



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART III

CONTROL OVER DEVELOPMENT

Other controls over development

- 71 Orders requiring discontinuance of use or alteration or removal of buildings or works.**
- (1) If, having regard to the development plan and to any other material considerations, it appears to a planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity)—
- (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,
- they may by order—
- (i) require the discontinuance of that use, or
 - (ii) impose such conditions as may be specified in the order on the continuance of it, or
 - (iii) 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.
- (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.

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) Section 65 shall apply in relation to any planning permission granted by an order under this section as it applies in relation to planning permission granted by the planning authority on an application made under this Part [F1 or section 242A].
- (4) 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.
- (5) 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.
- (6) 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 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.
- (7) In the case of planning permission granted by an order under this section, the authority referred to in sections [F2 58(1)(b) and (3A)(b) and 59(2A)(b) and (2D)(b)] is the planning authority making the order.
- (8) The previous provisions of this section do not apply to the use of any land for development consisting of the winning or working of minerals or involving the deposit of refuse or waste materials except as provided in Schedule 8, and in that Schedule—
- (a) Part I shall have effect for the purpose of making provision as respects land which is or has been so used, and
 - (b) Part II shall have effect as respects the registration of old mining provisions.

Textual Amendments

- F1** Words in s. 71(3) inserted (11.5.2006) by [Planning and Compulsory Purchase Act 2004 \(Commencement No.2 and Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/243\)](#), arts. 1(1), 4(5)
- F2** Words in s. 71(7) substituted (1.10.2022) by [Planning \(Scotland\) Act 2019 \(asp 13\)](#), s. 63(2), [sch. 2 para. 6\(4\)](#); S.S.I. 2022/275, reg. 2(2)(f) (with reg. 3)

72 Confirmation by Secretary of State of section 71 orders.

- (1) An order under section 71 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.
- (2) Where a planning authority submit an order to the Secretary of State for his confirmation under this section, they shall serve notice—
- (a) on the owner of the land affected,
 - (b) on the lessee and the occupier of that land, and
 - (c) on any other person who in their opinion will be affected by the order.

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) The notice shall specify the period (which must not be less than 28 days from the date of its service) within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) If within that period such a person so requires, the Secretary of State shall, before confirming the order, give such an opportunity both to that person and to the planning authority.
- (5) Where an order under section 71 has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on the owner, the lessee and occupier of the land to which the order relates.

73 Power of the Secretary of State to make section 71 orders.

- (1) If it appears to the Secretary of State that it is expedient that an order should be made under section 71, he may himself make such an order.
- (2) Such an order made by the Secretary of State shall have the same effect as if it had been made by the planning authority and confirmed by the Secretary of State.
- (3) The Secretary of State shall not make such an order without consulting the planning authority.
- (4) Where the Secretary of State proposes to make such an order he shall serve notice on the planning authority.
- (5) The notice shall specify the period (which must not be less than 28 days from the date of its service) within which the authority may require the Secretary of State to give them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (6) If within that period the authority so require, the Secretary of State shall, before making the order, give the authority such an opportunity.
- (7) The provisions of this Part and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the planning authority of any order under section 71, its confirmation by the Secretary of State and the service of copies of it as confirmed shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an order by virtue of subsection (1), its making by him and the service of copies of it.

74 Review of mineral planning permissions.

- (1) Schedule 9 (which makes provision as respects the review of old mineral planning permissions) and Schedule 10 (which makes provision as respects the periodic review of mineral planning permissions) shall have effect.
- (2) Without prejudice to the generality of sections 30 and 31, a development order may make, in relation to any planning permission which is granted by a development order for minerals development, provision similar to any provision made by Schedule 9 or 10.

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) In this section and those Schedules “minerals development” means development consisting of the winning and working of minerals, or involving the depositing of mineral waste.

[^{F3}75 Planning obligations

- (1) A person may, in respect of land in the district of a planning authority—
- (a) by agreement with that authority, or
 - (b) unilaterally,
- enter into [^{F4}a planning obligation.]

[^{F5}(1A) For the purpose of this section and sections 75A to 75C, a planning obligation is an obligation which does any of the following—

- (a) restricts or regulates the development or use of land,
- (b) requires the payment—
 - (i) of a specified amount or an amount determined in accordance with the relevant instrument, or
 - (ii) of periodical sums either indefinitely or for such period as is specified in the relevant instrument.]

(2) Without prejudice to the generality of [^{F6}paragraph (a) of subsection (1A), the reference in that paragraph] to restricting or regulating the development or use of land includes—

- (a) requiring operations or activities specified in the relevant instrument to be carried out in, on, under or over the land, or
- (b) requiring the land to be used in a way so specified.

(3) A planning obligation may—

- (a) be unconditional or subject to conditions,
- [^{F7}(aa) impose a restriction or requirement either permanently or during such period as is specified in the relevant instrument,]

^{F8}(b)

- (c) contain such incidental and consequential provisions as—
 - (i) in the case of an agreement, appear to the planning authority to be necessary or expedient for the purposes of the agreement, or
 - (ii) in the case of a unilateral obligation, appear to the person entering into the obligation to be necessary or expedient for the purposes of that obligation.

(4) Without prejudice to the generality of subsection (3)(a), the relevant instrument may provide for the postponement of the effectiveness of the planning obligation to a date specified in the instrument (whether the specification is of a fixed date or of a date determinable by reference to the occurrence of an event).

(5) A relevant instrument to which the owner of the land is party may be recorded in the Register of Sasines or, as the case may be, registered in the Land Register of Scotland; and if the instrument is so recorded or registered then the planning obligation is (unless the instrument provides that only the person entering into that obligation is to be bound by it) enforceable at the instance of the planning authority—

- (a) against the owner of the land in so far as the obligation comprises a requirement mentioned in subsection [^{F9}(1A)(b) or (2)], and

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) against—
- (i) the owner or tenant of the land, or
 - (ii) any other person having the use of the land,
- in so far as the obligation comprises any other requirement.
- (6) But no such obligation is enforceable against a third party who has acquired right to the land (whether or not that person has completed title) prior to the relevant instrument being so recorded or registered.
- (7) If there is a breach of a requirement, in a planning obligation, to carry out any operations in, on, under or over the land to which the obligation relates, the planning authority may—
- (a) enter the land and carry out the operations, and
 - (b) recover from the person or persons against whom the obligation is enforceable any expenses reasonably incurred by them in doing so.
- (8) Before a planning authority exercise their power under subsection (7)(a) they are to give any person against whom the planning obligation is enforceable not less than twenty-one days' notice of their intention to do so.
- (9) A person wilfully obstructing someone who is acting in the exercise of a power under subsection (7)(a) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In this section, “owner” means a person who has right to the land to which the planning obligation relates whether or not that person has completed title; but if, in relation to the land (or, if the land is held *pro indiviso*, in relation to any *pro indiviso* share in the land) more than one person comes within that description of owner, then “owner” means such person as has most recently acquired such right.
- (11) But where a heritable creditor is in lawful possession of security subjects which comprise the land, then “owner” includes the heritable creditor.
- (12) For the purposes of subsection (5) it is immaterial whether the person who is owner of the land when the relevant instrument is recorded or registered was owner when the obligation was entered into.
- [^{F10}(13) In this section and in sections 75A to 75C, “relevant instrument” means the instrument by which a planning obligation is entered into.]

Textual Amendments

- F3** Ss. 75-75C substituted for s. 75 (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 23, 59(2) (with S.S.I. 2010/431, arts. 1(1), 3); S.S.I. 2008/411, art. 2(2)(3)(a); S.S.I. 2010/400, art. 3, sch.
- F4** Words in s. 75(1) substituted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 34(2)(a), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F5** S. 75(1A) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 34(2)(b), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F6** Words in s. 75(2) substituted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 34(2)(c), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F7** S. 75(3)(aa) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 34(2)(d)(i), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F8** S. 75(3)(b) repealed (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 34(2)(d)(ii), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F9** Words in s. 75(5)(a) substituted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 34(2)(e), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F10** S. 75(13) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 34(2)(f), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)

Modifications etc. (not altering text)

- C1** S. 75 applied by S.S.I. 2010/431, art. 3(1) (as substituted (14.11.2011) by The Planning etc. (Scotland) Act 2006 (Saving and Transitional Provisions) Amendment Order 2011 (S.S.I. 2011/348), arts. 1, 2(2))
- C2** S. 75(5)(6) excluded by S.S.I. 2010/431, art. 3(2) (as substituted (14.11.2011) by The Planning etc. (Scotland) Act 2006 (Saving and Transitional Provisions) Amendment Order 2011 (S.S.I. 2011/348), arts. 1, 2(2))

75A Modification and discharge of planning obligations

- (1) A planning obligation may not be modified or discharged except—
- (a) by agreement [^{F11}in writing]^{F12}... between the planning authority and [^{F13}the person or persons] against whom that obligation is enforceable, or
 - (b) in accordance with this section [^{F14}or] section 75B.
- (2) A person against whom a planning obligation is enforceable may apply to the planning authority for [^{F15}the obligation to]—
- (a) [^{F16}be modified as] specified in the application, or
 - (b) be discharged.
- ^{F17}(3)
- (4) On an application under subsection (2), the authority may determine that the planning obligation—
- (a) is to continue to have effect without modification,
 - (b) is discharged, or
 - (c) is to have effect subject to [^{F18}modifications].
- [^{F19}(4A) Where the authority propose to make a determination under subsection (4)—
- (a) discharging the planning obligation despite that not being sought in the application, or
 - (b) modifying the planning obligation in a way that is not sought in the application,
- they must obtain the applicant's consent before making the determination.
- (4B) Where the authority propose to make a determination under subsection (4) modifying the planning obligation so as to put or increase a burden on any non-applicant, they must obtain that person's consent before making the determination.
- (4C) Where an application under subsection (2) relates to more than one planning obligation, the authority may make a separate determination in relation to each planning obligation.]
- (5) The authority are to give notice of their determination to
- [^{F20}(a)] the applicant [^{F21}, and
 - (b) any non-applicant against whom the planning obligation is enforceable,]

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F22}within such period as is prescribed.]
- (6) This subsection applies where [^{F23}an agreement under subsection (1)(a) or] a determination under subsection (4)(b) or (c) relates to a planning obligation the relevant instrument in relation to which has been recorded in the Register of Sasines or registered in the Land Register of Scotland.
- (7) Where subsection (6) applies[^{F24}—
- (a) in a case relating to an agreement under subsection (1)(a), the agreement does not take effect until the date on which it is recorded in the Register of Sasines or registered in the Land Register, and
 - (b) in a case relating to a determination under subsection (4)(b) or (c),] the determination does not take effect until the date on which notice given under subsection (5) is so recorded or as the case may be so registered.
- (8) Where the determination is under subsection (4)(c), the planning obligation is enforceable as modified—
- (a) in a case where subsection (6) applies, from the date mentioned in subsection (7), and
 - (b) in any other case, from the date on which notice is given under subsection (5).
- (9) Regulations may make provision with respect to—
- (a) the form and content of an application under subsection (2),
 - (b) the publication of [^{F25}or giving of] notice of any such application,
 - [^{F26}(ba) the giving of notice of proposed determinations to which subsection (4A) applies,]
 - (c) procedures for considering any representations made with respect to any such application [^{F27}or proposed determination], and
 - (d) the form and content of any notice given under subsection (5).
- (10) In relation to any application referred to the Scottish Ministers by virtue of subsections (1) to (3) of section 46, the references in subsections (4) [^{F28}, (4A), (4B), (4C)] and (5) (above) to the authority are to be construed as references to the Scottish Ministers.

Textual Amendments

- F3** Ss. 75-75C substituted for s. 75 (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 23, 59(2) (with S.S.I. 2010/431, arts. 1(1), 3); S.S.I. 2008/411, art. 2(2)(3)(a); S.S.I. 2010/400, art. 3, sch.
- F11** Words in s. 75A(1)(a) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), s. 37(4)(a)(i)(A), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F12** Words in s. 75A(1)(a) repealed (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), s. 37(4)(a)(i)(B), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F13** Words in s. 75A(1)(a) substituted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), s. 37(4)(a)(i)(C), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F14** Word in s. 75A(1)(b) substituted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 37(4)(a)(ii), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F15** Words in s. 75A(2) substituted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 37(4)(b)(i), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F16** Words in s. 75A(2)(a) substituted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), ss. 37(4)(b)(ii), 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F17** S. 75A(3) repealed (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(c)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F18** Word in s. 75A(4)(c) substituted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(d)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F19** S. 75A(4A)-(4C) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(e)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F20** Words in s. 75A(5) renumbered as s. 75A(5)(a) (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(f)(i)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F21** S. 75A(5)(b) and word inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(f)(ii)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F22** Words in s. 75A(5) become closing words (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(f)(iii)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F23** Words in s. 75A(6) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(g)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F24** Words in s. 75A(7) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(h)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F25** Words in s. 75A(9)(b) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(i)(i)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F26** S. 75A(9)(ba) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(i)(ii)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F27** Words in s. 75A(9)(c) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(i)(iii)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F28** Words in s. 75A(10) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(4)(j)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)

Modifications etc. (not altering text)

- C3** S. 75A applied by S.S.I. 2010/431, art. 3(1) (as substituted (14.11.2011) by The Planning etc. (Scotland) Act 2006 (Saving and Transitional Provisions) Amendment Order 2011 (S.S.I. 2011/348), arts. 1, 2(2))

75B Appeals

- (1) Where a planning authority—
 - (a) fail to comply with section 75A(5), or
 - (b) determine that a planning obligation is to continue to have effect without modification,
 the applicant may appeal to the Scottish Ministers.
- (2) For the purposes of an appeal under subsection (1)(a), it is to be assumed that the authority have determined that the planning obligation is to continue to have effect without modification.
- (3) Any appeal under subsection (1) is to be made by notice served—
 - (a) within such period, and
 - (b) in such manner,
 as may be prescribed.
- (4) On an appeal under subsection (1) the Scottish Ministers may determine that the planning obligation—
 - (a) is to continue to have effect without modification,
 - (b) is discharged, or

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (c) is to have effect subject to [^{F29}modifications].
- [^{F30}(4A) Where the Scottish Ministers propose to make a determination under subsection (4)—
- (a) discharging the planning obligation despite that not being sought in the application, or
 - (b) modifying the planning obligation in a way that is not sought in the application,
- they must obtain the applicant's consent before making the determination.
- (4B) Where the Scottish Ministers propose to make a determination under subsection (4) modifying the planning obligation so as to put or increase a burden on any non-applicant, they must obtain that person's consent before making the determination.
- (4C) Where an application under subsection (2) relates to more than one planning obligation, the Scottish Ministers may make a separate determination in relation to each planning obligation.]
- (5) The Scottish Ministers are to give notice of their determination to
- [^{F31}(a)] the applicant[^{F32}, and
 - (b) any non-applicant against whom the planning obligation is enforceable,]
- [^{F33}within such period as is prescribed.]
- (6) This subsection applies where a determination under subsection (4)(b) or (c) relates to a planning obligation the relevant instrument in relation to which has been recorded in the Register of Sasines or registered in the Land Register of Scotland.
- (7) Where subsection (6) applies, the determination does not take effect until the date on which notice given under subsection (5) is so recorded or as the case may be so registered.
- (8) Where the determination is under subsection (4)(c), the planning obligation is enforceable as modified—
- (a) in a case where subsection (6) applies, from the date mentioned in subsection (7), and
 - (b) in any other case, from the date on which notice is given under subsection (5).
- (9) Regulations may make provision with respect to the form and content of any notice—
- (a) served under subsection (3), or
 - (b) given under subsection (5).
- (10) Except as provided under section 239, the determination of an appeal by the Scottish Ministers under this section is final.
- (11) Schedule 4 applies to appeals under this section, including appeals under this section as applied by regulations under any other provisions of this Act.

Textual Amendments

F3 Ss. 75-75C substituted for s. 75 (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 23, 59(2)** (with [S.S.I. 2010/431](#), [arts. 1\(1\), 3](#)); [S.S.I. 2008/411](#), [art. 2\(2\)\(3\)\(a\)](#); [S.S.I. 2010/400](#), [art. 3](#), [sch.](#)

F29 Word in [s. 75B\(4\)\(c\)](#) substituted (18.11.2020) by [Planning \(Scotland\) Act 2019 \(asp 13\)](#), **ss. 37(5)(a), 63(2)**; [S.S.I. 2020/294](#), [reg. 2](#) (with [reg. 3](#))

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F30** S. 75B(4A)-(4C) inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(5)(b)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F31** Words in s. 75B(5) renumbered as s. 75B(5)(a) (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(5)(c)(i)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F32** S. 75B(5)(b) and word inserted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(5)(c)(ii)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)
- F33** Words in s. 75B(5) become closing words (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 37(5)(c)(iii)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)

Modifications etc. (not altering text)

- C4** S. 75B applied by S.S.I. 2010/431, art. 3(1) (as substituted (14.11.2011) by The Planning etc. (Scotland) Act 2006 (Saving and Transitional Provisions) Amendment Order 2011 (S.S.I. 2011/348), arts. 1, 2(2))

75C Planning obligations: continuing liability of former owner etc.

- (1) In so far as a planning obligation comprises an appropriate requirement, an owner of land does not, by virtue only of ceasing to be such an owner, cease to be bound by that obligation (unless the relevant instrument provides that he does cease to be so bound).
- (2) The relevant instrument may provide that, in so far as a planning obligation comprises any other requirement, an owner of land does not, by virtue only of ceasing to be such an owner, cease to be bound by that obligation.
- (3) For the purposes of this section, an “appropriate requirement” is a requirement mentioned in subsection [F34(1A)(b) or (2)] of section 75 which is due for performance.
- (4) A person who becomes an owner of land the development or use of which is subject to a planning obligation enforceable as is mentioned in section 75(5) is, unless the relevant instrument otherwise provides, severally liable with any former owner of the land for any appropriate requirement for which the former owner is liable.
- (5) But if that person incurs expenditure in the performance of any appropriate requirement for which a former owner is liable, he may recover an amount equal to that expenditure from the former owner.
- (6) In this section, “owner” has the same meaning as in section 75.]

Textual Amendments

- F3** Ss. 75-75C substituted for s. 75 (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), **ss. 23**, 59(2) (with S.S.I. 2010/431, arts. 1(1), 3); S.S.I. 2008/411, art. 2(2)(3)(a); S.S.I. 2010/400, art. 3, sch.
- F34** Words in s. 75C(3) substituted (18.11.2020) by Planning (Scotland) Act 2019 (asp 13), **ss. 34(3)**, 63(2); S.S.I. 2020/294, reg. 2 (with reg. 3)

Modifications etc. (not altering text)

- C5** S. 75C savings for effects of 2006 asp 17 s. 23(1) (1.2.2011) by The Planning etc. (Scotland) Act 2006 (Saving and Transitional Provisions) Order 2010 (S.S.I. 2010/431), arts. 1(1), 3
- C6** S. 75C excluded by S.S.I. 2010/431, art. 3(2) (as substituted (14.11.2011) by The Planning etc. (Scotland) Act 2006 (Saving and Transitional Provisions) Amendment Order 2011 (S.S.I. 2011/348), arts. 1, 2(2))

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F35}75D Good neighbour agreements

- (1) A person may, by agreement with a community body, enter into an obligation governing operations or activities relating to the development or use of land, either permanently or during such period as may be specified in the agreement.
- (2) A body is a community body for the purposes of subsection (1) if—
 - (a) it is the community council for an area in which is situated any part of the land to which the agreement relates, or
 - (b) it has been notified by the planning authority for the area in which is situated the land to which the agreement relates that, in the opinion of the authority, it is—
 - (i) a body which falls within subsection (3), or
 - (ii) a trust which falls within subsection (4).
- (3) A body falls within this subsection if—
 - (a) its members have a substantial connection with the land to which the agreement relates, and
 - (b) the object, or function, of the body (or, as the case may be, one of its objects or functions) is to preserve or enhance the amenity of the neighbourhood in which is situated any part of the land to which the agreement relates.
- (4) A trust falls within this subsection if—
 - (a) its trustees have a substantial connection with the land to which the agreement relates, and
 - (b) the object, or function, of the trust (or, as the case may be, one of its objects or functions) is to preserve or enhance the amenity of the neighbourhood in which is situated any part of the land to which the agreement relates.
- (5) An agreement entered into under subsection (1) may be referred to as a “good neighbour agreement”.
- (6) Without prejudice to the generality of subsection (1), an obligation entered into under that subsection may—
 - (a) require operations or activities specified in the agreement to be carried out in, on, under or over the land, or
 - (b) require the land to be used in a way so specified.
- (7) The obligation—
 - (a) may be unconditional or subject to conditions,
 - (b) may require the provision to the community body of information regarding the development and use of the land to which the agreement relates, and
 - (c) is not to require the payment of money.
- (8) Without prejudice to the generality of subsection (7)(a), the agreement may provide for the postponement of the effectiveness of the obligation to a date specified in the agreement (whether the specification is of a fixed date or of a date determinable by reference to the occurrence of an event).
- (9) A good neighbour agreement to which the owner of the land is party may be recorded in the Register of Sasines or, as the case may be, registered in the Land Register of Scotland; and if the agreement is so recorded or registered then the obligation is (unless the agreement provides that only the person entering into that obligation is to be bound by it) enforceable at the instance of the community body—

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) against the owner of the land in so far as the obligation comprises a requirement mentioned in subsection (6), and
 - (b) against—
 - (i) the owner or tenant of the land, or
 - (ii) any other person having the use of the land,
 in so far as the obligation comprises any other requirement.
- (10) But no such obligation is enforceable against a third party who has acquired right to the land (whether or not that person has completed title) prior to the agreement being so recorded or registered.
- (11) In this section, “owner” has the same meaning as in section 75.
- (12) For the purposes of subsection (9) it is immaterial whether the person who is owner of the land when the agreement is recorded or registered was owner when the obligation was entered into.

Textual Amendments

F35 Ss. 75D-75G inserted (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 24, 59(2); S.S.I. 2008/411, art. 2(2)(3)(a); S.S.I. 2010/400, art. 3, sch.

75E Good neighbour agreements: modification and discharge of obligations

- (1) An obligation entered into under section 75D(1) may not be modified or discharged except—
- (a) by agreement between the community body and the person against whom the obligation is enforceable, or
 - (b) in accordance with this section and section 75F.
- (2) Where the community body and the person against whom the obligation is enforceable are unable to reach agreement regarding the modification or discharge of the obligation, either may apply to the planning authority for the area in which is situated the land to which the agreement relates.
- (3) An application under subsection (2) is one seeking the determination of the planning authority as to whether the obligation is—
- (a) to have effect subject to such modifications as may be specified in the application, or
 - (b) to be discharged.
- (4) An application under subsection (2) is not to specify a modification imposing an obligation on any non-applicant.
- (5) On an application under subsection (2), the authority may determine that the obligation—
- (a) is to continue to have effect without modification,
 - (b) is discharged, or
 - (c) is to have effect subject to the modifications specified in the application.

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (6) The authority are to give notice of their determination to the applicant within such period as is prescribed.
- (7) This subsection applies where—
 - (a) there is agreement such as is mentioned in subsection (1)(a), or
 - (b) a determination is made under subsection (5)(b) or (c),concerning an obligation the agreement in relation to which has been recorded in the Register of Sasines or registered in the Land Register of Scotland.
- (8) Where subsection (7) applies, the modification or discharge does not take effect until the date on which—
 - (a) the agreement under subsection (1)(a), or
 - (b) the notice given under subsection (6),is so recorded or as the case may be so registered.
- (9) Regulations may make provision with respect to—
 - (a) the form and content of an application under subsection (2),
 - (b) the publication of notice of any such application,
 - (c) procedures for considering any representations made with respect to any such application, and
 - (d) the form and content of any notice given under subsection (6).

Textual Amendments

F35 Ss. 75D-75G inserted (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 24, 59(2); S.S.I. 2008/411, art. 2(2)(3)(a); S.S.I. 2010/400, art. 3, sch.

75F Good neighbour agreements: appeals

- (1) Where the planning authority—
 - (a) fail to comply with subsection (6) of section 75E, or
 - (b) make a determination under subsection (5) of that section,either of the parties referred to in subsection (1)(a) of that section may appeal to the Scottish Ministers.
- (2) For the purposes of an appeal under subsection (1)(a), it is to be assumed that the authority have determined that the obligation is to continue to have effect without modification.
- (3) Any appeal under subsection (1) is to be made by notice served—
 - (a) within such period, and
 - (b) in such manner,as may be prescribed.
- (4) On an appeal under subsection (1) the Scottish Ministers may determine that the obligation—
 - (a) is to continue to have effect without modification,
 - (b) is discharged, or
 - (c) is to have effect subject to the modifications specified in the application.

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) The Scottish Ministers are to give notice of their determination to the applicant within such period as is prescribed.
- (6) This subsection applies where a determination under subsection (4)(b) or (c) relates to an obligation the agreement in relation to which has been recorded in the Register of Sasines or registered in the Land Register of Scotland.
- (7) Where subsection (6) applies, the determination does not take effect until the date on which notice given under subsection (5) is so recorded or as the case may be is so registered.
- (8) Where the determination is under subsection (4)(c), the obligation is enforceable as modified—
 - (a) in a case where subsection (6) applies, from the date mentioned in subsection (7), and
 - (b) in any other case, from the date on which notice is given under subsection (5).
- (9) Regulations may make provision with respect to the form and content of any notice—
 - (a) served under subsection (3), or
 - (b) given under subsection (5).
- (10) Except as provided under section 239, the determination of an appeal by the Scottish Ministers under this section is final.
- (11) Schedule 4 applies to appeals under this section, including appeals under this section as applied by regulations under any other provisions of this Act.

Textual Amendments

F35 Ss. 75D-75G inserted (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 24, 59(2); S.S.I. 2008/411, art. 2(2)(3)(a); S.S.I. 2010/400, art. 3, sch.

75G Good neighbour agreements: continuing liability of former owner etc.

- (1) In so far as the obligation comprises an appropriate requirement, an owner of land does not, by virtue of ceasing to be such an owner, cease to be bound by that obligation (unless the good neighbour agreement provides that he does cease to be so bound).
- (2) The agreement may provide that, in so far as the obligation comprises any other requirement, an owner of land does not, by virtue only of ceasing to be such an owner, cease to be bound by the obligation.
- (3) For the purposes of this section, an “appropriate requirement” is a requirement mentioned in section 75D(6) which is due for performance.
- (4) A person who becomes an owner of land the development or use of which is subject to an obligation enforceable as is mentioned in section 75D(9) is, unless the agreement otherwise provides, severally liable with any former owner of the land for any appropriate requirement for which the former owner is liable.
- (5) But if that person incurs expenditure in the performance of any appropriate requirement for which a former owner is liable, he may recover an amount equal to that expenditure from the former owner.

Changes to legislation: *Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) In this section, “owner” has the same meaning as in section 75.]

Textual Amendments

F35 Ss. 75D-75G inserted (12.12.2008 for specified purposes, 1.2.2011 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 24, 59(2); S.S.I. 2008/411, art. 2(2)(3)(a); S.S.I. 2010/400, art. 3, sch.

Changes to legislation:

Town and Country Planning (Scotland) Act 1997, Cross Heading: Other controls over development is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)