



Town and Country Planning (Scotland) Act 1972

1972 CHAPTER 52

PART IV

ADDITIONAL CONTROL IN SPECIAL CASES

Office development

71 Meaning of " office premises "

- (1) Subject to the provisions of this section, in these provisions, " office premises" means premises falling within either of the following descriptions, that is to say—
 - (a) premises whose sole or principal use is to be use as an office or for office purposes;
 - (b) premises to be occupied together with premises falling within the preceding paragraph and to be so occupied wholly or mainly for the purposes of the activities to be carried on in the last-mentioned premises.
- (2) Where, in relation to an application for planning permission for the erection of a building, or in relation to a grant of such planning permission, it falls to be determined, for the purposes of subsection (1) of this section, what is to be the sole or principal use of any premises to be contained in the building, regard shall be had—
 - (a) in the case of an application for planning permission, to the proposed use (as indicated in the application) of the building or of different parts of the building; and
 - (b) in the case of a grant of planning permission, to the purposes specified in the planning permission as those for which the building, or different parts of the building, may be used.
- (3) Where, in relation to an application for planning permission for the extension or alteration of a building, or in relation to a grant of such planning permission, it falls to be determined, for the purposes of subsection (1) of this section, what is to be the

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sole or principal use of any premises which are to be added to the building or altered within it (in this subsection referred to as " the new premises "), regard shall be had—

- (a) in the case of an application for planning permission, to the proposed use (as indicated in the application) of the new premises ; and
- (b) in the case of a grant of planning permission, to the purposes specified in the planning permission as those for which the new premises may be used.

(4) For the purposes of the application of these provisions in relation to development in so far as it consists of a change in the use of land, " office premises " (subject to the following provisions of this section) means premises falling within either of the following descriptions, that is to say—

- (a) premises whose sole or principal use is as an office or for office purposes;
- (b) premises occupied together with premises falling within the preceding paragraph and so occupied wholly or mainly for the purposes of the activities carried on in the last-mentioned premises;

and for the purposes of paragraph (a) of this subsection any question as to sole or principal use, in relation to premises contained in a building, shall be determined by reference to those premises alone and not by reference to the building taken as a whole.

- (5) In this section " office purposes " includes the purposes of administration, clerical work, handling money, telephone and telegraph operating and the operation of computers, and " clerical work " includes writing, book-keeping, sorting papers, filing, typing, duplicating, punching cards or tapes, machine calculating, drawing and the editorial preparation of matter for publication.
- (6) The Secretary of State may by order provide that premises of any description specified in the order, or premises used or to be used for any purposes so specified, shall not be office premises for the purposes of these provisions.
- (7) In this section and in sections 72 to 83 of this Act " these provisions" means the provisions of this section and of those sections.

72 Office development permits

(1) Subject to these provisions, an application to the local planning authority for planning permission to carry out, on land within an area to which these provisions apply, any development to which these provisions apply, that is to say, any development of land which consists of or includes—

- (a) the erection of a building containing office premises; or
- (b) the extension or alteration of a building by the addition of, or the conversion of premises into, office premises; or
- (c) a change of use whereby premises which are not office premises become office premises,

shall be of no effect unless a permit (in these provisions referred to as an " office development permit") in respect of that development is issued under these provisions by the Secretary of State, and a copy of the permit is furnished to the local planning authority together with the application.

(2) An office development permit shall be required for the purposes of an application for planning permission made as mentioned in section 29(1) of this Act if the circumstances are such that, in accordance with subsection (1) of this section, such a permit would have been required if the application had been for planning permission to construct or carry out the building or works, or to institute the use of land, which

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the application seeks permission to retain or continue or (as the case may be) seeks permission to retain or continue without complying with a condition previously imposed, and subsections (1) and (3) of this section shall have effect in relation to that application accordingly.

- (3) In exercising his discretion to issue or withhold office development permits, the Secretary of State shall have particular regard to the need for promoting the better distribution of employment in Great Britain.
- (4) The areas to which these provisions apply are any area which is for the time being designated for the purposes of this subsection by an order made by the Secretary of State.

73 Exemption by reference to office floor space

- (1) Notwithstanding anything in section 72 of this Act, an office development permit shall not be required for the purposes of an application for planning permission to carry out any development (in this section referred to as " the proposed development") if the office floor space to be created by the proposed development, together with any office floor space created or to be created by any related development, does not exceed the prescribed exemption limit.
- (2) For the purposes of subsection (1) of this section development shall, in relation to an application for planning permission (in this section referred to as " the relevant application "), be taken to be " related development" if—
 - (a) it related, or is to relate, to the same building as that to which the proposed development is to relate (in this subsection referred to as the " relevant building "); or
 - (b) it related, or is to relate, to a building which is, or is to be, contiguous or adjacent to the relevant building, and it was, or is to be, development comprised in, or for the purposes of, the same scheme or project or for the purposes of the same undertaking as the proposed development,and (in either case) it fulfils one or other of the conditions mentioned in subsection (3) of this section and is not excluded by subsection (4) or (5) of this section.
- (3) The said conditions, in relation to land within an area to which these provisions apply, are—
 - (a) that it is development for which, before the date of the relevant application, planning permission has been granted by a planning decision made on or after the specified date;
 - (b) that it is development (not falling within the preceding paragraph) which has been initiated on or after the specified date but before the date of the relevant application and is not development for which planning permission was (whether before or after the passing of this Act) granted by a planning decision made before the specified date;
 - (c) that it is development in respect of which an application to the local planning authority for planning permission either is pending on the date of the relevant application or is made on that date,

and in this subsection " the specified date ", in relation to an area, means such date (not being earlier than the date on which the order comes into operation) as may be specified in the order designating that area as an area to which these provisions apply.

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- (4) Where, before the date of the relevant application, an office development permit has been issued in respect of development which, apart from this subsection, would be related development for the purposes of subsection (1) of this section—
- (a) the development in respect of which the permit was issued; and
 - (b) any other development which was carried out before the issue of that permit, or for which planning permission was granted by a planning decision made before the issue of that permit,
- shall not be taken to be related development for those purposes.
- (5) Development in respect of which there has been issued by the Secretary of State an industrial development certificate with conditions attached to it by virtue of section 68(3)(b) of this Act shall not be taken to be related development for the purposes of subsection (1) of this section.
- (6) In this section " the prescribed exemption limit", subject to subsection (7) of this section, means 3,000 square feet; any reference to development relating to a building is a reference to development consisting of or including the erection, extension or alteration of the building or a change of use of the whole or part of the building; and any reference to an application pending on a particular date is a reference to an application made before that date and not withdrawn, where no planning decision on that application has been made before that date.
- (7) The Secretary of State may by order direct that such number of square feet (whether greater or less than 3,000 but not less than 1,000) as may be specified in the order shall be the prescribed exemption limit for the purposes of this section, either generally or in relation to any particular area to which these provisions apply in accordance with section 72(4) of this Act or in relation to any particular part of such an area.

74 Mixed industrial and office development

- (1) Subject to subsection (2) of this section, these provisions shall have effect without prejudice to the operation of sections 65 and 66 of this Act; and, where these provisions and those sections are applicable to the same application for planning permission, the requirements of both must be complied with.
- (2) Compliance with section 72(1) of this Act shall not be required in respect of an application for planning permission for the development of land in any manner specified in section 65(1) of this Act if—
- (a) no office premises will result from the development except such as are comprised within the curtilage of an industrial building and are used or designed for use for providing services or facilities ancillary to the use of other premises in the same building or curtilage; and
 - (b) there has been issued by the Secretary of State and furnished to the local planning authority with the application a copy of an industrial development certificate with conditions attached to it by virtue of section 68(3)(W) of this Act.

75 Restrictions or conditions attached to office development permits

- (1) An office development permit in respect of any development may be issued subject to such restrictions on the making of an application for planning permission for that development (whether as to the period within which, or the persons by whom, such an

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application may be made, or otherwise) as the Secretary of State considers appropriate in the exercise of his discretion as mentioned in section 72(3) of this Act; and, where an office development permit in respect of any development is issued subject to any such restrictions, and an application for planning permission for that development is made which does not comply with those restrictions, these provisions shall apply in relation to that application as if no such permit had been issued.

- (2) Without prejudice to subsection (1) of this section, an office development permit may be issued either unconditionally or subject to such conditions as the Secretary of State considers appropriate in the exercise of his discretion as mentioned in section 72(3) of this Act; and any reference in these provisions to conditions attached to an office development permit is a reference to conditions subject to which such a permit is issued.
- (3) In so far as any of the conditions attached to an office development permit are of such a description that (apart from this section) they could not have been imposed under this Act, this Act shall apply in relation to any application for planning permission for the purposes of which that permit is required, and to any planning permission granted on such an application, as if the powers conferred by this Act included power to impose conditions of that description.
- (4) Where conditions are attached to an office development permit, and, on an application for planning permission for the purposes of which that permit is required, planning permission is granted, the authority granting the permission shall grant it subject to those conditions, with or without other conditions.
- (5) Planning permission to which subsection (4) of this section applies shall not be invalid by reason only that the requirements of that subsection are not complied with; but where any such planning permission is granted without complying with the requirements of that subsection the planning permission shall be deemed to have been granted subject to the conditions attached to the office development permit, or (if any other conditions were imposed by the authority granting the permission) to have been granted subject to the conditions attached to the permit in addition to the other conditions.

76 Planning permission for erection of building where no office development permit required

- (1) The provisions of this section shall, subject to subsection (4) of this section, have effect with respect to any planning permission for the erection of a building on land which is within a controlled area when the planning permission is granted and was also within such an area when the application for planning permission was made.
- (2) If the case is the following, that is to say—
 - (a) either the proposed erection of the building is not development to which these provisions apply or it is such development but no office development permit is required for it; and
 - (b) the building will have a floor space of twice, or more than twice, the prescribed exemption limit,

the planning permission for the erection of the building shall be granted subject to the condition specified in subsection (3) of this section (in addition to any other conditions imposed by the authority granting the permission).

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- (3) The said condition is that the use of the building, whether as originally erected or as subsequently extended or altered, shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate office floor space which exceeds the prescribed exemption limit.
- (4) In the following two cases this section shall not apply—
 - (a) where the planning permission is in respect of a building which is wholly residential; and
 - (b) where the planning permission is subject to conditions by virtue of section 68(5) or (6) of this Act and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.

77 Planning permission for alteration or extension of building where no office development permit required

- (1) The provisions of this section shall, subject to subsection (4) of this section, have effect with respect to any planning permission for the alteration or extension of a building on land which is within a controlled area when the planning permission is granted and was also within such an area when the application for planning permission was made, but shall have effect only in the case of a building erected under a planning permission granted on or after 8th December 1969.
- (2) If the case is the following, that is to say—
 - (a) either the erection of the building was not development to which these provisions (or Part I of the Act of 1965) applied, or it was such development but no office development permit was required for it; and
 - (b) either the proposed alteration or extension is not development to which these provisions apply or it is such development but no office development permit is required for it; and
 - (c) there will result from the proposed alteration or extension a building with an aggregate floor space of twice, or more than twice, the prescribed exemption limit,

the planning permission for the alteration or extension shall be granted subject to the condition specified in subsection (3) of this section (in addition to any other conditions imposed by the authority granting the permission).
- (3) The said condition is that the use of the building as altered or extended, or as subsequently further altered or extended, shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate office floor space which exceeds the prescribed exemption limit.
- (4) In the following two cases this section shall not apply—
 - (a) where the planning permission is in respect of a building which, after its alteration or extension, will be wholly residential; and
 - (b) where the planning permission is subject to conditions by virtue of section 68(5) or (6) of this Act and those conditions either restrict the office floor space which the building as extended or altered may contain or preclude it from containing any office floor space.

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78 Planning permission for erection of two or more buildings where no office development permit required

- (1) The provisions of this section shall have effect with respect to any planning permission for development involving the erection of two or more buildings on land which is within a controlled area when the planning permission is granted and was also within such an area when the application for planning permission was made, except in a case where all the buildings are exempt from this section.
- (2) Any one of the said buildings shall be exempt from this section if—
 - (a) it is wholly residential; or
 - (b) the planning permission is subject to conditions by virtue of section 68(5) or (6) of this Act and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.
- (3) If the aggregate floor space of the buildings proposed to be erected (leaving out of account any which are exempt from this section) is twice, or more than twice, the prescribed exemption limit, and either the erection of the buildings is not development to which these provisions apply or it is such development but no office development permit is required for it, the planning permission shall be granted subject to the condition specified in subsection (4) of this section (in addition to any other conditions imposed by the authority granting the permission).
- (4) The said condition is that the use of each one of the buildings (excluding any which are exempt from this section) shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate floor space which exceeds the limit for that building specified in the condition, which limit shall (subject to subsection (5) of this section) be a floor space bearing such proportion to the building's total floor space as the prescribed exemption limit bears to the aggregate floor space of all the buildings (excluding any which are exempt from this section) for whose erection the planning permission is granted.
- (5) The authority granting the planning permission may in doing so specify in the said condition, as it applies to any building, a limit differing from the one provided by subsection (4) of this section, but not so that the total of the limits for all the buildings to which the condition applies exceeds the prescribed exemption limit.
- (6) If after the grant of the planning permission a further application for planning permission is made in respect of all or any of the buildings to which the condition specified in subsection (4) of this section applies, and the further application involves a departure from the terms of the said condition as applying to any building, the application shall be subject to section 72(1) of this Act notwithstanding anything in these provisions exempting development from the requirements of that section in particular cases.

79 Provisions supplementary to ss. 76 to 78

- (1) Any planning permission with respect to which section 76, 77 or 78 of this Act has effect shall not be invalid by reason only that the requirements of section 76(2), 77(2) or 78(3) of this Act, as the case may be, are not complied with; but in that case the planning permission shall be deemed to have been granted subject to the condition specified in section 76(3), 77(3) or 78(4) of this Act, as the case may be, or (if any other conditions are imposed by the authority granting the permission) to have been granted subject to the condition so specified in addition to the other conditions, and references

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in those sections to a condition imposed thereunder shall be construed accordingly as including references to a condition deemed to be imposed.

(2) In sections 76, 77 and 78 of this Act—

" controlled area " means an area to which these provisions apply, or, as respects any time before the commencement of this Act, Part I of the Act of 1965 applied;

" the prescribed exemption limit " means that number of square feet which, at the time when the planning permission in question is granted, is for the purposes of section 73 of this Act the prescribed exemption limit in relation to the land to which the planning permission relates, whether—

(a) by virtue of subsection (6) of that section; or

(b) if an order under subsection (7) of that section is for the time being in force and applies to the area, or part of an area, in which that land is situated, by virtue of that order;

" wholly residential " in relation to a building, means for use exclusively as a dwellinghouse or comprising only units of accommodation for such use.

80 Provisions as to conditions imposed or implied in pursuance of these provisions

(1) This section applies to any condition subject to which planning permission is granted in accordance with these provisions or subject to which planning permission is by virtue of these provisions deemed to have been granted, whether or not is it a condition which could have been imposed apart from these provisions.

(2) If the planning permission is or was granted by the local planning authority, the Secretary of State shall not be required to entertain an appeal under section 33 of this Act from the decision of the local planning authority, in so far as that decision relates or related to any condition to which this section applies.

(3) Where planning permission is granted subject to a condition to which this section applies, and it appears to the authority granting the permission that the condition could have been imposed apart from these provisions and would have been imposed if these provisions had not been enacted, the decision granting the permission may include a certificate to that effect; and, where such a certificate is included in a decision of the local planning authority—

(a) the Secretary of State shall not be required to entertain an appeal from the decision in so far as it includes the certificate; but

(b) subject to the preceding paragraph, section 33 of this Act shall have effect in relation to the certificate as it has effect in relation to any other part of the decision.

(4) If any condition imposed by an authority granting planning permission is inconsistent with any condition to which this section applies, the last-mentioned condition shall prevail in so far as it is inconsistent with the condition so imposed.

(5) Where on an application made as mentioned in section 29(1) of this Act (as modified by section 72(2) of this Act) planning permission is granted (either unconditionally or subject to conditions) for a building to be retained, or a use of a building to be continued, without complying with a condition to which this section applies (that condition being one subject to which a previous planning permission was granted or is deemed to have been granted), nothing in sections 75 to 79 of this Act or in the preceding provisions of this section shall be construed as preventing the subsequent

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planning permission from operating so as to extinguish or modify that condition, as the case may be.

81 Annual report

As soon as may be after the end of March in each year the Secretary of State shall prepare a report on the performance of his functions under these provisions, and shall lay the report before Parliament.

82 Interpretation of these provisions

(1) In these provisions—

" the Act of 1965 " means the Control of Office and Industrial Development Act 1965;

" building " includes any structure ;

" building contract " means a contract (other than a lease) which is made in relation to land whereby a person undertakes to erect or extend a building on that land in the course of the carrying on by him of a business consisting wholly or mainly of the execution of building operations, or of building operations and engineering operations;

" erection ", in relation to a building, includes re-erection;

" premises " means a part of a building;

" these provisions " has the meaning assigned to it by section 71(7) of this Act.

(2) In these provisions " office floor space " means gross floor space comprised in office premises; and for the purposes of these provisions the amount of any such space shall be ascertained by external measurement of that space, whether the office premises in question are or are to be bounded (wholly or partly) by external walls of a building or not.

(3) In these provisions any reference to the granting of planning permission for the carrying out of any development of land is a reference to the granting of planning permission for that development—

(a) either in respect of that land taken by itself or in respect of that land together with other land; and

(b) either on an ordinary application or on an outline application (that is to say, an application for planning permission subject to subsequent approval on any matters).

(4) In these provisions any reference to a building containing office premises includes a reference to a building of which every part consists or is to consist of office premises; and in these provisions any reference to the addition of office premises includes a reference to the addition of office premises together with other premises.

(5) In these provisions any reference to land within any area to which these provisions apply or, as respects any time before the commencement of this Act, the Act of 1965 applied, shall be construed as a reference to land of which any part is within the area in question.

(6) In these provisions any reference to an application made as mentioned in section 29(1) of this Act includes a reference to an application which by virtue of section 85(7) or

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91(6) of this Act is deemed to have been made for such planning permission as is mentioned in the said section 85(7) or, as the case may be, the said section 91(6).

83 Temporary operation of these provisions

- (1) Unless Parliament otherwise determines, these provisions (other than this section) shall cease to have effect at the end of the period of seven years beginning with 5th August 1965.
- (2) Where immediately before the end of that period any planning permission has effect subject to a condition subject to which the planning permission is by virtue of these provisions deemed to have been granted, the planning permission shall, as from the end of that period, have effect free from that condition.
- (3) Where immediately before the end of that period any planning permission has effect subject to a condition imposed by the authority granting the permission in circumstances where that authority was required by these provisions to impose that condition, then unless the condition is the subject of a certificate under section 80(3) of this Act, the planning permission shall, as from the end of that period, have effect free from that condition.
- (4) Subject to the preceding provisions of this section, at the end of that period section 38(2) of the Interpretation Act 1889 (effect of repeals) shall apply as if these provisions had, as from the end of that period, been repealed by another Act.