

PLANNING (SCOTLAND) ACT 2019

EXPLANATORY NOTES

OVERVIEW OF THE ACT

PART 3 – DEVELOPMENT MANAGEMENT

Development orders

Section 39: Withdrawal of planning permission granted by development order

199. Section 30(2) of the 1997 Act enables planning permission to be granted by a development order in relation to land specified in the order. This power is now rarely if ever used but a number of old “special development orders” made under previous versions of the legislation are still in effect.
200. Part IV of the 1997 Act deals with compensation for the effects of certain orders, notices etc. Section 77 currently sets out provisions for the payment of compensation if planning permission granted by a development order is withdrawn or modified. This includes the circumstances where a development order is revoked (section 77(1)(a)). If a development order is revoked, and an application is made within 12 months for planning permission for development previously permitted by the order, then compensation is payable by the planning authority if that planning permission is refused (or granted subject to different conditions than those included in the development order). In such cases section 76 applies as it does where a planning permission (not granted by a development order) is revoked or modified.
201. Section 39 of the Act repeals section 77 of the 1997 Act and introduces instead a power for the Scottish Ministers to make regulations concerning the compensation that may be payable on revocation of an order. The effect of this provision is to enable the Scottish Ministers to use regulations to :
 - set out the circumstances in which compensation may be payable;
 - set out what the compensation is to cover;
 - set out the manner in which the level of compensation is to be calculated;
 - require a claim for such compensation to be made within a certain period and specify how such a claim should be made and the information which should be included;
 - apply or disapply any of the provisions of Part IV of the 1997 Act with or without modifications.
202. Provisions in schedule 2 repeal various references to section 77 elsewhere in the 1997 Act.