



Planning etc. (Scotland) Act 2006

2006 asp 17

PART 10

MISCELLANEOUS AND GENERAL PROVISIONS

Miscellaneous

54 Further amendment of the principal Act

- (1) The principal Act is amended as follows.
- (2) In section 1 (planning authorities), at the end add—
 - “(3) This section is subject to the provisions of this Act and of any other enactment.”.
- (3) In section 30(2) (development orders: general)—
 - (a) in paragraph (a), at the end (but before the word “or” which immediately follows the paragraph) add “and according to whether a development is a national development, a major development or a local development”, and
 - (b) in paragraph (b), after the words “of land” insert “, or to such categories of development,”.
- (4) In section 33 (planning permission for development already carried out), at the end add—
 - “(4) But subsection (3) does not apply if, before the date of the application, an enforcement notice was issued in respect of the development.”.
- (5) In section 37 (determination of applications: general considerations)—
 - (a) in subsection (1)(a), for the words “58 and 59” substitute “27B(2) and 59(1)(b)”, and
 - (b) in subsection (4), after the words “which the” insert “notice of the”.
- (6) In section 130(1)(b) (appeal against enforcement notice), for the words “those matters” substitute “the matters which, by virtue of section 128(1)(a) have been stated in the notice,”.

Status: This is the original version (as it was originally enacted).

- (7) In section 135(11) (construing the expression “compliance period” in relation to an enforcement notice), after the words “136,” insert “136A.”
- (8) In section 156(1)(b) (right to enter without warrant), after the words “144,” insert “144A.”
- (9) In section 160(6)(c) (saving in respect of certain obligations), at the end add “or an Act of the Scottish Parliament”.
- (10) In section 216(6)(b) (references to development which has received specific parliamentary approval)—
- (a) in sub-paragraph (i), at the end add “or by a private Act of the Scottish Parliament”, and
 - (b) in sub-paragraph (ii), at the end add “or by the Scottish Parliament”.
- (11) In section 237 (validity of development plans and certain orders, decisions and directions)—
- (a) in subsection (1), for paragraph (a) substitute—
 - “(a) a strategic development plan or local development plan or any alteration, repeal or replacement of any such plan, whether before or after the plan, alteration, repeal or replacement has been approved or adopted,” and
 - (b) in subsection (3)—
 - (i) before paragraph (a) insert—
 - “(za) any decision on an application under section 31A;”,
 - (ii) after paragraph (c) insert—
 - “(ca) any determination on an appeal under section 75B or 75F;”, and
 - (iii) after paragraph (f) insert—
 - “(fa) any decision on an appeal under section 169;”.
- (12) In section 238 (proceedings for questioning validity of development plans and certain schemes and orders)—
- (a) in subsection (1)—
 - (i) for the words from “structure” to “the alteration, repeal or replacement” substitute “strategic development plan or local development plan desires to question the validity of the plan”, and
 - (ii) in paragraph (b), for the words from “requirement” to the end substitute “relevant requirement of that Part or of any regulations made under that Part has not been complied with,”
 - (b) in subsection (2)—
 - (i) in paragraph (a), the words “or, as the case may be, the alteration, repeal or replacement”, and
 - (ii) in paragraph (b), the words “or, as the case may be, the alteration, repeal or replacement” in both places they occur,
 are repealed,
 - (c) in subsection (3), the words “or an alteration, repeal or replacement” are repealed, and
 - (d) in subsection (5)—

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- (i) in paragraph (a), for the words from “such” to the end substitute “a strategic development plan, the date of its publication under section 14(1)(b);”, and
 - (ii) after that paragraph insert—
 - “(aa) in the case of an application in respect of a local development plan, the date of its publication under section 20A(1)(b);”.
- (13) In section 242A(11) (urgent Crown development: application), for the word “to”, where it first occurs, substitute “and”.
- (14) In section 255(2)(a) (contributions by local authorities and statutory undertakers), for the words “carrying out of a survey or the preparation of a structure plan or a local” substitute “preparation of a strategic development plan or a local development”.
- (15) In section 269(1)(a) (rights of entry)—
 - (a) for the words “structure plan or local” substitute “strategic development plan or local development”, and
 - (b) the words “including the carrying out of any survey under that Part” are repealed.
- (16) In section 275 (regulations and orders)—
 - (a) after subsection (2) insert—
 - “(2A) Any power conferred by this Act to make regulations or orders includes power to make such incidental, supplemental, consequential, transitory, transitional or saving provision as the Scottish Ministers consider necessary or expedient.”,
 - (b) in subsection (4)—
 - (i) for the word “5” substitute “4(1)”, and
 - (ii) for the words “and 100(3)(a)” substitute “, 100(3)(a), 241B(3), 241C(6) and 241D(3)(f)”,
 - (c) in subsection (5), for the words “5, 54 or 100(3)(a)” substitute “4(1), 54, 100(3)(a), 241B(3), 241C(6) or 241D(3)(f)”,
 - (d) in subsection (6), after the words “subsection (7))” insert “or in an Act of the Scottish Parliament (other than a private Act or an enactment specified in subsection (7))”,
 - (e) in subsection (7)(b), after the words—
 - (i) “of Parliament” insert “or of the Scottish Parliament”, and
 - (ii) “by Parliament” insert “or by the Scottish Parliament”, and
 - (f) after subsection (7) insert—
 - “(7A) On the first occasion on which regulations are made under each of paragraph (d) of section 7(1) and paragraph (a)(i) of section 19(10), the statutory instrument containing the regulations is not made unless a draft of the instrument has been laid before, and approved by a resolution of, the Parliament.
 - (7B) A statutory instrument containing regulations made under section 136A(4) or 145A(4) is not made unless a draft of the instrument has been laid before, and approved by a resolution of, the Parliament.”.

Status: This is the original version (as it was originally enacted).

(17) In section 277 (interpretation)—

(a) in subsection (1)—

(i) at the appropriate places insert—

““local development plan” shall be construed in accordance with section 15;”,

““local developments” has the meaning given by section 26A;”,

““major developments” has the meaning given by section 26A;”,

““national developments” has the meaning given by section 3A(4)(b);”,

““National Planning Framework” has the meaning given by section 3A(1);”,

““strategic development plan” shall be construed in accordance with section 7;”,

““strategic development plan area” shall be construed in accordance with section 5;”,

““strategic development planning authority” has the meaning given by section 4(5);”, and

““temporary stop notice” shall be construed in accordance with section 144A;”,

(ii) in the definition of “compulsory acquisition”, after the word “Parliament” insert “or of the Scottish Parliament”,

(iii) for the definition of “enactment” substitute—

““enactment” includes an Act of the Scottish Parliament, an enactment in any local or private Act of Parliament or in any private Act of the Scottish Parliament, and an order, rule, regulation, byelaw or scheme made under an Act of Parliament or of the Scottish Parliament, including an order or scheme confirmed by Parliament or by the Scottish Parliament;”, and

(iv) in the definition of “owner”, for the words “section 35” substitute “sections 35, 75, 75C, 75D and 75G”, and

(b) at the end add—

“(11) Any reference in this Act to registering an instrument (or any other document, however described) in the Land Register of Scotland is to be construed as a reference to registering the information contained in the instrument (or other document) in that Register.”.

(18) In Schedule 4 (determination of certain appeals by appointed person)—

(a) in paragraph 1(1), after the words “47,” insert “75B, 75F,”, and

(b) in paragraph 2—

(i) after head (a) of sub-paragraph (1) insert—

“(aa) in relation to an appeal under section 75B, as the Scottish Ministers have under subsections (4) and (5) of that section;

Status: This is the original version (as it was originally enacted).

- (ab) in relation to an appeal under section 75F, as the Scottish Ministers have under subsections (4) and (5) of that section,”, and
 - (ii) in sub-paragraph (2), after the words “48(2),” insert “75B(10), 75F(10),”.
- (19) In Schedule 14 (blighted land)—
- (a) in paragraph 1—
 - (i) in sub-paragraph (1), for the word “structure” substitute “strategic development”,
 - (ii) in sub-paragraph (2), after the word “local” insert “development”,
 - (iii) for sub-paragraphs (4) and (5) substitute—
 - “(4) In sub-paragraph (1), the reference to a strategic development plan in force includes a reference to—
 - (a) a proposed strategic development plan which has been submitted to the Scottish Ministers under section 10(3)(b), and
 - (b) intended modifications published under section 13(4)(b)(i).
 - (5) Sub-paragraph (4) ceases to apply—
 - (a) when the proposed strategic development plan (whether or not in whole or in part and whether or not modified) is constituted under subsection (2) of section 13 as the strategic development plan,
 - (b) when as regards the proposed strategic development plan the strategic development planning authority arrive at the consideration mentioned in section 12A(6), or
 - (c) when, under subsection (1) of section 13, the Scottish Ministers reject the proposed strategic development plan.”, and
 - (iv) in sub-paragraph (6), for the words “22” substitute “23B”, and
 - (b) in paragraph 2—
 - (i) in sub-paragraph (1)(a), after the word “local” insert “development”,
 - (ii) for sub-paragraphs (2) and (3) substitute—
 - “(2) In sub-paragraph (1), the reference to a local development plan in force includes a reference to a proposed local development plan which has been submitted to the Scottish Ministers under section 18(3)(b) or 19A(5)(b)(ii).
 - (3) Sub-paragraph (2) ceases to apply—
 - (a) when the proposed local development plan (whether or not modified) is constituted under section 20(1) as the local development plan, or
 - (b) when as regards the proposed local development plan the planning authority arrive at the consideration mentioned in section 19A(6).”, and
 - (iii) in sub-paragraph (4), for the words “22” substitute “23B”.