



Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

1997 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER II

AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

Appeals

18 Right to appeal against decision or failure to take decision.

- (1) Where a planning authority—
- refuse an application for listed building consent or grant it subject to conditions,
 - refuse an application for variation or discharge of conditions subject to which such consent has been granted or grant it and add new conditions, or
 - refuse an application for approval required by a condition imposed on the granting of listed building consent with respect to details of works or grant it subject to conditions,
- the applicant, if he is aggrieved by the decision, may appeal to the Secretary of State.
- (2) A person who has made such an application may also appeal to the Secretary of State if the planning authority have [^{F1}not] —
- given notice to the applicant of their decision on the application, ^{F2}...
- [^{F3}(aa) given notice to the applicant that they have exercised their power under section 10A to decline to determine the application, or]

Changes to legislation: Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Cross Heading: Appeals is up to date with all changes known to be in force on or before 22 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) in the case of such an application as is mentioned in subsection (1)(a) or (b), given notice to the applicant that the application has been referred to the Secretary of State in accordance with directions given under section 11, within the relevant period from the date of the receipt of the application or within such extended period as may at any time be agreed upon in writing between the applicant and the authority.
- (3) In this section “the relevant period” means—
- (a) in the case of such an application as is mentioned in subsection (1)(a) or (b), such period as may be prescribed, and
- (b) in the case of such an application for approval as is mentioned in subsection (1)(c), the period of two months from the date of the receipt of the application.
- (4) For the purposes of the application of sections 20(1) and 58(7)(a) in relation to an appeal under subsection (2), the authority shall be treated as having refused the application in question.

Textual Amendments

- F1** Word in s. 18(2) substituted (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 20(2)(a)**, 33(2); S.S.I. 2011/174, art. 2, sch.; S.S.I. 2011/372, art. 2, sch.
- F2** Word in s. 18(2) repealed (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 20(2)(b)**, 33(2); S.S.I. 2011/174, art. 2, sch.; S.S.I. 2011/372, art. 2, sch.
- F3** S. 18(2)(aa) inserted (30.6.2011 for specified purposes, 1.12.2011 in so far as not already in force) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 20(2)(c)**, 33(2); S.S.I. 2011/174, art. 2, sch.; S.S.I. 2011/372, art. 2, sch.

Modifications etc. (not altering text)

- C1** S. 18 applied (12.6.2006) by [The Planning and Compulsory Purchase Act 2004 \(Transitional Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/269\)](#), arts. 1(1), **4(5)**
- C2** Ss. 6-25 applied (with modifications) (1.10.2015) by [The Planning \(Listed Building Consent and Conservation Area Consent Procedure\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/243\)](#), regs. 1, 15, **sch. 3** (with reg. 2)

19 Appeals: supplementary provisions.

- (1) An appeal under section 18 must be made by notice served in the prescribed manner within such period as may be prescribed.
- (2) The period which may be prescribed under subsection (1) must not be less than—
- (a) in the case of an appeal under section 18(1), 28 days from the receipt by the applicant of notification of the decision, or
- (b) in the case of an appeal under section 18(2), 28 days from the end of the relevant period within the meaning of that section or, as the case may be, the extended period there mentioned.
- (3) The notice of appeal may include as the ground or one of the grounds of the appeal a claim that the building is not of special architectural or historic interest and ought to be removed from any list compiled or approved by [^{F4}Historic Environment Scotland] under section 1.

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- (4) In the case of a building in respect of which a building preservation notice is in force, the notice may include a claim that the building should not be included in such a list.
- (5) Regulations may provide that an appeal in respect of an application for listed building consent, or for the variation or discharge of conditions subject to which such consent has been granted, shall not be entertained unless it is accompanied by a certificate in the prescribed form as to the interests in the building to which the appeal relates.
- (6) Any such regulations may include provisions corresponding to those which may be included in regulations under section 10 by virtue of section 10(2).
- (7) If any person—
 - (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of subsection (5) or (6) and which contains a statement which he knows to be false or misleading in a material particular, or
 - (b) recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular,
 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

F4 Words in s. 19(3) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), [sch. 3 para. 19](#) (with [ss. 29, 30](#)); [S.S.I. 2015/31](#), art. 2, [sch.](#); [S.S.I. 2015/196](#), art. 2, [sch.](#)

Modifications etc. (not altering text)

C2 Ss. 6-25 applied (with modifications) (1.10.2015) by [The Planning \(Listed Building Consent and Conservation Area Consent Procedure\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/243\)](#), [regs. 1, 15](#), [sch. 3](#) (with [reg. 2](#))

20 Determination of appeals.

- (1) The Secretary of State may allow or dismiss an appeal under section 18, or may reverse or vary any part of the decision of the authority, whether or not the appeal relates to that part, and—
 - (a) may deal with the application as if it had been made to him in the first instance, and
 - (b) [^{F5}where the Scottish Ministers allow an appeal, they may direct Historic Environment Scotland to exercise its power under section 1 to amend the list compiled or approved under that section to give effect to their decision.]

^{F6}(2)

- (3) The decision of the Secretary of State on the appeal shall be final.
- (4) Schedule 3 (which makes provision regarding the determination of certain appeals by a person appointed by the Secretary of State) applies to appeals under section 18.

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Textual Amendments

- F5** S. 20(1)(b) substituted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), s. 31(2), **sch. 3 para. 20** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F6** S. 20(2) repealed (1.12.2011 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), s. 59(2), **sch.**; S.S.I. 2011/382, art. 2(1)(2)(b)(3)

Modifications etc. (not altering text)

- C2** Ss. 6-25 applied (with modifications) (1.10.2015) by [The Planning \(Listed Building Consent and Conservation Area Consent Procedure\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/243\)](#), regs. 1, 15, **sch. 3** (with reg. 2)
- C3** S. 20(2) savings for effects of 2006 asp 17, sch. (1.12.2011) by [The Planning etc. \(Scotland\) Act 2006 \(Listed Buildings\) \(Saving Provisions\) Order 2011 \(S.S.I. 2011/381\)](#), arts. 1(1), **3(2)(a)**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 82(1)(aa)-(ad) inserted by [2006 asp 17 s. 55\(5\)](#)