

PLANNING ETC. (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 3 – Development Management

Section 11 – Pre-application consultation

79. This section introduces **new sections 35A, 35B and 35C** into the 1997 Act. The existing section 35 already gives the Scottish Ministers the power to make regulations or a development order on the procedures and the form and content of notices of application for planning permission.
80. **New section 35A** places a duty on a prospective applicant for planning permission for certain prescribed classes of development to comply with the pre-application procedures set out in new section 35B before submitting an application for planning permission. The classes of development are to be prescribed by regulations or a development order, and different classes can be prescribed for different areas.
81. New section 35A(3) enables applicants by notice to require the planning authority to determine whether or not their proposed development falls within a prescribed class. The planning authority can request that the applicant provides additional information if they feel insufficient information has been submitted. If the planning authority respond stating that they consider the proposed development does not fall within the classes requiring a pre-application consultation then, providing the application for planning permission is submitted within 12 months of the notice and it does not differ materially from the information given in the notice, pre-application consultation would not be required.
82. New section 35A(7) places a duty on the planning authority to respond to an applicant's "proposal of application notice" within 21 days or as otherwise prescribed in regulations or a development order.
83. New section 35A(10) allows the provisions in new section 35A to apply to planning applications made directly to the Scottish Ministers under the "urgent development" procedures introduced on the removal of Crown immunity from planning control.
84. **New section 35B** sets out the details for the pre-application consultation process. This will be initiated by the prospective applicant submitting a "proposal of application notice" to the planning authority. New section 35B(3) requires there to be a 12 week period between submission of the notice and the application. New section 35B(4) sets out the minimum content of the "proposal of application notice". The contents, persons to be consulted and the form of the consultation are to be set out further in regulations or a development order made under section 35B(5). If the planning authority consider that additional consultation to that prescribed in such regulations or development order should be undertaken, they must inform the applicant within 21 days of receipt of the notice. If they fail to respond within the 21 days they can be assumed to have considered that no additional consultation is required. New section 35B(9) allows the provisions in new section 35B to apply to planning applications made directly to the Scottish

*These notes relate to the Planning etc. (Scotland) Act 2006
(asp 17) which received Royal Assent on 20 December 2006*

Ministers under the “urgent development” procedures introduced on the removal of Crown immunity from planning control.

85. **New section 35C** requires the submission of a “pre-application consultation report” with the application for planning permission, the form of this report being prescribed in regulations or a development order.