



# Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

## 1972 CHAPTER 52

### PART III

#### GENERAL PLANNING CONTROL

##### *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, [<sup>F1</sup>any such application as is mentioned in section 23(2) of this Act], to be referred to him instead of being dealt with by. . . <sup>F2</sup> planning authorities.
- (2) a direction under this section—
  - (a) may be given either to a particular. . . <sup>F2</sup> planning authority or to. . . <sup>F2</sup> 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. . . <sup>F3</sup> is referred to the Secretary of State under this section, the following provisions of this Act, that is to say, sections [<sup>F4</sup>26(1) to (3A),], [<sup>F4</sup>27(1), 27A, 28A and 29] shall apply, with any necessary modifications, as they apply to an application. . . <sup>F3</sup> which falls to be determined by the. . . <sup>F2</sup> planning authority [<sup>F5</sup>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.].

*Status: Point in time view as at 01/04/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Cross Heading: Secretary of State's powers in relation to planning applications and decisions. (See end of Document for details)*

- (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 . . . <sup>F2</sup> 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.

<sup>F6</sup>(7) . . . . .

#### Textual Amendments

- F1** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\), s. 69\(2\), Sch. 2 para. 10\(a\)](#)
- F2** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F3** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 4 Pt. I](#)
- F4** 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” 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](#)
- F5** 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](#)
- F6** [S. 32\(7\) repealed \(1.4.1996\) by 1994 c. 39, s. 180\(2\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(b\)\(d\), Sch. 2](#)

#### Modifications etc. (not altering text)

- C1** [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 . . . <sup>F7</sup> planning authority
- [<sup>F8</sup>(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 [<sup>F9</sup>regulations under this Act or] a development order.
- (3) Where an appeal is brought under this section from a decision of a . . . <sup>F7</sup> 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 . . . <sup>F7</sup> 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 . . . <sup>F7</sup> planning authority to which the appeal does not relate, he shall

*Status: Point in time view as at 01/04/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Cross Heading: Secretary of State's powers in relation to planning applications and decisions. (See end of Document for details)*

- give notice of his intention to the . . . <sup>F7</sup> planning authority and to the applicant and shall afford to them an opportunity to make representations in regard thereto.
- (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 . . . <sup>F7</sup> 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 <sup>F10</sup> . . . [<sup>F11</sup>26(1) to (3A)] [<sup>F12</sup>, 27(1) [<sup>F13</sup>27A and 28A]] [<sup>F14</sup>, 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 . . . <sup>F7</sup> planning authority [<sup>F15</sup>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), [<sup>F16</sup>and 27(1)] of this Act [<sup>F17</sup>,any regulations made under this Act in that regard and of any development order] and to any directions given [<sup>F17</sup>under such regulations or such order], planning permission for that development—
- (a) could not have been granted by the . . . <sup>F7</sup> 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.
- [<sup>F18</sup>(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

- F7** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F8** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c.43\), s. 69\(2\), Sch. 2 para. 11\(a\)](#)
- F9** 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](#)
- F10** 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](#)

*Status: Point in time view as at 01/04/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Cross Heading: Secretary of State's powers in relation to planning applications and decisions. (See end of Document for details)*

- F11** 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**
- F12** Words substituted by Town and Country Planning (Minerals) Act 1981 (c.36), **Sch. 2 para. 3**
- F13** 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”
- F14** 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**
- F15** 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**
- F16** Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt II para. 56**
- F17** 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**
- F18** 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)**

- C2** S. 33 restricted by S.I. 1988/1221, **art. 14(3)(4)**
- C3** S. 33(2) amended by Local Government (Scotland) Act 1973 (c. 65), **s. 180**

**34 Appeal in default of planning decision.**

Where [<sup>F19</sup>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 [<sup>F20</sup>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 . . . <sup>F21</sup>planning authority, the . . . <sup>F21</sup>planning authority <sup>F22</sup>. . . —

- (a) give notice to the applicant of their decision on the application; or
- [<sup>F23</sup>(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 . . . <sup>F21</sup>planning authority, and as if notification of their decision had been received by the applicant at the end of the period prescribed by [<sup>F20</sup>regulations under this Act or a development order], or at the end of the said extended period, as the case may be.

**Textual Amendments**

- F19** Words substituted by Local Government and Planning (Scotland) Act 1982 (c.43), s. 69(2), **Sch. 2 para. 12**
- F20** 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**
- F21** Word repealed by Local Government (Scotland) Act 1973 (c. 65), **s. 172(2)**
- F22** 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**.

*Status: Point in time view as at 01/04/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Cross Heading: Secretary of State's powers in relation to planning applications and decisions. (See end of Document for details)*

**F23** 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**.

**Modifications etc. (not altering text)**

**C4** S. 34 modified by S.I. 1988/1221, **reg. 20(4)**

**F24** **35** .....

**Textual Amendments**

**F24** 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**

**F25** **36** .....

**Textual Amendments**

**F25** 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**

**Status:**

Point in time view as at 01/04/1996.

**Changes to legislation:**

There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Cross Heading: Secretary of State's powers in relation to planning applications and decisions.