



Planning etc. (Scotland) Act 2006

2006 asp 17

PROSPECTIVE

PART 7

ASSESSMENT

30 Assessment of planning authority's performance or decision making

After Part 12 of the principal Act insert—

“PART 12A

ASSESSMENT OF PLANNING AUTHORITY'S PERFORMANCE OR DECISION MAKING

251A Assessment of planning authority's performance

The Scottish Ministers may conduct, or appoint a person (in this section and in section 251C referred to as the “appointed person”) to conduct on their behalf, an assessment of a planning authority's performance—

- (a) of functions generally under the planning Acts, or
- (b) of particular functions under those Acts,

(not being an assessment which may be conducted under section 251B).

251B Assessment of planning authority's decision making

- (1) The Scottish Ministers may conduct, or appoint a person (in this section and in section 251C referred to as the “appointed person”) to conduct on their behalf, an assessment of how a planning authority deal with applications for planning permission, and in particular as to the basis on which determinations have been made, the processes by which they have been made and as to whether they have been made in accordance with the development plan or in conformity with advice given to the authority by the Scottish Ministers.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Planning etc. (Scotland) Act 2006, Part 7. (See end of Document for details)

- (2) No such assessment is to have regard to a decision made by a planning authority within the period of one year which immediately precedes the assessment being notified under section 251C(1).

251C Further provision as respects assessment of performance or decision making

- (1) Before conducting, or appointing a person to conduct, an assessment under section 251A or 251B, the Scottish Ministers are to notify the planning authority of their intention in that regard and as to the intended scope of the assessment; and on making any such appointment they are to advise the planning authority as to the identity of the appointed person.
- (2) Without prejudice to the generality of subsection (1), in determining for the purposes of that subsection the intended scope of an assessment under section 251B the Scottish Ministers may in particular relate their determination to (any or all)—
- (a) a type of application for planning permission,
 - (b) a period of time within which such an application was made, or
 - (c) a geographical area.
- (3) For the purposes of any assessment conducted under section 251A or 251B, the Scottish Ministers or the appointed person may require access at all reasonable times—
- (a) to any premises of the planning authority, and
 - (b) to any document relating to the authority which appears to the Scottish Ministers, or as the case may be to the appointed person, to be necessary for the purposes of the assessment.
- (4) As the case may be—
- (a) the Scottish Ministers may require a person holding or accountable for any such document—
 - (i) to give them such information and explanation as they think necessary for those purposes, and
 - (ii) to attend in person before them to give the information or explanation or to produce the document, or
 - (b) the appointed person may require a person so holding or accountable—
 - (i) to give the appointed person such information and explanation as the appointed person thinks necessary for those purposes, and
 - (ii) to attend in person before the appointed person to give the information or explanation or to produce the document.
- (5) The planning authority must provide the Scottish Ministers, or as the case may be the appointed person, with—
- (a) every facility, and
 - (b) all information,
- which the Scottish Ministers or the appointed person may reasonably require to be provided for the purposes of the assessment.

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- (6) The Scottish Ministers are, or as the case may be the appointed person is—
 - (a) to give 3 clear days' notice of any requirement under this section, and
 - (b) must, if reasonably required to do so by the planning authority, produce a document of identification.
- (7) A person who without reasonable excuse fails to comply with a requirement made of the person under subsection (3), (4) or (5) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

251D Report of assessment

- (1) On completion of an assessment conducted under section 251A or 251B—
 - (a) by the Scottish Ministers, they are—
 - (i) to prepare a report, and
 - (ii) to issue it to the planning authority, or
 - (b) by an appointed person, that person is—
 - (i) to prepare a report,
 - (ii) to submit it to the Scottish Ministers, and
 - (iii) to issue it to the planning authority.
- (2) A report prepared under subsection (1)(a)(i) or (1)(b)(i) is in this section referred to as an “assessment report”.
- (3) The assessment report may in the case of an assessment carried out under—
 - (a) section 251A, recommend improvements which the planning authority should make as to how they carry out their functions under the planning Acts, and
 - (b) section 251B, recommend improvements which the planning authority should make as to how they deal with applications for planning permission.
- (4) A planning authority receiving an assessment report are, within the 3 months which immediately follow such receipt or within such longer period as may be agreed between them and the Scottish Ministers, to prepare and to submit to the Scottish Ministers a report (in this section referred to as a “response report”) as to—
 - (a) the extent to which, the manner in which and the period within which they propose to implement the recommendations of the assessment report, or
 - (b) in so far as they decline to implement those recommendations, their reasons for so declining.
- (5) Any person who—
 - (a) issues an assessment report to a planning authority, or
 - (b) submits a response report to the Scottish Ministers,is to publish it.
- (6) If—
 - (a) the planning authority decline to implement recommendations of the assessment report, or

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- (b) it appears to the Scottish Ministers that the planning authority are not timeously carrying out such implementation as the authority proposed in the response report,
the Scottish Ministers may issue a direction to the planning authority requiring them to take such action as is specified in the direction.
- (7) The Scottish Ministers may vary or revoke a direction issued under subsection (6).
- (8) The Scottish Ministers are to publish—
 - (a) any direction issued under subsection (6), and
 - (b) any variation or revocation of such a direction.
- (9) In this section, “publish” includes, without prejudice to that expression's generality, publish by electronic means (as for example by means of the internet).”.

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