



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

## 1997 CHAPTER 9

### PART I

#### LISTED BUILDINGS

#### CHAPTER II

##### AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

##### *Revocation and modification of consent*

#### **21 Revocation and modification of listed building consent by planning authority.**

- (1) If it appears to the planning authority that it is expedient to revoke or modify listed building consent granted on an application made under this Act, the authority may revoke or modify the consent to such extent as they consider expedient.
- (2) In performing their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.
- (3) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.

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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](#))

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**Changes to legislation:** Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Cross Heading: Revocation and modification of consent is up to date with all changes known to be in force on or before 07 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

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## 22 Procedure for section 21 orders: opposed cases.

- (1) Except as provided in section 23, an order made by a planning authority under section 21 shall not take effect unless it is confirmed by the Secretary of State.
- (2) Where a planning authority submit an order to the Secretary of State for confirmation, they shall serve notice on—
  - (a) the owner of the building affected,
  - (b) the lessee of that building,
  - (c) the occupier of that building, and
  - [<sup>F1</sup>(ca) Historic Environment Scotland,
  - (cb) such other persons as may be prescribed,]
  - (d) any other person who in their opinion will be affected by the order.
- (3) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) If within that period a person on whom the notice is served so requires, the Secretary of State shall, before he confirms the order, give such an opportunity both to that person and to the planning authority.
- (5) The Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.

### Textual Amendments

- F1** S. 22(2)(ca)(cb) 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. 10** (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)
- C2** S. 22 savings for effects of 2014 asp 19, Sch. 3 para. 10 (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), **18**

## 23 Procedure for section 21 orders: unopposed cases.

- (1) This section shall have effect where—
  - (a) the planning authority have made an order under section 21 revoking or modifying a listed building consent granted by them, and
  - (b) the owner, lessee and occupier of the land [<sup>F2</sup>, Historic Environment Scotland, such other persons as may be prescribed] and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to the order.
- (2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall—

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- (a) advertise in the prescribed manner the fact that the order has been made, and the advertisement shall specify—
    - (i) the period within which persons affected by the order may give notice to the Secretary of State that they wish an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose, and
    - (ii) the period at the end of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section and without being confirmed by him,
  - (b) serve notice to the same effect on the persons mentioned in subsection (1)(b), and
  - (c) send a copy of any such advertisement to the Secretary of State not more than 3 days after its publication.
- (3) A notice under subsection (2)(b) shall include a statement to the effect that no compensation is payable under section 25 in respect of an order under section 21 which takes effect by virtue of subsection (4) of this section.
- (4) If—
- (a) no person claiming to be affected by the order has given notice to the Secretary of State as mentioned in subsection (2)(a)(i) within the period referred to in that subsection, and
  - (b) the Secretary of State has not directed that the order be submitted to him for confirmation,
- the order shall take effect at the end of the period referred to in subsection (2)(a)(ii) without being confirmed by the Secretary of State as required by section 22(1).
- (5) The period referred to in subsection (2)(a)(i) must not be less than 28 days from the date on which the advertisement first appears.
- (6) The period referred to in subsection (2)(a)(ii) must not be less than 14 days from the end of the period referred to in subsection (2)(a)(i).

#### Textual Amendments

- F2** Words in s. 23(1)(b) 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. 11](#) (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)

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- C3** S. 23 savings for effects of 2014 asp 19, Sch. 3 para. 11 (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), [18](#)

## 24 Revocation and modification of listed building consent by Secretary of State.

- (1) If it appears to the Secretary of State that it is expedient that an order should be made under section 21 revoking or modifying any listed building consent granted on an

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application under this Act, he may himself make such an order revoking or modifying the consent to such extent as he considers expedient.

- (2) In performing his functions under subsection (1) the Secretary of State shall have regard to the development plan and to any other material considerations.
- (3) The Secretary of State shall not make an order under that subsection without consulting the planning authority.
- (4) Where the Secretary of State proposes to make such an order he shall serve notice on—
  - (a) the owner of the building affected,
  - (b) the lessee of that building,
  - (c) the occupier of that building, and
  - (d) any other person who in his opinion will be affected by the order.
- (5) The notice shall specify the period (which must not be less than 28 days after its service) within which any person on whom it is served may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (6) If within that period a person on whom the notice is served so requires, the Secretary of State shall, before he makes the order, give such an opportunity both to that person and to the planning authority.
- (7) The power conferred by this section to revoke or modify listed building consent in respect of any works may be exercised at any time before those works have been completed, but the revocation or modification shall not affect so much of those works as has been previously carried out.
- (8) An order under this section shall have the same effect as if it had been made by the planning authority under section 21 and confirmed by the Secretary of State under section 22.

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**Modifications etc. (not altering text)**

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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\(5\)](#)