



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

1997 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER II

AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

Applications for listed building consent

9 Making of applications for listed building consent.

- (1) Except as provided in sections 11 to 14 [^{F1}or section 73B], an application for listed building consent shall be made to and dealt with by the planning authority.
- (2) Such an application [^{F2}shall be made in such form as the planning authority may require and] shall contain—
 - (a) sufficient particulars to identify the building to which it relates, including a plan,
 - (b) such other plans and drawings as are necessary to describe the works which are the subject of the application, and
 - (c) such other particulars as may be required by the planning authority.
- (3) Provision may be made by regulations with respect to—
 - (a) [^{F3}the form and manner in which such applications must be made,
 - (aa) particulars of such matters as are to be included in such applications,
 - (ab) any documents or other materials which are to accompany such applications,]
 - [^{F4}(ac) the planning authority giving notice of such applications made to them—

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- (i) to such persons or categories of person as may be prescribed,
 - (ii) in such manner as may be prescribed,
 - (iii) for such period as may be prescribed, and
 - (iv) on such number of occasions as may be prescribed,
 - (ad) the applicant providing such person or persons as may be prescribed such information with respect to the application as may be prescribed,]
 - (b) the manner in which such applications are to be advertised,^{F5}...
 - (c) the time within which they are to be dealt with by planning authorities or, as the case may be, by the Secretary of State.^{F6}, and
 - (d) the procedure to be followed by planning authorities or, as the case may be, the Scottish Ministers in considering and determining such applications.]
- [^{F7}(4) The regulations must require that an application for listed building consent of such description as is prescribed must be accompanied by a statement about how issues relating to access for the disabled to the building have been dealt with.
- (5) The form and content of such a statement are to be such as is prescribed.]
- [^{F8}(6) The regulations must also require planning authorities, before granting or refusing applications for listed building consent in such cases or classes of case as may be prescribed, to consult—
- (a) Historic Environment Scotland,
 - (b) such other persons as may be—
 - (i) prescribed, or
 - (ii) specified in directions given to planning authorities by the Scottish Ministers.
- (7) Directions given by virtue of subsection (6)(b)(ii) for the purposes of regulations under this section may be given to—
- (a) planning authorities generally,
 - (b) a particular planning authority, or
 - (c) a description of planning authority.]

Textual Amendments

- F1** Words in s. 9(1) inserted (11.5.2006) by [The Planning and Compulsory Purchase Act 2004 \(Commencement No. 2 and Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/243\)](#), arts. 1(1), **5(2)**
- F2** Words in s. 9(2) repealed (12.12.2008 for specified purposes) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 7(3)(a)**, 59(2); S.S.I. 2008/411, art. 2(2)(3)(a)
- F3** S. 9(3)(a)-(ab) substituted for s. 9(3)(a) (12.12.2008 for specified purposes) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 7(3)(b)**, 59(2); S.S.I. 2008/411, art. 2(2)(3)(a)
- F4** S. 9(3)(ac)(ad) inserted (1.12.2019) by [Planning \(Scotland\) Act 2019 \(asp 13\)](#), **ss. 52(2)**, 63(2); S.S.I. 2019/385, reg. 2, sch.
- F5** Word in s. 9(3) repealed (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. 9(a)(i)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.
- F6** S. 9(3)(d) and word inserted (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. 9(a)(ii)** (with ss. 29, 30); S.S.I. 2015/31, art. 2, sch.; S.S.I. 2015/196, art. 2, sch.

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- F7** S. 9(4)(5) inserted (12.12.2008 for specified purposes) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\), ss. 7\(3\)\(c\), 59\(2\); S.S.I. 2008/411, art. 2\(2\)\(3\)\(a\)](#)
- F8** S. 9(6)(7) inserted (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. 9\(b\)](#) (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)

- C1** 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](#))

10 Certificates as to interests in listed building etc.

- (1) Regulations may provide that an application for listed building consent 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 application relates.
- (2) Any such regulations may—
 - (a) include requirements corresponding to those mentioned in sections 35 and 38(2) of the principal Act,
 - (b) make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision of the regulations, and
 - (c) make different provision for different cases or classes of case.
- (3) If any person—
 - (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of this section 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.

Modifications etc. (not altering text)

- C1** 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](#))

[^{F9}10A Declining to determine an application

- (1) A planning authority may decline to determine an application (in this subsection referred to as the “current application”) for listed building consent—
 - (a) if—
 - (i) in the period of two years ending with the date on which the current application is received, the Scottish Ministers have refused a similar application referred to them under section 11 or have dismissed an appeal against the refusal of, or an appeal under section 18(2) in respect of, a similar application, and

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- (ii) in the opinion of the authority there has not, since the Scottish Ministers refused the similar application or dismissed the appeal, been any significant change in any material considerations,
 - (b) if—
 - (i) in that period of two years the planning authority have refused more than one similar application,
 - (ii) there has been no appeal to the Scottish Ministers against either (or as the case may be any) of those refusals, and
 - (iii) in the opinion of the authority there has not, since the more (or as the case may be most) recent of the refusals, been any significant change in any material considerations,
 - (c) if—
 - (i) in that period of two years the planning authority have refused more than one similar application,
 - (ii) there has been an appeal to the Scottish Ministers against either (or as the case may be any) of those refusals but as at the time the current application is received no such appeal has yet been determined, and
 - (iii) in the opinion of the authority there has not, since the more (or as the case may be most) recent of the refusals, been any significant change in any material considerations,
 - (d) if—
 - (i) in that period of two years there have been appeals under section 18(2) in respect of more than one similar application but as at the time the current application is received no such appeal has yet been determined, and
 - (ii) in the opinion of the authority there has not, since the more (or as the case may be most) recent of the appeals was made, been any significant change in any material considerations, or
 - (e) if—
 - (i) in that period of two years two similar applications have been made to the planning authority,
 - (ii) the planning authority have refused one of those applications and there has been an appeal under section 18(2) in respect of the other but as at the time the current application is received the appeal under that section has yet to be determined as has the appeal (if any) against the refusal, and
 - (iii) in the opinion of the authority there has not, since the refusal or since the appeal was made (whichever was the more recent), been any significant change in any material considerations.
- (2) For the purposes of this section an application for listed building consent is to be taken to be similar to another such application only if the listed building and the works to which the applications relate are in the opinion of the planning authority the same or substantially the same.]

Textual Amendments

- F9** [S. 10A](#) 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\(1\)](#), [33\(2\)](#); [S.S.I. 2011/174](#), [art. 2](#), [sch.](#); [S.S.I. 2011/372](#), [art. 2](#), [sch.](#)

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Modifications etc. (not altering text)

- C1** 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)
- C2** [S. 10A\(1\)](#) modified (1.12.2011) by [The Historic Environment \(Amendment\) \(Scotland\) Act 2011](#) (Saving, Transitional and Consequential Provisions) Order2011 (S.S.I. 2011/377), arts. 1(1), **5**

11 Reference of certain applications to Secretary of State.

- (1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the planning authority.
- (2) A direction under this section may relate either to a particular application or to applications in respect of such buildings as may be specified in the direction.
- (3) An application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

^{F10}(4)

- (5) The decision of the Secretary of State on any application referred to him under this section shall be final.

Textual Amendments

- F10** [S. 11\(4\)](#) repealed (1.12.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011](#) (asp 3), **ss. 21(a)**, 33(2); S.S.I. 2011/372, art. 2, sch.

Modifications etc. (not altering text)

- C1** 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. 11](#) applied (7.1.2003) by [The Cairngorms National Park Designation, Transitional and Consequential Provisions \(Scotland\) Order 2003](#) (S.S.I. 2003/1), arts. 1, **7(7)(b)**
- C4** [S. 11](#) modified (28.12.2007) by [The Transport and Works \(Scotland\) Act 2007](#) (Consents under Enactments) [Regulations 2007](#) (S.S.I. 2007/569), regs. 1, **5(2)**
- C5** [S. 11](#) savings for effects of 2011 asp 3 s. 21 (1.12.2011) by [The Historic Environment \(Amendment\) \(Scotland\) Act 2011](#) (Saving, Transitional and Consequential Provisions) Order2011 (S.S.I. 2011/377), arts. 1(1), **6(a)**
- C6** [S. 11\(1\)-\(3\)](#) modified (7.1.2003) by [The Cairngorms National Park Designation, Transitional and Consequential Provisions \(Scotland\) Order 2003](#) (S.S.I. 2003/1), arts. 1, **7(3)(b)** (with art. 3(4)(5)(6))

12 Duty to notify Secretary of State of applications.

- (1) If a planning authority to whom application is made for listed building consent intend to grant such consent they shall [^{F11}, where subsection (1A) applies,] first notify the Secretary of State of the application giving particulars of the works for which the consent is required.

[^{F12}(1A) This subsection applies where—

- (a) regulations, or
- (b) directions given to planning authorities by the Scottish Ministers,

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provide that the application must be so notified.

(1B) Directions under subsection (1A)(b) may be given to—

- (a) planning authorities generally,
- (b) a particular planning authority, or
- (c) a description of planning authority.]

(2) The Secretary of State may within the period of 28 days beginning with the date of the notification—

- (a) direct the reference of the application to him under section 11, or
- (b) give notice to the authority that he requires further time in which to consider whether to require such a reference.

(3) The planning authority shall not grant listed building consent until—

- (a) the period mentioned in subsection (2) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection, or
- (b) the Secretary of State has notified them that he does not intend to require the reference of the application.

Textual Amendments

- F11** Words in s. 12(1) inserted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), **ss. 23(2)(a), 31(2)** (with **ss. 29, 30**); [S.S.I. 2015/31](#), **art. 2**, **sch.**; [S.S.I. 2015/196](#), **art. 2**, **sch.**
- F12** S. 12(1A)(1B) inserted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), **ss. 23(2)(b), 31(2)** (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)

- C1** 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**)
- C7** S. 12 savings for effects of 2014 asp 19, s. 23 (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), **arts. 1(1), 17**

13 Directions concerning notification of applications etc.

^{F13}(1)

^{F13}(2)

(3) Without prejudice to sections 9 to 12, the Secretary of State may give directions to planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify to him and to such other persons as may be so specified—

- (a) any applications made to them for listed building consent, and
- (b) the decisions taken by the authorities on those applications.

[^{F14}(4) Directions under subsection ^{F15}... (3) may be given to—

- (a) planning authorities generally;
- (b) a particular planning authority; or

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(c) a description of planning authority.]

Textual Amendments

- F13** S. 13(1)(2) repealed (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), **ss. 23(3)(a)**, 31(2) (with [ss. 29, 30](#)); [S.S.I. 2015/31](#), [art. 2](#), [sch.](#); [S.S.I. 2015/196](#), [art. 2](#), [sch.](#)
- F14** S. 13(4) added (1.6.2008) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 55(2)**, 59(2); [S.S.I. 2008/191](#), [art. 2](#)
- F15** Words in s. 13(4) repealed (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), **ss. 23(3)(b)**, 31(2) (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)

- C1** 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](#))
- C8** S. 13 savings for effects of 2014 asp 19, s. 23 (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Saving, Transitional and Consequential Provisions\) Order 2015 \(S.S.I. 2015/239\)](#), [arts. 1\(1\)](#), **17**

14 Decision on application.

- (1) Subject to the previous provisions of this Part, the planning authority or, as the case may be, the Secretary of State may grant or refuse an application for listed building consent and, if granting consent, may grant it subject to conditions.
- (2) In considering whether to grant listed building consent for any works, the planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

[^{F16}(2A) A planning authority, if minded to grant listed building consent for any works—

- (a) must consider imposing a condition specified in, or of a nature indicated in, directions given to them by the Scottish Ministers, and
- (b) must not grant such consent without first satisfying the Scottish Ministers that such consideration has been given and that such a condition either will be imposed or is not needed.]

- (3) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested in it.

Textual Amendments

- F16** [S. 14\(2A\)](#) inserted (27.2.2015 for specified purposes, 1.10.2015 in so far as not already in force) by [Historic Environment Scotland Act 2014 \(asp 19\)](#), **ss. 23(4)**, 31(2) (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)

- C1** 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](#))

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\(5\)](#)