



Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

1972 CHAPTER 52

PART III

GENERAL PLANNING CONTROL

Modifications etc. (not altering text)

- C1** Pt. III excluded by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 149\(6\)\(9\)](#)
- C2** Pt. III (ss. 19-51) extended (1.1.1997) by [1995 c. 25, s. 96\(3\)](#) (with ss. 7(6), 115, 117); [S.I. 1996/2857, art. 2](#)

Meaning of development and requirement of planning permission

19 Meaning of “development” and “new development”.

- (1) In this Act, except where the context otherwise requires, “development”, subject to the following provisions of this section, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

[^{F1}(1A) For the purposes of this Act “building operations” includes—

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.]

- (2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land, that is to say—

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- (a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building and (in either case) are not works for making good war damage or works begun after 7th December, 1969 for the alteration of a building by providing additional space therein below ground;
 - (b) the carrying out by a local [^{F2}roads] authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road;
 - (c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any [^{F2}road] or other land for that purpose;
 - (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;
 - (e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;
 - (f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, [^{F3}the use of the buildings or other land or, subject to the provisions of the order, of any part thereof] for any other purpose of the same class.
 - [^{F4}(g) the demolition of any description of building specified in a direction given by the Secretary of State to planning authorities generally or to a particular planning authority.]
- (3) For the avoidance of doubt it is hereby declared that for the purposes of this section—
- (a) the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part thereof which is so used;
 - (b) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if either the superficial area of the deposit is thereby extended, or the height of the deposit is thereby extended and exceeds the level of the land adjoining the site.

[^{F5}(3A) For the purposes of this Act mining operations include—

- (a) the removal of material of any description—
 - (i) from a mineral-working deposit;
 - (ii) from a deposit of pulverised fuel ash or other furnace ash or clinker; or
 - (iii) from a deposit of iron, steel or other metallic slags; and
- (b) the extraction of minerals from a disused railway embankment.]

[^{F6}(3B) Where the placing or assembly of any tank in any part of any inland waters for the purpose of fish farming there would not, apart from this subsection, involve development of the land below, this Act shall have effect as if the tank resulted from carrying out engineering operations over that land; and in this subsection—

“fish farming” means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean or mollusc);

“inland waters” means waters which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows; and

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“tank” includes any cage and any other structure for use in fish farming.]

- (4) Without prejudice to any regulations made under the provisions of this Act relating to the control of advertisements, the use for the display of advertisements of any external part of a building which is not normally used for that purpose shall be treated for the purposes of this section as involving a material change in the use of that part of the building.

^{F7}(5)

Textual Amendments

- F1** S. 19(1A) inserted (3.2.1995) by Planning and Compensation Act 1991 (c. 34), s. 44(1) (with s. 84(5)); S.I. 1994/3292, art. 3
- F2** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 70(3) (with s. 128(1))
- F3** Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53, Sch. 11 Pt. II para. 29
- F4** S. 19(2)(g) inserted (3.2.1995) by Planning and Compensation Act 1991 (c. 34), s. 44(2) (with s. 84(5)); S.I. 1994/3292, art. 3
- F5** S. 19(3A) inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), ss. 19(1), 35
- F6** S. 19(3B) inserted (10.8.1992) by Planning and Compensation Act 1991 (c. 34), s. 45(1) (with ss. 45(2), 84(5)); S.I. 1992/1937, art. 3 (with art. 5)
- F7** S. 19(5) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34), ss. 60(6), 84(6), Sch. 12 para. 7, Sch. 19 Pt. IV (with s. 84(5)); S.I. 1991/2092, art. 3, Sch. 1

Modifications etc. (not altering text)

- C3** S. 19 extended by Civil Aviation Act 1982 (c. 16), Sch. 2, para 4; amended by British Telecommunications Act 1981 (c. 38), Sch. 3 para. 10(2)(d)
- C4** S. 19 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with Sch. 8 para. 33)
- S. 19 extended (1.3.1996) by 1995 c. 45, s. 16(1), Sch. 4 para. 2(1)(xix); S.I. 1996/218, art. 2
- C5** S. 19 amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, 35(1))

20 Development requiring planning permission.

- (1) Subject to the provisions of this section, planning permission is required for the carrying out of any development of land.
- (2) Where on 1st July 1948 (in this Act referred to as “the appointed day”) land was being temporarily used for a purpose other than the purpose for which it was normally used, planning permission is not required for the resumption of the use of the land for the last-mentioned purpose before 8th December 1969.
- (3) Where on the appointed day land was normally used for one purpose and was also used on occasions, whether at regular intervals or not, for another purpose, planning permission is not required—
- (a) in respect of the use of the land for that other purpose on similar occasions before 8th December 1969; or
- (b) in respect of the use of the land for that other purpose on similar occasions on or after that date if the land has been used for that other purpose on at least one similar occasion since the appointed day and before the beginning of 1969.

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- (4) Where land was unoccupied on the appointed day, but had before that day been occupied at some time on or after 7th January 1937, planning permission is not required in respect of any use of the land begun before 8th December 1969 for the purpose for which the land was last used before the appointed day.
- (5) Where planning permission to develop land has been granted for a limited period, planning permission is not required for the resumption, at the end of that period, of the use of the land for the purpose for which it was normally used before the permission was granted.
- (6) In determining, for the purposes of subsection (5) of this section, what were the purposes for which land was normally used before the grant of planning permission, no account shall be taken of any use of the land begun in contravention of the provisions of this Part of this Act or in contravention of previous planning control.
- (7) Notwithstanding anything in subsections (2) to (4) of this section, the use of land as a caravan site shall not, by virtue of any of those subsections, be treated as a use for which planning permission is not required, unless the land was so used on one occasion at least during the period of two years ending with 9th March 1960.
- (8) Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is the normal use of that land, unless the last-mentioned use was begun in contravention of the provisions of this Part of this Act or in contravention of previous planning control.
- (9) Where an enforcement notice has been served in respect of any development of land, planning permission is not required for the use of that land for the purpose for which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.
- (10) For the purposes of this section a use of land shall be taken to have been begun in contravention of previous planning control if it was begun in contravention of the provisions of Part II of the Act of 1947.

Development orders

21 Development orders.

- ^{F8}(1) The Secretary of State shall by regulations under this Act or by order provide for the granting of planning permission.
- (2) An order under this section (in this Act referred to as a “development order”) may itself grant planning permission for development specified in the order, or for development of any class so specified, and may be made either—
 - (a) as a general order applicable, except so far as it otherwise provides, to all land, but which may make different provision with respect to different descriptions of land; or
 - (b) as a special order applicable only to such land or descriptions of land as may be specified in the order.
- (3) In respect of development for which planning permission is not granted by a development order, regulations under this Act or an order may provide for the granting of planning permission by the planning authority (or, in the cases hereinafter provided

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for, by the Secretary of State) on an application in that behalf made to the planning authority in accordance with the regulations or the order.]

- (4) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.
- (5) Without prejudice to the generality of subsection (4) of this section—
- (a) where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the . . . ^{F9} planning authority to be obtained with respect to the design or external appearance of the buildings;
 - (b) where planning permission is granted by a development order for development of a specified class, the order may enable the Secretary of State or the . . . ^{F9} planning authority to direct that the permission shall not apply either in relation to development in a particular area or in relation to any particular development.
- (6) Any provision of a development order whereby permission is granted for the use of land for any purpose on a limited number of days in a period specified in that provision shall (without prejudice to the generality of references in this Act to limitations) be taken to be a provision granting permission for the use of land for any purpose subject to the limitation that the land shall not be used for any one purpose in pursuance of that provision on more than that number of days in that period.
- (7) For the purpose of enabling development to be carried out in accordance with planning permission, or otherwise for the purpose of promoting proper development in accordance with the development plan, a development order may direct that any enactment passed before 13th August 1947 or any regulations, orders or byelaws made at any time under any such enactment, shall not apply to any development specified in the order, or shall apply thereto subject to such modifications as may be so specified.

Textual Amendments

- F8** S. 21(1)-(3) substituted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13 para. 5](#) (with s. 84(5)); S.I. 1991/2092, [art.3](#)
- F9** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)

Modifications etc. (not altering text)

- C6** S. 21 extended by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 148(2)
- C7** S. 21 amended by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), Sch. 4 para. 54(2), [Sch. 5 para. 45](#)

[^{F10} Simplified planning zone schemes]

Textual Amendments

- F10** Ss. 21A–21E inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 26(1)

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[^{F11}21A Simplified planning zones.

- (1) A simplified planning zone is an area in respect of which a simplified planning zone scheme is in force.
- (2) The adoption or approval of a simplified planning zone scheme has effect to grant in relation to the zone, or any part of it specified in the scheme, planning permission for development specified in the scheme or for development of any class so specified.
- (3) Planning permission under a simplified planning zone scheme may be unconditional or subject to such conditions, limitations or exceptions as may be specified in the scheme.
- (4) Every planning authority—
 - (a) shall consider, as soon as practicable after this section comes into operation, the question for which part or parts of their district a simplified planning zone scheme is desirable, and shall thereafter keep that question under review; and
 - (b) shall prepare a scheme for any such part for which they decide, as a result of their original consideration or of any such review, that it is desirable to do so.
- (5) The provisions of Schedule 6A to this Act have effect with respect to the making and alteration of simplified planning zone schemes and other related matters.]

Textual Amendments

F11 Ss. 21A-21E inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 26(1)

[^{F12}21B Simplified planning zone schemes: conditions and limitations on planning permission.

- (1) The conditions and limitations on planning permission which may be specified in a simplified planning zone scheme may include—
 - (a) conditions or limitations in respect of all development permitted by the scheme or in respect of particular descriptions of development so permitted, and
 - (b) conditions or limitations requiring the consent, agreement or approval of the planning authority in relation to particular descriptions of permitted development;
 and different conditions or limitations may be specified for different cases or classes of case.
- (2) Nothing in a simplified planning zone scheme shall affect the right of any person—
 - (a) to do anything not amounting to development, or
 - (b) to carry out development for which planning permission is not required or for which permission has been granted otherwise than by the scheme;
 and no limitation or restriction subject to which permission has been granted otherwise than under the scheme shall affect the right of any person to carry out development for which permission has been granted under the scheme.]

Textual Amendments

F12 Ss. 21A–21E inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 26(1)

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[^{F13}21C Duration of simplified planning zone scheme.

- (1) A simplified planning zone scheme shall take effect on the date of its adoption or approval and shall cease to have effect at the end of the period of ten years beginning with that date.
- (2) Upon the scheme's ceasing to have effect planning permission under the scheme shall also cease to have effect except in a case where the development authorised by it has been begun.
- (3) The provisions of section 41(2) to (6) of this Act (which provide for the termination of planning permission if the completion of development is unreasonably delayed) apply to planning permission under a simplified planning zone scheme where development has been begun but not completed by the time the area ceases to be a simplified planning zone.
- (4) The provisions of section 40(1) to (3) of this Act apply in determining for the purposes of this section when development shall be taken to be begun.]

Textual Amendments

F13 Ss. 21A–21E inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 26(1)

[^{F14}21D Alteration of simplified planning scheme.

- (1) The adoption or approval of alterations to a simplified planning zone scheme has effect as follows.
- (2) The adoption or approval of alterations providing for the inclusion of land in the simplified planning zone has effect to grant in relation to that land or such part of it as is specified in the scheme planning permission for development so specified or of any class so specified.
- (3) The adoption or approval of alterations providing for the grant of planning permission has effect to grant such permission in relation to the simplified planning zone, or such part of it as is specified in the scheme, for development so specified or development of any class so specified.
- (4) The adoption or approval of alterations providing for the withdrawal of relaxation of conditions, limitations or restrictions to which planning permission under the scheme is subject has effect to withdraw or relax the conditions, limitations or restrictions forthwith.
- (5) The adoption or approval of alterations providing for—
 - (a) the exclusion of land from the simplified planning zone,
 - (b) the withdrawal of planning permission, or
 - (c) the imposition of new or more stringent conditions, limitations or restrictions to which planning permission under the scheme is subject,has effect to withdraw permission, or to impose the conditions, limitations or restrictions, with effect from the end of the period of twelve months beginning with the date of the adoption or approval.

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- (6) The adoption or approval of alterations to a scheme does not affect planning permission under the scheme in any case where the development authorised by it has been begun.

The provisions of section 40(1) to (3) of this Act apply in determining for the purposes of this subsection when development shall be taken to be begun.]

Textual Amendments

F14 Ss. 21A–21E inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), **s. 26(1)**

[^{F15}21E Exclusion of certain descriptions of land or development.

- (1) The following descriptions of land may not be included in a simplified planning zone—
- (a) land in a conservation area;
 - (b) land in a National Scenic Area;
 - (c) land identified in the development plan for the area as part of a green belt;
 - (d) land in respect of which a notification or order is in force under section 28 or 29 of the Wildlife and Countryside Act ^{M1}1981 (areas of special scientific interest).
- (2) Where land included in a simplified planning zone becomes land of such a description, subsection (1) does not have effect to exclude it from the zone.
- (3) The Secretary of State may by order provide that no simplified planning zone scheme shall have effect to grant planning permission—
- (a) in relation to an area of land specified in the order or to areas of land of a description so specified, or
 - (b) for development of a description specified in the order.
- (4) An order under subsection (3) has effect to withdraw such planning permission under a simplified planning zone scheme already in force with effect from the date on which the order comes into force, except in a case where the development authorised by the permission has been begun.

The provisions of section 40(1) to (3) of this Act apply in determining for the purposes of this subsection when development shall be taken to be begun.]

Textual Amendments

F15 Ss. 21A–21E inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), **s. 26(1)**

Marginal Citations

M1 1981 c.69(4:5).

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Applications for planning permission

22 Form and content of applications.

[^{F16}(1)] Any application to a . . . ^{F17} planning authority for planning permission shall be made in such manner as may be prescribed by regulations under this Act [^{F18}or by a development order], and shall include such particulars, and be verified by such evidence, as may be required [^{F19}by—

- (a) the regulations; or
- (b) the development order; or
- (c) directions given by the planning authority under the said regulations or the said development order.]

[^{F20}(2) In subsection (1) above “planning authority” includes a regional planning authority.]

Textual Amendments

- F16** Word inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 2 para. 2\(a\)](#)
- F17** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F18** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 2 para. 2\(b\)](#)
- F19** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 2, para. 2\(c\)](#)
- F20** S. 22(2) added by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 2 para. 2\(d\)](#)

[^{F21}23 Publication of notices of applications.

(1) Subject to subsection (2) below, [^{F22}regulations under this Act or]a development order may provide, either in relation to applications generally or in relation to applications of a class or classes prescribed in the order, that—

- (a) any such application shall have been notified to such persons or classes of person, and in such manner, as may be so prescribed;
- (b) any such application shall have been advertised, either in a local newspaper or on the land to which the application relates, or both, in such a manner and for such a period or on such a number of occasions as may be so prescribed;
- (c) any newspaper advertisement required by virtue of paragraph (b) above shall be placed by the planning authority to whom the application is made;
- (d) the planning authority may recover from the applicant the cost incurred by them in arranging any such advertisement;
- (e) any such application shall be accompanied by such certificates as to compliance with the requirements of provisions made under paragraphs (a) and (b) above as may be so prescribed;
- (f) the applicant shall furnish, at such time and to such persons as may be so prescribed, such information with respect to the application as may be so prescribed;
- (g) no such application shall be entertained unless such further conditions as to payment as may be so prescribed have been complied with;
- (h) no such application shall be determined until after the expiry of any period which may be so prescribed.

(2) The applications mentioned in subsection (1) above are—

- (a) applications for planning permission;

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- (b) applications for an approval required by a development order; or
 - (c) applications for any consent, agreement or approval required by a condition imposed on a grant of planning permission.
- (3) If any person knowingly or recklessly—
- (a) issues a notification; or
 - (b) makes advertisement (other than newspaper advertisement); or
 - (c) supplies a certificate,
- which purports to comply with provisions made under subsection (1) above but which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding [^{F23}level 3 on the standard scale].]
- [^{F24}(4) A planning authority shall not entertain any application for planning permission unless any requirements imposed by virtue of this section have been satisfied.
- (5) Proceedings for an offence under this section may be brought at any time within the period of two years following the commission of the offence.]

Textual Amendments

- F21** S. 23 substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), ss. 41, 69\(2\)](#)
- F22** Words in s. 23(1) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 61, Sch. 13 para. 6\(a\)](#) (with s. 84(5)); S.I. 1991/2092, [art.3](#)
- F23** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\), ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\), s. 54](#))
- F24** S. 23(4)(5) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 61, Sch. 13 para. 6\(b\)](#) (with s. 84(5)); S.I. 1991/2092, [art.3](#)

Modifications etc. (not altering text)

- C8** S. 23 applied (1.1.1997) by [1995 c. 25, s. 96\(1\), Sch. 13 para. 7\(6\)](#) (with ss. 7(6), 115, 117); S.I. 1996/2857, [art. 2](#)
 S. 23 applied (1.1.1997) by [1995 c. 25, s. 96\(1\), Sch. 14 para. 6\(4\)](#) (with ss. 7(6), 115, 117); S.I. 1996/2857, [art. 2](#)
- C9** S. 23 extended (1.1.1997) by [1995 c. 25, s. 96\(1\), Sch. 13 para. 9\(4\)](#) (with ss. 7(6), 115, 117); S.I. 1996/2857, [art. 2](#)
- C10** S. 23(3) extended (1.1.1997) by [1995 c. 25, s. 96\(1\), Sch. 13 para. 7\(6\)](#) (with ss. 7(6), 115, 117); S.I. 1996/2857, [art. 2](#)
 S. 23(3) extended (1.1.1997) by [1995 c. 25, s. 96\(1\), Sch. 13 para. 9\(4\)](#) (with ss. 7(6), 115, 117); S.I. 1996/2857, [art. 2](#)
 S. 23(3) extended (1.1.1997) by [1995 c. 25, s. 96\(1\), Sch. 14 para. 6\(4\)](#) (with ss. 7(6), 115, 117); S.I. 1996/2857, [art. 2](#)

[24 ^{F25} Notice etc. of applications to owners and agricultural tenants.

- (1) A development order or regulations under this Act shall make provision—
- (a) as to the notice of any application for planning permission to be given to any person (other than the applicant) who at the beginning of the period of twenty-one days ending with the date of the application was—
 - (i) the owner of, or

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- (ii) the tenant of any agricultural holding any part of which was comprised in,
any of the land to which the application relates; and
- (b) requiring any applicant for such permission to issue a certificate as to the interests in the land to which the application relates or the purpose for which it is used,
and provide for publicising such applications and for the form, content and service of such notices and certificates.
- (2) A development order or such regulations may require an applicant for planning permission to certify, in such form as may be prescribed by the order or the regulations, or to provide evidence, that any requirements of the order or the regulations have been satisfied.
- (3) A development order or such regulations making any provision by virtue of this section may make different provision for different cases or different classes of development.
- (4) A planning authority shall not entertain any application for planning permission unless any requirements imposed by virtue of this section have been satisfied.
- (5) If any person—
- (a) issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or
- (b) recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,
- he shall be guilty of an offence.
- (6) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) In this section—
- “agricultural holding” has the same meaning as in the ^{M2}Agricultural Holdings (Scotland) Act 1991; and
- “owner” in relation to any land means any person who—
- (a) under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and includes any person entitled to possession of the land as lessee under a lease the unexpired period of which is not less than seven years; or
- (b) in the case of such applications as may be prescribed by a development order or by regulations, is entitled to an interest in any mineral so prescribed,
- and the reference to the interests in the land to which an application for planning permission relates includes any interest in any mineral in, on or under the land.
- (8) Proceedings for an offence under this section may be brought at any time within the period of two years following the commission of the offence.]

Textual Amendments

F25 S. 24 substituted (3.2.1995) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), [s. 46\(1\)](#) (with [s. 84\(5\)](#)); [S.I. 1994/3292](#), [art. 3](#)

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Modifications etc. (not altering text)

- C11** S. 24 applied (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 7(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
S. 24 applied (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 14 para. 6(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
- C12** S. 24 extended (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
S. 24 extended (with modifications) (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(5)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
- C13** S. 24(5) extended (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 7(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
S. 24(5) extended (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 13 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
S. 24(5) extended (1.1.1997) by 1995 c. 25, s. 96(1), **Sch. 14 para. 6(4)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**

Marginal Citations

- M2** 1991 c. 55.

25 Publicity for applications affecting conservation areas.

- (1) This section applies where an application for planning permission for any development of land is made to a . . . ^{F26} planning authority and either—
- (a) the development would, in the opinion of the authority, affect the character or appearance of a conservation area; . . . ^{F27}
 - [^{F28}(aa) the development would, in the opinion of the authority, affect the selling of a listed building; or]
 - (b) . . . ^{F29}
- (2) The . . . ^{F26} planning authority shall—
- (a) publish in a local newspaper circulating in the locality in which the land is situated; and
 - (b) for not less than seven days display on or near the land, a notice indicating the nature of the development in question and naming a place within the locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of twenty-one days beginning with the date of publication of the notice under paragraph (a) of this subsection.
- (3) The application shall not be determined by the . . . ^{F26} planning authority before both the following periods have elapsed, namely—
- (a) the period of twenty-one days referred to in subsection (2) of this section; and
 - (b) the period of twenty-one days beginning with the date on which the notice required by that subsection to be displayed was first displayed.
- [^{F30}(4) Where an application for planning permission is dealt with by a regional planning authority by virtue of section 179 of the ^{M3}Local Government (Scotland) Act 1973, subsection (3) above shall apply as if the reference therein to “the planning authority” were a reference to the regional planning authority.]

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

Textual Amendments

- F26** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
F27 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
F28 [S. 25\(1\)\(aa\)](#) inserted by [Town and Country Amenities Act 1974 \(c. 32\), s. 4\(2\)](#)
F29 [S. 25\(1\)\(b\)](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)
F30 [S. 25\(4\)](#) added by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 2 para. 4](#)

Marginal Citations

- M3** [1973 c. 65.](#)

Determination by . . .^{F31} planning authorities of applications for planning permission

Textual Amendments

- F31** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

26 Determination of applications.

- (1) Subject to the provisions of sections 23 to 25 of this Act, and to the following provisions of this Act, where an application is made to a . . .^{F32} planning authority for planning permission, that authority, in dealing with the application, shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations, and—
- subject to [^{F33}sections 38 and 39] of this Act, may grant planning permission, either unconditionally or subject to such conditions as they think fit; or
 - may refuse planning permission.
- (2) In determining any application. . .^{F34} to which section 23 of this Act applies, the . . .^{F32} planning authority shall take into account any representations relating to that application which are received by them before [^{F35}the expiry of any period prescribed under subsection (1)(h) of that section.]
- [^{F36}(3) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(b) or (3) of section 24 of this Act a development order or regulations under this Act may—
- provide that a planning authority shall not determine an application for planning permission before the end of such period as may be prescribed;
 - require a planning authority—
 - to take into account in determining such an application such representations, made within such period, as may be prescribed; and
 - to give to any person whose representations have been taken into account such notice as may be prescribed of their decision.
- (3A) A development order or regulations making any provision by virtue of this section may make different provision for different cases or different classes of development.]
- (4) In determining any application for planning permission to which section 25 of this Act applies, the . . .^{F32} planning authority shall take into account any representations

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relating to the application which are received by them before the periods mentioned in subsection (3) of that section have elapsed.

[^{F37}(4A) When granting an application for planning permission as regards any building or premises in relation to which a duty is imposed by any of sections 4, 5 and 7 to 8A of the ^{M4}Chronically Sick and Disabled Persons Act 1970 (facilities at premises open to the public to include, where reasonable and practicable, provision for the needs of the disabled etc.) the planning authority shall ensure that the applicant is aware of such duty.]

- (5) Before a . . . ^{F32} planning authority grant planning permission for the use of land as a caravan site, they shall, unless they are also the authority having power to issue a site licence for that land, consult the local authority having that power.
- (6) In this section “site licence” means a licence under Part I of the ^{M5}Caravan Sites and Control of Development Act 1960 authorising the use of land as a caravan site and “owner” and “agricultural holding” have the same meanings as in section 24 of this Act.

Textual Amendments

- F32** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F33** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 53\(1\), Sch. 11 Pt. II para. 54](#)
- F34** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 4 Pt. I](#)
- F35** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 2 para. 5](#)
- F36** [S. 26\(3\)\(3A\)](#) substituted (3.2.1995) for s. 26(3) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 46\(2\)](#) (with [S. 84\(5\)](#)); [S.I. 1994/3292, art. 3](#)
- F37** [S. 26\(4A\)](#) inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), s. 36](#)

Marginal Citations

- M4** 1970 c. 44.
- M5** 1960 c. 62.

[^{F38}26A Power of planning authority to decline to determine applications.

- (1) A planning authority may decline to determine an application for planning permission for the development of any land if—
- within the period of two years ending with the date on which the application is received, the Secretary of State has refused a similar application referred to him under section 32 of this Act or has dismissed an appeal against the refusal of a similar application; and
 - in the opinion of the authority there has been no significant change since the refusal or, as the case may be, dismissal mentioned in paragraph (a) of this subsection in the development plan, so far as material to the application, or in any other material considerations.
- (2) For the purposes of this section an application for planning permission for the development of any land shall only be taken to be similar to a later application if the development and the land to which the applications relate are in the opinion of the planning authority the same or substantially the same.

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- (3) The reference in subsection (1)(a) of this section to an appeal against the refusal of an application includes an appeal under section 34 in respect of an application.]

Textual Amendments

- F38** S. 26A inserted (25.9.1991 subject to limitations as mentioned in S.I. 1991/2092, art. 4, **Sch. 2 Pt. II**) by **Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 47(1)** (with s. 84(5)); S.I. 1991/2092, **art.3**

[^{F39}26B Assessment of environmental effects.

- (1) The Secretary of State may by regulations under this Act make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects of the proposed development.
- (2) The regulations—
- (a) may make the same provision as, or provision similar or corresponding to, any provision made, for the purposes of any Community obligation of the United Kingdom about the assessment of the likely effects of development on the environment, under section 2(2) of the ^{M6}European Communities Act 1972; and
 - (b) may make different provisions for different classes of development.
- (3) Where a draft of regulations made in exercise both of the power conferred by this section and the power conferred by section 2(2) of the European Communities Act 1972 is approved by resolution of each House of Parliament, no statutory instrument containing such regulations shall be subject to annulment by virtue of subsection (2) of section 273 (regulations and orders) of this Act.]

Textual Amendments

- F39** S. 26B expressed to be inserted after s. 26 (25.9.1991) by **Planning and Compensation Act 1991 (c. 34, SIF 123:2), s.48** (with s. 84(5)); S.I. 1991/2092, **art.3**

Marginal Citations

- M6** 1972 c. 68.

27 Conditional grant of planning permission.

- (1) Without prejudice to the generality of section 26(1) of this Act, conditions may be imposed on the grant of planning permission thereunder—
- (a) for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land, so far as appears to the . . . ^{F40}planning authority to be expedient for the purposes of or in connection with the development authorised by the permission;
 - (b) for requiring the removal of any buildings or works authorised by the permission, or the discontinuance of any use of land so authorised, at the

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end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period:

Provided that conditions may not be imposed by a . . . ^{F40} planning authority under paragraph (a) of this subsection for regulating the development or use of any land within the area of another. . . ^{F40} planning authority except with the consent of that authority.

- (2) [^{F41}Subject to section 41A(6) of this Act, any] planning permission granted subject to such a condition as is mentioned in subsection (1)(b) of this section is in this Act referred to as “planning permission granted for a limited period”.
- (3) Where—
- (a) planning permission is granted for development consisting of or including the carrying out of building or other operations subject to a condition that the operations shall be commenced not later than a time specified in the condition (not being a condition attached to the planning permission by or under section 38 or 39 of this Act); and
 - (b) any building or other operations are commenced after the time so specified, the commencement and carrying out of those operations do not constitute development for which that permission was granted.

Textual Amendments

F40 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F41 Words substituted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), Sch. 2 para. 1](#)

Modifications etc. (not altering text)

C14 [S. 27\(1\)\(a\)](#) modified by [S.I. 1984/996, art. 2, Sch.](#)

[^{F42}27A Aftercare conditions on permission for winning and working of minerals.

- (1) Where planning permission for development consisting of the winning and working of minerals [^{F43}or involving the depositing of refuse or waste materials] is granted subject to a restoration condition, it may be granted subject also to any such aftercare condition as the planning authority think fit.
- (2) In this Act—

“restoration condition” means a condition requiring that after [^{F44}the winning and working is completed or the depositing has ceased], the site shall be restored by the use of any or all of the following, namely, subsoil, topsoil and soil-making material; and

“aftercare condition” means a condition requiring that such steps shall be taken as may be necessary to bring land to the required standard for whichever of the following uses is specified in the condition, namely—

 - (a) use for agriculture;
 - (b) use for forestry; or
 - (c) use for amenity.
- (3) An aftercare condition may either—
 - (a) specify the steps to be taken; or

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- (b) require that the steps be taken in accordance with a scheme (in this section referred to as an “aftercare scheme”) approved by the planning authority.
- (4) A planning authority may approve an aftercare scheme in the form in which it is submitted to them or may modify it and approve it as modified.
- (5) The steps that may be specified in an aftercare condition or an aftercare scheme may consist of planting, cultivating, fertilising, watering, draining or otherwise treating the land.
- (6) Where a step is specified in a condition or a scheme, the period during which it is to be taken may also be specified, but no step may be required to be taken after the expiry of the aftercare period.
- (7) In subsection (6) of this section “the aftercare period” means a period of five years from compliance with the restoration condition or such other maximum period after compliance with that condition as may be prescribed; and in respect of any part of a site, the aftercare period shall commence on compliance with the restoration condition in respect of that part.
- (8) The power to prescribe maximum periods conferred by subsection (7) of this section includes power to prescribe maximum periods differing according to the use specified.
- (9) In a case where—
 - (a) the use specified is a use for agriculture; and
 - (b) the land was in use for agriculture at the time of the grant of the planning permission or had previously been used for that purpose and had not at the time of the grant been used for any authorised purpose since its use for agriculture ceased; and
 - (c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.
- (10) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.
- (11) Where the use specified is a use for forestry, the land is brought to the required standard when it is reasonably fit for that use.
- (12) Where the use specified is a use for amenity, the land is brought to the required standard when it is suitable for sustaining trees, shrubs or plants.
- (13) Before imposing an aftercare condition in a case where the use specified in the condition is for forestry, the planning authority shall consult the Forestry Commission as to whether it is appropriate to specify that use.
- (14) Where after consultations required by subsection (13) of this section the planning authority are satisfied that the use that they ought to specify is a use for forestry, they shall consult the Forestry Commission with regard to whether the steps to be taken should be specified in the aftercare condition or in an aftercare scheme.
- (15) The planning authority shall also consult the Forestry Commission—
 - (a) as to the steps to be specified in an aftercare condition which specifies a use for forestry; and

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- (b) before approving an aftercare scheme submitted in accordance with an aftercare condition which specifies such a use.
- (16) The planning authority shall also, from time to time as they consider expedient, consult the Commission as to whether the steps specified in an aftercare condition or an aftercare scheme are being taken.
- (17) On the application of any person with an interest in land in respect of which an aftercare condition has been imposed the planning authority, if they are satisfied that the condition has been complied with, shall issue a certificate to that effect.
- (18) A person who has complied with an aftercare condition but who has not himself [^{F45}won and worked minerals or deposited refuse or waste materials] shall be entitled, subject to any condition to the contrary contained in a contract which is enforceable against him by the person who last carried out such operations, to recover from that person any expenses reasonably incurred by him in complying with the aftercare condition.
- (19) In this section “authorised” means authorised by planning permission and “forestry” means the growing of a utilisable crop of timber.]

Textual Amendments

- F42** S. 27A(1) inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), s. 22](#)
- F43** Words in s. 27A(1) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8 para. 2\(a\)](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#)
- F44** Words in s. 27A(2) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8 para. 2\(b\)](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#)
- F45** Words in s. 27A(18) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8 para. 2\(c\)](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#)

28 Directions, etc. as to method of dealing with applications.

- (1) ^{F46} . . . Provision may be made by [^{F47}regulations under this Act or] a development order for regulating the manner in which applications for planning permission to develop land are to be dealt with by. . . ^{F48} planning authorities, and in particular—
- (a) for enabling the Secretary of State to give directions restricting the grant of planning permission by the. . . ^{F48} planning authority, either indefinitely or during such period as may be specified in the directions, in respect of any such development, or in respect of development of any such class, as may be so specified;
- (b) for authorising the. . . ^{F48} planning authority, in such cases and subject to such conditions as may be prescribed by [^{F49}such regulations or the order], or by directions given by the Secretary of State thereunder, to grant planning permission for development which does not accord with the provisions of the development plan;
- (c) for requiring the. . . ^{F48} planning authority, before granting or refusing planning permission for any development, to consult with such authorities or persons as may be prescribed by [^{F49}such regulations or the order] or by directions given by the Secretary of State thereunder;
- (d) for requiring the. . . ^{F48} planning authority to give to any applicant for planning permission, within such time as may be prescribed by [^{F49}such regulations or

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the order], such notice as may be so prescribed as to the manner in which his application has been dealt with;

- [^{F50}(dd) for requiring the planning authority to give any applicant for any consent, agreement or approval required by a condition imposed on a grant of planning permission notice of their decision on his application, within such time as may be so prescribed;]
- (e) for requiring the . . . ^{F48} planning authority to give to the Secretary of State and to such other persons as may be prescribed by or under [^{F49}such regulations or the order], such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.

[^{F51}(2) The provisions of paragraphs (d) and (e) of subsection (1) above shall apply in relation to applications for an approval required by [^{F52}regulations under this Act or] a development order as they apply in relation to applications for planning permission.]

[^{F53}(3) In this section “planning authority” includes a regional planning authority.]

Textual Amendments

- F46** Words in s. 28(1) repealed (3.2.1995) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, Sch. 13 para. 7(a)(i), **Sch. 19 Pt.IV** (with s. 84(5)); S.I. 1994/3292, **art. 3**
- F47** Words in s. 28(1) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 61, 84(6), **Sch. 13**, para. 7(a)(ii), (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F48** Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
- F49** Words in s. 28(1) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 61, 84(6), **Sch. 13**, para. 7(a)(iii), (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F50** S. 28(dd) inserted by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 2 para. 6(a)**
- F51** S. 28(2) as originally enacted repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and a new s. 28(2) added by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 2 para. 6(b)**
- F52** Words in s. 28(2) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 61, **Sch. 13**, para. 7(b) (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F53** S. 28(3) as originally enacted repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29** and a new s. 28(3) added by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 2 para. 6(c)**

Modifications etc. (not altering text)

- C15** S. 28 extended by S.I. 1988/1221, **art. 5**

[^{F54}28A Permission to develop land without compliance with conditions previously attached.

- (1) This section applies to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
- (2) Special provision may be made with respect to such applications—
- by regulations under section 22 of this Act as regards the form and content of the application, and
 - by a development order as regards the procedure to be followed in connection with the application.

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- (3) On such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—
- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- (4) This section does not apply where the application is made after the previous planning permission has become time-expired, that is to say, the previous permission having been granted subject to a condition as to the time within which the development to which it related was to have begun, that time has expired without the development having been begun.]

Textual Amendments

F54 S. 28A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(1), **Sch. 11 Pt. II para. 31**

[29] ^{F55} **Planning permission for development already carried out.**

- (1) On an application made to a planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.
- (2) Subsection (1) of this section applies to development carried out—
- (a) without planning permission;
 - (b) in accordance with planning permission granted for a limited period; or
 - (c) without complying with some condition subject to which planning permission was granted.
- (3) Planning permission for such development may be granted so as to have effect from—
- (a) the date on which the development was carried out; or
 - (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.]

Textual Amendments

F55 s. 29 substituted (26.3.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, **Sch. 13, para.8** (with s. 84(5)); S.I. 1992/334, art. 4, **Sch. 2**

30 **Provisions as to effect of planning permission.**

- (1) Without prejudice to the provisions of this Part of this Act as to the duration, revocation or modification of planning permission, any grant of planning permission to develop land shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein.

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- (2) Where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used; and if no purpose is so specified, the permission shall be construed as including permission to use the building for the purpose for which it is designed.

[^{F56}30A Date of planning permission.

The date of the granting or of the refusal of any such application as is mentioned in section 23(2) of this Act shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.]

Textual Amendments

F56 S. 30A inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), s. 69(2), [Sch. 2 para. 8](#)

31 Information regarding, and registers of, applications and decisions.

- (1) ^{F57}
- (2) Every. . . ^{F58} planning authority shall keep, in such manner as may be prescribed [^{F59}by such regulations or the order], a register containing such information as may be so prescribed with respect to applications for planning permission made to that authority, including information as to the manner in which such applications have been dealt with. . . ^{F60} [^{F61}and also containing such information as may be so prescribed with respect to simplified planning zone schemes relating to zones in the authority's area].
- (2A) ^{F62}
- (3) [^{F63}Regulations under this Act or a development order] make provision for the register to be kept in two or more parts, each part containing such information relating to applications for planning permission made to the authority as may be prescribed by [^{F64}such regulations or the order], and may also make provision—
 - (a) for a specified part of the register to contain copies of applications and of any plans or drawings submitted therewith; and
 - (b) for the entry relating to any application, and every thing relating thereto, to be removed from that part of the register when the application (including any appeal arising out of it) has been finally disposed of, without prejudice to the inclusion of any different entry relating thereto in another part of the register.
- (4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.
- [^{F65}(5) The provisions of this section shall apply in relation to applications for an approval required [^{F59}by such regulations or the order] as they apply in relation to applications for planning permission.]

Textual Amendments

F57 S. 31(1) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), s. 69(2), [Sch. 4 Pt. 1](#)
F58 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 172\(2\)](#)

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Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

- F59** Words in s. 31(2)(5) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 9(c) (with s. 84(5)); S.I. 1991/2092, **art.3**
- F60** Words repealed by Local Government, Planning and Land Act 1980 (c.65), **Sch. 34 Pt. XI**
- F61** Words inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), 26(3), Sch. 6 Pt. IV para. 1
- F62** S. 31(2A) repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. XI**
- F63** Words in s. 31(3) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 9(a) (with s. 84(5)); S.I. 1991/2092, **art.3**
- F64** Words in s. 31(3) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 9(b) (with s. 84(5)); S.I. 1991/2092, **art.3**
- F65** S. 31(5) added by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 9**

[^{F66}31A Power of planning authorities to vary planning permission.

Notwithstanding any other provision of this Part of this Act, a planning authority may, at the request of the grantee or of a person acting with his consent, vary any planning permission granted by them, if it appears to them that the variation sought is not material.]

Textual Amendments

- F66** S. 31A inserted by Local Government and Planning (Scotland) Act 1982 (c.43), **s. 46**

Secretary of State's powers in relation to planning applications and decisions

32 Reference of applications to Secretary of State.

- (1) The Secretary of State may give directions requiring, [^{F67}any such application as is mentioned in section 23(2) of this Act], to be referred to him instead of being dealt with by. . . ^{F68} planning authorities.
- (2) a direction under this section—
 - (a) may be given either to a particular. . . ^{F68} planning authority or to. . . ^{F68} planning authorities generally; and
 - (b) may relate either to a particular application or to applications of a class specified in the direction.
- (3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.
- (4) Subject to subsection (5) of this section, where an application. . . ^{F69} is referred to the Secretary of State under this section, the following provisions of this Act, that is to say, sections [^{F70}26(1) to (3A)], [^{F70}27(1), 27A, 28A and 29] shall apply, with any necessary modifications, as they apply to an application. . . ^{F69} which falls to be determined by the. . . ^{F68} planning authority [^{F71}and regulations under this Act or a development order may apply, with or without modifications, to an application so referred any requirements imposed by such regulations or such an order by virtue of section 23 or 24 of this Act.].
- (5) Before determining an application referred to him under this section, other than an application for planning permission referred to a Planning Inquiry Commission under section 45 of this Act, the Secretary of State shall, if either the applicant or the. . . ^{F68}

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

- (6) The decision of the Secretary of State on any application referred to him under this section shall be final.

[^{F72}(7) In this section “planning authority” includes a regional planning authority.]

Textual Amendments

- F67** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), s. 69(2), [Sch. 2 para. 10\(a\)](#)
- F68** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)
- F69** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), s. 69(2), [Sch. 4 Pt. I](#)
- F70** Words in s. 32(4) substituted (26.3.1992 so far as relating to the substitution of a reference to “27(1),27A and 28A” by a reference to “27(1), 27A, 28A and 29” and otherwise 3.2.1995) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13](#), para. 10(a) (with s. 84(5)); S.I. 1992/334, art. 4, [Sch. 2](#); S.I. 1994/3292, [art. 3](#)
- F71** Words in s. 32(4) inserted (3.2.1995) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13](#), para. 10(b) (with s. 84(5)); S.I. 1994/3292, [art. 3](#)
- F72** S. 32(7) added by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\)](#), s. 69(2), [Sch. 2 para. 10\(c\)](#)

Modifications etc. (not altering text)

- C16** S. 32(1)—(5) extended by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 179(1)

33 Appeals against planning decisions.

- (1) Where an application is made to a . . . ^{F73} planning authority
- [^{F74}(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 by notice under this section appeal to the Secretary of State.
- (2) Any notice under this section shall be served within such time (not being less than twenty-eight days from the date of notification of the decision to which it relates) and in such manner as may be prescribed by [^{F75}regulations under this Act or] a development order.
- (3) Where an appeal is brought under this section from a decision of a . . . ^{F73} planning authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the . . . ^{F73} planning authority, whether the appeal relates to that part thereof or not, and may deal with the application as if it had been made to him in the first instance.

Provided that where the Secretary of State proposes to reverse or vary any part of the decision of the . . . ^{F73} planning authority to which the appeal does not relate, he shall give notice of his intention to the . . . ^{F73} planning authority and to the applicant and shall afford to them an opportunity to make representations in regard thereto.

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

- (4) Before determining an appeal under this section, other than an appeal referred to a Planning Inquiry Commission under section 45 of this Act, the Secretary of State shall, if either the applicant or the . . . ^{F73} planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) Subject to subsection (4) of this section, the following provisions of this Act, that is to say, sections ^{F76} . . . [^{F77}26(1) to (3A)]^{F78}, 27(1) [^{F79}27A and 28A]^{F80}, 27A and 29] shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under this section as they apply in relation to an application for planning permission which falls to be determined by the . . . ^{F73} planning authority [^{F81}and regulations under this Act or a development order may apply, with or without modifications, to such an appeal any requirements imposed by regulations or such an order by virtue of section 23 or 24 of this Act].
- (6) The decision of the Secretary of State on any appeal under this section shall be final.
- (7) If before or during the determination of an appeal under this section in respect of an application for planning permission to develop land, the Secretary of State forms the opinion that, having regard to the provisions of sections 26(1), [^{F82}and 27(1)] of this Act [^{F83}any regulations made under this Act in that regard and of any development order] and to any directions given [^{F83}under such regulations or such order], planning permission for that development—
- (a) could not have been granted by the . . . ^{F73} planning authority; or
 - (b) could not have been granted by them otherwise than subject to the conditions imposed by them,
- he may decline to determine the appeal or to proceed with the determination.
- ^{F84}(7A) If at any time before or during the determination of an appeal under this section it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—
- (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and
 - (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.]
- (8) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section, including appeals under this section as applied by or under any other provision of this Act.

Textual Amendments

F73 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F74 Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\), s. 69\(2\), Sch. 2 para. 11\(a\)](#)

F75 Words in s. 33(2) inserted (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 61, Sch. 13 para. 11\(a\)](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)

F76 Words in s. 33(5) omitted (3.2.1995) by virtue of [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 61, Sch. 13 para. 11\(b\)\(i\)](#) (with s. 84(5)); S.I. 1994/3292, [art. 2](#)

F77 Words in s. 33(5) substituted (3.2.1995) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 61, Sch. 13 para. 11\(b\)\(ii\)](#) (with s. 84(5)); S.I. 1994/3292, [art. 2](#)

F78 Words substituted by [Town and Country Planning \(Minerals\) Act 1981 \(c.36\), Sch. 2 para. 3](#)

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

- F79** Words “27A and 28A” substituted for words “and 27A” by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 55**; and by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13 para. 11(b)(iii)** (and S.I. 1992/334, art. 4, Sch. 2), it is provided that for “and 27A” there is substituted (26.3.1992) “, 27A and 29”
- F80** In s. 33(5) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 11(b)(iii), “27A and 29” is expressed to be substituted (26.3.1992) for ‘and 27A’, (with s. 84(5)); S.I. 1992/334, art. 4, **Sch. 2**
- F81** Words in s. 33(5) inserted (3.2.1995) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13 para. 11(b)(iv)** (with s. 84(5)); S.I. 1994/3292, **art. 2**
- F82** Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt II para. 56**
- F83** Words in s. 33(7) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 61, **Sch. 13**, para. 11(c)(i)(ii) (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F84** S. 33(7A) inserted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 50(1)** (with s. 84(5)); S.I. 1991/2092, **art. 3**

Modifications etc. (not altering text)

- C17** S. 33 restricted by S.I. 1988/1221, **art. 14(3)(4)**
- C18** S. 33(2) amended by Local Government (Scotland) Act 1973 (c. 65), **s. 180**

34 Appeal in default of planning decision.

Where [^{F85}any such application as is mentioned in section 33(1) of this Act is made to a planning authority], then unless within such period as may be prescribed by [^{F86}regulations under this Act or a development order], or within such extended period as may at any time be agreed upon in writing between the applicant and the . . . ^{F87}planning authority, the . . . ^{F87}planning authority ^{F88}. . . —

- (a) give notice to the applicant of their decision on the application; or
- [^{F89}(ab) give notice to the applicant that they have exercised their power under section 26A of this Act to decline to determine the application; or]
- (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 32 of this Act,

the provisions of section 33 of this Act shall apply in relation to the application as if the permission or approval to which it relates had been refused by the . . . ^{F87}planning authority, and as if notification of their decision had been received by the applicant at the end of the period prescribed by [^{F86}regulations under this Act or a development order], or at the end of the said extended period, as the case may be.

Textual Amendments

- F85** Words substituted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 12**
- F86** Words in s. 34 substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), ss. 61, **Sch. 13**, para.12 (with s. 84(5)); S.I. 1991/2092, **art.3**
- F87** Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
- F88** Word in s. 34 omitted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **s. 47(2)(a)** (with s. 84(5)); S.I. 1991/2092, **art.3**.
- F89** S. 34(ab) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), **ss. 47(2)(b)** (with 84(5)); S.I. 1991/2092, **art.3**.

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

Modifications etc. (not altering text)

C19 S. 34 modified by S.I. 1988/1221, **reg. 20(4)**

^{F90}**35**

Textual Amendments

F90 S. 35 repealed (25. 9. 1991, subject to limitations referred to in S.I. 1992/2092, art. 4, **Sch. 2**, Pt. II) by Planning and Compensation Act 1991 (c. 34), ss. 60, 84(6), Sch. 12 para. 8, **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, art. 3, **Sch.1**

^{F91}**36**

Textual Amendments

F91 S. 36 repealed (25. 9. 1991, subject to limitations referred to in S.I. 1991/2092, art. 4, **Sch. 2**, Pt. II) by Planning and Compensation Act 1991 (c. 34), ss. 60, 84(6), Sch. 12 para. 8, **Sch. 19**, Pt.IV (with s. 84(5)); S.I. 1991/2092, art. 3, **Sch.1**

Deemed planning permission

37 Development by local authorities and statutory undertakers with sanction of government department.

- (1) Where the sanction of a government department. . . ^{F92} is required by virtue of an enactment in respect of development to be carried out by a local authority, or by statutory undertakers not being a local authority, that department may, on granting that sanction, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the directions.
- (2) The provisions of this Act (except [^{F93}Part]XII thereof) shall apply in relation to any planning permission deemed to be granted by virtue of directions under this section as if it had been granted by the Secretary of State on an application referred to him under section 32 of this Act.
- (3) For the purposes of this section development shall be taken to be sanctioned by a government department if—
 - (a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment;
 - (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development;
 - (c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose;
 - (d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable; or

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

- (e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants,
- and references in this section to the sanction of a government department shall be construed accordingly.

Textual Amendments

- F92** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 4 Pt. I](#)
- F93** Words in [s. 37\(2\)](#) substituted (25. 9. 1991, subject to limitations referred to in [S.I. 1991/2092](#), [art. 4](#), [Sch. 2](#), [Pt. II](#)) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), [s. 60\(6\)](#), [Sch. 12](#), [para.9](#) (with [s. 84\(5\)](#)); [S.I. 1991/2092](#), [art.3](#)

Modifications etc. (not altering text)

- C20** [S. 37](#) extended by [Civil Aviation Act 1982 \(c. 16\)](#), [Sch. 2 para. 4](#)
- C21** [S. 37](#) extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), [s. 67\(1\)\(3\)](#), [Sch. 7 para. 2\(1\)\(xxv\)](#) (with [Sch. 8 para. 33](#))
- C22** [S. 37](#) extended (1.3.1996) by [1995 c. 45](#), [s. 16\(1\)](#), [Sch. 4 para. 2\(1\)\(xix\)](#); [S.I. 1996/218](#), [art. 2](#)

Duration of planning permission

38 Limit of duration of planning permission.

- (1) Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—
- (a) five years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or
- (b) such other period (whether longer or shorter) beginning with the said date as the authority concerned with the terms of the planning permission may direct, being a period which the authority considers appropriate having regard to the provisions of the development plan and to any other material considerations.
- (2) If planning permission is granted without the condition required by subsection (1) of this section, it shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.
- (3) Nothing in this section applies—
- (a) to any planning permission granted by a development order;
- [^{F94}(aa) to any planning permission granted by an enterprise zone scheme;]
- [^{F95}(ab) to any planning permission granted by a simplified planning zone scheme;]
- (b) to any planning permission granted for a limited period;
- [^{F96}(bb) to any planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after—

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Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

- (i) the completion of other development consisting of the winning and working of minerals already being carried out by the applicant for the planning permission; or
- (ii) the cessation of depositing of mineral waste already being carried out by the applicant for the planning permission;]
- (c) to any planning permission [^{F97}for any development carried out before the grant of planning permission]
- (d) to any outline planning permission, as defined by section 39 of this Act.

Textual Amendments

- F94** S. 38(3)(aa) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 32 para. 19\(2\)](#)
- F95** S. 38(3)(ab) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 26(3), [Sch. 6 Pt. IV para. 2](#)
- F96** S. 38(3)(bb) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 51, [Sch. 8](#), para. 3 (with s. 84(5)); S.I. 1992/71, [art. 2](#)
- F97** Words in s. 38(3)(c) substituted (26.3.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13](#), para.13 (with s. 84(5)); S.I. 1992/334, [Sch. 2](#)

39 Outline planning permission.

- (1) In this section and section 38 of this Act “outline planning permission” means planning permission granted, in accordance with the provisions of [^{F98}regulations under this Act or]a development order, with the reservation for subsequent approval by the . . . ^{F99} planning authority or the Secretary of State of matters (referred to in this section as “reserved matters”) not particularised in the application.
- (2) Subject to the provisions of this section, where outline planning permission is granted for development consisting in or including the carrying out of building or other operations, it shall be granted subject to conditions to the following effect—
- (a) that, in the case of any reserved matter, application for approval must be made [^{F100}before—
 - (i) the expiration of 3 years from the date of the grant of outline planning permission; or
 - (ii) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed, whichever is the latest:

Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (i) above]; and

- (b) that the development to which the permission relates must be begun not later than whichever is the later of the following dates—
 - (i) the expiration of five years from the date of the grant of outline planning permission; or
 - (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

- (3) If outline planning permission is granted without the conditions required by subsection (2) of this section, it shall be deemed to have been granted subject to those conditions.
- (4) The authority concerned with the terms of an outline planning permission may, in applying subsection (2) of this section, substitute, or direct that there be substituted, for the periods of three years, five years or two years referred to in that subsection such other periods respectively (whether longer or shorter) as they consider appropriate.
- (5) The said authority may, in applying the said subsection, specify, or direct that there be specified, separate periods under paragraph (a) of the subsection in relation to separate parts of the development to which the planning permission relates; and, if they do so, the condition required by paragraph (b) of the subsection shall then be framed correspondingly by reference to those parts, instead of by reference to the development as a whole.
- (6) In considering whether to exercise their powers under subsections (4) and (5) of this section, the said authority shall have regard to the provisions of the development plan and to any other material considerations.

Textual Amendments

- F98** Words in s. 39 inserted (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 61, [Sch. 13, para. 14](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)
- F99** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)
- F100** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 2 para. 13](#)

40 Provisions supplementary to ss. 38 and 39.

- (1) For the purposes of sections 38 and 39 of this Act, development shall be taken to be begun on the earliest date on which any specified operation comprised in the development begins to be carried out.
- (2) In subsection (1) of this section “specified operation” means any of the following, that is to say—
 - (a) any work of construction in the course of the erection of a building;
 - [^{F101}(aa) any work of demolition of a building;]
 - (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
 - (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph;
 - (d) any operation in the course of laying out or constructing a road or part of a road;
 - (e) any change in the use of any land, where that change constitutes material development.
- (3) In subsection (2)(e) of this section “material development” means any development other than—
 - (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to

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- comply with any condition or limitation subject to which planning permission is so granted;
- [^{F102}(b) development of a class specified in paragraph 1 or 2 of Schedule 6 to this Act;]
- (c) development of any class prescribed for the purposes of this subsection; and in this subsection “general development order” means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in Scotland.
- (4) The authority referred to in sections 38(1)(b) and 39(4) of this Act is the . . . ^{F103} planning authority or the Secretary of State, in the case of planning permission granted by them, and—
- (a) in the case of planning permission under section 37 of this Act is the department on whose direction planning permission is deemed to be granted; and
- (b) in the case of planning permission granted on an appeal determined, under paragraph 1 or 4 of Schedule 7 to this Act, by a person appointed by the Secretary of State to determine the appeal, is that person.
- (5) For the purposes of section 39 of this Act, a reserved matter shall be treated as finally approved when an application for approval is granted or, in a case where the application is made to the . . . ^{F103} planning authority and there is an appeal to the Secretary of State against the authority’s decision on the application and the Secretary of State or a person appointed by him under paragraph 1 or 4 of Schedule 7 to this Act to determine the appeal grants the approval, on the date of the determination of the appeal by the Secretary of State or that person.
- (6) Where a . . . ^{F103} planning authority grant planning permission, the fact that any of the conditions of the permission are required by the provisions of sections 38 or 39 of this Act to be imposed, or are deemed by those provisions to be imposed, shall not prevent the conditions being the subject of an appeal under section 33 of this Act against the decision of the authority.
- (7) In the case of planning permission (whether outline or other) having conditions attached to it by or under section 38 or 39 of this Act—
- (a) development carried out after the date by which the conditions of the permission require it to be carried out shall be treated as not authorised by the permission; and
- (b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.

Textual Amendments

F101 S. 40(2)(aa) inserted (3.2.1995) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 13 para. 15** (with s. 84(5)); S.I. 1994/3292, **art. 3**

F102 S. 40(3)(b) substituted (25. 9. 1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 60(6), **Sch. 12 para.10** (with s. 84(5)); S.I. 1991/2092, **art. 3**

F103 Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

41 Termination of planning permission by reference to time limit.

- (1) The following provisions of this section shall have effect where, by virtue of section 38 or 39 of this Act, a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period and that development has been begun within that period but the period has elapsed without the development having been completed.
- (2) If the . . . ^{F104} planning authority are of opinion that the development will not be completed within a reasonable period, they may serve a notice (in this section referred to as a “completion notice”) stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice, being a period of not less than twelve months after the notice takes effect.
- (3) a completion notice—
 - (a) shall be served on the owner and on the occupier of the land and on any other person who in the opinion of the . . . ^{F104} planning authority will be affected by the notice; and
 - (b) shall take effect only if and when it is confirmed by the Secretary of State, who may in confirming it substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.
- (4) If, within such period as may be specified in a completion notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the notice, shall afford to that person and to the . . . ^{F104} planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) If a completion notice takes effect, the planning permission therein referred to shall at the expiration of the period specified in the notice, whether the original period specified under subsection (2) of this section or a longer period substituted by the Secretary of State under subsection (3) of this section, be invalid except so far as it authorises any development carried out thereunder up to the end of that period.
- (6) The . . . ^{F104} planning authority may withdraw a completion notice at any time before the expiration of the period specified therein as the period at the expiration of which the planning permission is to cease to have effect; and if they do so they shall forthwith give notice of the withdrawal to every person who was served with the completion notice.

Textual Amendments

F104 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

[^{F105}41A Limit of duration of planning permission for winning and working of minerals.

- (1) Every planning permission for development [^{F106}—
 - (a) consisting of the winning and working of minerals; or
 - (b) involving the depositing of mineral waste,]shall be subject to a condition as to the duration of the development.

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

- (2) Except where a condition is specified under subsection (3) of this section the condition in the case of planning permission granted or deemed to be granted after the date of the commencement of section 24 of the ^{M7}Town and Country Planning (Minerals) Act 1981 is that the [^{F107}winning and working of minerals or the depositing of mineral waste] must cease not later than the expiration of the period of sixty years beginning with the date of the permission.
- (3) An authority granting planning permission after the date of the commencement of the said section 24 or directing after that date that planning permission shall be deemed to be granted may specify a longer or shorter period than sixty years, and if they do so, the condition is that the [^{F107}winning and working of minerals or the depositing of mineral waste] must cease not later than the expiration of a period of the specified length beginning with the date of the permission.
- (4) A longer or shorter period than sixty years may be prescribed for the purposes of subsections (2) and (3) of this section.
- (5) The condition in the case of planning permission granted or the commencement of section 24 of the ^{M8}Town and Country Planning (Minerals) Act 1981 is that the [^{F107}winning and working of minerals or the depositing of mineral waste] must cease not later than the expiration of the period of sixty years beginning with the date of the commencement of that section.
- (6) A condition to which planning permission for development [^{F108} . . .] is subject by virtue of this section is not to be regarded for the purposes of this Act as a condition such as is mentioned in subsection (1)(b) of section 27 of this Act.
- (7) Where planning permission for development [^{F108} . . .] is granted by the planning authority, any condition to which it is subject by virtue of this section is to be regarded for the purposes of section 33 of this Act as a condition imposed by a decision of the planning authority, and may accordingly be the subject of an appeal under that section.]

Textual Amendments

F105 S. 41A inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), s. 24](#)

F106 Words in s. 41A(1) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8 para. 4\(1\)](#) (with s. 84(5)); S.I. 1992/71, [art.2](#)

F107 Words in s. 41A(2)(3)(5) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8, para. 4\(2\)](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#)

F108 Words in s. 41A(6)(7) omitted (24.1.1992) by virtue of [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), ss. 51, 84\(6\), Sch. 8, para. 4\(3\), Sch. 19, Pt.IV](#) (with s. 84(5)); S.I. 1992/71, [art. 2](#)

Marginal Citations

M7 1981 c. 36.

M8 1981 c. 36.

Revocation or modification of planning permission

42 Power to revoke or modify planning permission.

- (1) If it appears to the . . . ^{F109} planning authority, having regard to the development plan and to any other material considerations, that it is expedient to revoke or modify any

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

permission to develop land granted on an application made under this Part of this Act, the authority, subject to the following provisions of this section, may by order revoke or modify the permission to such extent as (having regard to those matters) they consider expedient.

- (2) Except as provided in section 43 of this Act, an order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.
- (3) Where a . . . ^{F109} planning authority submit an order to the Secretary of State for his confirmation under this section, the authority shall serve notice on the owner, on the lessee and on the occupier of the land affected and on any other person who in their opinion will be affected by the order; and if within such period as may be specified in that notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the . . . ^{F109} planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (4) The power conferred by this section to revoke or modify permission to develop land may be exercised—
 - (a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;
 - (b) where the permission relates to a change of the use of any land, at any time before the change has taken place:

Provided that the revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been carried out before the date on which the order was confirmed as aforesaid.

- [^{F110}(5) An order under this section may include any such aftercare condition as the planning authority think fit if—
- (a) it also includes a restoration condition; or
 - (b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Act.
- (6) Subsections (3) to (19) of section 27A of this Act shall apply in relation to an aftercare condition so imposed as they apply in relation to such a condition imposed under that section.]

Textual Amendments

F109 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F110 [S. 42\(5\)\(6\)](#) added by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), ss. 25, 35](#)

43 Unopposed revocation or modification.

- (1) The following provisions shall have effect where the . . . ^{F111} planning authority have made an order under section 42 of this Act but have not submitted the order to the Secretary of State for confirmation by him, and—

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

- (a) the owner, the lessee and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order;. . . ^{F112}.
- (2) The authority shall advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—
- (a) the period (not being less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and
- (b) the period (not being less than fourteen days from the expiration of the period referred to in paragraph (a) of this subsection) at the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section and without being confirmed by the Secretary of State.
- (3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(a) of this section;. . . ^{F112}.
- (4) The authority shall send a copy of any advertisement published under subsection (2) of this section to the Secretary of State, not more than three days after the publication.
- (5) If within the period referred to in subsection (2)(a) of this section no person claiming to be affected by the order has given notice to the Secretary of State as aforesaid, and the Secretary of State has not directed that the order be submitted to him for confirmation, the order shall, at the expiration of the period referred to in subsection (2) (b) of this section, take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 42(2) of this Act.
- (6) This section does not apply to an order revoking or modifying a planning permission granted or deemed to have been granted by the Secretary of State under this Part of this Act or under Part IV or V thereof; nor does it apply to an order modifying any conditions to which a planning permission is subject by virtue of section 38 or 39 of this Act.

Textual Amendments

F111 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F112 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

Reference of certain matters to Planning Inquiry Commission or independent tribunal

44 Constitution of Planning Inquiry Commission.

- (1) The Secretary of State may constitute a Planning Inquiry Commission to inquire into and report on any matter referred to them under section 45 of this Act.
- (2) Any such commission shall consist of a chairman and not less than two nor more than four other members appointed by the Secretary of State.
- (3) The Secretary of State may pay to the members of any such commission such remuneration and allowances as he may with the consent of [^{F113}the Treasury] determine, and may provide for each such commission such officers or servants,

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and such accommodation, as appears to him expedient to provide for the purpose of assisting the commission in the discharge of their functions.

- (4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.

- (5) F114

Textual Amendments

F113 Words substituted by virtue of S.I. 1981/1670, arts. 2(2), 3(5)

F114 Ss. 44(5), 47(5) repealed by House of Commons Disqualification Act 1975 (c. 24), Sch. 3

45 References to a Planning Inquiry Commission.

- (1) The following matters may, in the circumstances mentioned in subsection (2) of this section, be referred to a Planning Inquiry Commission, that is to say—

- (a) an application for planning permission which the Secretary of State has under section 32 of this Act directed to be referred to him instead of being dealt with by a . . . F115 planning authority;
- (b) an appeal under section 33 of this Act (including that section as applied by or under any other provision of this Act);
- (c) a proposal that a government department should give a direction under section 37 of this Act that planning permission shall be deemed to be granted for development by a local authority or by statutory undertakers which is required by any enactment to be authorised by that department;
- (d) a proposal that development should be carried out by or on behalf of a government department.

- (2) Any of the matters mentioned in subsection (1) of this section may be referred to any such commission under this section if it appears expedient to the responsible Minister or Ministers that the question whether the proposed development should be permitted to be carried out should be the subject of a special inquiry on either or both of the following grounds—

- (a) there are considerations of national or regional importance which are relevant to the determination of that question and require evaluation, but a proper evaluation thereof cannot be made unless there is a special inquiry for the purpose;
- (b) the technical or scientific aspects of the proposed development are of so unfamiliar a character as to jeopardise a proper determination of that question unless there is a special inquiry for the purpose.

- (3) Two or more of the matters mentioned in subsection (1) of this section may be referred to the same commission under this section if it appears to the responsible Minister or Ministers that they relate to proposals to carry out development for similar purposes on different sites.

- (4) Where a matter referred to a commission under this section relates to a proposal to carry out development for any purpose at a particular site, the responsible Minister or Ministers may also refer to the commission the question whether development for that purpose should instead be carried out at an alternative site.

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- (5) The responsible Minister or Ministers shall, on referring a matter to a commission under this section, state in the reference the reasons therefor and may draw the attention of the commission to any points which seem to him or them to be relevant to their inquiry.
- (6) a commission inquiring into a matter referred to them under this section shall—
- (a) identify and investigate the considerations relevant to, or the technical or scientific aspects of, that matter which in their opinion are relevant to the question whether the proposed development should be permitted to be carried out and assess the importance to be attached to those considerations or aspects;
 - (b) thereafter, if the applicant, in the case of a matter mentioned in subsection (1) (a), (b) or (c) of this section, or the . . . ^{F115} planning authority in any case so desire, afford to each of them, and, in the case of an application or appeal mentioned in the said subsection (1)(a) or (b), to any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 26(2) or (3) of this Act, an opportunity of appearing before and being heard by one or more members of the commission;
 - (c) report to the responsible Minister or Ministers on the matter referred to them.
- (7) Any such commission may, with the approval of the Secretary of State and at his expense, arrange for the carrying out (whether by the commission themselves or by others) of research of any kind appearing to them to be relevant to a matter referred to them for inquiry and report.
- (8) Schedule 8 to this Act shall have effect for the construction of references in this section and in section 46 of this Act to “the responsible Minister or Ministers”.

Textual Amendments

F115 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

Modifications etc. (not altering text)

C23 S. 45 extended by [Civil Aviation Act 1982 \(c. 16\), Sch. 2 para. 4](#)

C24 Ss. 45, 46 extended by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(1\)\(3\), Sch. 7 para. 2\(1\)\(xxv\)](#) (with [Sch. 8 para. 33](#))

C25 S. 45 extended (1.3.1996) by [1995 c. 45, s. 16\(1\), Sch. 4 para. 2\(1\)\(xix\)](#); [S.I. 1996/218, art. 2](#)

46 Procedure on reference to a Planning Inquiry Commission.

- (1) A reference to a Planning Inquiry Commission of a proposal that development should be carried out by or on behalf of a government department may be made at any time and a reference of any other matter mentioned in section 45 of this Act may be made at any time before, but not after, the determination of the relevant application referred under section 32 of this Act or the relevant appeal under section 33 of this Act or, as the case may be, the giving of the relevant direction under section 37 of this Act, notwithstanding that an inquiry or other hearing has been held into the proposal by a person appointed by any Minister for the purpose.
- (2) Notice of the making of a reference to any such commission shall be published in the prescribed manner, and a copy of the notice shall be served on the . . . ^{F116} planning

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

authority for the area in which it is proposed that the relevant development shall be carried out, and—

- (a) in the case of an application for planning permission referred under section 32 of this Act or an appeal under section 33 of this Act, on the applicant and any person who has made representations relating to the subject matter of the application or appeal which the authority are required to take into account under section 26(2) or (3) of this Act;
 - (b) in the case of a proposal that a direction should be given under section 37 of this Act with respect to any development, on the local authority or statutory undertakers applying for sanction to carry out that development.
- (3) A Planning Inquiry Commission shall, for the purpose of complying with section 45(6) (b) of this Act, hold a local inquiry; and they may hold such an inquiry, if they think it necessary for the proper discharge of their functions, notwithstanding that neither the applicant nor the . . . ^{F116} planning authority desire an opportunity of appearing and being heard.
- (4) Where a Planning Inquiry Commission are to hold a local inquiry under subsection (3) of this section in connection with a matter referred to them, and it appears to the responsible Minister or Ministers, in the case of some other matter falling to be determined by a Minister of the Crown and required or authorised by an enactment other than this section to be the subject of a local inquiry, that the two matters are so far cognate that they should be considered together, he or, as the case may be, they may direct that the two inquiries be held concurrently or combined as one inquiry.
- (5) An inquiry held by such a commission under this section shall be treated for the purposes of the ^{M9}Tribunals and Inquiries Act [^{F117}1992] as one held by a Minister in pursuance of a duty imposed by a statutory provision.
- (6) Subsections (4) to (9) of section 267 of this Act (power to summon and examine witnesses, and expenses at inquiries) shall apply to an inquiry held under subsection (3) of this section as they apply to an inquiry held under that section.
- (7) Subject to the provisions of this section and to any directions given to them by the responsible Minister or Ministers, a Planning Inquiry Commission shall have power to regulate their own procedure.

Textual Amendments

F116 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F117 Word in [s. 46\(5\)](#) substituted (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\), ss.18\(1\), 19\(2\), Sch. 3 para.5](#)

Modifications etc. (not altering text)

C26 [S. 46](#) extended by [Civil Aviation Act 1982 \(c. 16\), Sch. 2 para. 4.](#)

C27 [Ss. 45, 46](#) extended by [Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(1\)\(3\), Sch. 7 para. 2\(1\)\(xxv\)](#) (with [Sch. 8 para. 33](#))

C28 [S. 46](#) extended (1.3.1996) by [1995 c. 45, s. 16\(1\), Sch. 4 para. 2\(1\)\(xix\); S.I. 1996/218, art. 2](#)

Marginal Citations

M9 [1992 c. 53](#)

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

47 Commissions to inquire into planning matters affecting Scotland and England.

- (1) The Ministers may constitute a Joint Planning Inquiry Commission to inquire into and report on any matter referred to them under this section; and the matters which may be so referred are those which may, under section 45 of this Act or [^{F118}section 101 of the Town and Country Planning Act 1990], be referred to a Planning Inquiry Commission but which appear to the Ministers to involve considerations affecting both Scotland and England.
- (2) a Joint Planning Inquiry Commission shall consist of a chairman and not less than two nor more than four other members appointed by the Ministers.
- (3) The Ministers may pay to the members of any such commission such remuneration and allowances as they may with the consent of [^{F119}the Treasury] determine, and may provide for each such commission such officers or servants, and such accommodation, as appears to them expedient to provide for the purpose of assisting the commission in the discharge of their functions.
- (4) The validity of any proceedings of any such commission shall not be affected by any vacancy among the members of the commission or by any defect in the appointment of any member.
- (5) ^{F120}
- (6) In this section “the Ministers” means the Secretaries of State for the time being having general responsibility in planning matters in relation to Scotland and in relation to England acting jointly; but their functions under subsection (3) of this section may, by arrangements made between them, be exercised by either acting on behalf of both.
- (7) Schedule 9 to this Act shall have effect with respect to the Joint Planning Inquiry Commissions and references to them under this section, and with respect to the proceedings of a commission on any such reference.

Textual Amendments
F118 Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 27\(1\)](#)
F119 Words substituted by virtue of S.I. 1981/1670, [arts. 2\(2\), 3\(5\)](#)
F120 [Ss. 44\(5\), 47\(5\)](#) repealed by [House of Commons Disqualification Act 1975 \(c. 24\), Sch. 3](#)

48 ^{F121}

Textual Amendments
F121 [S. 48](#) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 4](#)

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

Additional powers of control

49 Orders requiring discontinuance of use or alteration or removal of buildings or works.

- (1) If it appears to a . . . ^{F122} planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity), regard being had to the development plan and to any other material considerations—
- (a) that any use of land should be discontinued, or that any conditions should be imposed on the continuance of a use of land; or
 - (b) that any buildings or works should be altered or removed,
- the . . . ^{F122} planning authority may by order require the discontinuance of that use, or impose such conditions as may be specified in the order on the continuance thereof, or require such steps as may be so specified to be taken for the alteration or removal of the buildings or works, as the case may be.
- ^{F123}(1A) For the purposes of this section development consisting of the winning and working of minerals [^{F124}or involving the deposit of refuse or waste materials] in, on or under any land is to be treated as a use of that land.
- (1B) Subsection (1) of this section shall have effect as if—
- (a) the words
 - (c) that any plant or machinery used for the winning and working [^{F125}or depositing] should be altered or removed,” were added at the end of paragraph (b); and
 - (b) the words “or plant or machinery” were inserted after the words “buildings or works”, in the second place where those words occur.
- (1C) Where development consisting of the winning and working of minerals [^{F126}or involving the deposit of refuse or waste materials] is being carried out in, on or under any land, the conditions which an order under this section may impose include a restoration condition.
- (1D) An order under this section may include any such aftercare condition as the planning authority think fit if—
- (a) it also includes a restoration condition; or
 - (b) a restoration condition has previously been imposed in relation to the land by virtue of any provision of this Act.
- [An order under this section may grant planning permission for any development of
- ^{F127}(1E) the land to which the order relates, subject to such conditions as may be—
- (a) required by section 41A of this Act; or
 - (b) specified in the order.]
- (1F) In a case where—
- (a) the use specified is a use for agriculture; and
 - (b) the land was in use for agriculture immediately [^{F128}before the development began] or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased; and
 - (c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,

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the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.

- (1G) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.]
- (2) An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order; and the provisions of section 42 of this Act shall apply in relation to any planning permission granted by an order under this section as they apply in relation to planning permission granted by the . . . ^{F122} planning authority on an application made under this Part of this Act.
- [^{F129}(3) The planning permission which may be granted by an order under this section includes planning permission, subject to such conditions as may be specified in the order, for development carried out before the date on which the order was submitted to the Secretary of State under this section.
- (3A) Planning permission for such development may be granted so as to have effect from—
- (a) the date on which the development was carried out; or
 - (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.]
- (4) An order under this section shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.
- (5) Where a . . . ^{F122} planning authority submit an order to the Secretary of State for his confirmation under this section, that authority shall serve notice on the owner, on the lessee and on the occupier of the land affected, and on any other person who in their opinion will be affected by the order; and if within the period specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the . . . ^{F122} planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (6) Where an order under this section has been confirmed by the Secretary of State, the . . . ^{F122} planning authority shall serve a copy of the order on the owner, on the lessee and on the occupier of the land to which the order relates.
- (7) [^{F130}Subject to subsection (7A) of this section,]where the requirements of an order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the . . . ^{F122} planning authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.
- [^{F131}(7A) Subsection (7) of this section does not apply where the order under this section relates to the discontinuance of a use of land consisting of the winning and working of minerals or involving the deposit of refuse or waste materials.]
- (8) In the case of planning permission granted by an order under this section, the authority referred to in sections 38(1)(b) and 39(4) of this Act is the . . . ^{F122} planning authority making the order.

Status: Point in time view as at 03/02/1995.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

Textual Amendments

- F122** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F123** [S. 49\(1A\)—\(1G\)](#) inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\), ss. 26, 35](#)
- F124** Words in [s. 49\(1A\)](#) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8, para. 5\(2\)](#) (with [s. 84\(5\)](#)); [S.I. 1992/71, art. 2](#)
- F125** Words in [s. 49\(1B\)](#) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), ss. 51, 84\(2\), Sch. 8, para. 5\(3\)](#) (with [s. 84\(5\)](#)); [S.I. 1992/71, art. 2](#)
- F126** Words in [s. 49\(1C\)](#) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), ss. 51, 84\(2\), Sch. 8, para. 5\(4\)](#) (with [s. 84\(5\)](#)); [S.I. 1992/71, art. 2](#)
- F127** [S. 49\(1E\)](#) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8, para. 5\(5\)](#), (with [s. 84\(5\)](#)); [S.I. 1992/71, art. 2](#)
- F128** Words in [s. 49\(1F\)](#) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8, para. 5\(6\)](#), (with [s. 84\(5\)](#)); [S.I. 1992/71, art. 2](#)
- F129** [S. 49\(3\)\(3A\)](#) substituted (26.3.1992) for [s. 49\(3\)](#) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 61, Sch. 13, para. 16](#), (with [s. 84\(5\)](#)); [1992/334, art. 4, Sch. 2](#)
- F130** Words in [s. 49\(7\)](#) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8, para. 5\(7\)](#), (with [s. 84\(5\)](#)); [S.I. 1992/71, art. 2](#)
- F131** [S. 49\(7A\)](#) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), s. 51, Sch. 8, para. 5\(8\)](#), (with [s. 84\(5\)](#)); [S.I. 1992/71, art. 2](#)

[^{F132}49A Prohibition of resumption of winning and working of minerals.

- [Where it appears to the planning authority—
- ^{F133}(1) (a) that development of land—
- (i) consisting of the winning and working of minerals; or
 - (ii) involving the depositing of mineral waste,
- has occurred; but
- (b) the winning and working or depositing has permanently ceased,
- the planning authority may by order—
- (i) prohibit the resumption of the winning and working or the depositing; and
 - (ii) impose, in relation to the site, any such requirement as is specified in subsection (3) of this section.
- (2) The planning authority may assume that the winning and working or the depositing has permanently ceased only when—
- (a) no winning and working or depositing has occurred, to any substantial extent, at the site for a period of at least two years; and
 - (b) it appears to the planning authority, on the evidence available to them at the time when they make the order, that resumption of the winning and working or the depositing to any substantial extent at the site is unlikely.
- (3) The requirements mentioned in subsection (1) of this section are—
- (a) a requirement to alter or remove plant or machinery which was used for the purpose of the winning and working or the depositing or for any purpose ancillary to that purpose;
 - (b) a requirement to take such steps as may be specified in the order, within such period as may be so specified, for the purpose of removing or alleviating any injury to amenity which has been caused by the winning and working or

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- depositing, other than injury due to subsidence caused by underground mining operations;
- (c) a requirement that any condition subject to which planning permission for the development was granted or which has been imposed by virtue of any provision of this Act shall be complied with; and
- (d) a restoration condition.]
- (4) An order under this section may include any such aftercare condition as the planning authority think fit if—
- (a) it also includes a restoration condition;
- or
- (b) a restoration condition has previously been imposed in relation to the site by virtue of any provision of this Act.
- (5) Subsections (3) to (8) and (11) to (19) of section 27A of this Act shall apply in relation to an after-care condition imposed under this section as they apply in relation to such a condition imposed under that section.
- (6) In a case where—
- (a) the use specified is a use for agriculture; and
- (b) the land was in use for agriculture immediately before development consisting of the winning and working of minerals began to be carried out in, on or under it or had previously been used for agriculture and had not been used for any authorised purpose since its use for agriculture ceased; and
- (c) the planning authority is aware of or can readily ascertain the physical characteristics of the land when it was last used for agriculture,
- the land is brought to the required standard when its physical characteristics are restored, so far as it is practicable to do so, to what they were when it was last used for agriculture.
- (7) In any other case where the use specified is a use for agriculture the land is brought to the required standard when it is reasonably fit for that use.
- (8) An order under this section shall not take effect unless it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient.
- (9) Where a planning authority submit an order under this section to the Secretary of State for his confirmation under this section, that authority shall serve notice of the order on any person who is an owner or occupier of any of the land to which the order relates, and on any other person who in their opinion will be affected by the order; and if within the period specified in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.
- (10) Where an order under this section has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice under subsection (9) of this section.
- (11) On an order under this section taking effect any planning permission for the development to which the order relates shall cease to have effect but without prejudice to the power of the planning authority, on revoking the order, to make a further grant

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of planning permission for development consisting of the winning and working of minerals [^{F134}or involving the depositing of mineral waste].]

Textual Amendments

F132 Ss. 49A—49G inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), **ss. 27, 35**

F133 Ss. 49A(1)(2)(3) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 51, **Sch. 8, para. 6(1)** (with s. 84(5)); S.I. 1992/71, **art.2**

F134 Words in s. 49A (11) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 51, **Sch. 8, para. 6(2)** (with s. 84(5)); S.I. 1992/71, **art.2**

[49B ^{F135}Orders after suspension of winning and working of minerals.

- ^{F136}(1) Where it appears to the planning authority—
- (a) that development of land—
 - (i) consisting of the winning and working of minerals; or
 - (ii) involving the depositing of mineral waste, has occurred; but
 - (b) the winning and working or depositing has been temporarily suspended, the planning authority may by order (in this Act referred to as a “suspension order”) require that steps be taken for the protection of the environment.
- (2) The planning authority may assume that the winning and working or the depositing has been temporarily suspended only when—
- (a) no such winning and working or depositing has occurred, to any substantial extent, at the site for a period of at least 12 months; but
 - (b) it appears to the planning authority, on the evidence available to them at the time when they make the order, that a resumption of such winning and working or depositing to a substantial extent is likely.
- (3) In this Act “steps for the protection of the environment” means steps for the purpose—
- (a) of preserving the amenities of the area in which the land in, on or under which the development was carried out is situated during the period while the winning and working or the depositing is suspended;
 - (b) of protecting that area from damage during that period; or
 - (c) of preventing any deterioration in the condition of the land during that period.]
- (4) A suspension order shall specify a period, commencing with the date on which it is to take effect, within which any step required for the protection of the environment is to be taken, and may specify different periods for the taking of different steps.
- (5) At any time when a suspension order is in operation the planning authority may by order (in this Act referred to as a “supplementary suspension order”) direct—
- (a) that steps for the protection of the environment shall be taken in addition to or in substitution for any of the steps which the suspension order or a previous supplementary suspension order specified as required to be taken; or
 - (b) that the suspension order or any supplementary suspension order shall cease to have effect.

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Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III. (See end of Document for details)

Textual Amendments

F135 Ss. 49A-49G inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), ss 27, 35

F136 Ss. 49B(1)-(3) substituted (24.1.1992) by Planning and Compensation Act 1991 (c. 34, SIF 123:2), s. 51, Sch. 8, para.7 (with s. 84(5)); S.I. 1992/71, art.2

[49C] ^{F137}Confirmation and coming into operation of suspension orders.

- (1) Without prejudice to section 49D of this Act, a suspension order or supplementary suspension order (other than a supplementary suspension order revoking a suspension order or a previous supplementary suspension order and not requiring that any fresh step shall be taken for the protection of the environment) shall not take effect until it is confirmed by the Secretary of State, either without modification or subject to such modifications as he considers expedient
- (2) Subsection (9) of section 49A of this Act shall have effect in relation to a suspension order or supplementary suspension order submitted to the Secretary of State for his confirmation as it has effect in relation to an order submitted to him for his confirmation under that section.
- (3) Where a suspension order or supplementary suspension order has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice by virtue of subsection (2) of this section.]

Textual Amendments

F137 Ss. 49A-49G inserted by Town and Country Planning (Minerals) Act 1981 (c. 36), ss. 27,35

[49D] ^{F138}Registration of suspension orders.

No order under section 49A or 49B of this Act shall take effect until it is registered either—

- (a) in a case where the land affected by the order is registered in that Register, in the Land Register of Scotland, or
- (b) in any other case, in the appropriate division of the General Register of Sasines.]

Textual Amendments

F138 Ss. 49A-49G inserted by Town and Country Planning (Minerals) Act 1981 (c.36), ss. 27, 35

[49E] ^{F139}Reviews of suspension orders.

- (1) It shall be the duty of a planning authority—
 - (a) to undertake in accordance with the following provisions of this section reviews of suspension orders and supplementary suspension orders which are in operation in their area; and

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- (b) to determine whether they should make, in relation to any land to which a suspension order or supplementary suspension order applies—
 - (i) an order under section 49A of this Act; or
 - (ii) a supplementary suspension order.
- (2) The first review of a suspension order shall be undertaken not more than five years from the date on which the order takes effect.
- (3) Each subsequent review shall be undertaken not more than five years after the previous review.
- (4) If a supplementary suspension order is in operation for any part of the area for which a suspension order is in operation, they shall be reviewed together.
- (5) If a planning authority have made a supplementary suspension order which requires the taking of steps for the protection of the environment in substitution for all the steps required to be taken by a previous order under section 49B of this Act, the authority shall undertake reviews of the supplementary suspension order in accordance with subsections (6) and (7) of this section.
- (6) The first review shall be undertaken not more than five years from the date on which the order takes effect.
- (7) Each subsequent review shall be undertaken not more than five years after the previous review.
- (8) The duty to undertake reviews imposed by this section is in addition to and not in substitution for the duties imposed by section 251A of this Act.]

Textual Amendments

F139 Ss. 49A-49G inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), **ss. 27, 35**

[49F] ^{F140}Resumption of winning and working of minerals after suspension order.

- (1) Nothing in a suspension order or a supplementary suspension order shall prevent the recommencement of development consisting of the winning and working of minerals [^{F141}or involving the depositing of mineral waste at the site]] in relation to which the order is in effect; but no person shall recommence such development without first giving the planning authority notice of his intention to do so.
- (2) A notice under subsection (1) of this section shall specify the date on which the person giving the notice intends to recommence [^{F142}the development].
- [^{F143}(3) The planning authority shall revoke the order if the winning and working of minerals or the depositing of mineral waste has recommenced to a substantial extent at the site in relation to which the order has effect.]
- (4) If the authority do not revoke the order before the end of the period of two months from the date specified in the notice under subsection (1) of this section, the person who gave that notice may apply to the Secretary of State for the revocation of the order.
- (5) Notice of an application under subsection (4) of this section shall be given by the applicant to the planning authority.

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- (6) If he is required to do so by the person who gave the notice or by the planning authority, the Secretary of State, before deciding whether or not to revoke the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- [^{F144}(7) If the Secretary of State is satisfied that the winning and working of minerals or the depositing of mineral waste has recommenced to a substantial extent at the site in relation to which the order has effect, he shall revoke the order.]
- (8) If the Secretary of State revokes an order by virtue of subsection (7) of this section, he shall give notice of its revocation to the person who applied to him for the revocation and to the planning authority.

Textual Amendments

- F140** Ss. 49A-49G inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c.36\)](#), **ss 27, 35**
- F141** Words in s. 49F(1) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 51, **Sch. 8 para. 8(a)** (with s. 84(5)); S.I. 1992/71, **art. 2**
- F142** Words in s. 49F(2) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 51, **Sch. 8 para. 8(b)** (with s. 84(5)); S.I. 1992/71, **art. 2**
- F143** S. 49F(3) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 51, **Sch. 8 para. 8(c)** (with s. 84(5)); S.I. 1992/71, **art.2**
- F144** S. 49F(7) substituted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 51, **Sch. 8 para. 8(d)** (with s. 84(5)); S.I. 1992/71, **art. 2**

[49G ^{F145}**Powers of regional planning authorities regarding orders under sections 49A or 49B.**

The provisions of section 181 of the ^{M10}Local Government (Scotland) Act 1973 shall apply in relation to the provisions of sections 49A and 49B of this Act as they apply in relation to the provisions of sections 42 and 49 of this Act.]

Textual Amendments

- F145** Ss. 49A-49G inserted by [Town and Country Planning \(Minerals\) Act 1981 \(c. 36\)](#), **ss. 27, 36**

Marginal Citations

- M10** 1973 c. 65.

[^{F146}**49H Old mining permissions.**

- (1) In this section and Schedule 10A to this Act, “old mining permission” means any planning permission for development—
- consisting of the winning and working of minerals, or
 - involving the depositing of mineral waste,
- which is deemed to have been granted by virtue of paragraph 77 of Schedule 22 to this Act (development authorised under interim development orders after 10th November 1943).

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- (2) An old mining permission shall, if an application under that Schedule to determine the conditions to which the permission is to be subject is finally determined, have effect as from the final determination as if granted on the terms required to be registered.
- (3) If no such development has, at any time in the period of two years ending with 16th May 1991, been carried out to any substantial extent anywhere in, on or under the land to which an old mining permission relates, that permission shall not authorise any such development to be carried out after the coming into force of this section unless—
 - (a) the permission has effect in accordance with subsection (2) above; and
 - (b) the development is carried out after such an application is finally determined.
- (4) An old mining permission shall—
 - (a) if no application for the registration of the permission is made under that Schedule, cease to have effect on the day following the last date on which such an application may be made, and
 - (b) if such an application is refused, cease to have effect on the day following the date on which the application is finally determined.
- (5) An old mining permission shall, if—
 - (a) such an application is granted; but
 - (b) an application under that Schedule to determine the conditions to which the permission is to be subject is required to be served before the end of any period and is not so served,cease to have effect on the day following the last date on which the application to determine those conditions may be served.
- (6) Subject to subsection (3) above, this section—
 - (a) shall not affect any development carried out under an old mining permission before an application under that Schedule to determine the conditions to which the permission is to be subject is finally determined or, as the case may be, the date on which the permission ceases to have effect; and
 - (b) shall not affect any order made or having effect as if made under section 49 or 49A to 49F of this Act (discontinuance, etc., orders).]

Textual Amendments

F146 S. 49H inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 52 (with s. 84(5)); S.I. 1992/71, art. 2

50 Agreements regulating development or use of land.

- (1) A . . . ^{F147} planning authority may enter into an agreement with any person interested in land in their area (in so far as the interest of that person enables him to bind the land) for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be prescribed by the agreement; and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the . . . ^{F147} planning authority to be necessary or expedient for the purposes of the agreement.
- (2) An agreement made under this section with any person interested in land, may, if the agreement shall have been recorded in the appropriate Register of Sasines [^{F148} or, as

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the case may be, registered in the Land Register of Scotland,], be enforceable at the instance of the . . . ^{F147} planning authority against persons deriving title to the land from the person with whom the agreement was entered into:

Provided that no such agreement shall at any time be enforceable against a third party who shall have in bona fide onerously acquired right (whether completed by infestment or not) to the land prior to the agreement being recorded as aforesaid or against any person deriving title from such third party.

- (3) Nothing in this section or in any agreement made thereunder shall be construed—
- (a) as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by any Minister or authority under this Act so long as those powers are exercised in accordance with the provisions of the development plan, or in accordance with any directions which may have been given by the Secretary of State as to the provisions to be included in such a plan; or
 - (b) as requiring the exercise of any such powers otherwise than as mentioned in paragraph (a) of this subsection.

[^{F149}(4) In this section “planning authority” includes a regional planning authority.]

Textual Amendments

F147 Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

F148 Words in s. 50(2) inserted (24.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 49(1) (with s. 84(5)); S.I. 1992/71, art. 2.

F149 S. 50(4) added by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 2 para. 14](#)

Determination whether planning permission required

^{F150}**51**

Textual Amendments

F150 S. 51 repealed (25.9.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), ss. 61, 84(6), Sch. 13 para. 17, [Sch. 19 Pt.IV](#) (with s. 84(5)); S.I. 1992/1937, art.4, [Sch.](#) (with art. 5)

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Changes to legislation:

There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part III.