



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

## 1997 CHAPTER 9

### PART II

#### CONSERVATION AREAS

##### *Designation*

#### **61 Designation of conservation areas.**

- (1) Every planning authority shall—
  - (a) from time to time determine which parts of their district are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance, and
  - (b) designate such areas as conservation areas.
- (2) The Secretary of State may from time to time, after consultation with a planning authority, determine that any part of the authority's district which is not for the time being designated as a conservation area is an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance; and, if he so determines, he may designate that part as a conservation area.

#### **62 Designation of conservation areas: supplementary provisions.**

- (1) A planning authority shall give notice to the Secretary of State of the designation of any part of their district as a conservation area under section 61(1), and of any variation or cancellation of any such designation.
- (2) The Secretary of State shall give notice to a planning authority of the designation of any part of their district as a conservation area under section 61(2), and of any variation or cancellation of any such designation.

*Status: Point in time view as at 01/12/2011.*

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- (3) A notice under subsection (1) or (2) shall contain sufficient particulars to identify the area affected.
- (4) Notice of any such designation, variation or cancellation, with particulars of its effect, shall be published in the Edinburgh Gazette and in at least one newspaper circulating in the district of the planning authority by that authority or, as the case may be, the Secretary of State.
- (5) Every planning authority shall compile and keep available for public inspection free of charge at reasonable hours and at a convenient place a list containing such particulars as the Secretary of State may determine of any part of their district which has been designated as a conservation area.

#### *General duties of planning authorities*

### **63 Proposals for preservation and enhancement of conservation areas.**

- (1) It shall be the duty of a planning authority to formulate and publish, from time to time, proposals for the preservation and enhancement of any parts of their district which are conservation areas.
- (2) Proposals under this section shall be submitted for consideration to a public meeting in the area to which they relate.
- (3) The planning authority shall have regard to any views concerning the proposals expressed by persons attending the meeting.

### **64 General duty as respects conservation areas in exercise of planning functions.**

- (1) In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- (2) Those provisions are—
  - (a) the planning Acts, and
  - (b) Part I of the <sup>M1</sup>Historic Buildings and Ancient Monuments Act 1953.

#### **Marginal Citations**

**M1** 1953 c. 49.

### **65 Publicity for applications affecting conservation areas.**

- (1) This section applies where an application for planning permission for any development of land is made to a planning authority and the development would, in the opinion of the authority, affect the character or appearance of a conservation area.
- (2) The planning authority shall—
  - (a) publish in a local newspaper circulating in the locality in which the land is situated, and
  - (b) for not less than 7 days display on or near the land,

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a notice indicating the nature of the development in question and naming a place within the locality where a copy of the application, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice under paragraph (a).

- (3) The application shall not be determined by the planning authority before both the following periods have elapsed, namely—
  - (a) the period of 21 days referred to in subsection (2), and
  - (b) the period of 21 days beginning with the date on which the notice required by that subsection to be displayed was first displayed.
- (4) In determining any application for planning permission to which this section applies, the planning authority shall take into account any representations relating to the application which are received by them before the periods mentioned in subsection (3) have elapsed.
- (5) In this section references to planning permission do not include references to planning permission falling within section 33(1) of the principal Act.

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

C1 S. 65: power to apply conferred (27.5.1997) by 1997 c.8, ss. 182, 278(2) (with ss. 64, 219)

*Control of demolition*

**66 Control of demolition in conservation areas.**

- (1) A building in a conservation area shall not be demolished without the consent of the appropriate authority (in this Act referred to as “conservation area consent”).
- (2) The appropriate authority for the purposes of this section is—
  - (a) in relation to applications for consent made by planning authorities, the Secretary of State, and
  - (b) in relation to other applications, the planning authority or the Secretary of State.
- (3) The following provisions of this Act, namely—
  - sections 6 to 25,
  - sections 28 to <sup>[F141]</sup>,
  - sections 56 to 58,
  - section 59(1),
  - section 73(2) to (4), <sup>[F2]</sup>section 73B and section 73D,
  - section 74(1)(b), (3) and (4), and
  - section 80(2),

shall have effect in relation to buildings in conservation areas as they have effect in relation to listed buildings subject to such exceptions and modifications as may be prescribed by regulations.

- (4) Any such regulations may make different provision in relation to—

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- (a) applications made by planning authorities, and
- (b) other applications.

#### Textual Amendments

- F1** Word in s. 66(3) 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. 23(2)**, 33(2); S.S.I. 2011/174, art. 2, sch.; S.S.I. 2011/372, art. 2, sch.
- F2** Words in s. 66(3) 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(3)**

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

- C2** S. 66 excluded (11.8.2004) by [Stirling-Alloa-Kincardine Railway and Linked Improvements Act 2004 \(asp 10\)](#), **sch. 10 para. 1(2)(b)** (with s. 33)
- C3** S. 66 excluded (27.4.2006) by [Edinburgh Tram \(Line Two\) Act 2006 \(asp 6\)](#), **s. 72(5)** (with s. 75)
- C4** S. 66 excluded (8.5.2006) by [Edinburgh Tram \(Line One\) Act 2006 \(asp 7\)](#), **s. 73(5)** (with ss. 76, 84)
- C5** S. 66 excluded (24.7.2006) by [Waverley Railway \(Scotland\) Act 2006 \(asp 13\)](#), **sch. 9 para. 1(4)** (with ss. 50(2), 51)
- C6** S. 66 excluded (18.3.2011) by [Forth Crossing Act 2011 \(asp 2\)](#), **ss. 64, 80(2)** (with ss. 69, 78); S.S.I. 2011/38, art. 2, sch.

#### 67 Cases in which section 66 does not apply.

- (1) Section 66 does not apply to—
  - (a) listed buildings,
  - (b) ecclesiastical buildings which are for the time being used for ecclesiastical purposes,
  - (c) buildings for the time being included in the Schedule of monuments compiled and maintained under section 1 of the <sup>M2</sup>Ancient Monuments and Archaeological Areas Act 1979, or
  - (d) buildings in relation to which a direction under subsection (2) is for the time being in force.
- (2) The Secretary of State may direct that section 66 shall not apply to any description of buildings specified in the direction.
- (3) A direction under subsection (2) may be given either to an individual planning authority or to planning authorities generally.
- (4) The Secretary of State may vary or revoke a direction under subsection (2) by a further direction under that subsection.
- (5) For the purposes of subsection (1)(b), a building used or available for use by a minister of religion wholly or mainly as a residence from which to perform the duties of his office shall be treated as not being an ecclesiastical building.
- (6) For the purposes of sections 6 to 8 as they apply by virtue of section 66(3) a building shall be taken to be used for the time being for ecclesiastical purposes if it would be so used but for the works in question.
- (7) The Secretary of State may by order provide for restricting or excluding the operation of subsection (1)(b) in such cases as may be specified in the order.

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- (8) An order under subsection (7) may—
- (a) make provision for buildings generally, for descriptions of building or for particular buildings;
  - (b) make different provision for buildings in different areas, for buildings of different religious faiths or denominations or according to the use made of the building;
  - (c) make such provision in relation to a part of a building (including, in particular, an object or structure falling to be treated as part of the building by virtue of section 1(4)) as may be made in relation to a building and make different provision for different parts of the same building;
  - (d) make different provision with respect to works of different descriptions or according to the extent of the works;
  - (e) make such consequential adaptations or modifications of the operation of any other provision of this Act or the principal Act, or of any instrument made under either of those Acts, as appear to the Secretary of State to be appropriate.
- (9) Subsections (7) and (8) are without prejudice to the <sup>M3</sup>Church of Scotland Act 1921.
- (10) Any proceedings on or arising out of an application for conservation area consent made while section 66 applies to a building shall lapse when it ceases to apply to it, and any such consent granted with respect to the building shall also lapse.
- (11) The fact that that section has ceased to apply to a building shall not affect the liability of any person to be prosecuted and punished for an offence under section 8 or 39 committed with respect to the building while that section did apply to it.

#### Marginal Citations

**M2** 1979 c. 46.

**M3** 1921 c. 29.

## 68 Urgent works to preserve unoccupied buildings in conservation areas.

If it appears to the Secretary of State that the preservation of a building in a conservation area is important for maintaining the character or appearance of that area, he may direct that section 49 shall apply to it as it applies to listed buildings.

### Grants

## 69 Grants and loans for preservation or enhancement of conservation areas.

- (1) [<sup>F3</sup>The Scottish Ministers] may make grants or loans for the purpose of defraying in whole or in part any expenditure incurred or to be incurred in or in connection with, or with a view to the promotion of, the preservation or enhancement of the character or appearance of [<sup>F4</sup>a conservation area or any part of a conservation area] .
- (2) A grant or loan under this section may be made subject to such conditions as the Secretary of State may think fit to impose.
- (3) Any loan under this section shall be made on such terms as to repayment, payment of interest and otherwise as the Secretary of State may <sup>F5</sup> . . . determine.

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<sup>F6</sup>(4) .....

<sup>F6</sup>(5) .....

<sup>F6</sup>(6) .....

#### Textual Amendments

- F3** Words in s. 69(1) substituted (1.4.2007) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 55(3)(a)**, 59(2); [S.S.I. 2007/130](#), **art. 2(2)**, sch.
- F4** Words in s. 69(1) substituted (1.4.2007) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 55(3)(b)**, 59(2); [S.S.I. 2007/130](#), **art. 2(2)**, sch.
- F5** Words in s. 69(3)(5) repealed (1.7.1999) by [S.I. 1999/1820](#), **art. 4**, **Sch. 2 Pt. I para. 128(2)(a)**, Pt. IV; [S.I. 1998/3178](#), **art. 3**
- F6** S. 69(4)-(6) repealed (31.5.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), s. 21(2), **sch. 4 para. 13(a)**; [S.S.I. 2003/219](#), **art. 2(1)(c)**

## 70 Recovery of grants under section 69.

- (1) This section applies to any grant under section 69 made on terms that it shall be recoverable under this section.
  - (2) A grant shall be regarded as made on those terms only if before or on making the grant the Secretary of State gives to the grantee notice in writing—
    - (a) summarising the effect of this section, and
    - (b) if the grant is made for the purpose of defraying the whole or part of expenditure in relation to any particular property (“the grant property”), specifying the recovery period.
  - (3) In this section “the recovery period” means the period, beginning with the day on which the grant is made and ending not more than 10 years after that day, during which the grant is recoverable in accordance with subsection (4).
  - (4) [<sup>F7</sup>Subject to subsection (4A),] if during the recovery period the grantee disposes of the interest which was held by him in the grant property on the day on which the grant was made or any part of that interest by way of sale or excambion or lease for a term of not less than 21 years, the Secretary of State may recover the amount of the grant, or such part of it as he thinks fit, from the grantee.
- [<sup>F8</sup>(4A) Where a condition imposed on the making of a grant to which this section applies specifies, or makes provision for calculating, the amount recoverable in the event of a disposal by the grantee of that interest, that amount is the amount recoverable under subsection (4) in respect of the disposal.]
- (5) If the grantee gives the whole of that interest to any person (whether directly or indirectly, but otherwise than by will) subsection (4) shall have effect as if the donee were the grantee.
  - (6) If the grantee gives part of that interest to any person (whether directly or indirectly but otherwise than by will) subsection (4) shall have effect as if any disposal or part disposal of that interest by the donee were a disposal by the grantee.

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(7) [<sup>F9</sup>Subject to subsection (7A),] if any condition imposed on the making of a grant to which this section applies is contravened or not complied with, the Secretary of State may recover the amount of the grant, or such part of it as he thinks fit, from the grantee.

[<sup>F10</sup>(7A) Where a condition referred to in subsection (7) specifies, or makes provision for calculating, the amount recoverable in the event of a condition being contravened or not complied with, that amount is the amount recoverable under subsection (7) in respect of the contravention or failure to comply with the condition.]

(8) Nothing in this section entitles the Secretary of State to recover amounts in the aggregate exceeding the amount of the grant (for example by virtue of a breach of more than one condition or disposals of several parts of an interest in the grant property).

#### Textual Amendments

- F7** Words in s. 70(4) inserted (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 27(4)(a)**, 33(2); S.S.I. 2011/174, art. 2, sch.
- F8** S. 70(4A) inserted (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 27(4)(b)**, 33(2); S.S.I. 2011/174, art. 2, sch.
- F9** Words in s. 70(7) inserted (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 27(4)(c)**, 33(2); S.S.I. 2011/174, art. 2, sch.
- F10** S. 70(7A) inserted (30.6.2011) by [Historic Environment \(Amendment\) \(Scotland\) Act 2011 \(asp 3\)](#), **ss. 27(4)(d)**, 33(2); S.S.I. 2011/174, art. 2, sch.

### *Town schemes*

#### **71 Town scheme agreements.**

- (1) The Secretary of State and a local authority may enter an agreement (in this Act referred to as a “town scheme agreement”) that a specified sum of money shall be set aside for a specified period of years for the purpose of making grants for the repair of the buildings which are—
- (a) included in a list compiled for the purposes of such an agreement by the Secretary of State and the authority, or
  - (b) shown on a map prepared by them for those purposes.

<sup>F11</sup>(2) .....

#### Textual Amendments

- F11** S. 71(2) repealed (31.5.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#), s. 21(2), **sch. 4 para. 13(b)**; S.S.I. 2003/219, art. 2(1)(c)

#### **72 Grants for repairing of buildings in town schemes.**

- (1) The Secretary of State may make grants for the purpose of defraying the whole or part of any expenditure incurred or to be incurred in the repair of any building which—
- (a) is the subject of a town scheme agreement, and
  - (b) is situated in a conservation area <sup>F12</sup>....

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(2) A grant under this section may be made subject to conditions imposed by the Secretary of State for such purposes as he thinks fit.

<sup>F13</sup>(3) .....

(4) The Secretary of State may—

- (a) pay any grant under this section to any authority which is a party to a town scheme agreement, and
- (b) make arrangements with any such authority for the way in which the agreement is to be carried out.

(5) Those arrangements may include such arrangements for the offer and payment of grants under this section as the parties may agree.

(6) Section 70(4) to (8) shall apply to a grant made under this section as it applies to a grant made under that section, but taking the recovery period to be 3 years beginning with the date on which the grant is made.

#### Textual Amendments

**F12** Words in s. 72(1)(b) 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)

**F13** S. 72(3) repealed (31.5.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\), s. 21\(2\), sch. 4 para. 13\(c\)](#); S.S.I. 2003/219, art. 2(1)(c)



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