



# Planning etc. (Scotland) Act 2006

## 2006 asp 17

### PART 3

#### DEVELOPMENT MANAGEMENT

##### *Publicity for applications*

#### **11 Pre-application consultation**

After section 35 of the principal Act insert—

##### **“35A Pre-application consultation: preliminary**

- (1) Before submitting an application for planning permission for a development of a class prescribed under this section the prospective applicant is, subject to the following provisions of this section, to comply with section 35B.
- (2) The regulations in question may, in prescribing classes of development, make different provision for different cases or classes of case and for different areas.
- (3) A prospective applicant for planning permission for a development may, by notice, require the planning authority to state whether or not, in their opinion, the development is of a class prescribed under subsection (1).
- (4) But the regulations may, in prescribing a class of development, provide that subsections (3) and (5) to (9) are not to apply—
  - (a) as respects that class, or
  - (b) as respects that class in circumstances specified in the regulations.
- (5) Any notice under subsection (3) is to be in such form as may be prescribed in the regulations but must in any event contain the information mentioned in paragraphs (a) to (d) of section 35B(4).
- (6) A planning authority receiving such a notice may, if they do not consider that it contains sufficient information to enable them to provide the statement sought, request the prospective applicant to provide additional information specified by them.

*Status: Point in time view as at 06/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Planning etc. (Scotland) Act 2006, Section 11. (See end of Document for details)*

- (7) Where such a notice is given it is the duty of the planning authority to provide the requisite statement within the period of 21 days after it is given (or within such other period as may be substituted for that period by the regulations).
- (8) The period of 21 days mentioned in subsection (7) (or any other period substituted for that period) does not include any period between a request for information being made under subsection (6) and that information being provided to the planning authority
- (9) If the authority respond by stating that in their opinion the development is not of a class prescribed under subsection (1), then provided that the application for planning permission for the development in question is submitted within 12 months after the notice was given and does not differ materially from the information regarding it contained in the notice and mentioned in paragraphs (a) to (c) of section 35B(4) the prospective applicant need not comply with section 35B.
- (10) In the case of an application for planning permission made to the Scottish Ministers, this section has effect as if any reference to the “planning authority” or “the authority” were a reference to the Scottish Ministers.

### **35B Pre-application consultation: compliance**

- (1) The following subsections apply where compliance with this section is required by virtue of section 35A(1).
- (2) The prospective applicant is to give notice (to be known as a “proposal of application notice”) to the planning authority that an application for planning permission for the development is to be submitted.
- (3) A period of at least 12 weeks must elapse between giving the notice and submitting any such application.
- (4) A proposal of application notice is to be in such form, and have such content, as may be prescribed but must in any event contain—
  - (a) a description in general terms of the development to be carried out,
  - (b) if the site at which the development is to be carried out has a postal address, that address,
  - (c) a plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site, and
  - (d) details as to how the prospective applicant may be contacted and corresponded with.
- (5) Regulations may—
  - (a) require that the proposal of application notice be given to persons specified in the regulations,
  - (b) specify—
    - (i) persons who are to be consulted as respects a proposed application, and
    - (ii) what form that consultation is to take.
- (6) Different provision may be made under subsection (5) for different cases or classes of case and for different areas.

*Status: Point in time view as at 06/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Planning etc. (Scotland) Act 2006, Section 11. (See end of Document for details)*

- (7) The planning authority may, provided that they do so within the period of 21 days after receiving the proposal of application notice, notify the prospective applicant that they require (either or both)—
- (a) that the proposal of application notice be given to persons additional to those specified under subsection (5) (specifying in the notification who those persons are),
  - (b) that consultation additional to any required by virtue of subsection (5) be undertaken as regards the proposed development (specifying in the notification what form that consultation is to take).
- (8) In considering whether to give notification under subsection (7) the planning authority are to have regard to the nature, extent and location of the proposed development and to the likely effects, at and in the vicinity of that location, of its being carried out.
- (9) In the case of an application for planning permission made to the Scottish Ministers, this section has effect as if any reference to the “planning authority” were a reference to the Scottish Ministers.

### **35C Pre-application consultation report**

- (1) A person who, before submitting an application for planning permission for a development, is required to comply with section 35B and who proceeds to submit that application is to prepare a report (a “pre-application consultation report”) as to what has been done to effect such compliance.
- (2) A pre-application consultation report is to be in such form as may be prescribed.”.

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

- C1** S. 11 savings for effects of commencing S.S.I. 2009/100, art. 2, Sch. (6.4.2009) by [Planning etc. \(Scotland\) Act 2006 \(Saving and Transitional Provisions\) Order 2009 \(S.S.I. 2009/101\)](#), arts. 1(1), 2

#### **Commencement Information**

- I1** S. 11 in force at 12.12.2008 for specified purposes by [S.S.I. 2008/411](#), [art. 2\(2\)\(3\)\(a\)](#)
- I2** S. 11 in force at 6.4.2009 in so far as not already in force by [S.S.I. 2009/100](#), [art. 2](#), [Sch.](#)

**Status:**

Point in time view as at 06/04/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the Planning etc. (Scotland) Act 2006, Section 11.