



Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

1997 CHAPTER 9

PART III

GENERAL

Special cases

73 Application of Act to land and works of planning authorities.

- (1) In relation to land of planning authorities, [F¹section 1(1) and (3)] shall have effect subject to such exceptions and modifications as may be prescribed by regulations.
- (2) The provisions mentioned in subsection (3) shall have effect for the purpose of applications by planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings, subject to such exceptions and modifications as may be prescribed by regulations.
- (3) Those provisions are—
 - section 1(2), (4) and (5),
 - sections 3 to 26,
 - sections 28 to 45,
 - sections 56 to 58,
 - section 59(1),
 - section 60(2)(b), (3) and (4),
 - section 65(2)(b), (3) and (4),
 - Schedules 1 and 2, and
 - sections 54(1) to (4) and 55 as they apply with respect to the foregoing provisions.
- (4) The regulations may in particular provide—

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- (a) for the making of applications for listed building consent to the Secretary of State, and
- (b) for the service by him of notices under ^{F2}... the provisions mentioned in subsection (3) of this section.

Textual Amendments

- F1** Words in s. 73(1) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 3 para. 26(a)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F2** Words in s. 73(4) repealed (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 3 para. 26(b)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

Modifications etc. (not altering text)

- C1** S. 73(2)-(4) applied (with modifications) (1.10.2015) by [The Planning \(Listed Building Consent and Conservation Area Consent Procedure\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/243\)](#), regs. 1, 15, **sch. 3** (with reg. 2)

[^{F3}73A Application to the Crown

- (1) This Act (except the provisions specified in subsection (2)) binds the Crown.
- (2) These are the provisions—
 - (a) section 8,
 - (b) section 10(3),
 - (c) section 19(7),
 - (d) section 38(1) and (8),
 - (e) section 39,
 - [section 41E;
 - ^{F4}(ea)
 - (eb) section 41H;]
 - (f) section 49,
 - (g) section 50,
 - [section 50A(2);]
 - ^{F5}(ga)
 - (h) section 53,
 - (i) section 77.
- (3) But subsection (2)(a) does not have effect to prohibit the doing of anything by or on behalf of the Crown which falls within the circumstances described in section 8(3)(a) to (d) and the doing of that thing does not contravene section 6.]

Textual Amendments

- F3** S. 73A inserted (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 90(2)**, 121(4) (with s. 111); S.S.I. 2006/268, art. 3(a)
- F4** S. 73A(2)(ea)(eb) inserted (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 28(a)**, 33(2); S.S.I. 2011/372, art. 2, sch.

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F5 S. 73A(2)(ga) inserted (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 28(b)**, 33(2); S.S.I. 2011/372, art. 2, sch.

[^{F6}73B Urgent works relating to Crown land: application

- (1) This section applies to any works proposed to be executed in connection with any building which is on Crown land if the appropriate authority certifies—
 - (a) that the works are of national importance, and
 - (b) that it is necessary that the works are carried out as a matter of urgency.
- (2) The appropriate authority may, instead of making an application for consent to the planning authority in accordance with this Act, make an application for consent to the Scottish Ministers under this section.
- (3) If the appropriate authority proposes to make the application to the Scottish Ministers it must publish in one or more newspapers circulating in the locality of the building a notice—
 - (a) describing the proposed works, and
 - (b) stating that the authority proposes to make the application to the Scottish Ministers.
- (4) For the purposes of an application under this section the appropriate authority must provide to the Scottish Ministers a statement of the authority's grounds for making the application.
- (5) If the appropriate authority makes an application under this section subsections (6) to (11) below apply.
- (6) The Scottish Ministers may require the authority to provide them with such further information as they think necessary to enable them to determine the application.
- (7) As soon as practicable after they are provided with any document or other matter in pursuance of subsection (4) or (6) the Scottish Ministers must make a copy of the document or other matter available for inspection by the public in the locality of the proposed development.
- (8) The Scottish Ministers must in accordance with such requirements as may be prescribed publish notice of the application and of the fact that such documents and other material are available for inspection.
- (9) Subsection (7) above does not apply to the extent that the document or other matter is subject to any direction given under section 265A(3) of the principal Act.
- (10) The Scottish Ministers must consult—
 - (a) the planning authority, and
 - (b) such other persons as may be prescribed,about the application.
- (11) Subsections (4) and (5) of section 11 apply to an application under this section as they apply to an application in respect of which a direction under section 11 has effect.]

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Textual Amendments

- F6** S. 73B inserted (20.3.2006 for specified purposes, 11.5.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 93(1), 121(4)** (with s. 111); [S.S.I. 2006/101](#), art. 2, sch.; [S.S.I. 2006/243](#), art. 3

[^{F7}73C Expressions relating to the Crown

- (1) Expressions relating to the Crown must be construed in accordance with this section.
- (2) Crown land is land in which there is a Crown interest.
- (3) A Crown interest is any of the following—
 - (a) an interest belonging to Her Majesty in right of the Crown or in right of Her private estates,
 - (b) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department,
 - (c) such other interest as the Scottish Ministers specify by order.
- (4) A private interest is an interest which is not a Crown interest.
- (5) The appropriate authority in relation to any land is—
 - (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners,
 - (b) in relation to any other land belonging to Her Majesty in right of the Crown, the government department having the management of the land [^{F8}or the relevant person] ,
 - (c) in relation to land belonging to Her Majesty in right of Her private estates, a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers,
 - (d) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, the department.

[In subsection (5), “relevant person”, in relation to any land to which section 90B(5)^{F9}(5A) of the Scotland Act 1998 applies, means the person who manages that land.]

- (6) If any question arises as to what authority is the appropriate authority in relation to any land it must be referred to the Scottish Ministers, whose decision is final.
- (7) For the purpose of an application for listed building consent made by or on behalf of the Crown in respect of land which does not belong to the Crown or in respect of which the Crown has no interest, a reference to the appropriate authority must be construed as a reference to the person who makes the application.
- (8) The reference to Her Majesty’s private estates must be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).
- (9) An order made for the purposes of paragraph (c) of subsection (3) must be made by statutory instrument.
- (10) But no such order may be made unless a draft of it has been laid before and approved by resolution of the Scottish Parliament.
- (11) This section applies for the purposes of this Act.]

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Textual Amendments

- F7** S. 73C inserted (20.3.2006 for specified purposes, 12.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), s. 121\(4\), Sch. 5 para. 7](#) (with s. 111); S.S.I. 2006/101, art. 2, sch.; S.S.I. 2006/268, art. 3(f)
- F8** Words in s. 73C(5)(b) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\), art. 1\(2\), Sch. 5 para. 28\(3\)\(a\)](#)
- F9** S. 73C(5A) inserted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\), art. 1\(2\), Sch. 5 para. 28\(3\)\(b\)](#)

[^{F10}73D Enforcement in relation to the Crown

- (1) No act or omission done or suffered by or on behalf of the Crown constitutes an offence under this Act; but the Court of Session may on the application of a public authority or office-holder responsible for the enforcement of anything required to be done, or prohibited, by or under this Act, declare unlawful any act or omission so done or suffered.
- (2) A planning authority must not take any step for the purposes of enforcement in relation to Crown land unless it has the consent of the appropriate authority.
- (3) The appropriate authority may give consent under subsection (2) subject to such conditions as it thinks appropriate.
- (4) A step taken for the purposes of enforcement is anything done in connection with the enforcement of anything required to be done or prohibited by or under this Act.
- (5) A step taken for the purposes of enforcement includes—
 - (a) entering land,
 - (b) initiating proceedings,
 - (c) the making of an application.
- (6) A step taken for the purposes of enforcement does not include—
 - (a) service of a notice,
 - (b) the making of an order (other than a court order).

Textual Amendments

- F10** Ss. 73D, 73E inserted (11.5.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\), ss. 94\(4\), 121\(4\)](#) (with s. 111); S.S.I. 2006/243, art. 3

73E Reference to an interest in land

- (1) Subsection (2) applies to the extent that an interest in land is a Crown interest.
- (2) Anything which requires or is permitted to be done by or in relation to the owner of the interest in land must be done by or in relation to the appropriate authority.
- (3) An interest in land includes an interest only as occupier of the land.]

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Textual Amendments

F10 Ss. 73D, 73E inserted (11.5.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 94(4), 121(4)** (with s. 111); S.S.I. 2006/243, art. 3

[^{F11}73F Applications for listed building or conservation area consent by Crown

- (1) This section applies to an application for—
 - (a) listed building consent, or
 - (b) conservation area consent,
 made by or on behalf of the Crown.
- (2) The Scottish Ministers may by regulations modify or exclude any statutory provision relating to the making and determination of such applications.
- (3) A statutory provision is a provision contained in or having effect under any enactment (including any enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament).]

Textual Amendments

F11 S. 73F inserted (20.3.2006 for specified purposes, 12.6.2006 in so far as not already in force) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), **Sch. 5 para. 11** (with s. 111); S.S.I. 2006/101, art. 2, sch.; S.S.I. 2006/268, art. 3(f)

^{F12}74 Exercise of powers in relation to Crown land.

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Textual Amendments

F12 S. 74 repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), **Sch. 5 para. 19, Sch. 9** (with s. 111); S.S.I. 2006/268, art. 3(e)(f)

^{F13}75 Application for listed building or conservation area consent in anticipation of disposal of Crown land.

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Textual Amendments

F13 S. 75 repealed (12.6.2006) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), s. 121(4), **Sch. 5 para. 19(1), Sch. 9** (with s. 111, Sch. 5 para. 19(2)); S.S.I. 2006/268, art. 3(e)(f)

Changes to legislation:

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

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

- s. 82(1)(aa)-(ad) inserted by [2006 asp 17 s. 55\(5\)](#)