



Planning and Compensation Act 1991

1991 CHAPTER 34

PART II

TOWN AND COUNTRY PLANNING - SCOTLAND

Control over development

VALID FROM 03/02/1995

44 Demolition of buildings.

(1) In section 19 of the 1972 Act (meaning of "development") after subsection (1) there is inserted—

“(1A) For the purposes of this Act “building operations” includes—

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.”

(2) In subsection (2) of that section after paragraph (f) there is inserted—

“(g) the demolition of any description of building specified in a direction given by the Secretary of State to planning authorities generally or to a particular planning authority.”

(3) After section 154(3) of the 1972 Act (compensation for refusal or conditional grant of planning permission formerly granted by development order) there is inserted—

“(3A) Regulations made by virtue of this subsection may provide that subsections (1) and (2) of this section shall not apply where planning permission granted by a development order for demolition of buildings or any description of

Status: Point in time view as at 24/01/1992. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, Cross Heading: Control over development. (See end of Document for details)

buildings is withdrawn by the issue of directions under powers conferred by the order.”

Modifications etc. (not altering text)

C1 S. 44 restricted (3.2.1995) by S.I. 1994/3292, **art.4**

VALID FROM 10/08/1992

45 Fish farming.

(1) After subsection (3A) of section 19 (meaning of “development”) of the 1972 Act there is inserted—

“(3B) Where the placing or assembly of any tank in any part of any inland waters for the purpose of fish farming there would not, apart from this subsection, involve development of the land below, this Act shall have effect as if the tank resulted from carrying out engineering operations over that land; and in this subsection—

“fish farming” means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean or mollusc);

“inland waters” means waters which do not form part of the sea or of any creek, bay or estuary or of any river as far as the tide flows; and

“tank” includes any cage and any other structure for use in fish farming.”

(2) This section does not apply to the placing or assembly of any structure before this section comes into force.

Commencement Information

II S. 45 wholly in force (subject to S.I. 1992/1937, **art. 5**) at 10.8.1992 see s. 84(2)(3) and S.I. 1992/1937, **arts. 3, 5**.

VALID FROM 03/02/1995

46 Notice etc. of applications to owners and agricultural tenants.

(1) For section 24 of the 1972 Act (notification of applications for planning permission) there is substituted—

“24 Notice etc. of applications to owners and agricultural tenants.

(1) A development order or regulations under this Act shall make provision—

(a) as to the notice of any application for planning permission to be given to any person (other than the applicant) who at the beginning

Status: Point in time view as at 24/01/1992. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, Cross Heading: Control over development. (See end of Document for details)

- of the period of twenty-one days ending with the date of the application was—
- (i) the owner of, or
 - (ii) the tenant of any agricultural holding any part of which was comprised in,
any of the land to which the application relates; and
- (b) requiring any applicant for such permission to issue a certificate as to the interests in the land to which the application relates or the purpose for which it is used,
and provide for publicising such applications and for the form, content and service of such notices and certificates.
- (2) A development order or such regulations may require an applicant for planning permission to certify, in such form as may be prescribed by the order or the regulations, or to provide evidence, that any requirements of the order or the regulations have been satisfied.
- (3) A development order or such regulations making any provision by virtue of this section may make different provision for different cases or different classes of development.
- (4) A planning authority shall not entertain any application for planning permission unless any requirements imposed by virtue of this section have been satisfied.
- (5) If any person—
- (a) issues a certificate which purports to comply with any requirement imposed by virtue of this section and contains a statement which he knows to be false or misleading in a material particular; or
 - (b) recklessly issues a certificate which purports to comply with any such requirement and contains a statement which is false or misleading in a material particular,
- he shall be guilty of an offence.
- (6) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) In this section—
- “agricultural holding” has the same meaning as in the ^{M1}Agricultural Holdings (Scotland) Act 1991; and
- “owner” in relation to any land means any person who—
- (a) under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and includes any person entitled to possession of the land as lessee under a lease the unexpired period of which is not less than seven years; or
 - (b) in the case of such applications as may be prescribed by a development order or by regulations, is entitled to an interest in any mineral so prescribed,
- and the reference to the interests in the land to which an application for planning permission relates includes any interest in any mineral in, on or under the land.

Status: Point in time view as at 24/01/1992. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, Cross Heading: Control over development. (See end of Document for details)

(8) Proceedings for an offence under this section may be brought at any time within the period of two years following the commission of the offence.”

(2) For section 26(3) of the 1972 Act there is substituted—

“(3) Where an application for planning permission is accompanied by such a certificate as is mentioned in subsection (1)(b) or (3) of section 24 of this Act a development order or regulations under this Act may—

(a) provide that a planning authority shall not determine an application for planning permission before the end of such period as may be prescribed;

(b) require a planning authority—

(i) to take into account in determining such an application such representations, made within such period, as may be prescribed; and

(ii) to give to any person whose representations have been taken into account such notice as may be prescribed of their decision.

(3A) A development order or regulations making any provision by virtue of this section may make different provision for different cases or different classes of development.”

Marginal Citations

M1 1991 c. 55.

47 Power of planning authority to decline to determine applications.

(1) After section 26 of the 1972 Act there is inserted—

“26A Power of planning authority to decline to determine applications.

(1) A planning authority may decline to determine an application for planning permission for the development of any land if—

(a) within the period of two years ending with the date on which the application is received, the Secretary of State has refused a similar application referred to him under section 32 of this Act or has dismissed an appeal against the refusal of a similar application; and

(b) in the opinion of the authority there has been no significant change since the refusal or, as the case may be, dismissal mentioned in paragraph (a) of this subsection in the development plan, so far as material to the application, or in any other material considerations.

(2) For the purposes of this section an application for planning permission for the development of any land shall only be taken to be similar to a later application if the development and the land to which the applications relate are in the opinion of the planning authority the same or substantially the same.

Status: Point in time view as at 24/01/1992. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, Cross Heading: Control over development. (See end of Document for details)

- (3) The reference in subsection (1)(a) of this section to an appeal against the refusal of an application includes an appeal under section 34 in respect of an application.”.
- (2) In section 34 (appeal in default of planning decision) of the 1972 Act—
- (a) the word “either” is omitted; and
- (b) after paragraph (a) there is inserted—
- “(ab) give notice to the applicant that they have exercised their power under section 26A of this Act to decline to determine the application; or”.

Modifications etc. (not altering text)

C2 S. 47(1) restricted (18.9.1991) by S.I. 1991/2092, art. 4, Sch. 2 Pt.II para. 1

Commencement Information

I2 S. 47 wholly in force at 25.9.1991 see s. 84(2)(3) and SI 1991/2092, art. 3

48 Assessment of environmental effects.

After section 26 of the 1972 Act there is inserted—

“26B Assessment of environmental effects.

- (1) The Secretary of State may by regulations under this Act make provision about the consideration to be given, before planning permission for development of any class specified in the regulations is granted, to the likely environmental effects of the proposed development.
- (2) The regulations—
- (a) may make the same provision as, or provision similar or corresponding to, any provision made, for the purposes of any Community obligation of the United Kingdom about the assessment of the likely effects of development on the environment, under section 2(2) of the ^{M2}European Communities Act 1972; and
- (b) may make different provisions for different classes of development.
- (3) Where a draft of regulations made in exercise both of the power conferred by this section and the power conferred by section 2(2) of the European Communities Act 1972 is approved by resolution of each House of Parliament, no statutory instrument containing such regulations shall be subject to annulment by virtue of subsection (2) of section 273 (regulations and orders) of this Act.”

Commencement Information

I3 S. 48 wholly in force at 25.9.1991 see s. 84(2)(3) and S.I. 1991/2092, art. 3

Marginal Citations

M2 1972 c. 68.

Status: Point in time view as at 24/01/1992. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, Cross Heading: Control over development. (See end of Document for details)

49 Agreements relating to Crown land.

(1) In subsection (2) of section 50 (agreements regulating development or use of land) of the 1972 Act, after “Sasines” there is inserted “ or, as the case may be, registered in the Land Register of Scotland, ”.

(2) In subsection (1) of section 254 (agreements relating to Crown land) of the 1972 Act—
 (a) after “agreements” there is inserted “ (a) ”; and
 (b) after “thereto” there is inserted—

“and

(b) for the purpose of restricting or regulating the development or use of the land,

either permanently or during such period as may be prescribed by the agreement.”

(3) After subsection (1) of that section there is inserted—

“(1A) Subject to subsection (1B) of this section an agreement made under subsection (1)(b) of this section may, if it has been recorded in the appropriate Register of Sasines or, as the case may be, registered in the Land Register of Scotland, be enforceable at the instance of the planning authority against persons deriving title to the land from the appropriate authority.

(1B) An agreement made under subsection (1)(b) of this section shall not be enforceable against a third party who has in good faith and for value acquired right (whether completed by infestment or not) to the land prior to the agreement being recorded or, as the case may be, registered as aforesaid or against any person deriving title from such a third party.”

Commencement Information

I4 S. 49 wholly in force at 24.1.1992 see s. 84(2) and S.I. 1992/71, art. 2

50 Dismissal of appeals in cases of undue delay.

(1) After section 33(7) of the 1972 Act (appeals against planning decisions) there is inserted—

“(7A) If at any time before or during the determination of an appeal under this section it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—

- (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and
- (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.”

(2) In paragraph 2(1)(a) of Schedule 7 to that Act (powers and duties of person determining appeals) for “subsections (3) and (5)” there is substituted “ subsections (3), (5), and (7A) ”.

Status: Point in time view as at 24/01/1992. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Planning and Compensation Act 1991, Cross Heading: Control over development. (See end of Document for details)

.....

Commencement Information

I5 S. 50 wholly in force at 25.9.1991 see s. 84(2)(3) and S.I. 1991/2092, art. 3

Status:

Point in time view as at 24/01/1992. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Planning and Compensation Act 1991, Cross Heading: Control over development.