



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART III

CONTROL OVER DEVELOPMENT

Other controls over development

[^{F1}75A Modification and discharge of planning obligations

- (1) A planning obligation may not be modified or discharged except—
 - (a) by agreement [^{F2}in writing]^{F3}... between the planning authority and [^{F4}the person or persons] against whom that obligation is enforceable, or
 - (b) in accordance with this section [^{F5}or] section 75B.
- (2) A person against whom a planning obligation is enforceable may apply to the planning authority for [^{F6}the obligation to]—
 - (a) [^{F7}be modified as] specified in the application, or
 - (b) be discharged.

^{F8}(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 [^{F9}modifications].

- [^{F10}(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

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- (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
[F^{F11}(a)] the applicant[F^{F12}, and
(b) any non-applicant against whom the planning obligation is enforceable,]
[F^{F13}within such period as is prescribed.]
- (6) This subsection applies where [F^{F14}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[F^{F15}—
(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 [F^{F16}or giving of] notice of any such application,
[F^{F17}(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 [F^{F18}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) [F^{F19}, (4A), (4B), (4C)] and (5) (above) to the authority are to be construed as references to the Scottish Ministers.]

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Textual Amendments

- F1** 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.
- F2** 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)
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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)
- F13** 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)
- F14** 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)
- F15** 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)
- F16** 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)
- F17** 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)
- F18** 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)
- F19** 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)

- C1** 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)**)

Changes to legislation:

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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\(9\)\(c\)](#)