and Nairn Enterprise
Ironside Farrar
Irvine Development Corporation
David Jamieson
Jenkins and Marr
Junior Chamber Scotland
Keeper of the Registers of Scotland
Andrew Kennedy
Keppie Planners
Kinross-shire Civic Trust
Lanarkshire Development Agency
Landscape Architecture and Planning
Law and Dunbar-Naismith
Law Society of Scotland
Livingston Development Corporation
Lochaber Limited
Loch Lomond Park Authority
London and Clydesdale Estates Ltd
Lothian and Edinburgh Enterprise Ltd
Bill Love Partnership
Lynch (Builders) Ltd
McClure, Naismith Anderson and Gardiner
McGrigor Donald
McInally Associates

D W McIntosh
J McIntyre
McKenna and Co
John McLaughlin
J McSparran and McCormick
MI Great Britain
Malloy Smith Associates
Manchester City Council
Robert Martin
Brian Meehan
Mercury Communications
Miller Homes
James S Miller
Montagu Evans
Montgomery Forgan Associates
Moray, Badenoch and Strathspey Enterprise
Morrison Homes Ltd
Morton Fraser & Milligan WS
MPM
W I Munro
Napier University Law School
Nathaniel Lichfield and Partners Ltd
National Farmers Union
National Heritage Memorial Fund
National Museums of Scotland
National Trust for Scotland
National Union of Farmers Scotland
NBS Services
North East Preservation Trust
Northern College of Education
Norwich Union
M O'Carroll
Ogilvie Homes Ltd
Orange Personal Communications Services Ltd
Orkney Enterprise
Orkney Heritage Society
Oscar Saber
Gerald Park
Parnell and Associates
Planning Exchange
Planning Housing Construction Policy Group
Alan Prior Consultancy
Property Maintenance and Developments
Railway Heritage Trust
J D Ramsay
Raynor Associates
Reformed Synagogues of Great Britain
Rendel Palmer and Tritton
Renfrewshire Enterprise Co

Mrs Greta Roberts
Alistair J Robertson
K W Robertson
Andrew Robinson
Roman Catholic Archdiocese
Romm and Hass (Scotland) Ltd
Ross and Cromarty Enterprise
Royal Commission on the Ancient and Historic Monuments of Scotland
Royal Fine Art Commission for Scotland
Royal Incorporation of Architects in Scotland
Royal Institution of Chartered Surveyors in Scotland
Royal Society for the Protection of Birds
Royal Town Planning Institute
Royal Town Planning Institute (Scotland)
Rural Forum
Alexander Russell Plc
Ryden
Saltire Society
Sand and Gravel Association
Sandwell Information Service
Scottish and Westminster Communication
Scottish Agricultural College
Scottish Airports Ltd
Scottish Association for Public Transport
Scottish Borders Enterprise
Scottish Civic Trust
Scottish Conservation Projects Trust
Scottish Consumer Council
Scottish Engineering
Scottish Enterprise
Scottish Enterprise Tayside
Scottish Environmental Protection Agency
Scottish Episcopal Church
Scottish Federation of Housing Associations
Scottish Historic Buildings Trust
Scottish Homes
Scottish Housebuilders' Association
Scottish Hydro-Electric plc
Scottish Landowners Federation
Scottish National Housing and Town Planning Council
Scottish Natural Heritage
Scottish Nuclear Ltd
Scottish Outdoor Advertising Council
Scottish Power plc
Scottish Power Technology
Scottish Prison Service
Scottish Rights of Way Society
Scottish Scenic Trust
Scottish Sports Council

Scottish Trades Union Congress
Scottish Wildlife Trust
Scottish Woodlands Ltd
Shell UK Exploration and Production
J and E Shepherd
Shepherd and Wedderburn WS
Shetland Amenity Trust
Shetland Enterprise
SIAS Ltd
Skye and Lochalsh Enterprise
Alexander H Smith
Society of Antiquaries of Scotland
Society of Directors of Administration in Scotland
Society of Town Planning Technicians
Society for the Protection of Ancient Buildings
Steedman Ramage WS
Stirrat Park Hogg
Strathclyde Building Preservation Trust
Tarmac Roadstone
Tay Homes
Tayside Building Preservation Trust
Timber Growers UK
Town and Country Planning Association Scotland
Tods Murray WS
Town Planning Consultancy
J S Traill
Robert Turley Associates
Roger Tym and Partners (Scotland)
UK2000
UKAEA
UK Environmental Law Association
Unison Scotland
United Fireclay Products Ltd
University of Aberdeen
University of Birmingham
University of Dundee
University of Edinburgh
University of Exeter
University of Leicester
University of Paisley
University of St Andrews
University of Strathclyde
John M Watchman
David Waugh
Western Isles Enterprise
West of Scotland Planning Officers Forum
D Whittet
Michael J Wilkinson
Wimpey Asphalt Ltd

Women's National Commission
G A Whyte
Eric Young