Planning etc. (Scotland) Act 2006

2006 asp 17

PART 10 S

MISCELLANEOUS AND GENERAL PROVISIONS

Miscellaneous

50 National Scenic Areas S

After section 263 of the principal Act insert—

"National Scenic Areas

263A National Scenic Areas

(1) Where it appears to the Scottish Ministers that an area is of outstanding scenic value in a national context and that the special protection measures specified in subsection (2) are appropriate for it, they may by direction designate the area as a National Scenic Area.

(2) Where any area is for the time being designated as a National Scenic Area, special attention is to be paid to the desirability of safeguarding or enhancing its character or appearance in the exercise, with respect to any land in that area, of any powers under this Act.

(3) The Scottish Ministers may issue guidance to a planning authority for the purposes of this section and that authority must have regard to any guidance so issued.

(4) In deciding whether to designate an area as a National Scenic Area, the Scottish Ministers are to take account of—

(a) whether the area is of outstanding natural beauty,

(b) the amenity of the area, including—

(i) whether it is of historical, cultural or environmental importance; and

(ii) the nature of any buildings or other structures within it, and

(c) any flora, fauna or physiographical features of the area, whether or not to any extent the product of human intervention in the landscape.

(5) Any designation under subsection (1) may be varied or cancelled by a subsequent direction.

(6) Before issuing a direction under subsection (1) or (5), the Scottish Ministers are to consult with—

(a) Scottish Natural Heritage, and

(b) such other persons as are prescribed.

(7) The Scottish Ministers are to compile and make available for inspection free of charge a list containing particulars of any area which has been designated as a National Scenic Area.

(8) For the purposes of subsection (7), a list may be made available by electronic means.

(9) The Scottish Ministers may by regulations make provision as to—

(a) the form of any direction under subsection (1) or (5),

(b) the manner in which a National Scenic Area is to be described in such a direction,

(c) the publicity to be given to any such direction, and

(d) other procedural matters in connection with the making of such a direction.

(10) Regulations under this section may make different provision for different purposes.”.

Commencement Information

I1 S. 50 in force at 1.4.2007 for specified purposes by S.S.I. 2007/130, art. 2(2)(3), **Sch.**

I2 S. 50 in force at 26.11.2010 in so far as not already in force by S.S.I. 2010/400, **art. 2(1)**(2)(b)

51 Equal opportunities S

Before section 271 of the principal Act insert—

“270B Equal opportunities

(1) The Scottish Ministers and planning authorities must perform their functions under this Act in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements.

(2) “Equal opportunities” and “equal opportunity requirements” have the same meanings in this section as they have in Section L2 of Part 2 of Schedule 5 to the Scotland Act 1998 (c. 46).”.

Commencement Information

I3 S. 51 in force at 1.4.2007 by S.S.I. 2007/130, art. 2(2)(3), **Sch.**

52 Regulations in connection with inquiries etc. S

(1) After section 275 of the principal Act insert—

"**275A Further provision as regards regulations: inquiries etc.**

(1) Subject to any other provision made by this Act as regards the procedure to be followed in connection with inquiries, hearings, referrals or reviews conducted under or by virtue of the Act, the Scottish Ministers may under this subsection make regulations as regards such procedure.

(2) Without prejudice to the generality of subsection (1), such regulations may relate to procedure in connection with matters preparatory to such inquiries, hearings, referrals or reviews and in connection with matters subsequent to them.".

(2) In section 9 of the Tribunals and Inquiries Act 1992 (c. 53) (procedure in connection with statutory inquiries) at the end there is added—

"(5) For the purposes of the application of this section to Scotland, the expression "statutory inquiry" in subsections (1) to (3) is not to be construed as including an inquiry held under section 265 of, or paragraph 6 of Schedule 4 to, the Town and Country Planning (Scotland) Act 1997 (c. 8).".

Commencement Information

I4 S. 52(1) in force at 12.12.2008 by S.S.I. 2008/411, **art. 2(1)**

53 Old development plans S

(1) Schedule 1 to the principal Act (old development plans) is amended as follows.

(2) In paragraph 1, the words from "a development plan" to the end become paragraph (a); and after that paragraph there is added ", and

(b) except in paragraph 5, a development plan within the meaning of section 24 as that section applied immediately before the coming into force of section 2 of the Planning etc. (Scotland) Act 2006 (asp 17)".

(3) In paragraph 2, for the words "commencement of this Act" substitute " coming into force of that section ".

(4) In paragraph 3, after the words—

(a) "old development plan" insert " , not being the structure plan or local plan, "

(b) "those of" insert " the strategic development plan or ", and

(c) "provisions of" insert " the strategic development plan or as the case may be ".

(5) Paragraph 4 is repealed.

(6) In paragraph 6, for the words from "adoption" to the end substitute "—

(a) approval of a strategic development plan under section 13, so much of any structure plan as relates to the area to which the plan so approved relates,

(b) adoption of a local development plan under section 20, so much of any old development plan as relates to the area to which the plan so adopted relates,

shall cease to have effect. ”.

(7) In paragraph 7, for the words “local plan” substitute “ plan so approved, or as the case may be adopted, ”.

(8) In paragraph 9, after the word “district” insert “ , and the strategic development planning authority for any strategic development plan area, ”.

(9) The heading to paragraphs 6 to 9 becomes “*Discontinuance of old development plan on approval of strategic development plan or adoption of local development plan*”.

(10) After paragraph 9 there is added—

10 “**Further provision as to interpretation**

In this Schedule, “structure plan” is to be construed in accordance with section 6 and “local plan” in accordance with section 11 as those sections applied immediately before the coming into force of section 2 of the Planning etc. (Scotland) Act 2006 (asp 17).”.

Commencement Information

I5 S. 53 in force at 28.2.2009 by S.S.I. 2009/70, art. 2, **Sch.**

54 Further amendment of the principal Act S

(1) The principal Act is amended as follows.

(2) In section 1 (planning authorities), at the end add—

“(3) This section is subject to the provisions of this Act and of any other enactment.”.

(3) In section 30(2) (development orders: general)—

(a) in paragraph (a), at the end (but before the word “or” which immediately follows the paragraph) add “ and according to whether a development is a national development, a major development or a local development ”, and

(b) in paragraph (b), after the words “of land” insert “ , or to such categories of development, ”.

(4) In section 33 (planning permission for development already carried out), at the end add—

“(4) But subsection (3) does not apply if, before the date of the application, an enforcement notice was issued in respect of the development.”.

(5) In section 37 (determination of applications: general considerations)—

(a) in subsection (1)(a), for the words “58 and 59” substitute “ 27B(2) and 59(1)(b) ”, and

(b) in subsection (4), after the words “which the” insert “ notice of the ”.

(6) In section 130(1)(b) (appeal against enforcement notice), for the words "those matters" substitute " the matters which, by virtue of section 128(1)(a) have been stated in the notice, ".

(7) In section 135(11) (construing the expression "compliance period" in relation to an enforcement notice), after the words "136," insert " 136A, ".

(8) In section 156(1)(b) (right to enter without warrant), after the words "144," insert " 144A, ".

(9) In section 160(6)(c) (saving in respect of certain obligations), at the end add " or an Act of the Scottish Parliament ".

(10) In section 216(6)(b) (references to development which has received specific parliamentary approval)—

(a) in sub-paragraph (i), at the end add " or by a private Act of the Scottish Parliament ", and

(b) in sub-paragraph (ii), at the end add " or by the Scottish Parliament ".

(11) In section 237 (validity of development plans and certain orders, decisions and directions)—

(a) in subsection (1), for paragraph (a) substitute—

"(a) a strategic development plan or local development plan or any alteration, repeal or replacement of any such plan, whether before or after the plan, alteration, repeal or replacement has been approved or adopted,", and

(b) in subsection (3)—

(i) before paragraph (a) insert—

"(za) any decision on an application under section 31A;",

(ii) after paragraph (c) insert—

"(ca) any determination on an appeal under section 75B or 75F;", and

(iii) after paragraph (f) insert—

"(fa) any decision on an appeal under section 169;".

(12) In section 238 (proceedings for questioning validity of development plans and certain schemes and orders)—

(a) in subsection (1)—

(i) for the words from "structure" to "the alteration, repeal or replacement" substitute " strategic development plan or local development plan desires to question the validity of the plan ", and

(ii) in paragraph (b), for the words from "requirement" to the end substitute " relevant requirement of that Part or of any regulations made under that Part has not been complied with, ",

(b) in subsection (2)—

(i) in paragraph (a), the words "or, as the case may be, the alteration, repeal or replacement", and

(ii) in paragraph (b), the words "or, as the case may be, the alteration, repeal or replacement" in both places they occur,

are repealed,

(c) in subsection (3), the words " or an alteration, repeal or replacement " are repealed, and

(d) in subsection (5)—

(i) in paragraph (a), for the words from "such" to the end substitute " a strategic development plan, the date of its publication under section 14(1)(b); ", and

(ii) after that paragraph insert—

"(aa) in the case of an application in respect of a local development plan, the date of its publication under section 20A(1)(b);".

(13) In section 242A(11) (urgent Crown development: application), for the word "to", where it first occurs, substitute " and ".

(14) In section 255(2)(a) (contributions by local authorities and statutory undertakers), for the words "carrying out of a survey or the preparation of a structure plan or a local" substitute " preparation of a strategic development plan or a local development ".

(15) In section 269(1)(a) (rights of entry)—

(a) for the words "structure plan or local" substitute " strategic development plan or local development ", and

(b) the words " including the carrying out of any survey under that Part " are repealed.

(16) In section 275 (regulations and orders)—

(a) after subsection (2) insert—

"(2A) Any power conferred by this Act to make regulations or orders includes power to make such incidental, supplemental, consequential, transitory, transitional or saving provision as the Scottish Ministers consider necessary or expedient.",

(b) in subsection (4)—

(i) for the word "5" substitute " 4(1) ", and

(ii) for the words "and 100(3)(a)" substitute " , 100(3)(a), 241B(3), 241C(6) and 241D(3)(f) ",

(c) in subsection (5), for the words "5, 54 or 100(3)(a)" substitute " 4(1), 54, 100(3)(a), 241B(3), 241C(6) or 241D(3)(f) ",

(d) in subsection (6), after the words "subsection (7))" insert " or in an Act of the Scottish Parliament (other than a private Act or an enactment specified in subsection (7)) ",

(e) in subsection (7)(b), after the words—

(i) "of Parliament" insert " or of the Scottish Parliament ", and

(ii) "by Parliament" insert " or by the Scottish Parliament ", and

(f) after subsection (7) insert—

"(7A) On the first occasion on which regulations are made under each of paragraph (d) of section 7(1) and paragraph (a)(i) of section 19(10), the statutory instrument containing the regulations is not made unless a draft of the instrument has been laid before, and approved by a resolution of, the Parliament.

(7B) A statutory instrument containing regulations made under section 136A(4) or 145A(4) is not made unless a draft of the instrument has been laid before, and approved by a resolution of, the Parliament.”.

(17) In section 277 (interpretation)—

(a) in subsection (1)—

(i) at the appropriate places insert—

““local development plan” shall be construed in accordance with section 15;”,

““local developments” has the meaning given by section 26A;”,

““major developments” has the meaning given by section 26A;”,

““national developments” has the meaning given by section 3A(4)(b);”,

““National Planning Framework” has the meaning given by section 3A(1);”,

““strategic development plan” shall be construed in accordance with section 7;”,

““strategic development plan area” shall be construed in accordance with section 5;”,

““strategic development planning authority” has the meaning given by section 4(5);”, and

““temporary stop notice” shall be construed in accordance with section 144A;”,

(ii) in the definition of “compulsory acquisition”, after the word “Parliament” insert “ or of the Scottish Parliament ”,

(iii) for the definition of “enactment” substitute—

““enactment” includes an Act of the Scottish Parliament, an enactment in any local or private Act of Parliament or in any private Act of the Scottish Parliament, and an order, rule, regulation, byelaw or scheme made under an Act of Parliament or of the Scottish Parliament, including an order or scheme confirmed by Parliament or by the Scottish Parliament;”, and

(iv) in the definition of “owner”, for the words “section 35” substitute “ sections 35, 75, 75C, 75D and 75G ”, and

(b) at the end add—

“(11) Any reference in this Act to registering an instrument (or any other document, however described) in the Land Register of Scotland is to be construed as a reference to registering the information contained in the instrument (or other document) in that Register.”.

(18) In Schedule 4 (determination of certain appeals by appointed person)—

(a) in paragraph 1(1), after the words “47,” insert “ 75B, 75F, ”, and

(b) in paragraph 2—

(i) after head (a) of sub-paragraph (1) insert—

"(aa) in relation to an appeal under section 75B, as the Scottish Ministers have under subsections (4) and (5) of that section;

(ab) in relation to an appeal under section 75F, as the Scottish Ministers have under subsections (4) and (5) of that section;", and

(ii) in sub-paragraph (2), after the words "48(2)," insert " 75B(10), 75F(10), ".

(19) In Schedule 14 (blighted land)—

(a) in paragraph 1—

(i) in sub-paragraph (1), for the word "structure" substitute " strategic development ",

(ii) in sub-paragraph (2), after the word "local" insert " development ",

(iii) for sub-paragraphs (4) and (5) substitute—

"(4) In sub-paragraph (1), the reference to a strategic development plan in force includes a reference to—

(a) a proposed strategic development plan which has been submitted to the Scottish Ministers under section 10(3)(b), and

(b) intended modifications published under section 13(4)(b)(i).

(5) Sub-paragraph (4) ceases to apply—

(a) when the proposed strategic development plan (whether or not in whole or in part and whether or not modified) is constituted under subsection (2) of section 13 as the strategic development plan,

(b) when as regards the proposed strategic development plan the strategic development planning authority arrive at the consideration mentioned in section 12A(6), or

(c) when, under subsection (1) of section 13, the Scottish Ministers reject the proposed strategic development plan.", and

(iv) in sub-paragraph (6), for the words "22" substitute " 23B ", and

(b) in paragraph 2—

(i) in sub-paragraph (1)(a), after the word "local" insert " development ",

(ii) for sub-paragraphs (2) and (3) substitute—

"(2) In sub-paragraph (1), the reference to a local development plan in force includes a reference to a proposed local development plan which has been submitted to the Scottish Ministers under section 18(3)(b) or 19A(5)(b)(ii).

(3) Sub-paragraph (2) ceases to apply—

(a) when the proposed local development plan (whether or not modified) is constituted under section 20(1) as the local development plan, or

(b) when as regards the proposed local development plan the planning authority arrive at the consideration mentioned in section 19A(6).", and

(iii) in sub-paragraph (4), for the words "22" substitute " 23B ".

Modifications etc. (not altering text)

C1 S. 54(19) savings for effects of commencing SSI 2009/100, art. 2, Sch. (6.4.2009) by Planning etc. (Scotland) Act 2006 (Saving and Transitional Provisions) Order 2009 (S.S.I. 2009/101), arts. 1(1), **3**

Commencement Information

I6 S. 54(1)(2)(11)(b)(i)(iii)(16)(d)(e)(17)(a)(ii)(iii) in force at 1.4.2007 by S.S.I. 2007/130, art. 2(2)(3), **Sch.**

I7 S. 54(3)-(10)(13) in force at 3.8.2009 by S.S.I. 2009/219, art. 2, **Sch.**

I8 S. 54(11)(a)(12)(14)(15) in force at 28.2.2009 by S.S.I. 2009/70, art. 2, **Sch.**

I9 S. 54(11)(b)(ii)(18)(b)(i) in force at 1.2.2011 by S.S.I. 2010/400, art. 3, **Sch.** (as amended (2.12.2010) by S.S.I. 2010/430, art. 3)

I10 S. 54(16)(a) in force at 6.2.2007 by S.S.I. 2007/49, art. 2, **Sch.**

I11 S. 54(16)(b)(i)(c)(f) in force at 19.5.2008 for specified purposes by S.S.I. 2008/164, **art. 2(1)**

I12 S. 54(16)(b)(i)(f) in force at 28.2.2009 in so far as not already in force by S.S.I. 2009/70, art. 2, **Sch.**

I13 S. 54(17)(a)(i) in force at 1.4.2007 for specified purposes by S.S.I. 2007/130, art. 2(2)(3), **Sch.**

I14 S. 54(17)(a)(i) in force at 25.6.2008 for specified purposes by S.S.I. 2008/164, art. 2(2), **Sch.** (as amended (1.6.2008) by S.S.I. 2008/191, art. 3)

I15 S. 54(17)(a)(i)(iv)(b) in force at 12.12.2008 for specified purposes by S.S.I. 2008/411, **art. 2(2)**(3)(c)

I16 S. 54(17)(a)(i) in force at 28.2.2009 for specified purposes by S.S.I. 2009/70, art. 2, **Sch.**

I17 S. 54(17)(a)(i) in force at 6.4.2009 for specified purposes by S.S.I. 2009/100, art. 2, **Sch.**

I18 S. 54(17)(a)(i) in force at 3.8.2009 in so far as not already in force by S.S.I. 2009/219, art. 2, **Sch.**

I19 S. 54(17)(a)(iv)(b) in force at 1.2.2011 in so far as not already in force by S.S.I. 2010/400, art. 3, **Sch.**

I20 S. 54(18)(a) in force at 16.12.2010 by S.S.I. 2010/430, **art. 2**

I21 S. 54(19) in force at 6.4.2009 by S.S.I. 2009/100, art. 2, **Sch.**

55 Further amendment of the listed buildings Act S

(1) The listed buildings Act is amended as follows.

(2) In section 13 (directions concerning notification of applications etc.), at the end add—

"(4) Directions under subsection (1) or (3) may be given to—

(a) planning authorities generally;

(b) a particular planning authority; or

(c) a description of planning authority.".

(3) In section 69(1) (grants and loans for preservation or enhancement of conservation areas)—

(a) for the words "If in the opinion of the Secretary of State any conservation area is an area of outstanding architectural or historic interest, he" substitute " The Scottish Ministers ", and

(b) for the words "the area or any part of it" substitute " a conservation area or any part of a conservation area ".

(4) In section 81(1) (interpretation), after the definition of "conservation area consent" insert—

""demolition" includes partial demolition (and any analogous expression is to be construed accordingly),".

(5) In section 82(1) (power to make regulations), after paragraph (a) insert—

"(aa) as to the provision of information, or the production of evidence to verify information, for the purposes of this Act;

(ab) as to the manner of lodging any application under this Act and as to documents to be furnished with such an application;

(ac) as to the manner of giving notice of appeal under this Act and as to documents to be furnished with such notice of appeal;

(ad) as to the manner of intimating decisions under this Act and as to documents to be sent with notice of such a decision;".

Commencement Information

I22 S. 55(1)(3) in force at 1.4.2007 by S.S.I. 2007/130, art. 2(2)(3), **Sch.**

I23 S. 55(2) in force at 1.6.2008 by S.S.I. 2008/191, **art. 2**

Changes to legislation:
There are currently no known outstanding effects for the Planning etc. (Scotland) Act 2006, Cross Heading: Miscellaneous.