



Local Government and Planning (Scotland) Act 1982

1982 CHAPTER 43

PART III

PLANNING

36 Secretary of State's discretion as regards public examination of structure plans

In section 7 of the 1972 Act (which relates to the approval or rejection of structure plans by the Secretary of State), for paragraph (b) of subsection (3) there shall be substituted the following paragraph—

- “(b) if, but only if, it appears to him that an examination in public should be held of any matter affecting his consideration of the plan, cause a person or persons, appointed by him for the purpose, to hold such an examination.”.

37 Proposals for alterations to structure plans

In section 8 of the 1972 Act (which relates to the submission of proposals for alterations to structure plans)—

- (a) in subsection (1)—
- (i) after the words " that plan" there shall be inserted the words " (which may include proposals for repeal and replacement) "; and
 - (ii) at the end there shall be added the words " and may provide for the repeal of two or more structure plans and their replacement with one structure plan. ";
- (b) in subsection (2), after the words " sections 6 " there shall be inserted the word " (2) "; and
- (c) after subsection (2) there shall be added the following subsections—
- “(3) Before a planning authority submit proposals under this section they shall give such publicity (if any) to, and undertake such consultation

Status: This is the original version (as it was originally enacted).

(if any) about, the said proposals as they think fit, and shall consider any representations timeously made to them about such proposals.

- (4) The planning authority shall send with any proposals submitted by them under this section a statement of the steps they have taken to comply with subsection (3) above and, if they have not publicised or have not consulted under that subsection, the statement shall explain the absence of such publicity or as the case may be consultation.
- (5) If the Secretary of State is not satisfied with the steps taken by the planning authority to comply with subsection (3) above, or as the case may be if he is not satisfied with the terms of any explanation provided by them under subsection (4) above, he may return the proposals to the authority, and may direct them—
 - (a) to take such steps or further steps as he may specify; and
 - (b) after they have done so, to resubmit the proposals with such modification, if any, as they consider appropriate.
- (6) Where, under subsection (5) above, the Secretary of State returns proposals, he shall inform the authority of his reasons for doing so and, if any person has made to him an objection to the proposals, shall also inform that person that he has returned the proposals.
- (7) A planning authority who are given directions under subsection (5) of this section shall forthwith withdraw the copies which have, under section 6(2) of this Act (as applied by subsection (2) above) been made available for inspection.
- (8) The said section 6(2) and subsections (3) to (7) above shall apply, in relation to proposals resubmitted in accordance with directions given under subsection (5) above, as they apply in relation to proposals submitted under subsection (1) above.”.

38 Inquiries with respect to local plans

In subsection (1) of section 11 of the 1972 Act (which relates, among other things, to inquiries with respect to local plans)—

- (a) after the word " shall", where it occurs for the first time, there shall be inserted the word " if "; and
- (b) after the word " Act", where it occurs for the first time, there shall be inserted the words " an objector so requires, " .

39 Modification of local plans

In subsection (1) of section 12 of the 1972 Act (which relates to the adoption and approval of local plans), for the words " any such objections or of any matters arising out of such objections " there shall be substituted the words—

“—

- (a) any such objections (whether or not they have been the subject of a local inquiry or other hearing);
- (b) any matters arising out of such objections ; or
- (c) any drafting or technical matters, if these are of a minor nature.”.

40 Alteration of local plans

In section 13 of the 1972 Act (which relates to the alteration of local plans)—

(a) for subsection (1) there shall be substituted the following subsection—

“(1) A planning authority shall keep under review any local plan adopted by them, or approved by the Secretary of State, and may at any time make proposals for the alteration, repeal or replacement of such plan; and any such proposals may include proposals for the repeal of two or more local plans and their replacement with one local plan:

Provided that where a local plan has been approved by the Secretary of State they shall not make such proposals in relation to that plan without his consent.”;

(b) in subsection (3), at the beginning there shall be inserted the words " Subject to subsection (4) below "; and

(c) at the end there shall be added the following subsections—

“(4) If a planning authority do not consider it appropriate to take the steps required by section 10(1) of this Act in relation to proposals made by them under subsection (1) of this section for alteration of a local plan, they may instead include, with the copies of those proposals made available for inspection and with the copy sent to the Secretary of State under section 10(2) of this Act, a statement of their reasons for not taking such steps.

(5) In carrying out their duty under subsection (1) above the authority shall have regard to any structure plan approved for the area by the Secretary of State.”.

41 Publication of notices of planning applications

For section 23 of the 1972 Act (which relates to the publication of notices of planning applications) there shall be substituted the following section—

“23 Publication of notices of applications.

(1) Subject to subsection (2) below, a development order may provide, either in relation to applications generally or in relation to applications of a class or classes prescribed in the order, that—

(a) any such application shall have been notified to such persons or classes of person, and in such manner, as may be so prescribed;

(b) any such application shall have been advertised, either in a local newspaper or on the land to which the application relates, or both, in such a manner and for such a period or on such a number of occasions as may be so prescribed;

(c) any newspaper advertisement required by virtue of paragraph (b) above shall be placed by the planning authority to whom the application is made ;

(d) the planning authority may recover from the applicant the cost incurred by them in arranging any such advertisement;

- (e) any such application shall be accompanied by such certificates as to compliance with the requirements of provisions made under paragraphs (a) and (b) above as may be so prescribed;
- (f) the applicant shall furnish, at such time and to such persons as may be so prescribed, such information with respect to the application as may be so prescribed ;
- (g) no such application shall be entertained unless such further conditions as to payment as may be so prescribed have been complied with;
- (h) no such application shall be determined until after the expiry of any period which may be so prescribed.

(2) The applications mentioned in subsection (1) above are—

- (a) applications for planning permission ;
- (b) applications for an approval required by a development order; or
- (c) applications for any consent, agreement or approval required by a condition imposed on a grant of planning permission.

(3) If any person knowingly or recklessly—

- (a) issues a notification; or
- (b) makes advertisement (other than newspaper advertisement); or
- (c) supplies a certificate,

which purports to comply with provisions made under subsection (1) above but 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 £200.”.

42 Notice of dangerous buildings orders affecting listed buildings

After section 54B of the 1972 Act (which is inserted in that Act by paragraph 16 of Schedule 2 to this Act) there shall be inserted the following section—

“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
- (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.”.

43 Power of regional planning authority to take enforcement action

After section 84 of the 1972 Act there shall be inserted the following section—

“84A Power of regional planning authority to take enforcement action.

- (1) If a regional planning authority are of the opinion that a structure plan prepared by them and approved by the Secretary of State is materially prejudiced by a breach of planning control they may, after consultation with any district planning authority in whose district the breach has taken place, and subject to subsection (2) below, serve an enforcement notice under this subsection requiring the breach to be remedied.
- (2) Where a regional planning authority serve a notice under subsection (1) above the provisions of sections 84 (except subsection (1)), 85, 86, 87, 88, 89, 89A, 166, 265(1)(c) and 265(2A) of this Act shall apply, with any necessary modifications, in relation to the regional planning authority and a notice under subsection (1) above as they apply in relation to a district planning authority and a notice under subsection (1) of the said section 84.”.

44 Register of waste land, enforcement and stop notices

After section 87 of the 1972 Act there shall be inserted the following section—

“87A Register of waste land, enforcement and stop notices.

- (1) Every general and district planning authority shall, with respect to waste land notices, enforcement notices and stop notices which have been served in relation to land in their district, keep a register—
- (a) in such manner; and
 - (b) containing such information,
- as may be prescribed; and there may also be prescribed circumstances in which an entry in the register shall be deleted.
- (2) Every register kept under this section shall be available for inspection by the public at all reasonable hours.”.

45 Power of local authorities to recover cost of various orders

After section 210 of the 1972 Act there shall be inserted the following section—

“210A Recovery of costs of making orders relating to roads, paths etc.

- (1) Where, after the coming into force of this section, a person requests a local authority to make an order to which this subsection applies, the local authority

may require him, as a condition of their compliance with the request, to make such provision as they consider reasonable as regards any costs to be incurred by them in so complying.

- (2) The orders to which subsection (1) above applies are orders under any of the following enactments—
- (a) section 198A of this Act (orders authorising the stopping up or diversion of certain highways) ;
 - (b) section 199 of this Act (orders authorising the stopping up or diversion of footpaths or bridleways);
 - (c) section 200 of this Act (orders authorising the stopping up or diversion of certain highways crossing or entering the route of a proposed new highway);
 - (d) section 201 of this Act (orders extinguishing the right to use vehicles on a highway);
 - (e) section 12 of the Roads (Scotland) Act 1970 (orders stopping up an unnecessary road or one dangerous to the public);
 - (f) section 34 of the Countryside (Scotland) Act 1967 (orders as regards the closure of public paths); and
 - (g) section 35 of the said Act of 1967 (orders as regards the diversion of public paths).”.

46 Power of planning authorities to vary planning permission

After section 31 of the 1972 Act there shall be inserted the following section—

“31A Power of planning authorities to vary planning permission.

Notwithstanding any other provision of this Part of this Act, a planning authority may, at the request of the grantee or of a person acting with his consent, vary any planning permission granted by them, if it appears to them that the variation sought is not material.”.

47 Restriction on further appeal following decision of Secretary of State on appeal under section 63A, 85 or 93 of the 1972 Act

In subsection (3) of section 231 of the 1972 Act (which, among other things, relates to appeals against certain decisions of the Secretary of State)—

- (a) after paragraph (e) there shall be inserted the following paragraph—
 - “(ee) any decision of the Secretary of State on an appeal to him under section 63A of this Act against a waste land notice;”;
- (b) in paragraph (f), the words “ (1)(a), (f) or (g)” shall cease to have effect; and
- (c) for paragraph (h) there shall be substituted the following paragraph—
 - “(h) any decision of the Secretary of State on an appeal to him under section 93 of this Act against a listed building enforcement notice;”.

48 Further amendments of the 1972 Act

The 1972 Act shall have effect subject to the amendments specified in Schedule 2 to this Act.