



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART III

#### CONTROL OVER DEVELOPMENT

##### *Deemed planning permission*

#### **57 Development with government authorisation.**

- (1) Where 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 who are not a local authority, that department may, on granting that authorisation, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.
- [<sup>F1</sup>(2) On granting or varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for—
- (a) so much of the operation or change of use to which the consent relates as constitutes development;
  - (b) any development ancillary to the operation or change of use to which the consent relates.
- (2ZA) On varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give one or more of the following directions (instead of, or as well as, a direction under subsection (2))—
- (a) a direction for an existing planning permission deemed to be granted by virtue of a direction under subsection (2) (whenever made) to be varied as specified in the direction;

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**Changes to legislation:** Town and Country Planning (Scotland) Act 1997, Cross Heading: Deemed planning permission is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (b) a direction for any conditions subject to which any such existing planning permission was deemed to be granted to be varied as specified in the direction;
- (c) a direction for any consent, agreement or approval given in respect of a condition subject to which any such existing planning permission was deemed to be granted to be treated as given in respect of a condition subject to which a new or varied planning permission is deemed to be granted.]

[<sup>F2</sup>(2A) On making an order under section 1 of the Transport and Works (Scotland) Act 2007 which includes provision for development, the Scottish Ministers may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.]

[<sup>F3</sup>(2B) On—

- (a) confirming a flood protection scheme under paragraph 7(4) of schedule 2 to the Flood Risk Management (Scotland) Act 2009 (asp 6) in respect of any operation which would constitute development, or
- (b) a local authority confirming such a scheme under paragraph 4(1) or 9(1) of that schedule,

the Scottish Ministers must direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.]

(3) The provisions of this Act (except Part XI) shall apply in relation to any planning permission deemed to be granted by virtue of a direction under this section as if it had been granted by the Secretary of State on an application referred to him under section 46.

(4) For the purposes of this section development is authorised by a government department if—

- (a) any consent, authority or approval to or for the development is granted by the department in pursuance of an enactment,
- (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development,
- (c) consent is granted by the department to the appropriation of land for the purpose of the development or the acquisition of land by agreement for that purpose,
- (d) authority is given by the department—
  - (i) for the borrowing of money for the purpose of the development, or
  - (ii) for the application for that purpose of any money not otherwise so applicable, or
- (e) any undertaking is given by the department to pay a grant in respect of the development in accordance with an enactment authorising the payment of such grants,

and references in this section to the authorisation of a government department shall be construed accordingly.

(5) [<sup>F4</sup>In subsection (2)(b), the reference to ancillary development, in the case of a consent relating to] the extension of a generating station, does not include any development which is not directly related to the generation of electricity by that station; and in this subsection “extension” and “generating station” have the <sup>M1</sup> same meanings as in Part I of the Electricity Act 1989.

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#### Textual Amendments

- F1** S. 57(2)(2ZA) substituted for s. 57(2) (1.12.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 21(5), 35(1)**; [S.S.I. 2013/303](#), [art. 2](#)
- F2** S. 57(2A) inserted (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\)](#), **ss. 15(1), 30(4)**; [S.S.I. 2007/516](#), [art. 2](#)
- F3** S. 57(2B) inserted (24.12.2010) by [Flood Risk Management \(Scotland\) Act 2009 \(asp 6\)](#), **ss. 65, 97(1)** (with [s. 91](#)); [S.S.I. 2010/401](#), [art. 3\(c\)](#)
- F4** Words in s. 57(5) substituted (1.12.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 21(6), 35(1)**; [S.S.I. 2013/303](#), [art. 2](#)

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

- C1** S. 57(2A) applied (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), **ss. 52(2)(3), 70(1)**

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#### Marginal Citations

- M1** [1989 c. 29](#).

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)