



# Planning etc. (Scotland) Act 2006

## 2006 asp 17

PROSPECTIVE

### PART 6

#### CORRECTION OF ERRORS

#### 29 Correction of errors

After Part 11 of the principal Act insert—

#### “PART 11A

#### CORRECTION OF ERRORS

#### 241A Correction of errors in decisions

- (1) This section applies if the Scottish Ministers issue, or a person appointed by them under any of the planning Acts to determine appeals in their stead, issues, a decision document which contains a correctable error.
- (2) The issuer may correct the error—
  - (a) if requested to do so in writing by any person, or
  - (b) if the issuer sends a statement in writing to the applicant which explains the error and states that consideration is being given to making the correction.
- (3) But the issuer must not correct the error unless the issuer—
  - (a) not later than the end of the relevant period receives a request mentioned in subsection (2)(a) or sends a statement mentioned in subsection (2)(b),
  - (b) informs the planning authority of that fact, and
  - (c) obtains the appropriate consent.

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*Status: Point in time view as at 03/08/2009. This version of this part contains provisions that are prospective.*

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- (4) The relevant period is the period within which an application or appeal may be made to the Court of Session in respect of the decision recorded in the decision document.
- (5) It is immaterial whether any such application or appeal is made.
- (6) The appropriate consent is the consent in writing of the applicant except where the applicant is not the owner of the land in respect of which the decision is made, in which case it is the consent in writing of both the applicant and the owner.
- (7) But consent is not appropriate consent if it is subject to a condition.

#### **241B Correction notice**

- (1) If paragraph (a) or (b) of section 241A(2) applies the issuer must as soon as practicable after making any correction or deciding not to make any correction give notice in writing (a “correction notice”) which—
  - (a) specifies the correction of the error, or
  - (b) intimates the issuer's decision not to make such a correction.
- (2) The issuer must give the correction notice—
  - (a) to the applicant,
  - (b) if the applicant is not the owner of the land in respect of which the original decision was made, to that owner,
  - (c) to the planning authority, and
  - (d) if the correction was requested by any other person, to that person.
- (3) The Scottish Ministers may by order specify any other person or description of person to whom the correction notice must be given.

#### **241C Effect of correction**

- (1) If a correction is made in pursuance of section 241A—
  - (a) the original decision is taken not to have been made, and
  - (b) the decision as corrected is taken for all purposes to have been made on the date the correction notice is given to the applicant.
- (2) If the correction is not made—
  - (a) the original decision continues to have full force and effect, and
  - (b) nothing in this Part affects anything done in pursuance of, or in respect of, the decision.
- (3) Section 239 (proceedings for questioning the validity of certain decisions) applies to the correction notice as if it were an action on the part of the Scottish Ministers to which that section applies, if the decision document in respect of which the correction notice is given records a decision mentioned in paragraph (a) of section 241D(3).
- (4) Section 58 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9) (proceedings for questioning the validity of certain decisions) applies to the correction notice as if it were a decision of the Scottish Ministers to which that section applies, if the decision document in

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respect of which the correction notice is given records a decision mentioned in either of paragraphs (c) and (d) of section 241D(3).

- (5) Section 20 of the Planning (Hazardous Substances) (Scotland) Act 1997 (c. 10) (proceedings for questioning the validity of certain decisions) applies to the correction notice as if it were a decision of the Scottish Ministers under section 18 or 19 of that Act, if the decision document in respect of which the correction notice is given records a decision mentioned in paragraph (e) of section 241D(3).
- (6) If the decision document in respect of which the correction notice is given records a decision mentioned in paragraph (f) of section 241D(3), the Scottish Ministers must by order make provision for questioning the validity of the notice which corresponds to the provisions of section 239, section 58 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9) and section 20 of the Planning (Hazardous Substances) (Scotland) Act 1997.
- (7) Except to the extent provided for by virtue of this section, a correction notice shall not be questioned in any legal proceedings whatsoever.

#### **241D Provisions supplementary to sections 241A to 241C**

- (1) This section applies for the purposes of this Part.
- (2) In the case of a decision document issued by a person appointed as mentioned in section 241A(1), any other person so appointed may act under this Part.
- (3) A decision document is a document which records any of the following decisions—
  - (a) a decision of any description which constitutes action on the part of the Scottish Ministers under section 237(3) (decisions which are not to be questioned in legal proceedings),
  - (b) a decision in proceedings on an appeal under section 169 (appeals against enforcement notices relating to trees),
  - (c) a decision mentioned in section 57(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c. 9) (decisions which are not to be questioned in legal proceedings),
  - (d) a decision relating to conservation area consent within the meaning of section 66(1) of that Act (consent required for demolition of certain buildings),
  - (e) a decision under section 18 or 19 of the Planning (Hazardous Substances) (Scotland) Act 1997 (certain applications referred to and appeals determined by the Scottish Ministers),
  - (f) a decision under any of the planning Acts which is of a description specified by the Scottish Ministers by order.
- (4) A correctable error is an error which—
  - (a) is contained in any part of the decision document which records the decision,
  - (b) is not part of any reasons given for the decision.
- (5) The applicant is, in the case of a decision made on—

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- (a) an application under any of the planning Acts, the person who made the application, or
  - (b) an appeal under any of those Acts, the appellant.
- (6) Error includes omission.”.

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