



# Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

## 1997 CHAPTER 9

### PART I

#### LISTED BUILDINGS

#### CHAPTER II

##### AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

##### *Appeals*

### 18 Right to appeal against decision or failure to take decision

- (1) Where a planning authority—
- (a) refuse an application for listed building consent or grant it subject to conditions,
  - (b) refuse an application for variation or discharge of conditions subject to which such consent has been granted or grant it and add new conditions, or
  - (c) refuse an application for approval required by a condition imposed on the granting of listed building consent with respect to details of works or grant it subject to conditions,

the applicant, if he is aggrieved by the decision, may appeal to the Secretary of State.

- (2) A person who has made such an application may also appeal to the Secretary of State if the planning authority have neither—
- (a) given notice to the applicant of their decision on the application, nor
  - (b) in the case of such an application as is mentioned in subsection (1)(a) or (b), given notice to the applicant that the application has been referred to the Secretary of State in accordance with directions given under section 11,

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*Status: This is the original version (as it was originally enacted).*

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within the relevant period from the date of the receipt of the application or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.

- (3) In this section “the relevant period” means—
- (a) in the case of such an application as is mentioned in subsection (1)(a) or (b), such period as may be prescribed, and
  - (b) in the case of such an application for approval as is mentioned in subsection (1)(c), the period of two months from the date of the receipt of the application.
- (4) For the purposes of the application of sections 20(1) and 58(7)(a) in relation to an appeal under subsection (2), the authority shall be treated as having refused the application in question.

## **19 Appeals: supplementary provisions**

- (1) An appeal under section 18 must be made by notice served in the prescribed manner within such period as may be prescribed.
- (2) The period which may be prescribed under subsection (1) must not be less than—
- (a) in the case of an appeal under section 18(1), 28 days from the receipt by the applicant of notification of the decision, or
  - (b) in the case of an appeal under section 18(2), 28 days from the end of the relevant period within the meaning of that section or, as the case may be, the extended period there mentioned.
- (3) The notice of appeal may include as the ground or one of the grounds of the appeal a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by the Secretary of State under section 1.
- (4) In the case of a building in respect of which a building preservation notice is in force, the notice may include a claim that the building should not be included in such a list.
- (5) Regulations may provide that an appeal in respect of an application for listed building consent, or for the variation or discharge of conditions subject to which such consent has been granted, shall not be entertained unless it is accompanied by a certificate in the prescribed form as to the interests in the building to which the appeal relates.
- (6) Any such regulations may include provisions corresponding to those which may be included in regulations under section 10 by virtue of section 10(2).
- (7) If any person—
- (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (5) or (6) and which 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 those requirements and 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 level 3 on the standard scale.

## **20 Determination of appeals**

- (1) The Secretary of State may allow or dismiss an appeal under section 18, or may reverse or vary any part of the decision of the authority, whether or not the appeal relates to that part, and—
  - (a) may deal with the application as if it had been made to him in the first instance, and
  - (b) may exercise his power under section 1 to amend any list compiled or approved under that section by removing from it the building to which the appeal relates.
- (2) Before determining the appeal the Secretary of State shall, if either the appellant or the planning authority so wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (3) The decision of the Secretary of State on the appeal shall be final.
- (4) Schedule 3 (which makes provision regarding the determination of certain appeals by a person appointed by the Secretary of State) applies to appeals under section 18.