



# Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

## 1972 CHAPTER 52

### PART III

#### GENERAL PLANNING CONTROL

##### *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.

[<sup>F1</sup>(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—

- (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;

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- (b) the carrying out by a local [<sup>F2</sup>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 [<sup>F2</sup>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, [<sup>F3</sup>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.
- [<sup>F4</sup>(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.
- [<sup>F5</sup>(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.]
- [<sup>F6</sup>(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
  - “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

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purposes of this section as involving a material change in the use of that part of the building.

<sup>F7</sup>(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)

- C1** 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)
- C2** 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
- C3** 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.
- (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.

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- (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.

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