

PLANNING ETC. (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 7 – Assessment

Section 30 – Assessment of planning authority’s performance or decision making

177. This section inserts a **new part 12A** into the 1997 Act.

Section 251A – Assessment of planning authority’s performance

178. This section gives the Scottish Ministers powers to conduct an assessment of a planning authority’s performance, or to appoint a person to do so. The assessment may cover the authority’s performance of their planning functions in general or of a particular function.

Section 251B – Assessment of planning authority’s decision making

179. Subsections (1) and (2) give the Scottish Ministers or an appointed person the power to conduct an assessment of how a planning authority deals with applications for planning permission. This power is limited to exclude decisions made within the year preceding the date that the planning authority are notified of the assessment. The assessment may cover the basis for determinations, the processes by which they have been made and whether they were in accordance with the development plan or conformed with advice given by the Scottish Ministers.

Section 251C – Further provision as respects assessment of performance or decision making

180. Subsection (1) requires the Scottish Ministers to notify the planning authority of their intention to carry out an assessment, and to indicate its intended scope, and where they appoint a person to carry out the assessment they are to advise the authority who the appointed person is.

181. Subsection (2) gives Ministers powers to determine that the scope of an assessment under section 251B shall relate to a type of application, a period of time or a geographical area. Subsection (3) provides that Ministers or the appointed person may require access to any premises of the authority and any documents which appear to be necessary for the purposes of the assessment. Subsection (4) allows Ministers or the appointed person to require a person to give them such information as necessary and to give them in person information or documents.

182. Subsection (5) requires the authority to provide Ministers or the appointed person with every facility and all information which they may reasonably require. Subsection (6) requires Ministers or the appointed person to give 3 clear days notice of any requirement under this section and to produce a document of identification if required to do so. Subsection (7) makes it an offence for a person without reasonable excuse to fail

to comply with a requirement under subsection (3), (4) or (5), which can result on summary conviction to a fine not exceeding level 3 (at present £500).

Section 251D – Report of assessment

183. Subsections (1) to (3) require the Scottish Ministers or the appointed person to prepare a report, referred to as an assessment report, and issue it to the planning authority. The report may recommend improvements which the planning authority should make.
184. Subsection (4) requires the planning authority to prepare and submit a response report to Scottish Ministers within 3 months of receipt of the assessment report. This report will set out the extent, the manner and the period within which they propose to implement the recommendations. If the planning authority do not intend to implement the recommendations, they must set out their reasons for declining to implement any or all of the recommendations. Subsection (5) requires the person preparing a report to publish it. Subsection (6) allows Ministers to issue a direction specifying actions where the authority decline to implement recommendations or appear not to be timeously carrying out what they propose in their response report. Subsection (8) requires Ministers to publish any such direction or variation of a direction, and subsection (9) specifies that publication of the reports, directions and variations under this section may include the use of electronic means.