



# Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

## 1972 CHAPTER 52

### PART IV

#### ADDITIONAL CONTROL IN SPECIAL CASES

##### *Buildings of special architectural or historic interest*

#### **52 Lists of buildings of special architectural or historic interest.**

- (1) For the purposes of this Act and with a view to the guidance of . . . <sup>F1</sup> planning authorities in the performance of their functions under this Act in relation to buildings of special architectural or historic interest, the Secretary of State shall compile lists of such buildings, or approve, with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list so compiled or approved.
- (2) In considering whether to include a building in a list compiled or approved under this section, the Secretary of State may take into account not only the building itself but also—
  - (a) any respect in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and
  - (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land and comprised within the curtilage of the building.
- (3) Before compiling or approving, with or without modifications, any list under this section, or amending any list thereunder the Secretary of State shall consult with such persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.
- (4) As soon as may be after any list has been compiled or approved under this section, or any amendments of such a list have been made, a copy of so much of the list as

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relates to the district of [<sup>F2</sup>any regional, general or district planning authority within the meaning of Part IX of the <sup>M1</sup>Local Government (Scotland) Act 1973] or the local authority for the purposes of the Housing (Scotland) Acts 1966 to 1969, or of so much of the amendments as relates thereto, as the case may be, certified by or on behalf of the Secretary of State to be a true copy thereof, shall be deposited with the clerk of that authority.

- (5) As soon as may be after the inclusion of any building in a list under this section, whether on the compilation or approval of the list or by the amendment thereof, or as soon as may be after any such list has been amended by the exclusion of any building therefrom, the . . . <sup>F1</sup> planning authority concerned in whose district the building is situated, on being informed of the fact by the Secretary of State, shall serve a notice in the prescribed form on every owner, lessee and occupier of the building, stating that the building has been included in, or excluded from, the list, as the case may be.
- (6) The Secretary of State shall keep available for public inspection, free of charge at reasonable hours and at a convenient place, copies of all lists and amendments of lists compiled, approved or made by him under this section; and every authority with whose clerk copies of any list or amendments are deposited under this section shall similarly keep available copies of so much of any such list or amendment as relates to buildings within their area.
- (7) In this Act “listed building” means a building which is for the time being included in a list compiled or approved by the Secretary of State under this section; [<sup>F3</sup>and, for the purposes of the provisions of this Act relating to listed buildings and building preservation notices, the following shall be treated as part of the building—
- (a) any object or structure fixed to the building;
  - (b) any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so much before 1st July 1948.]
- (8) Every building which immediately before 3rd August 1970 was subject to a building preservation order under section 27 of the Act of 1947 but was not then included in a list compiled or approved under section 28 of that Act, shall be deemed to be a listed building; but the Secretary of State may at any time direct, in the case of any building, that this subsection shall no longer apply to it and the . . . <sup>F1</sup> planning authority in whose district the building is situated, on being notified of the Secretary of State’s direction, shall give notice of it to the owner, lessee and occupier of the building.
- (9) Before giving a direction under subsection (8) of this section in relation to a building, the Secretary of State shall consult with the . . . <sup>F1</sup> planning authority and with the owner, lessee and occupier of the building.

#### Textual Amendments

- F1** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F2** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 23 para. 19](#)
- F3** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 50, Sch. 9 Pt. II para. 13\(1\)](#)

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

- C1** Definition of 'listed building' in s. 52 applied (30.11.1991) by [Coal Mining Subsidence Act 1991 \(c. 45\), s. 19\(1\)\(c\)](#) (with s. 37(4)); S.I. 1991/2508, [art.2](#)

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#### Marginal Citations

M1 1973 c. 65.

### 53 Control of works for demolition, alteration or extension of listed buildings

- (1) Subject to this Part of this Act, if a person executes or causes to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised under [<sup>F4</sup>subsection (2) of this section], he shall be guilty of an offence.
- (2) Works for the demolition of a listed building, or for its alteration or extension, are authorised under this Part of this Act only if—
  - (a) the . . . <sup>F5</sup> planning authority or the Secretary of State have granted written consent (in this Act referred to as “listed building consent”) for the execution of the works and the works are executed in accordance with the terms of the consent and of any conditions attached to the consent under section 54 of this Act; and
  - (b) in the case of demolition, notice of the proposal to execute the works has been given to the Royal Commission and thereafter either—
    - (i) for a period of at least three months following the grant of listed building consent, and before the commencement of the works, reasonable access to the building has been made available to members or officers of the Commission for the purpose of recording it; or
    - (ii) the Commission have, by their Secretary or other officer of theirs with authority to act on the Commission’s behalf for the purposes of this section, stated in writing that they have completed their recording of the building or that they do not wish to record it.

[<sup>F6</sup>(2A) If written consent is granted by the planning authority or the Secretary of State for the retention of works for the demolition, alteration or extension of a listed building which have been executed without consent under subsection (2) of this section, the works are authorised under this Part of this Act from the grant of the consent under this subsection.]

- (3) In subsection (2) of this section “the Royal Commission” means the Royal Commission on the Ancient and Historical Monuments of Scotland; but the Secretary of State may, by order provide that the said subsection shall, in the case of works executed or to be executed on or after such date as may be specified in the order, have effect with the substitution for the reference to the Royal Commission of a reference to such other body as may be so specified.

[<sup>F7</sup>(3A) Consent under subsection (2) or (2A) of this section is referred to in this Part of this Act as “building consent”.]

- (4) Without prejudice to subsection (1) of this section, if a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent under section 54 of this Act, he shall be guilty of an offence.

[<sup>F8</sup>(5) A person who is guilty of an offence under this section shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £20,0, or both; or

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;

and in determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.]

[<sup>F9</sup>(6) In proceedings for an offence under this section it shall be a defence to prove the following matters—

- (a) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building;
- (b) that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter;
- (c) that the works carried out were limited to the minimum measures immediately necessary, and
- (d) that notice in writing justifying in detail the carrying out of the works was given to the planning authority as soon as reasonably practicable.]

**Textual Amendments**

- F4** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, **Sch. 9 Pt. II**, para. 14(1)
- F5** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)
- F6** S. 53(2A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, **Sch. 9 Pt. II para. 14(2)**
- F7** S. 53(3A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, **Sch. 9 Pt. II para. 14(3)**
- F8** S. 53(5) substituted (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 57, **Sch. 10**, para. 2 (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F9** S. 53(6) substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, **Sch. 9 Pt. II**, para. 15(1)

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

- C2** S. 53 modified by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 93, Sch. 7 Pt. I paras. 1(2), **2(1)**

**54 Provisions supplementary to s. 53.**

(1) Section 53 of this Act shall not apply to works for the demolition, alteration or extension of—

- (a) an ecclesiastical building which is for the time being used for ecclesiastical purposes or would be so used but for the works; or

[<sup>F10</sup>(b) a building for the time being included in the Schedule of monuments compiled and maintained under section 1 of the <sup>M2</sup>Ancient Monuments and Archaeological Areas Act 1979].

For the purposes of this subsection, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.

(2) ..... <sup>F11</sup>

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(3) In considering whether to grant planning Permission for development which [<sup>F12</sup>affects a listed building or its setting], and in considering whether to grant listed building consent for any works, the . . . <sup>F13</sup> planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building [<sup>F14</sup>or its setting] or any features of special architectural or historic interest which it possesses.

[<sup>F15</sup>(4) Listed building consent may be granted subject to conditions; and, without prejudice to the generality of the foregoing provisions of this subsection, the conditions may] include conditions with respect to—

- (a) the preservation of particular features of the building, either as part of it or after severance therefrom;
- (b) the making good, after the works are completed, of any damage caused to the building by the works;
- (c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.

[<sup>F16</sup>(4A) Listed building consent may be granted subject to a condition reserving specified details of the works (whether or not set out in the application) for subsequent approval by the planning authority or, in the case of consent granted by the Secretary of State, specifying whether the reserved details are to be approved by the planning authority or by him.]

[<sup>F17</sup>(5) In granting a listed building consent a planning authority may attach to the consent a condition that no demolition of the listed building shall take place until either or both of the following requirements have been met—

- (a) an agreement for the regulation of the development of the site of the listed building has been made and recorded under section 50 of this Act;
- (b) the planning authority are satisfied that contracts have been placed either—
  - (i) for the redevelopment of the site; or
  - (ii) for its conversion to an acceptable open space,

in accordance with a current planning permission.]

(6) Part I of Schedule 10 to this Act shall have effect with respect to applications to . . . <sup>F13</sup> planning authorities for listed building consent, the reference of such applications to the Secretary of State and appeals against decisions on such applications; and Part II of that Schedule shall have effect with respect to the revocation of listed building consent by a . . . <sup>F13</sup> planning authority or the Secretary of State.

#### Textual Amendments

- F10** S. 54(1)(b) substituted for S. 54(1)(b)(c) by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46\)](#), [Sch. 4 para. 12](#)
- F11** S. 54(2) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 4 Pt. I](#)
- F12** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 2 para. 15\(a\)\(i\)](#)
- F13** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 172\(2\)](#)
- F14** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 2 para. 15 \(a\)\(ii\)](#)
- F15** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 2 para. 15\(b\)](#)
- F16** S. 54(4A) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, [Sch. 9 Pt. II para. 16\(1\)](#)

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**F17** S. 54(5) substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 2 para. 15\(c\)](#)

**Marginal Citations**

**M2** 1979 c. 46.

**[<sup>F18</sup>54A Limit on duration of listed building consent.**

- (1) Any listed building consent granted after the commencement of this section shall be granted subject to a condition that works permitted by that consent shall be commenced within such period as the planning authority may specify in the consent.
- (2) If no time limit is specified in any grant of listed building consent under subsection (1) above, the grant shall be deemed to have been made subject to a condition that works in terms thereof shall be commenced with 5 years from the date of the grant.
- (3) Any grant of listed building consent made prior to 1st January 1980 which does not contain such a condition as is mentioned in subsection (1) above shall be deemed to have been granted subject to a condition that works in terms thereof shall be commenced within 3 years of the commencement of this section.
- (4) Any grant of listed building consent made on or after 1st January 1980 but before the commencement of this section which does not contain such a condition as is mentioned in subsection (1) above shall be deemed to have been made subject to a condition that works in terms thereof shall be commenced within 5 years of the commencement of this section.]

[ Nothing in this section applies to any consent to the retention of works granted under <sup>F19</sup>(5) section 53(2A) of this Act.]]

**Textual Amendments**

**F18** Ss. 54A, 54B inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 2 para. 16](#)

**F19** S. 54A(5) added by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, [Sch. 9 Pt. II para. 14\(4\)](#)

**54B [<sup>F20</sup>Date of listed building consent.**

The date of the granting or of the refusal of an application for listed building consent shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.

**Textual Amendments**

**F20** Ss. 54A, 54B inserted by [Local Government and Planning \(Scotland\) Act \(c. 43\)](#), [Sch. 2 para. 16](#)

**[<sup>F21</sup>54C Intimation of notices etc. affecting listed buildings.**

- (1) Subject to subsection (2) below, where a local authority—
  - (a) have, under or by virtue of any enactment, served a notice requiring any person to show cause why a listed building should not conform to the building regulations; or

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- (b) have, under or by virtue of any enactment, served a notice or made an order requiring—
- (i) the demolition of such a building; or
  - (ii) the carrying out of works affecting such a building; or
- (c) propose (whether under or by virtue of any enactment or otherwise) to carry out emergency works or demolitions affecting such a building,
- they shall forthwith give written intimation of the notice, order, or proposal, as the case may be, to the planning authority:

Provided that where the building is owned, leased or occupied by the planning authority, the local authority (whether or not they are the planning authority) shall also give such intimation to the Secretary of State.

- (2) Where the safety of the public requires that any demolition or works be carried out without such delay as would result from compliance with the provisions of subsection (1) above, the intimation (which may, in such a case, initially be oral) shall be given as long before the commencement of the demolition or works as is consistent with that requirement.]

#### Textual Amendments

**F21** S. 54C inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 42](#)

#### [<sup>F22</sup>54D Application for variation or discharge of conditions.

- (1) Any person interested in a listed building with respect to which listed building consent has been granted subject to conditions may apply to the planning authority for the variation or discharge of the conditions.
- (2) The application shall indicate what variation or discharge of conditions is applied for and the provisions of Part I of Schedule 10 to this Act apply to such an application as they apply to an application for listed building consent.
- (3) On such an application the planning authority or, as the case may be, the Secretary of State may vary or discharge the conditions attached to the consent, and may add new conditions consequential upon the variation or discharge, as they or he think fit.]

#### Textual Amendments

**F22** S. 54D inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 50, Sch. 9 Pt. II para. 17](#)

#### 55 Acts causing or likely to result in damage to listed buildings.

- (1) Where a building, not being a building excluded by section 54(1) of this Act from the operation of section 53 of this Act, is included in a list compiled or approved under section 52 of this Act, then, if any person who, but for this section, would be entitled to do so, does or permits the doing of any act which causes or is likely to result in damage to the building (other than an act for the execution of excepted works) and he does or permits it with the intention of causing such damage, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F23</sup>level 3 on the standard scale].

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- (2) In subsection (1) of this section “excepted works” means works authorised by planning permission granted or deemed to be granted in pursuance of an application under this Act and works for which listed building consent has been given under this Act.
- (3) Where a person convicted of an offence under this section fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding [<sup>F24</sup>one-tenth of level 3 on the standard scale] for each day on which the failure continues.

#### Textual Amendments

- F23** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**)
- F24** Words in [s. 55\(3\)](#) substituted (25.9.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), **s. 61, Sch. 13 para.18** (with [s. 84\(5\)](#)); [S.I. 1992/1937, art.4, Sch.](#) (with [art. 5](#))

## 56 Building preservation notice in respect of building not listed.

- (1) If it appears to the . . . <sup>F25</sup> planning authority, in the case of a building in their district which is not a listed building, that it is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as such, they may (subject to subsection (2) of this section) serve on the owner, lessee and occupier of the building a notice (in this section referred to as a “building preservation notice”)—
  - (a) stating that the building appears to them to be of special architectural or historic interest and that they have requested the Secretary of State to consider including it in a list compiled or approved under section 52 of this Act; and
  - (b) explaining the effect of subsections (3) and (4) of this section.
- (2) a building preservation notice shall not be served in respect of an excepted building, that is to say—
  - (a) an ecclesiastical building which is for the time being used for ecclesiastical purposes; or
  - [<sup>F26</sup>(b) a building for the time being included in the Schedule of monuments compiled and maintained under section 1 of the <sup>M3</sup>Ancient Monuments and Archaeological Areas Act 1979].

For the purposes of this subsection, a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.
- (3) a building preservation notice shall come into force as soon as it has been served on the owner, lessee and occupier of the building to which it relates and shall remain in force for six months from the date when it is served or, as the case may be, last served; but it shall cease to be in force if, before the expiration of that period, the Secretary of State either includes the building in a list compiled or approved under section 52 of this Act or notifies the . . . <sup>F25</sup> planning authority in writing that he does not intend to do so.
- (4) While a building preservation notice is in force with respect to a building, the provisions of this Act (other than section 55) shall have effect in relation to it as if the building were a listed building; and if the notice ceases to be in force (otherwise than by reason of the building being included in a list compiled or approved under



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the said section 52), the provisions of Part III of Schedule 10 to this Act shall have effect with respect to things done or occurring under the notice or with reference to the building being treated as listed.

- (5) If, following the service of a building preservation notice, the Secretary of State notifies the . . . <sup>F25</sup> planning authority that he does not propose to include the building in a list compiled or approved under section 52 of this Act, the authority—
- (a) shall forthwith give notice of the Secretary of State's decision to the owner, lessee and occupier of the building; and
  - (b) shall not, within the period of twelve months beginning with the date of the Secretary of State's notification, serve another such notice in respect of the said building.
- (6) If it appears to the . . . <sup>F25</sup> planning authority to be urgent that a building preservation notice should come into force, they may, instead of serving the notice on the owner, lessee and occupier of the building to which it relates, affix the notice conspicuously to some object on the building; and this shall be treated for all the purposes of this section and of Schedule 10 to this Act as service of the said notice, in relation to which subsection (1)(b) of this section shall be taken to include a reference to this subsection.

#### Textual Amendments

**F25** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**F26** [S. 56\(2\)\(b\)](#) substituted for [S. 56\(2\)\(b\)\(c\)](#) by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46\), Sch. 4 para. 12](#)

#### Marginal Citations

**M3** [1979 c. 46](#)

### <sup>F27</sup>**56A Power to restrict exemption of certain ecclesiastical buildings.**

- (1) The Secretary of State may by order provide for restricting or excluding in such cases as may be specified in the order the operation in relation to ecclesiastical buildings of sections 54(1) and 56(2) of this Act (buildings excepted from provisions relating to listed buildings and building preservation notices).
- (2) An order under this section may—
- (a) make provision for buildings generally, for descriptions of building or for particular buildings;
  - (b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or according to the use made of the building;
  - (c) make such provision in relation to a part of a building (including, in particular, an object or structure falling to be treated as part of the building by virtue of section 52(7) of this Act) as may be made in relation to a building and make different provision for different parts of the same building;
  - (d) make different provision with respect to works of different descriptions or according to the extent of the works;
  - (e) make such consequential adaptations or modifications of the operation of any other provision of this Act, or of any instrument made under this Act, as appear to the Secretary of State to be appropriate.

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(3) This section is without prejudice to the Church of Scotland Act <sup>M4</sup>1921.]

**Textual Amendments**

**F27** S. 56AA inserted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 50, **sch. 9 Pt. II**, para. 18(1)

**Marginal Citations**

**M4** 1921 c.29 (22).

*[<sup>F28</sup> Hazardous substances]]*

**Textual Amendments**

**F28** Ss. 56A–56O inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), **s. 35** (with s. 38(1)(a)); S.I. 1993/273, **arts.3, 5**

**56A** [<sup>F29</sup>**Hazardous substances.**

- (1) Subject to subsection (2) of this section <sup>F30</sup>. . . , it shall be the duty of the planning authority to control hazardous substances in accordance with the provisions of this Act.
- (2) An urban development corporation shall control hazardous substances in their area if they are the planning authority in relation to all kinds of development.

**Textual Amendments**

**F29** S. 56A inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), **s. 35** (with s. 38(1)); S.I. 1993/273, **arts.3, 5**

**F30** Words repealed (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), **Sch. 16 Pt. VII**; S.I. 1993/274, **art.2(1)**

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

**C3** S. 56A amended (27.8.1993) by [1993 c. 12, ss. 40\(1\), 51\(2\)](#), **Sch. 3 Pt. II para.14** (with ss. 42, 46)

<sup>F31</sup>**56B** .....

**Textual Amendments**

**F31** S. 56B inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), **s. 35** (with s. 38(1)(a)); S.I. 1993/273, **arts.3, 5** and repealed (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 144, 162(2), Sch. 13 para. 11(2), **Sch. 16 Pt. VII**; S.I. 1993/274, **art. 2(1)**

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**[<sup>F32</sup>56C Requirement of hazardous substances consent.**

- (1) Subject to the provisions of this Part of this Act, the presence of a hazardous substance on, over or under land requires the consent of the planning authority (in this Act referred to as “hazardous substances consent”) unless the aggregate quantity of the substance—
  - (a) on, under or over the land;
  - (b) on, under or over other land which is within 500 metres of it and controlled by the same person; or
  - (c) in or on a structure controlled by the same person any part of which is within 500 metres of it,is less than the controlled quantity.
- (2) The temporary presence of a hazardous substance while it is being transported from one place to another is not to be taken into account unless it is unloaded.
- (3) The Secretary of State—
  - (a) shall by regulations specify—
    - (i) the substances that are hazardous substances for the purposes of this Act;
    - (ii) the quantity which is to be the controlled quantity of any such substance;
  - (b) may by regulations provide that hazardous substances consent is not required or is only required—
    - (i) in relation to land of prescribed descriptions;
    - (ii) by reason of the presence of hazardous substances in prescribed circumstances;
  - (c) may by regulations provide that, except in such circumstances as may be prescribed, all hazardous substances falling within a group specified in the regulations are to be treated as a single substance for the purposes of this Act.
- (4) Regulations which—
  - (a) are made by virtue of sub-paragraph (i) of subsection (3)(a) above; or
  - (b) are made by virtue of sub-paragraph (ii) of that paragraph and reduce the controlled quantity of a substance,may make such transitional provision as appears to the Secretary of State to be appropriate.
- (5) The power to make such transitional provision includes, without prejudice to its generality, power to apply section 38 of the Housing and Planning Act 1986 subject to such modifications as appear to the Secretary of State to be appropriate.
- (6) Regulations under this section may make different provision for different cases or descriptions of cases.
- (7) Bodies corporate which are inter-connected for the purposes of the Fair Trading Act 1973 are to be treated as being one person for the purposes of this section and sections 56D to 56L and 97B below.]

*Status: Point in time view as at 18/02/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part IV. (See end of Document for details)*

#### **Textual Amendments**

**F32** S. 56C inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), **s. 35** (with s. 38(1)(a)); S.I. 1993/273, **arts.3, 5**

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

**C4** S. 56C amended (27.8.1993) by 1993 c. 12, ss. 40(1), 51(2), **Sch. 3 Pt. II para.14** (with ss. 42, 46)

### **[<sup>F33</sup>56D Applications for hazardous substances consent.**

- (1) Provision may be made by regulations with respect to—
  - (a) the form and manner in which applications [<sup>F34</sup>under this Act] for hazardous substances consent are to be made;
  - (b) the particulars which they are to contain and the evidence by which they are to be verified;
  - (c) the manner in which they are to be advertised; and
  - (d) the time within which they are to be dealt with.
- (2) Regulations may provide that an application for hazardous substances consent, or an appeal against the refusal of such an application or against the imposition of a condition on such a consent, shall not be entertained unless it is accompanied by a certificate in the prescribed form and corresponding to one or other of those described in section 24(1)(a) to (d) of this Act and any such regulations may—
  - (a) include requirements corresponding to those mentioned in sections 23(1), 24(2) and (4) and 26(3), of this Act; and
  - (b) make provision as to who is to be treated as the owner of land for the purposes of any provision of the regulations.
- (3) If any person issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (2) above and which contains a statement which he knows to be false or misleading in a material particular, or 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.
- (4) Regulations—
  - (a) may require an applicant for hazardous substances consent or the planning authority or both to give publicity to an application for hazardous substances consent in such manner as may be prescribed;
  - (b) may require the planning authority to conduct appropriate consultations before determining applications for hazardous substances consent;
  - (c) may provide for the manner in which such a consultation is to be carried out and the time within which—
    - (i) such a consultation;
    - (ii) any stage in such a consultation, is to be completed;
  - (d) may require the planning authority to determine applications for hazardous substances consent within such time as may be prescribed;

*Status: Point in time view as at 18/02/1993.*

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- (e) may require the planning authority to give prescribed persons or bodies prescribed information about applications for hazardous substances consent including information as to the manner in which such applications have been dealt with.
- (5) In subsection (4) above “appropriate consultations” [<sup>F35</sup>means consultations with the Health and Safety Executive and with] such persons or bodies as may be prescribed
- (6) Regulations under this section may make different provision for different cases or descriptions of cases.]

#### Textual Amendments

- F33** S. 56D inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), [s. 35](#) (with s. 38(1)(a)); S.I. 1993/273, [arts.3, 5](#)
- F34** Words in s. 56D(1)(a) inserted (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 144, [Sch. 13 para. 11\(3\)](#); S.I. 1993/274, [art. 2\(1\)](#)
- F35** Words in s. 56D(5) substituted (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 144, [Sch. 13 para. 11\(4\)](#); S.I. 1993/274, [art. 2\(1\)](#)

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

- C5** S. 56D amended (27.8.1993) by [1993 c. 12, ss. 40\(1\), 51\(2\)](#), [Sch. 3 Pt. II para. 14](#) (with ss. 42, 46)

#### [<sup>F36</sup>56DA] Fees.

- (1) The Secretary of State may by regulations make provision for fees of the prescribed amount in respect of applications for, or for the continuation of, hazardous substances consent—
- (a) made to an urban development corporation under section 56A(2) above to be paid to the corporation;
- (b) referred to him under section 32 above as having effect by virtue of section 56F below to be paid to him;
- (c) deemed to have been made to him under section 85(7) below by virtue of regulations made under section 97B(10) below to be paid to him.
- (2) Regulations made under this section may provide for—
- (a) the transfer to the Secretary of State of any fee received by a planning authority in respect of an application referred to in paragraph (b) or (c) of subsection (1) above;
- (b) the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances or in pursuance of a direction given by him;
- and the regulations may make different provision for different areas or for different cases or descriptions of cases.]

#### Textual Amendments

- F36** S. 56DA inserted (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 144, [Sch. 13 para. 11\(5\)](#); S.I. 1993/274, [art.2\(1\)](#)

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

- C6** S. 56DA amended (27.8.1993) by [1993 c. 12, ss. 40\(1\), 51\(2\)](#), [Sch. 3 Pt. II para.14](#) (with ss. 42, 46)

*Status: Point in time view as at 18/02/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part IV. (See end of Document for details)*

**[<sup>F37</sup>56E Determination of applications for hazardous substances consent.**

- (1) Subject to the following provisions of this Act, where an application is made to a planning authority for hazardous substances consent, that authority, in dealing with the application, shall have regard to any material considerations, and—
  - (a) may grant hazardous substances consent, either unconditionally or subject to such conditions as they think fit; or
  - (b) may refuse hazardous substances consent.
- (2) Without prejudice to the generality of subsection (1) above, in dealing with an application the authority shall have regard—
  - (a) to any current or contemplated use of the land to which the application relates;
  - (b) to the way in which land in the vicinity is being used or is likely to be used;
  - (c) to any planning permission that has been granted for development of land in the vicinity;
  - (d) to the provisions of the development plan; and
  - (e) to any advice which the Health and Safety Executive <sup>F38</sup> . . . have given following consultations in pursuance of regulations under section 56D(4) above.
- (3) If an application relates to more than one hazardous substance, the authority may make different determinations in relation to each.
- (4) It shall be the duty of a planning authority, when granting hazardous substances consent, to include in that consent—
  - (a) a description of the land to which the consent relates;
  - (b) a description of the hazardous substance or substances to which it relates; and
  - (c) in respect of each hazardous substance to which it relates, a statement of the maximum amount permitted by the consent to be present at any one time and of all conditions relating to that substance subject to which the consent is granted.
- (5) Without prejudice to the generality of subsection (1) above, a planning authority may grant hazardous substances consent subject to conditions with respect to any of the following—
  - (a) how and where any hazardous substance to which the consent relates is to be kept or used;
  - (b) times between which any such substance may be present;
  - (c) the permanent removal of any such substance—
    - (i) on or before a date specified in the consent; or
    - (ii) before the end of a period specified in it and commencing on the date on which it is granted;
  - (d) the consent being conditional on the commencement or partial or complete execution of development on the land which is authorised by a specified planning permission,

but [<sup>F39</sup>they] may only grant consent subject to conditions as to how a hazardous substance is to be kept or used if the conditions are conditions to which the Health and Safety Executive have advised the authority that any consent they might grant should be subject.]

*Status: Point in time view as at 18/02/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part IV. (See end of Document for details)*

**Textual Amendments**

- F37** S. 56E inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986](#) (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(a)); S.I. 1993/273, **arts.3, 5**
- F38** Words in s. 56E(1)(e) repealed (18.2.1993) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. VII**; S.I. 1993/274, **art.2(1)**
- F39** Word in s. 56E(5) substituted (18.2.1993) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), s. 144, **Sch. 13 para. 11(6)**; S.I. 1993/274, **art.2(1)**

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

- C7** S. 56E applied in part (1.5.1993) by S.I. 1993/323, **reg. 27(4)**  
S. 56E amended (27.8.1993) by 1993 c. 12, ss. 40(1), 51(2), **Sch. 3 Pt. II para.14** (with ss. 42, 46)

[<sup>F40</sup>**56F** **References to regional planning authority and Secretary of State and appeals.**

- (1) Subject to subsections (2) <sup>F41</sup> . . . below, sections 32 to 34 of this Act and section 179 (reference of applications to regional planning authority) of the Local Government (Scotland) Act <sup>M5</sup>1973 shall have effect in relation to applications for hazardous substances consent and to decisions on such applications as though they were applications for planning permission.
- (2) In the application of sections 32 to 34 of this Act to hazardous substances consent—
- (a) section 32(4) and section 33(5) and (7) shall be omitted;
  - (b) the words “and in such manner as may be prescribed” shall be substituted for the words in section 33(2) following “time”;
  - (c) in section 34, the words “by the development order” shall be omitted from both places where they occur.

<sup>F42</sup>(3) . . . . .]

**Textual Amendments**

- F40** S. 56F inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986](#) (c. 63, SIF 123:2), **s. 35** (with s. 38(1)(a)); S.I. 1993/273, **arts.3, 5**
- F41** Words in s. 56F(1) repealed (18.2.1993) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), ss. 162(2), 164(3), **Sch. 16 Pt. VII**; S.I. 1993/274, **art.2(1)**
- F42** S. 56F(3) repealed (18.2.1993) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), ss. 162(2), **Sch. 16 Pt. VII**; S.I. 1993/274, **art.2(1)**

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

- C8** S. 56F amended (27.8.1993) by 1993 c. 12, ss. 40(1), 51(2), **Sch. 3 Pt. II para.14** (with ss. 42, 46)

**Marginal Citations**

- M5** 1973 c.65(81:2).

[<sup>F43</sup>**56G** **Deemed hazardous substances consent by virtue of authorisation of government department.**

- (1) Where—

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- (a) the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority, or by statutory undertakers not being a local authority; and
  - (b) the development would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent,
- the department may, on granting that authorisation, also direct that hazardous substances consent for that development shall be deemed to be granted subject to such conditions (if any) as may be specified in the directions.
- (2) The department shall consult the Health and Safety Commission before issuing any such directions.
  - (3) The provisions of this Act (except [<sup>F44</sup>Part XII]) shall apply in relation to any hazardous substances consent deemed to be granted by virtue of directions under this section as if it had been granted by the Secretary of State on an application referred to him under section 32 of this Act, as applied by section 56F of this Act.
  - (4) The reference in subsection (1) above to the authorisation of a government department is to be construed in accordance with section 37(3) of this Act,
- [ A government department or the Secretary of State shall, as respects any hazardous
- <sup>F45</sup>(5) substances consent deemed to be granted by virtue of directions under this section, send to the planning authority concerned any such information as appears to be required by them for the purposes of a register under section 56N.]]

#### Textual Amendments

- F43** S. 56G inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), **s. 35** (with s. 38(1)(a)); S.I. 1993/273, **arts.3, 5**
- F44** Words in s. 56G(3) substituted (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\)](#), s. 60(6), **Sch. 12, para. 11** (with s. 84(5)); S.I. 1991/2092, **art. 3**
- F45** S. 56G(5) added (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 144, 164(3), **Sch. 13 para. 11(7)**; S.I. 1993/274, **art. 2(1)**

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

- C9** S. 56G amended (27.8.1993) by [1993 c. 12, ss. 40\(1\), 51\(2\)](#), **Sch. 3 Pt. II para.14** (with ss. 42, 46)

#### [<sup>F46</sup>56H Grants of hazardous substances consent without compliance with conditions previously attached.

- (1) This section applies to an application for hazardous substances consent without a condition subject to which a previous hazardous substances consent was granted or is deemed to have been granted.
- (2) On such an application the planning authority shall consider only the question of the conditions subject to which hazardous substances consent should be granted, and—
  - (a) if they determine that hazardous substances consent should be granted subject to conditions differing from those subject to which the previous consent was granted, or that it should be granted unconditionally, they shall grant hazardous substances consent accordingly; and



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- (b) if they determine that hazardous substances consent should be granted subject to the same conditions as those subject to which the previous consent was granted, they shall refuse the application.
- (3) Where—
- (a) hazardous substances consent has been granted or is deemed to have been granted for the presence on, over or under land of more than one hazardous substance; and
  - (b) an application under this section does not relate to all the substances, the planning authority shall only have regard to any condition relating to a substance to which the application does not relate to the extent that it has implications for a substance to which the application does relate.
- (4) Where—
- (a) more than one hazardous substances consent has been granted or is deemed to have been granted in respect of the same land; and
  - (b) an application under this section does not relate to all the consents, the planning authority shall only have regard to any consent to which the application does not relate to the extent that it has implications for a consent to which the application does relate.

<sup>F47</sup>(5) . . . . . ]

**Textual Amendments**

**F46** S. 56H inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986](#) (c. 63, SIF 123:2), s. 35 (with s. 38(1)(a)); S.I. 1993/273, arts.3, 5

**F47** S. 56H(5) repealed (18.2.1993) by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), ss. 144, 162(2), Sch. 13 para. 11(8), [Sch. 16 Pt. VII](#); S.I. 1993/274, art.2(1)

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

**C10** S. 56H amended (27.8.1993) by 1993 c. 12, ss. 40(1), 51(2), [Sch. 3 Pt. II para.14](#) (with ss. 42, 46)

<sup>F48</sup>**56J Power to revoke or modify hazardous substance consent.**

- (1) If it appears to the planning authority that—
- (a) there has been a material change of use of land to which a hazardous substances consent relates; or
  - (b) planning permission has been granted for development the carrying out of which would involve a material change of use of such land and the development to which the permission relates has been commenced,
- they may by order—
- (i) if the consent relates only to one substance, revoke it;
  - (ii) if it relates to more than one, revoke it or revoke it so far as it relates to a specified substance.
- (2) The planning authority may by order—
- (a) revoke a hazardous substances consent which relates to only one substance if it appears to them that that substance has not for at least 5 years been present on, under or over the land to which the consent relates in a quantity equal to or exceeding the controlled quantity; and

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- (b) revoke a hazardous substances consent which relates to a number of substances if it appears to them that none of those substances has for at least 5 years been so present.
- (3) The planning authority may by order revoke a hazardous substances consent or modify it to such extent as they consider expedient if it appears to them, having regard to any material consideration, that it is expedient to revoke or modify it.
- (4) An order under this section shall specify the grounds on which it is being made.
- (5) An order under this section, <sup>F49</sup> . . . , shall not take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modification as he considers expedient.
- (6) Where a planning authority submit an order under this section to the Secretary of State for his confirmation under this section, the authority shall serve notice of the order on—
- (a) any person who is an owner, occupier or lessee of the whole or any part of the land to which the order relates; and
  - (b) any other person who in their opinion will be affected by the order;
- and if within the period specified in that behalf in the notice (not being less than 28 days from the service thereof) any person on whom the notice is served so requires, the Secretary of State, before confirming the order, shall afford to that person and to the planning authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for that purpose.
- (7) Where an order under this section has been confirmed by the Secretary of State, the planning authority shall serve a copy of the order on every person who was entitled to be served with notice under subsection (6) of this section.
- (8) Section 159 of this Act shall have effect where a hazardous substances consent is revoked or modified by an order made in the exercise of the power conferred by subsection (3) of this section as it has effect where an order is made under section 49 of this Act.]

#### Textual Amendments

**F48** S. 56J inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 35 (with s. 38(1)(a)); S.I. 1993/273, arts.3, 5

**F49** Words in 56J(5) repealed (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. VII](#); S.I. 1993/274, art. 2(1)

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

**C11** S. 56J amended (27.8.1993) by 1993 c. 12, ss. 40(1), 51(2), [Sch. 3 Pt. II para.14](#) (with ss. 42, 46)

### <sup>F50</sup>56K Provisions as to effect of hazardous substances consent and change of control of land.

- (1) Without prejudice to the provisions of this Part of this Act, any hazardous substances consent shall (except in so far as it otherwise provides) enure for the benefit of the land to which it relates and of all persons for the time being interested in the land.

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*Status: Point in time view as at 18/02/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part IV. (See end of Document for details)*

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- (2) A hazardous substances consent is revoked if there is a change in the person in control of part of the land to which it relates unless an application for the continuation of the consent has previously been made to the planning authority.
- (3) Regulations may make provision in relation to applications under subsection (2) above corresponding to any provision that may be made by regulations under section 56D of this Act in relation to applications for hazardous substances consent.
- (4) When such application is made, the authority, having regard to any material consideration—
  - (a) may modify the consent in any way they consider appropriate; or
  - (b) may revoke it.
- (5) Without prejudice to the generality of subsection (4) above, in dealing with an application the authority shall have regard—
  - (a) to the matters to which a planning authority are required to have regard by section 56E(2)(a) to (d) above; and
  - (b) to any advice which the Health and Safety Executive <sup>F51</sup> . . . have given following consultations in pursuance of regulations under subsection (3) above.
- (6) If an application relates to more than one consent, the authority may make different determinations in relation to each.
- (7) If a consent relates to more than one hazardous substance, the authority may make different determinations in relation to each.
- (8) It shall be the duty of a planning authority, when continuing hazardous substances consent, to attach to the consent one of the following—
  - (a) a statement that is unchanged in relation to the matters included in it by virtue of section 56E(4) above;
  - (b) a statement of any change in respect of those matters.
- (9) The modifications which a planning authority may make by virtue of subsection (4) (a) above include, without prejudice to the generality of that paragraph, the making of the consent subject to conditions with respect to any of the matters mentioned in section 56E(5) above.
- (10) Subject to subsection (11) below, sections 32 to 34 of this Act and section 179 of the Local Government (Scotland) Act <sup>M6</sup>1973 shall have effect in relation to applications under subsection (2) above and to decisions on such applications as though they were applications for planning permission.
- (11) In the application of sections 32 to 34 of this Act by virtue of subsection (10) above—
  - (a) section 32(4) and section 33(5) and (7) shall be omitted;
  - (b) the words “and in such manner as may be prescribed” shall be substituted for the words in section 33(2) following “time”;
  - (c) in section 34—
    - (i) the words “by the development order” shall be omitted from the first place where they occur; and
    - (ii) the words “the application shall be deemed to have been granted” shall be substituted for the words following paragraph (b).

*Status: Point in time view as at 18/02/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part IV. (See end of Document for details)*

- (12) Where the authority modify or revoke the consent, they shall pay to the person in control of the whole of the land before the change compensation in respect of any loss or damage sustained by him and directly attributable to the modification or revocation.]

#### Textual Amendments

- F50** S. 56K inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 35 (with s. 38(1)(a)); S.I. 1993/273, arts.3, 5
- F51** Words in s. 56K(5)(b) repealed (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. VII](#); S.I. 1993/274, art. 2(1)

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

- C12** S. 56K amended (27.8.1993) by [1993 c. 12, ss. 40\(1\), 51\(2\)](#), [Sch. 3 Pt. II para.14](#) (with ss. 42, 46)

#### Marginal Citations

- M6** [1973 c.65\(81:2\)](#).

#### [<sup>F52</sup>56L Offences.

- (1) Subject to this Part of this Act, if there is a contravention of hazardous substances control, the appropriate person shall be guilty of an offence.
- (2) There is a contravention of hazardous substances control—
- (a) if a quantity of a hazardous substance equal to or exceeding the controlled quantity is or has been present on, under or over land and either—
    - (i) there is no hazardous substances consent for the presence of the substance; or
    - (ii) there is hazardous substances consent for its presence but the quantity present exceeds the maximum quantity permitted by the consent;
  - (b) if there is or has been a failure to comply with a condition subject to which a hazardous substances consent was granted.
- (3) In subsection (1) above
- “the appropriate person” means—
- (a) in relation to a contravention falling within paragraph (a) of subsection (2) above—
    - (i) any person knowingly causing the substance to be present on, over or under the land;
    - (ii) any person allowing it to be so present; and
  - (b) in relation to a contravention falling within paragraph (a) or (b) of that subsection, the occupier of the land.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding [<sup>F53</sup>£20,0]; or
  - (b) on conviction on indictment, to a fine,

[ In determining the amount of any fine to be imposed on a person convicted of an <sup>F54</sup>(4A) offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.]

*Status: Point in time view as at 18/02/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part IV. (See end of Document for details)*

- (5) In any proceedings for an offence under this section it shall be a defence for the accused to prove—
- (a) that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence; or
  - (b) that commission of the offence could be avoided only by the taking of action amounting to a breach of a statutory duty.
- (6) In any proceedings for an offence consisting of a contravention falling within subsection (2)(a) above, it shall be a defence for the accused to prove that at the time of the alleged commission of the offence he did not know, and had no reason to believe—
- (a) if the case falls within paragraph (a)(i)
    - (i) that the substance was present; or
    - (ii) that it was present in a quantity equal to or exceeding the controlled quantity;
  - (b) if the case falls within paragraph (a)(ii), that the substance was present in a quantity exceeding the maximum quantity permitted by the consent.
- (7) In any proceedings for an offence consisting of a contravention falling within subsection (2)(b) above, it shall be a defence for the accused to prove that he did not know, and had no reason to believe, that he was failing to comply with a condition subject to which hazardous substances consent had been granted.]

#### Textual Amendments

- F52** S. 56M inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986](#) (c. 63, SIF 123:2), [s. 35](#) (with s. 38(1)(a)); S.I. 1993/273, [arts.3, 5](#) (with transitional provisions for s. 56L in art. 6 of the said S.I.)
- F53** Words in s. 56L(4) substituted (18.2.1993) by [Planning and Compensation Act 1991](#) (c. 34, SIF 123:2), s. 57, [Sch. 10](#), para. 3(a) (with s. 84(5)); S.I. 1993/275, [art.2](#)
- F54** S. 56L(4A) substituted (18.2.1993) by [Planning and Compensation Act 1991](#) (c. 34, SIF 123:2), s. 57, [Sch. 10](#), para. 3(b) (with s. 84(5)); S.I. 1993/275, [art.2](#)

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

- C13** S. 56L excluded (*temp.*) (18.2.1993 for certain purposes, otherwise 1.5.1993) by [Housing and Planning Act 1986](#) (c. 63, SIF 123:2), [s. 38\(1\)\(a\)](#); S.I. 1993/273, [arts.3, 5](#)  
S. 56L amended (27.8.1993) by 1993 c. 12, ss. 40(1), 51(2), [Sch. 3 Pt. II para.14](#) (with ss. 42, 46)

#### [<sup>F55</sup> 56M Emergencies.

- (1) If it appears to the Secretary of State—
- (a) either—
    - (i) that the community or part of it is being or is likely to be deprived of an essential service or commodity; or
    - (ii) that there is or is likely to be a shortage of such a service or commodity affecting the community or part of it; and
  - (b) that the presence of a hazardous substance on, over or under land specified in the direction in circumstances such that hazardous substances consent would be required, is necessary for the effective provision of that service or commodity,

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he may direct that, subject to such conditions or exceptions as he thinks fit, the presence of the substance on, over or under the land is not to constitute a contravention of hazardous substances control so long as the direction remains in force.

- (2) A direction under this section—
  - (a) may be withdrawn at any time;
  - (b) shall in any case cease to have effect at the end of the period of three months beginning with the day on which it was given, but without prejudice to the Secretary of State’s power to give a further direction.
- (3)<sup>F56</sup> . . . The Secretary of State shall send a copy of any such direction to the planning authority in relation to the land.

<sup>F57</sup>(4) . . . . .]

**Textual Amendments**

- F55** S. 56M inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), **s. 35** (with s. 38(1)(a)); S.I. 1993/273, **arts.3, 5**
- F56** Words in s. 56M(3) repealed (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), **Sch. 16 Pt. VII**; S.I. 1993/274, **art. 2(1)**
- F57** S. 56M(4) repealed (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), **Sch. 16 Pt. VII**; S.I. 1993/274, **art.2(1)**

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

- C14** S. 56M amended (27.8.1993) by [1993 c. 12, ss. 40\(1\), 51\(2\)](#), **Sch. 3 Pt. II para.14** (with ss. 42, 46)

[<sup>F58</sup>**56N Registers, etc.**

- (1) Every planning authority shall keep, in such manner as may be prescribed, a register containing such information as may be so prescribed with respect—
  - (a) to applications for hazardous substances consent [<sup>F59</sup>made to that authority;
  - (aa) to applications under section 56K(2) above made to that authority;]
  - (b) to hazardous substances consent deemed to be granted under section 38 of the Housing and Planning Act 1986 with respect to land in relation to which that authority is <sup>F60</sup> . . . the planning authority;
  - (c) to revocations or modifications of hazardous substances consent granted with respect to such land; and
  - (d) to directions under section 56M above sent to the authority by the Secretary of State, [<sup>F61</sup> and every such register shall also contain such information as may be prescribed as to the manner in which applications for hazardous substances consent have been dealt with].

<sup>F62</sup>(2) . . . . .]

- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.]

**Textual Amendments**

- F58** S. 56N inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), **s. 35** (with s. 38(1)(a)); S.I. 1993/273, **arts.3, 5**

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- F59** Words in s. 56N(1) substituted (18.2.1993) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 144, **Sch. 13 para. 11(9)(a)**; S.I. 1993/274, **art. 2(1)**
- F60** Words in S. 56N(1)(b) repealed (18.2.1993) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. VII**; S.I. 1993/274, **art.2(1)**
- F61** Words in s. 56N(1)(d) inserted (18.2.1993) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 144, **Sch. 13 para. 11(9)(b)**; S.I. 1993/274, **art.2(1)**
- F62** S. 56N(2) repealed (18.2.1993) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. VII**; S.I. 1993/274, **art.2(1)**

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

- C15** S. 56N amended (27.8.1993) by 1993 c. 12, ss. 40(1), 51(2), **Sch. 3 Pt. II para.14** (with ss. 42, 46)

[<sup>F63</sup>**56O Health and safety requirements.**

- (1) Nothing in—
- (a) any hazardous substances consent granted or deemed to be granted under—
- (i) the preceding provisions of this Act; or
- (ii) section 38 of the Housing and Planning Act 1986; or
- (b) any hazardous substances contravention notice issued under section 97B of this Act,
- shall require or allow anything to be done in contravention of any of the relevant statutory provisions or any prohibition notice or improvement notice served under or by virtue of any of those provisions; and to the extent that such a consent or notice purports to require or allow any such thing to be done, it shall be void.
- (2) Where it appears to a planning authority who have granted or are deemed to have granted a hazardous substances consent or who have issued a hazardous substances contravention notice that the consent or notice or part of it is rendered void by subsection (1) above, the authority shall, as soon as is reasonably practicable, consult the [<sup>F64</sup>Health and Safety Executive] with regard to the matter.
- (3) If the [<sup>F64</sup>Health and Safety Executive] advise the authority that the consent or notice is rendered wholly void, the authority shall revoke it.
- (4) If they advise that part of the consent or notice is rendered void, the authority shall so modify it as to render it wholly operative.
- (5) In this section—<sup>F65</sup> . . .
- “relevant statutory provisions”,
- “improvement notice” and
- “prohibition notice” have the same meanings as in Part I of the Health and Safety at Work etc. Act <sup>M7</sup>1974.]

**Textual Amendments**

- F63** Ss. 56A–56O inserted (18.2.1993 for certain purposes, otherwise 1.5.1993) by the Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 35 (with s. 38(1)(a)); S.I. 1993/273, **arts.3, 5**
- F64** Words in s. 56O(2) substituted (18.2.1993) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 144, **Sch. 13 para. 11(10)**; S.I. 1993/274, **art.2(1)**

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**F65** The definition of “the appropriate body” and the word “and” immediately following repealed (18.2.1993) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), **Sch. 16 Pt. VII**; S.I. 1993/274, **art. 2(1)**

**Marginal Citations**

**M7** [1974 c.37\(43:3\)](#).

*Trees*

**57 Planning permission to include appropriate provision for preservation and planting of trees.**

It shall be the duty of the . . . <sup>F66</sup> planning authority—

- (a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and
- (b) to make such orders under section 58 of this Act as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

**Textual Amendments**

**F66** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. **172(2)**

**58 Tree preservation orders.**

(1) If it appears to a . . . <sup>F67</sup> planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their district, they may for that purpose make an order (in this Act referred to as a “tree preservation order”) with respect to such trees, groups of trees or woodlands as may be specified in the order; and, in particular, provision may be made by any such order—

- (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping; [<sup>F68</sup>uprooting, wilful damage] or wilful destruction of trees except with the consent of the . . . <sup>F67</sup> planning authority, and for enabling that authority to give their consent subject to conditions;
- (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
- (c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act falling within subsection (2) of this section, subject to such adaptations and modifications as may be specified in the order.

(2) References in this Act to provisions thereof falling within this subsection are references to—

- (a) the provisions of Part III of this Act relating to planning permission and to applications for planning permission, except sections 22, 23, 24, 25, 26(2) to (6), 31(3), <sup>F69</sup> . . . 38 to 41 and 44 to 47 of this Act; and



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- (b) such of the provisions of Part IX of this Act as are therein stated to be provisions falling within this subsection;
  - (c) section 256 of this Act.
- (3) a tree preservation order may be made so as to apply, in relation to trees to be planted pursuant to any such conditions as are mentioned in section 57(a) of this Act, as from the time when those trees are planted.
- (4) [<sup>F70</sup>Subject to section 59 of this Act [<sup>F71</sup>and section 2 of the Town and Country Planning Act 1984 (tree preservation orders in anticipation of disposal of Crown land)], a tree preservation order shall not take effect until it is confirmed by the planning authority; and the planning authority may confirm any such order either without modification or subject to such modification as they consider expedient]. As soon as may be after a tree preservation order is so confirmed, it shall be recorded in the appropriate Register of Sasines by the . . . <sup>F67</sup> planning authority.
- (5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in connection with the submission and confirmation of such orders; and the regulations may (without prejudice to the generality of this subsection) make provision as follows—
  - (a) that, before a tree preservation order is [<sup>F72</sup>confirmed by the planning authority], notice of the making of the order shall be given to the owners, lessees and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;
  - (b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the [<sup>F72</sup>planning authority];
  - (c) . . . <sup>F73</sup>
  - (d) that copies of the order, when confirmed by . . . <sup>F74</sup>the authority, shall be served on such persons as may be specified in the regulations.
- (6) Without prejudice to any other exemptions for which provision may be made by a tree preservation order, nothing in a tree preservation order shall prohibit the [<sup>F75</sup>uprooting,] felling or lopping of any tree if such [<sup>F75</sup>uprooting,] felling or lopping is urgently necessary in the interests of safety, or is necessary for the prevention or abatement of a nuisance, so long as notice in writing of the proposed operations is given to the . . . <sup>F67</sup> planning authority as soon as may be after the necessity for the operations arises, or if such [<sup>F75</sup>uprooting,] felling or lopping is carried out in compliance with any obligation imposed by or under any Act of Parliament.
- (7) In relation to land in respect of which the Forestry Commissioners have made advances under section 4 of the <sup>M8</sup>Forestry Act 1967 or in respect of which there is in force a forestry dedication agreement entered into with the Commissioners under section 5 of that Act, a tree preservation order may be made only if—
  - (a) there is not in force in respect of the land a plan of operations or other working plan approved by the Commissioners under such an agreement; and
  - (b) the Commissioners consent to the making of the order.
- (8) Where a tree preservation order is made in respect of land to which subsection (7) of this section applies, the order shall not have effect so as to prohibit, or to require any consent for, the cutting down of a tree in accordance with a plan of operations or other working plan approved by the Forestry Commissioners, and for the time being in force,

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under such an agreement as is mentioned in that subsection or under a woodlands scheme made under the powers contained in the said Act of 1967.

- (9) In the preceding provisions of this section references to provisions of the <sup>M9</sup>Forestry Act 1967 include references to the corresponding provisions (replaced by that Act) in the Forestry Acts 1919 to 1951.
- (10) The preceding provisions of this section shall have effect subject to the provisions—
- (a) ..... <sup>F76</sup>
- (b) of section 15 of the Forestry Act 1967 (licences under that Act to fell trees comprised in a tree preservation order).
- (11) ..... <sup>F77</sup>

#### Textual Amendments

- F67** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F68** Words inserted by [Town and Country Amenities Act 1974 \(c. 32\), s. 11\(1\)\(7\)](#)
- F69** Words in s. 58(2)(a) repealed (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:2\), ss. 60\(6\), 84\(6\), Sch. 12, para. 12, Sch. 19, Pt. IV \(with s. 84\(5\)\); S.I. 1991/2092, art.3](#)
- F70** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 2 para. 22\(1\)\(a\), \(2\)](#) except as regards a tree preservation order made before 11.6.1981
- F71** Words inserted by [Town and Country Planning Act 1984 \(c. 10, SIF 123:1, 2\), ss. 2\(6\), 4\(1\)](#)
- F72** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 2 para. 22\(1\)\(b\), \(2\)](#) except as regards a tree preservation order made before 11.6.1981
- F73** [S. 58\(5\)\(c\)](#) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 2 para. 22\(1\)\(b\), \(2\), Sch. 4](#) except as regards a tree preservation order made before 11.6.1981
- F74** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 2 para. 22\(1\)\(b\), \(2\)](#) Sch. 4 except as regards a tree preservation order made before 11.6.1981
- F75** Word inserted by [Town and Country Amenities Act 1974 \(c. 32\), s. 11\(2\)\(a\), \(7\)](#)
- F76** [S. 58\(10\)\(a\)](#) repealed by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 39\(4\), Sch. 12 Pt. II](#)
- F77** [Ss. 58\(11\), 59\(4\)](#) repealed by [S.I. 1975/1203, art. 3, Sch.](#)

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

- C16** [S. 58](#) modified by [Town and Country Planning Act 1984 \(c. 10, SIF 123:1, 2\), ss. 2\(4\), 4\(1\)](#)
- C17** Reference in [s. 58\(7\)](#) to section 4 of the Forestry Act 1967 to be construed as reference to [Forestry Act 1979 \(c. 21\), s. 1: Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)

#### Marginal Citations

- M8** 1967 c. 10.
- M9** 1967 c. 10.

## 59 Provisional tree preservation orders.

- (1) If it appears to a . . . <sup>F78</sup> planning authority that a tree preservation order proposed to be made by that authority should take effect immediately without previous confirmation, they may include in the order as made by them a direction that this section shall apply to the order.
- (2) Notwithstanding section 58(4) of this Act, an order which contains such a direction shall take effect provisionally on such date as may be specified therein and shall continue in force by virtue of this section until—

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- (a) the expiration of a period of six months beginning with the date on which the order was made; or
  - (b) the date on which the order is confirmed. . . <sup>F79</sup>,
- whichever first occurs.
- (3) Provision shall be made by regulations under this Act for securing—
- (a) that the notices to be given of the making of a tree preservation order containing a direction under this section shall include a statement of the effect of the direction. . . <sup>F80</sup>.
  - (b) . . . <sup>F80</sup>
- (4) . . . . . <sup>F81</sup>

#### Textual Amendments

- F78** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)
- F79** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 2 para. 23\(1\)\(a\)](#), (2), Sch. 4 except as regards a tree preservation order made before 11.6.1981
- F80** Word and s. 59(3)(b) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 2 para. 23\(1\)\(b\)](#), (2), Sch. 4 except as regards a tree preservation order made before 11.6.1981
- F81** Ss. 58(11), 59(4) repealed by [S.I. 1975/1203, art. 3, Sch.](#)

#### [<sup>F82</sup>59A Trees in conservation areas.

- (1) Subject to the provisions of this section, any person who, in relation to a tree to which this section applies, does any act which might by virtue of section 58(1)(a) above be prohibited by a tree preservation order shall be guilty of an offence.
- (2) Subject to the provisions of this section, this section applies to any tree in a conservation area but in respect of which no tree preservation order is for the time being in force.
- (3) It shall be a defence for a person charged with an offence under subsection (1) above to prove—
  - (a) that he served notice of his intention to do the act in question, with sufficient particulars to identify the tree, on the planning authority in whose district the tree is or was situated; and
  - (b) that he did the act in question—
    - (i) with the consent of the said planning authority, or
    - (ii) after the expiry of the period of six weeks from the date of the notice but before the expiry of the period of two years from that date.
- (4) The Secretary of State may by regulations direct that this section shall not apply in such cases as may be specified in the regulations.
- (5) Without prejudice to the generality of subsection (4) above, the regulations may be framed so as to exempt from the application of this section cases defined by reference to all or any of the following matters, namely—
  - (a) acts of such descriptions or done in such circumstances or subject to such conditions as may be specified in the regulations;
  - (b) trees in such conservation areas as may be so specified;

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- (c) trees of a size or species so specified; or
  - (d) trees belonging to persons or bodies of a description so specified;
- and the regulations may, in relation to any matter by reference to which an exemption is conferred by them, make different provision for different circumstances.
- (6) Regulations under subsection (4) above may in particular, but without prejudice to the generality of that subsection, exempt from the application of this section cases exempted from the application of section 58 above by subsection (6) of that section.
  - (7) It shall be the duty of every planning authority to compile and keep available for public inspection free of charge at all reasonable hours and at a convenient place a list, containing such particulars as the Secretary of State may determine of notices under this section affecting trees in their district.
  - (8) If any tree to which this section applies is removed, uprooted or destroyed in contravention of this section or is removed, uprooted or destroyed or dies at a time when its uprooting or felling is authorised only by virtue of the provisions of such regulations under subsection (4) above as are mentioned in subsection (6) above, it shall be the duty of the owner of the land, unless on his application the planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.
  - (9) The duty imposed by subsection (8) above on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 99 of this Act and not otherwise.]

#### Textual Amendments

**F82** S. 59A inserted by [Town and Country Amenities Act 1974 \(c. 32\)](#), s. 9

## 60 Replacement of trees.

- (1) If any tree in respect of which a tree preservation order is for the time being in force, . . . <sup>F83</sup>, is removed, [<sup>F84</sup>uprooted] or destroyed in contravention of the order or [<sup>F85</sup>, except in the case of a tree to which the order applies as part of a woodland,] is removed, [<sup>F84</sup>uprooted] or destroyed or dies at a time when its [<sup>F84</sup>uprooting or] felling is authorised only by virtue of the provisions of section 58(6) of this Act relating to [<sup>F84</sup>uprooting or] felling where urgently necessary in the interests of safety, it shall be the duty of the owner of the land, unless on his application the . . . <sup>F86</sup> planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.
- <sup>F87</sup>(1A) In respect of trees in a woodland it shall be sufficient for the purposes of this section to replace the trees removed, uprooted or destroyed by planting the same number of trees either on or near the land on which the trees removed, uprooted or destroyed stood or on such other land as may be agreed between the planning authority and the owner of the land, and (in either case) in such places as may be designated by the planning authority.]
- (2) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.

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- (3) The duty imposed by subsection (1) of this section on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 99 of this Act and not otherwise.

#### Textual Amendments

- F83** Words repealed by [Town and Country Planning \(Amendment\) Act 1985](#) (c. 52, SIF 123:1, 2), **ss. 2(1), 3(4)**
- F84** Words inserted by [Town and Country Amenities Act 1974](#) (c. 32), **s. 11(2)(b)**, (7)
- F85** Words inserted by the [Town and Country Planning \(Amendment\) Act 1985](#) (c. 52, SIF 123:1, 2), **ss. 2(2), 3(4)**
- F86** Word repealed by [Local Government \(Scotland\) Act 1973](#) (c. 65), **s. 172(2)**
- F87** **S. 60(1A)** inserted by [Town and Country Planning \(Amendment\) Act 1985](#) (c. 52, SIF 123:1, 2), **ss. 2(3), 3(4)**

### *Advertisements*

#### **61 Control of advertisements.**

—(1) Subject to the provisions of this section, provision shall be made by regulations under this Act for restricting or regulating the display of advertisements so far as appears to the Secretary of State to be expedient in the interests of amenity or public safety.

- (2) Without prejudice to the generality of subsection (1) of this section, any such regulations may provide—

- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which advertisements may be displayed, and the manner in which they are to be affixed to the land;
- (b) for requiring the consent of the . . . <sup>F88</sup> planning authority to be obtained for the display of advertisements, or of advertisements of any class specified in the regulations;
- (c) for applying, in relation to any such consent and to applications for such consent, any of the provisions of this Act falling within section 58(2) thereof, subject to such adaptations and modifications as may be specified in the regulations;
- (d) for the constitution, for the purposes of the regulations, of such advisory committees as may be prescribed, by the regulations, and for determining the manner in which the expenses of any such committee are to be defrayed.

- [<sup>F89</sup>(3) Regulations made for the purposes of this section may make different provision with respect to different areas, and in particular may make special provision—

- (a) with respect to conservation areas; and
- (b) with respect to areas defined for the purposes of the regulations as areas of special control, being either rural areas or areas other than rural areas which appear to the Secretary of State to require special protection on grounds of amenity;

and, without prejudice to the generality of this subsection, the regulations may prohibit the display in an area of special control of all advertisements except advertisements of such classes (if any) as may be prescribed.]

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- (4) Areas of special control for the purposes of regulations under this section may be defined by means of orders made or approved by the Secretary of State in accordance with the provisions of the regulations.
- (5) Where the Secretary of State is authorised by the regulations to make or approve any such order as is mentioned in subsection (4) of this section, the regulations shall provide for the publication of notice of the proposed order in such manner as may be prescribed by the regulations, for the consideration of objections duly made thereto, and for the holding of such inquiries or other hearings as may be so prescribed, before the order is made or approved.
- (6) Regulations made under this section may be made so as to apply to advertisements which are being displayed on the date on which the regulations come into force, or to the use for the display of the advertisements of any site which was being used for that purpose on that date; but any regulations made in accordance with this subsection shall provide for exempting therefrom—
- (a) the continued display of any such advertisement; and
  - (b) the continued use for the display of advertisements of any such site,
- during such period as may be prescribed in that behalf by the regulations, and different periods may be so prescribed for the purposes of different provisions of the regulations.
- (7) .....<sup>F90</sup>
- (8) Nothing in this section or in any regulations made thereunder shall be construed as authorising the restriction or regulation of the display of any advertisement by reason only of the subject matter or wording thereof.

#### **Textual Amendments**

**F88** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 172\(2\)](#)

**F89** S. 61(3) substituted by [Town and Country Amenities Act 1974 \(c. 32\), s. 3\(2\)](#)

**F90** Ss. 61(7), 84(6) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 4 Pt. I](#)

## **62 Application for planning permission not needed for advertisements complying with regulations.**

Where the display of advertisements in accordance with regulations made under section 61 of this Act involves development of land, planning permission for that development shall be deemed to be granted by virtue of this section, and no application shall be necessary in that behalf under Part III of this Act.

### *Waste land*

## **63 Proper maintenance of waste land.**

[<sup>F91</sup> If it appears to a planning authority that the amenity of any part of their district, or an <sup>F92</sup>(1) adjoining district, is adversely affected by the condition of any land in their district, they may serve on the owner, lessee and occupier of the land a notice under this section requiring such steps for abating the adverse effect as may be specified in the notice to be taken within such period as may be so specified.]

*Status: Point in time view as at 18/02/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part IV. (See end of Document for details)*

- (1A) Service under subsection (1) above shall be effected by the service of a copy of the notice. . . <sup>F93</sup>
- (1B) Subject to section 63A of this Act, a [<sup>F94</sup>notice under this section] shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (1) above.
- (1C) The planning authority may withdraw a [<sup>F94</sup>notice under this section] (without prejudice to their power to serve another) at any time before it takes effect; and if they so withdraw it, they shall forthwith give notice of the withdrawal to every person on whom the notice was served.]
- (2) No notice may be served under subsection (1) of this section with reference to any building which is—
- (a) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments, or
  - (b) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment as aforesaid.
- (3) The provisions of [<sup>F95</sup>section 88] of this Act shall, subject to any necessary modifications, apply in respect of a notice served under this section as they apply in respect of an enforcement notice served under section 84 of this Act.

#### Textual Amendments

- F91** S. 63(1)(1A)—(1C) substituted for s. 63(1) by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 2 para. 17\(a\)](#)
- F92** S. 63(1) substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 53\(1\), Sch. 11 Pt. II para. 32](#)
- F93** Words repealed by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 53\(2\), Sch. 12 Pt. IV](#)
- F94** Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\), s. 53\(1\), Sch. 11 Pt. II para. 32\(2\)](#)
- F95** Words substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 69\(2\), Sch. 2 para. 17\(b\)](#)

#### [<sup>F96</sup>63A Appeals against waste land notices.

- (1) A person on whom a [<sup>F97</sup>notice under section 63 of this Act] is served, or any other person having an interest in the land to which the notice relates, may at any time before the date specified in the notice as the date on which it is to take effect appeal to the Secretary of State against the notice, on any of the following grounds—
- <sup>F98</sup>(a) [ that neither the amenity of any part of the planning authority's district nor that of any adjoining district has been adversely affected;]
  - (b) that the steps required by the notice to be taken exceed what is necessary to remedy any such [<sup>F99</sup>adverse effect];
  - (c) that the specified period for compliance with the notice falls short of what should reasonably be allowed;
  - (d) that the condition of the land is attributable to, and such as results in the ordinary course of events from, a continuing lawful use of the land or from continuing lawful operations carried out thereon; or
  - (e) that the notice was served other than in accordance with section 63 of this Act.

*Status: Point in time view as at 18/02/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part IV. (See end of Document for details)*

- (2) An appeal under this section shall be made by notice in writing to the Secretary of State.
- (3) The provisions of subsections (2A) to (2D) of section 85 of this Act shall apply to appeals under this section as they apply to appeals under that section.
- (4) On an appeal under this section the Secretary of State—
  - (a) may correct any informality, defect or technical error in the notice if he is satisfied that it is not material; and
  - (b) may disregard the failure of the planning authority to serve the notice upon a person upon whom it should have been served, if it appears to him that neither that person nor the appellants has been substantially prejudiced by that failure.
- (5) Where an appeal is brought under this section, the [F97 notice under section 63 of this Act] shall be of no effect pending the final determination, or the withdrawal, of the appeal.
- (6) In determining an appeal under this section the Secretary of State shall give such directions as seem to him appropriate; and these may include directions for quashing the notice or for varying its terms in favour of the appellants.]
- [F100(7) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section.]

**Textual Amendments**

**F96** S. 63A inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 69(2), **Sch. 2 para. 18**

**F97** Words substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 33(1)**

**F98** S. 63A(1)(a) substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 33(2)**

**F99** Word substituted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 33(3)**

**F100** S. 63A(7) inserted by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(1), **Sch. 11 Pt. II para. 34**

64— F101 .....

83.

**Textual Amendments**

**F101** Ss. 64–83 repealed by Housing and Planning Act 1986 (c. 63, SIF 123:2), s. 53(2), **Sch. 12 Pt. IV**



**Status:**

Point in time view as at 18/02/1993.

**Changes to legislation:**

There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Part IV.