
 STATUTORY INSTRUMENTS

1981 No. 829 (S.85)

TOWN AND COUNTRY PLANNING, SCOTLAND**The Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1981**

<i>Made - - - -</i>	<i>3rd June 1981</i>
<i>Laid before Parliament</i>	<i>22nd June 1981</i>
<i>Coming into Operation</i>	<i>3rd August 1981</i>

In exercise of the powers conferred on me by sections 256 and 273 of the Town and Country Planning (Scotland) Act 1972(a) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1981 and shall come into operation on 3rd August 1981.

Interpretation

2. In these regulations, “the Act” means the Town and Country Planning (Scotland) Act 1972.

Application of Part III of Schedule 19 to the Act

3. In relation to the development by local authorities of land in respect of which they are planning authorities, the provisions of the Act specified in Part III of Schedule 19 to the Act, shall have effect subject to the exceptions and modifications prescribed in these regulations.

Publicity for development

4.—(1) Where a local authority require planning permission for development which they propose to carry out in the area in respect of which they are the planning authority and which is not granted by a development order, they shall publish a notice in a local newspaper circulating in the locality of the land which they propose to develop, stating:—

- (a) their intention to carry out the development described in the notice;
- (b) the address and times at which plans of the proposed development may be inspected, and
- (c) that representations may be made in writing to the planning authority within 21 days of the date of publication of the notice.

(2) Before publishing a notice under paragraph (1) of this regulation the planning authority shall—

- (a) give the requisite notices in writing for the purposes of section 24 of the Act (notification of applications to owners and agricultural tenants) to all persons who were, at the date of service of the notice, owners

of the land or the tenants of any agricultural holding comprised in the land, in the forms prescribed by a development order; and

- (b) carry out such consultations as would have been required by a development order had an application for planning permission for the development described in the notice been made to them under Part III of the Act.

(3) Where the development consists of or includes development of any class which is prescribed by a development order for the purposes of section 23 of the Act (publication of notices of applications) or falls within any of the descriptions of development set out in section 25 of the Act (publicity for applications affecting conservation areas), publication of the notice under paragraph (1) of this regulation shall, notwithstanding the provisions of the Act or of a development order, be deemed sufficient compliance with the requirements of these sections in so far as relating to the publication of the notice in a local newspaper.

Deemed permission for development

5.—(1) On the expiry of—

- (a) the period of 21 days beginning with the date on which the notice required by regulation 4 of these regulations was published; or
- (b) the period specified in any other notice given for the purposes of sections 23, 24 or 25 of the Act; or
- (c) the period specified in a development order or direction made thereunder, being a period during which a planning authority is prohibited from granting planning permission on an application or from determining an application for planning permission,

whichever period last expires, where no representations against the proposed development have been made to the planning authority (whether in response to such notices or otherwise), planning permission for the development described in the notice shall, subject to paragraph (2) of this regulation be deemed to have been granted by the Secretary of State on that date.

(2) No permission shall be deemed to have been granted under paragraph (1) of this regulation in any case where—

- (a) the development consists of or includes works for the demolition, alteration or extension of a listed building or the demolition of a building to which section 262A of the Act applies (control of demolition in conservation areas); or
- (b) the Secretary of State has given a direction restricting the grant of permission for the development or class of development for which application is made or a direction as to how an application is to be determined.

Notification and applications to the Secretary of State

6.—(1) Where—

- (a) the development consists of or includes works for the demolition, alteration or extension of a listed building or the demolition of a building to which section 262A of the Act applies (control of demolition in conservation areas); or
- (b) the Secretary of State has given a direction restricting the grant of permission for the development or class of development for which application is made or a direction as to how an application is to be determined; or

- (c) representations against a development described in a notice published in terms of regulation 4 of these regulations have been received by the planning authority (whether in response to such a notice or otherwise),

the planning authority shall, on the expiry of the period referred to in regulation 5(1) of these regulations, give notice to the Secretary of State in the form set out in the Schedule to these regulations of—

- (i) their intention to carry out the development described in the notice,
 - (ii) any consultations carried out by them,
 - (iii) any representations received by them,
 - (iv) any directions which have been given to any planning authority restricting the grant of planning permission for such a development as is described in the notice on land in the area of the planning authority serving the notice, and
 - (v) the local authorities upon whom copies of the notice to the Secretary of State have been served in terms of paragraph (2) of this regulation,
- and the Secretary of State may require the planning authority to make an application to him for planning permission for the development described in the notice served upon him.

(2) A copy of the notice given under paragraph (1) above shall be served by the planning authority on every other local authority who appears to them to have an interest in, or responsibility for, the area in which the land is situated.

(3) If, on the expiry of 28 days from the receipt by the Secretary of State of the notice referred to in paragraph (1) of this regulation (or such longer period as the Secretary of State may, during the said month or any period so extended, notify in writing to the authority) the Secretary of State does not require the planning authority to make an application to him for planning permission in respect of the development described in that notice, planning permission for the development so described shall be deemed to have been granted by the Secretary of State.

(4) Where the Secretary of State has required a planning authority to make an application for planning permission in accordance with paragraph (1) above, he shall give notice thereof to any other local authority upon whom a copy of the notice of intention to develop was served under paragraph (2) above and to any other local authority who appears to the Secretary of State to have an interest in, or responsibility for, the area in which the land is situated.

(5) An application for planning permission made under paragraph (1) above shall be deemed to be an application referred to the Secretary of State under section 32 of the Act and the provisions of that section shall apply to the determination of the application by the Secretary of State.

Effect of deemed permission for development

7. Any permission deemed to be granted by virtue of regulation 5(1) or 6(3) of these regulations shall enure only for the benefit of the planning authority carrying out the development and not for the benefit of the land; but in all other respects such permissions shall be treated for all purposes of the Act as provisions granted by a planning decision given on an application and as if they had been granted on the date of the expiry of the last period or, as the case may be, the period specified in regulation 5(1) or 6(3).

Register of applications

8. Section 31(2) of the Act (which provides for the keeping of a register

with respect to applications for planning permission) shall apply as if reference in that section to applications for planning permission made to a planning authority included a reference to notices of intention to develop published by a planning authority.

Developments sanctioned by government departments

9. Where the sanction of a government department within the meaning of section 37 of the Act has been obtained by the planning authority in respect of the development of land, but without a direction that planning permission for that development shall be deemed to be granted, a statement to that effect shall be included in any notice of intention to develop made to the Secretary of State.

Other consents

10. Where a local authority require, in relation to land in their area, any consent or approval under any of the provisions specified in Part III of Schedule 19 to the Act other than a planning permission, and that authority are themselves the planning authority to whom the application for such consent or approval should be made, such application shall be made to the Secretary of State, and his decision thereon shall be final.

Revocation

11. The Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1975(a) are hereby revoked.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
3rd June 1981.

Regulation 6 SCHEDULE

FORM OF NOTICE TO THE SECRETARY OF STATE OF INTENTION TO DEVELOP TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972, SECTION 256

[Name of planning authority]

Notice is hereby given in terms of the Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1981 that [name of planning authority] intend to develop land of which they are the planning authority as follows:—

[state the nature of the proposed development including the proposed use and the address or location of the site]

in accordance with the plans enclosed herewith. A site plan of the land is also enclosed along with copies of all the representations which have been made to the authority objecting to the proposed development and the planning authority's observations thereon.

The [name of planning authority] have consulted with every authority, person and body with whom a planning authority are required to consult before dealing with an application for planning permission, and the Schedule hereto contains brief particulars of such consultation, of any directions restricting the grant of planning permission in respect thereof, and of the local authorities upon whom a copy of this notice has been served.

Date

[Name, appointment and address of proper officer of the planning authority]

SCHEDULE REFERRED TO IN THE FOREGOING NOTICE

1. Names of parties consulted as to the proposed development, with particulars of any observations received.....

.....

2. Particulars of any direction restricting the grant of planning permission for the proposed development given by the Secretary of State under a development order.....

.....

3. Local authorities upon whom copies of this notice have been served.....

.....

4. The proposed development *does involve the demolition, alteration or extension does not

of any building included in any list compiled or approved under section 52 of the Act. The proposed development *does involve the demolition of a building to does not

which section 262A of the Act applies.

5. The proposed development requires the sanction of [name of sanctioning Department].

Application *has been made for such sanction, but no direction *has been given will be made will be applied for

that planning permission shall be deemed to be granted under the provision of section 37(1) of the Act.

* Delete whichever is not applicable.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations re-enact with amendments the Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1975. The principal changes are—(a) the procedure by which planning permission is obtained for development by planning authorities has been amended to require a planning authority to advertise its intention to develop; (b) the consultations required under Part III of the Town and Country Planning (Scotland) Act 1972 will now be carried out by the planning authority before advertising the intention to develop; (c) a notice of intention to develop must be served on the Secretary of State only if objections to the development as advertised are received or the development relates to a listed building or the demolition of an unlisted building in a conservation area or comes within the terms of a direction by the Secretary of State restricting the grant of planning permission for the development or class of development to which the application relates; and (d) any planning permission deemed to be granted to a planning authority under these regulations will apply only to a development by the planning authority concerned and does not transfer with the ownership of the land.

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