



# Town and Country Planning Act 1968

## 1968 CHAPTER 72

### PART VI

#### MISCELLANEOUS CHANGES IN PLANNING LAW

##### *Control of office development*

#### **83 Partial abrogation of dual control of office development.**

- (1) Without prejudice to section 23 of the Industrial Development Act 1966 (restrictions or conditions which may be attached to industrial development certificates issued by the Board of Trade under section 38 of the principal Act) the conditions which the Board of Trade may under that section attach to an industrial development certificate shall include conditions restricting the amount of office floor space to be contained in any building which is the subject of the development, or precluding it from containing any office floor space; and the conditions may be framed so as to apply (either or both) to the building as originally erected or as subsequently extended or altered.
- (2) Notwithstanding section 5(1) of the Control of Office and Industrial Development Act 1965 (of which the effect is that an industrial development certificate under section 38 of the principal Act as well as an office development permit under section 1(3) of the said Act of 1965 is required in support of an application for planning permission for development which is not only industrial but involves the provision of office premises), compliance with the said section 1(3) shall not be required in respect of an application for planning permission for industrial development to which this section applies, where there has been issued by the Board of Trade and furnished to the local planning authority with the application a copy of an industrial development certificate with conditions attached thereto by virtue of subsection (1) above.
- (3) The said Act of 1965 is hereafter in this Act referred to as " the Act of 1965
- (4) In this section, " industrial development " means the development of land in any manner specified in section 38(1) of the principal Act (requirement of Board of Trade industrial development certificate to support application for planning permission for development involving provision of industrial building or change in the use of

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premises so that a building becomes industrial); and this section applies to industrial development only if there will result therefrom no office premises except such as are comprised within the curtilage of an industrial building and are used or designed for use for providing services or facilities ancillary to the use of other premises in the same building or curtilage.

- (5) Development in respect of which there has been issued by the Board of Trade an industrial development certificate with conditions attached thereto by virtue of subsection (1) of this section shall be treated as not included in any reference to "related development" in section 2 of the Act of 1965 (which makes an office development permit unnecessary if the amount of office floor space to be created is below the prescribed exemption limit, but for this purpose requires that space to be aggregated with office floor space created, or to be created, in the course of other development affecting the same building or site).

#### **84 Modifications of section 7 of 1965 Act.**

- (1) Section 7 of the Act of 1965 (attachment to certain planning permissions of conditions restricting office floor space, where the permission can be granted without an office development permit) shall not apply to a planning permission granted after the commencement of this section for the erection of a building on any land, unless it is in an area to which Part I of that Act applied at the time when the application for the planning permission was made.
- (2) Section 7 of the Act of 1965 shall not apply to a planning permission granted after the said commencement for the erection of a building with a floor space less than twice the prescribed exemption limit; nor shall it apply to a planning permission so granted for the erection of a building (of whatever floor space) which is wholly residential.
- (3) Section 7 of the Act of 1965 shall not apply to a planning permission which is subject to conditions by virtue of section 23(5) or (6) of the Industrial Development Act 1966 (attachment to planning permission of conditions subject to which an industrial development certificate was issued by the Board of Trade) and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.

#### **85 Restriction on creation of office premises in building altered or extended.**

- (1) The provisions of this section shall, subject to subsection (4) below, have effect with respect to a planning permission granted after the commencement of this section for the alteration or extension of a building in an area to which Part I of the Act of 1965 applies at the time of the grant and also applied when the application for planning permission was made, but shall have effect only in the case of a building erected under a planning permission granted after the said commencement.
- (2) If the case is the following, that is to say:—
- (a) either the erection of the building was not development to which Part I of the Act of 1965 applied or it was so but no office development permit was required therefor; and
  - (b) either the proposed alteration or extension is not development to which the said Part I applies or it is so but no office development permit is required therefor ; and

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- (c) there will result from the proposed alteration or extension a building with an aggregate floor space of twice, or more than twice, the prescribed exemption limit,

the planning permission for the alteration or extension shall be granted subject to the condition specified in subsection (3) of this section (in addition to any other conditions imposed by the authority granting the permission).

- (3) The said condition is that the use of the building as altered or extended, or as subsequently further altered or extended, shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate office floor space which exceeds the prescribed exemption limit.
- (4) In the following two cases this section shall not apply:—
  - (a) where the planning permission is in respect of a building which, after its alteration or extension, will be wholly residential; and
  - (b) where the planning permission is subject to conditions by virtue of section 23(5) or (6) of the Industrial Development Act 1966 and those conditions either restrict the office floor space which the building as extended or altered may contain or preclude it from containing any office floor space.

## **86 Corresponding restriction on planning permission for erection of several buildings.**

- (1) The provisions of this section shall have effect with respect to a planning permission granted after the commencement of this section for development involving the erection of two or more buildings in an area to which Part I of the Act of 1965 applies at the time of the grant and also applied when the application for planning permission was made, except in a case where all the buildings are exempt from this section.
- (2) Any one of the said buildings shall be exempt from this section if—
  - (a) it is wholly residential; or
  - (b) the planning permission is subject to conditions by virtue of section 23(5) or (6) of the Industrial Development Act 1966 and those conditions either restrict the office floor space which the building may contain or preclude it from containing any office floor space.
- (3) If the aggregate floor space of the buildings proposed to be erected (leaving out of account any which are exempt from this section) is twice, or more than twice, the prescribed exemption limit and either the erection of the buildings is not development to which Part I of the Act of 1965 applies or it is so, but no office development permit is required therefor, the planning permission shall be granted subject to the condition specified in subsection (4) below (in addition to any other conditions imposed by the authority granting the permission).
- (4) The said condition is that the use of each one of the buildings (excluding any which are exempt from this section) shall be restricted so that (whether in consequence of a change of use or otherwise) it does not at any time contain office premises having an aggregate floor space which exceeds the limit for that building specified in the condition, which limit shall (subject to subsection (5) below) be a floor space bearing such proportion to the building's total floor space as the prescribed exemption limit bears to the aggregate floor space of all the buildings (excluding any which are exempt from this section) for whose erection the planning permission is granted.

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- (5) The authority granting the planning permission may in doing so specify in the said condition, as it applies to any building, a limit different from the one provided by subsection (4) above, but not so that the total of the limits for all the buildings to which the condition applies exceeds the prescribed exemption limit.
- (6) If after the grant of the planning permission a further application for planning permission is made in respect of all or any of the buildings to which the condition specified in subsection (4) of this section applies, and the further application involves a departure from the terms of the said condition as applying to any building, the application shall be subject to section 1(3) of the Act of 1965 (requirement of office development permit) notwithstanding any provision of that Act exempting development from the requirements of that section in particular cases.

#### **87 Provisions supplementary to ss. 83 to 86.**

- (1) A planning permission with respect to which section 85 or 86 above has effect shall not be invalid by reason only that the requirements of section 85(2) or 86(3), as the case may be, are not complied with; but in that case the planning permission shall be deemed to have been granted subject to the condition specified in section 85(3) or 86(4), as the case may be, or (if any other conditions are imposed by the authority granting the permission) to have been granted subject to the condition so specified in addition to the other conditions ; and references in those sections to a condition imposed thereunder shall be construed accordingly as including references to a condition deemed to be imposed.
- (2) In sections 83 to 86 of this Act—
  - (a) " industrial building " has the meaning given to it by section 21 of the Local Employment Act 1960, as amended by section 25 of the Industrial Development Act 1966;
  - (b) " office development permit ", " office premises " and " office floor space " have the same meanings as they have for the purposes of the Act of 1965 ;
  - (c) " the prescribed exemption limit ", in relation to a planning permission, has the meaning given to it by section 7(5) of the Act of 1965 in relation to planning permission granted as mentioned in subsection (1)(b) of that section (restrictions on office development to be attached to planning permission not requiring office development permit); and
  - (d) " wholly residential " in relation to a building, means for use exclusively as a dwelling-house or comprising only units of accommodation for such use.

#### **88 Transfer of Minister's functions in relation to Location of Offices Bureau.**

- (1) The functions of the Minister under the Location of Offices Bureau Order 1963 (which was made under powers conferred by section 8 of the Minister of Town and Country Planning Act 1943 to set up commissions to assist the Minister in the exercise of his functions in relation to the use and development of land) are hereby transferred to the Board of Trade.
- (2) The Location of Offices Bureau shall, in discharging its functions, comply with such directions of a general character as may be given by the Board of Trade.
- (3) In the said Order of 1963—

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- (a) Article 2(1) shall not have effect except so far as it provides for the Bureau to be a body corporate having perpetual succession and a common seal;
- (b) Article 3(2) (duty to comply with the directions of the Minister) shall cease to have effect; and
- (c) for references to the Minister there shall be substituted references to the Board of Trade ;

and the power conferred by section 10 of the Minister of Town and Country Planning Act 1943 to vary or revoke an Order in Council made under the Act shall, as respects the said Order of 1963, be exercisable as if references in section 8 of the Act to the purpose of assisting the Minister in the exercise of his functions in relation to the use and development of land in England and Wales were references to that of assisting the Board of Trade in connection with their functions under the Act of 1965, and other references in that section to the Minister were references to the Board.

- (4) This section shall not affect the validity of anything done by or in relation to the Minister before the coming into force of this section ; and—
  - (a) anything which at the commencement of this section is in process of being done by or in relation to the Minister for the purposes of the said Order of 1963 may be continued by or in relation to the Board of Trade;
  - (b) any appointment made, direction given or other thing done by the Minister under or for the purposes of that Order shall, if in force at the commencement of this section, continue in force and have effect as if similarly made, given or done by the Board.