

PLANNING ETC. (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 3 – Development Management

Section 24 – Good neighbour agreements

141. **Section 24** inserts new sections into the 1997 Act to govern the operation of good neighbour agreements.
142. **New section 75D – Good neighbour agreements** – allows a person to enter into a good neighbour agreement with a community body. Subsections (2) to (4) define which bodies may be community bodies for the purposes of a good neighbour agreement. Subsection (6) further describes the requirements that can be specified in an agreement and subsection (7) describes conditions that may be attached to the agreement. Subsection (9) makes provision for good neighbour agreements to be recorded in the Register of Sasines or registered in the Land Register for Scotland. Where an agreement has been recorded/registered then the obligation is enforceable against the owner, tenant or other person entering into the agreement. Subsection (10) provides that any new owner of the land will be bound by the agreement unless it has been acquired in advance of the agreement being registered/recorded.
143. **New section 75E – Good neighbour agreements: modification and discharge of obligations** – sets out the circumstances under which an obligation under a good neighbour agreement can be modified or discharged and the process by which either party may apply to the planning authority for its determination if they are unable to reach agreement on the modifications or discharge. Subsection (4) confirms that any application for modification should not impose an obligation on any non-applicant. Subsections (5) to (8) set out the effect of the planning authority's determination, the requirement to give notice of their determination and when any modification or discharge is to take effect. Subsection (9) give the Scottish Ministers the power to make regulations with respect to applications for determination.
144. **New section 75F – Good neighbour agreements: appeals** – sets out the circumstances under which either party may serve a notice on the Scottish Ministers, appealing against the planning authority's determination or failure to make a determination within the period prescribed under section 75E(6). The Scottish Ministers have the power to make regulations on the form, content and notice periods for appeals. The determination of an appeal to the Scottish Ministers may be appealed to the Court of Session in accordance with the terms of section 239 of the 1997 Act.
145. **New section 75G – Good neighbour agreements: continuing liability of former owner etc.** – sets out the circumstances in which an owner of land does not cease to be bound by an obligation contained in a good neighbour agreement when ceasing to be the owner of that land. Under subsection (4), unless the good neighbour agreement states otherwise, a person who becomes an owner of land subject to an obligation is severally liable with any former owner, but may recover any expenditure incurred from the former owner.