



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART IX

PLANNING

Planning authorities and plans

172 Planning authorities

- (1) The planning authority for the purposes of the Act of 1972 and this Part of this Act shall be—
 - (a) in the case of regional planning functions, a general planning authority or a regional planning authority ; and
 - (b) in the case of district planning functions, a general planning authority or a district planning authority,and the district of the planning authority shall be the region, islands area or the district, as the case may be.
- (2) In the term " local planning authority ", wherever it occurs in any enactment or instrument made under an enactment, the word " local " shall be omitted.
- (3) In any enactment or instrument made under an enactment, a reference to a planning authority shall, unless otherwise provided, be construed as a reference to a general planning authority and to a district planning authority.
- (4) In this Part of this Act—
 - " the Act of 1972 " means the Town and Country Planning (Scotland) Act 1972;
 - " regional planning functions " are those described in Part I of Schedule 22 to this Act together with those conferred on general or regional planning authorities by this Part of this Act;

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" district planning functions " are those described as such in Part II of that Schedule or in this Part of this Act, together with those conferred on general or district planning authorities by this Part of this Act;

" general planning authority " means the council of the Highland region, the Borders region or the Dumfries and Galloway region or of an islands area;

" regional planning authority " means the council of any other region;

" district planning authority " means a district council within the region of a regional planning authority.

173 Regional reports

- (1) A general or regional planning authority may, in advance of the submission of a structure plan to the Secretary of State, or at any time thereafter, prepare and submit to the Secretary of State a report on their district in accordance with the provisions of this section.
- (2) If so directed by the Secretary of State, a general or regional planning authority shall submit such a report to him within a period specified in the direction.
- (3) The report shall be based on the survey mentioned in section 4 of the Act of 1972, or any part of that survey, or on material prepared for that survey or part, and shall consist of planning policy proposals for the district of the authority as a whole or any part of it, as respects the matters mentioned in section 5(3) of that Act, having regard to the requirements of section 5(4) of that Act.
- (4) Before submitting the report to the Secretary of State, a regional planning authority shall consult every district planning authority within their region, and every other planning authority who are likely to be affected by the report, and at the same time as the regional planning authority submit the report to the Secretary of State they shall send a copy of the report to every such planning authority.
- (5) The Secretary of State shall make observations on each report submitted to him under this section and shall transmit those observations to all planning authorities to whom a copy of the report was sent under subsection (4) above, and the general or regional planning authority concerned shall publish within their district the report together with the observations of the Secretary of State.
- (6) In the event of the failure of a general or regional planning authority to submit to him a report under this section, the Secretary of State may himself prepare and publish such a report, and any expenses certified by him as having been incurred in so doing shall on demand be repaid by the authority concerned to the Secretary of State.
- (7) All planning authorities shall, in the exercise of their functions as such, have regard to any report and observations made under this section which affect or are likely to affect them.

174 Structure plans

- (1) A structure plan submitted to the Secretary of State under section 5(1) of the Act of 1972 may consist of a series of plans relating to different parts of the district of a planning authority, and may, if the Secretary of State agrees, on application made to him to that effect by a planning authority, relate to part only of the district of the authority, in which case references in Part II of the Act of 1972 and in this Part of this

Act to such a district shall, in relation to a structure plan, be construed as including references to part of that district.

- (2) Before submitting a structure plan or proposals for alteration thereof to the Secretary of State, a regional planning authority shall consult every planning authority who are likely to be affected by the plan or proposals.

175 Amendment of provisions relating to approval of structure and local plans by Secretary of State

- (1) The following provisions shall be substituted for subsections (3) and (4) of section 7 of the Act of 1972 (which specify the duties and powers of the Secretary of State in considering any structure plan submitted for his approval and, in particular require him to consider any objections to the plan and to afford a hearing to the persons making them)—

“(3) Where on taking any such plan into consideration the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—

- (a) consider any objections to the plan, so far as they are made in accordance with regulations under this Part of this Act, and
- (b) cause a person or persons appointed by him for the purpose to hold an examination in public of such matters affecting his consideration of the plan as he considers ought to be so examined.

(4) The Secretary of State may make regulations with respect to the procedure to be followed at any examination under subsection (3) of this section.

(5) The Secretary of State shall not be required to secure to any planning authority or other person a right to be heard at any examination under the said subsection (3), and the bodies and persons who may take part therein shall be such only as he may, whether before or during the course of the examination, in his discretion invite to do so:

Provided that the person or persons holding the examination shall have power, exercisable either before or during the course of the examination, to invite additional bodies or persons to take part therein if it appears to him or them desirable to do so.

(6) An examination under subsection (3)(b) of this section shall constitute a statutory inquiry for the purposes of section 1(1)(c) of the Tribunals and Inquiries Act 1971, but shall not constitute such an inquiry for any other purpose of that Act.

(7) On considering a structure plan the Secretary of State may consult with, or consider the views of, any planning authority or other person, but shall not be under any obligation to do so.

(8) On exercising his powers under subsection (1) of this section in relation to any structure plan, the Secretary of State shall give such statement as he considers appropriate of the reasons governing his decision.”

- (2) For the purpose of preserving the existing law in relation to local plans, the following subsection shall be substituted for subsection (4) of section 12 of the Act of 1972 (which, amongst other things, applies section 7 of that Act with modifications where

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the Secretary of State has directed that a local plan shall not have effect unless approved by him)—

“(4) Where the Secretary of State gives a direction under subsection (3) of this section, the planning authority shall submit the plan accordingly to him for his approval, and—

- (a) the Secretary of State may, after considering the plan, either approve it (in whole or in part and with or without modifications or reservations) or reject it;
- (b) in considering the plan, the Secretary of State may take into account any matters which he thinks are relevant, whether or not they were taken into account in the plan as submitted to him ;
- (c) subject to paragraph (d) of this subsection, where on taking the plan into consideration the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—
 - (i) consider any objections to the plan, so far as they are made in accordance with regulations under this Part of this Act;
 - (ii) afford to any persons whose objections so made are not withdrawn an opportunity of appearing before, and being heard by, a person appointed by him for the purpose; and
 - (iii) if a local inquiry or other hearing is held, also afford the like opportunity to the authority and such other persons as he thinks fit;
- (d) before deciding whether or not to approve the plan the Secretary of State shall consider any objections thereto which have been considered by the authority, but he shall not be obliged to cause an inquiry or other hearing to be held into the plan if any such inquiry or hearing has already been held at the instance of the authority;
- (e) without prejudice to paragraph (c) of this subsection, on considering the plan the Secretary of State may consult with, or consider the views of, any planning authority or other persons, but shall not be under an obligation to consult with, or consider the views of, any other authority or persons, or except as provided by that paragraph, to afford an opportunity for the making of any objections or other representations, or to cause any local inquiry or other hearing to be held ; and
- (f) after the giving of the direction the authority shall have no further power or duty to hold a local inquiry or other hearing under section 11 of this Act in connection with the plan.”.

(3) In consequence of subsection (2) above, in section 13(3) of the Act of 1972 the words from " but as if " to the end are hereby repealed.

176 Local plans

- (1) Every general and district planning authority shall, as soon as practicable, prepare local plans for all parts of their district and accordingly subsections (1) and (2) of section 9 of the Act of 1972 (preparation of local plans) shall cease to have effect.
- (2) A district planning authority shall submit a copy of their proposals for a local plan or for the alteration, repeal or replacement of a local plan to the regional planning authority for their region.

- (3) A district planning authority shall not prepare a local plan for a part of their district before a structure plan has been approved in relation to that part unless they have first applied for and obtained the consent of their regional planning authority to that effect, and such consent may be withheld or withdrawn where a structure plan is in course of preparation or any decision is likely to be taken shortly by any authority and that plan or decision is likely to have a substantial effect on the contents of the local plan, but otherwise such consent shall not be unreasonably withheld.
- (4) Consent under subsection (3) above shall be deemed to have been given unless that consent has been refused within 3 months of the application for consent.
- (5) Any question as to whether consent under subsection (3) above has been unreasonably withheld may be referred by the district planning authority to the Secretary of State, whose decision in the matter shall be final.
- (6) Subject to any directions which the Secretary of State may give, a general planning authority may prepare a local plan for a part of their district before a structure plan has taken effect in relation to that part.

177 Reserve powers of regional planning authorities regarding local plans

- (1) A regional planning authority may assume the functions of a district planning authority within their district in relation to the preparation and making of a local plan if in their opinion—
 - (a) a local plan is urgently required to implement the provisions of an approved structure plan and the district planning authority concerned have failed to adopt an appropriate local plan ; or
 - (b) the district of more than one district planning authority is likely to be affected by the local plan in question ; or
 - (c) the local plan does not conform to a structure plan approved by the Secretary of State; or
 - (d) the implementation of the local plan will render unlikely the implementation of any other local plan relating to their district.

This subsection applies to the alteration, repeal or replacement of a local plan as it applies to the preparation and making of a local plan.

- (2) Where under subsection (1) above a regional planning authority assume the functions of a district planning authority, the provisions of the Act of 1972 and of any instruments made thereunder in relation to local plans shall, with any necessary modifications, apply to the regional planning authority as they apply to the district planning authority concerned.
- (3) Where a regional planning authority proposes to assume functions under subsection (1) above, the district planning authority concerned may appeal to the Secretary of State against the proposal and the decision of the Secretary of State in the matter shall be final.
- (4) The Secretary of State may determine matters arising under section 176(5) of this Act or under subsection (3) above on the basis of written submissions submitted to him by the authority concerned within such period as he may stipulate, and of such consultations with those authorities, whether together or separately, as he thinks fit, and the Secretary of State shall not be under any obligation to consult

any other authority or person, or to afford any opportunity for further objections or representations, or to cause any further local inquiry or other hearing to be held.

178 The countryside

- (1) The local authority for the purposes of the Countryside (Scotland) Act 1967 shall be a regional, islands or district council, and the planning authority for the purposes of that Act shall be a general, regional or district planning authority.
- (2)
 - (a) Regional planning authorities shall have a duty, in consultation with district planning authorities within their district, and
 - (b) regional councils shall have a duty, in consultation with district councils within their region,

to ensure that there is an adequate provision of facilities for the inhabitants of their region under the said Act of 1967.

Development control

179 Reference of applications to regional planning authority

- (1) A regional planning authority shall, in relation to district planning authorities within their district, have the same powers as are conferred on the Secretary of State by subsections (1) to (5) of section 32 of the Act of 1972 where—
 - (a) the proposed development does not conform to a structure plan approved by the Secretary of State; or
 - (b) the proposed development raises a new planning issue of general significance to the district of the regional planning authority; and
 - (c) the application concerned is not subject to a direction given by the Secretary of State under the said section 32.
- (2) A district planning authority may appeal to the Secretary of State against any directions given to them by virtue of this section, and the Secretary of State, whose decision shall be final, may determine the appeal in accordance with section 177(4) of this Act.

180 Appeals against planning decisions

Where an appeal is made to the Secretary of State under section 33 of the Act of 1972 (appeals against planning decisions) the applicant shall, at the same time as he serves notice under subsection (2) of that section, serve a copy of the notice on the regional planning authority concerned, and that authority may take part in the appeal proceedings whether by way of written submissions, or participating in any inquiry, or otherwise.

181 Powers of regional planning authorities regarding orders under section 42 or 49 of Act of 1972

- (1) Where a district planning authority propose to make an order under section 42 or 49 of the Act of 1972 (revocation etc. of planning permission and discontinuance of use, or alteration or removal of buildings or works), they shall give notice of the proposals to their regional planning authority who may make representations or objections as respects the proposed order to the Secretary of State.

- (2) Where, after consultation with the district planning authority concerned, a regional planning authority are of the opinion that a structure plan approved by the Secretary of State would be materially prejudiced if such an order as aforesaid were not made, they may themselves make such an order, and in relation to that order the provisions of the said section 42 or 49 shall, with any necessary modifications, apply to the regional planning authority as they apply to the district planning authority concerned.

Miscellaneous

182 Miscellaneous planning functions

- (1) The functions of local authorities under the Ancient Monuments Acts 1913 and 1931 shall be district planning functions, and the references in those Acts to a borough or to a district or the council thereof shall be construed accordingly.
- (2) The functions of local authorities under Part I (except section 24) of the Caravan Sites and Control of Development Act 1960 (caravan sites) shall be functions of islands and district councils and under the said section 24 shall be functions of regional, islands or district councils and regional or district planning functions.
- (3) The functions of planning authorities under section 9 of, and Schedule 3 to, the Town and Country Planning (Amendment) Act 1972 shall be district planning functions.

183 Directions relating to specialist advice

- (1) The Secretary of State may from time to time direct a general or district planning authority to submit to him for his approval within a period specified in the direction the arrangements which the authority propose to make to obtain specialist advice in connection with their functions—
- (a) under sections 53, 54, 56, 92 or 95 of, or Schedule 10 to, the Act of 1972 (listed buildings);
 - (b) under section 262 of that Act (designation of conservation areas); or
 - (c) under section 9 of the Town and Country Planning (Amendment) Act 1972 (control of demolition in conservation areas).
- (2) If the Secretary of State is not satisfied about any arrangements mentioned in subsection (1) above, he may, after consultation with the general or district planning authority and any other authority concerned,—
- (a) direct the general or district planning authority and another planning authority specified in the direction to enter into an agreement under section 65 of this Act for the placing at the disposal of the former, for the purpose of giving them any such specialist advice as is mentioned in that subsection, of the services of officers employed by the latter who are qualified to give such advice; or
 - (b) direct the general or district planning authority and another planning authority so specified to enter into arrangements for the discharge by the latter of any of the functions mentioned in that subsection and also direct that the arrangements shall contain terms so specified or terms on lines laid down by him.

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184 Amendment of enactments relating to planning etc.

The enactments mentioned in Schedule 23 to this Act being enactments relating to planning, new towns and kindred matters, shall have effect subject to the amendments set out in that Schedule.