



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART VII

#### SPECIAL CONTROLS

#### CHAPTER II

##### LAND ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD

##### *Land adversely affecting other land*

#### **179 Notice requiring proper maintenance of land**

- (1) If it appears to a planning authority that the amenity of any part of their district, or an adjoining district, is adversely affected by the condition of any land in their district they may serve on the owner, lessee and occupier of the land a notice under this section requiring such steps for abating the adverse effect as may be specified in the notice to be taken within such period as may be so specified.
- (2) Service under subsection (1) shall be effected by the service of a copy of the notice.
- (3) Subject to section 180, a notice under this section shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (1).
- (4) The planning authority may withdraw a notice under this section (without prejudice to their power to serve another) at any time before it takes effect; and if they so withdraw it, they shall forthwith give notice of the withdrawal to every person on whom the notice was served.

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*Status: This is the original version (as it was originally enacted).*

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- (5) No notice may be served under subsection (1) with reference to any building which is—
- (a) a building which is the subject of a scheme or order under the enactments for the time being in force with respect to ancient monuments, or
  - (b) a building for the time being included in a list of monuments published by the Secretary of State under any such enactment.
- (6) The provisions of section 135 shall, subject to any necessary modifications, apply in respect of a notice under this section as they apply in respect of an enforcement notice under section 127.

### **180 Appeal against notice under section 179**

- (1) A person on whom a notice under section 179 is served, or any other person having an interest in the land to which the notice relates, may at any time before the date specified in the notice as the date on which it is to take effect appeal to the Secretary of State against the notice, on any of the following grounds—
- (a) that neither the amenity of any part of the planning authority's district nor that of any adjoining district has been adversely affected;
  - (b) that the steps required by the notice to be taken exceed what is necessary to remedy any such adverse effect;
  - (c) that the specified period for compliance with the notice falls short of what should reasonably be allowed;
  - (d) that the condition of the land is attributable to, and such as results in the ordinary course of events from, a continuing lawful use of the land or from continuing lawful operations carried out thereon; or
  - (e) that the notice was served other than in accordance with section 179.
- (2) An appeal under this section shall be made by notice in writing to the Secretary of State.
- (3) The provisions of sections 130(3), 131(1) and (2) and 132(3) shall apply to appeals under this section as they apply to appeals under those sections.
- (4) On an appeal under this section the Secretary of State—
- (a) may correct any informality, defect or technical error in the notice if he is satisfied that it is not material, and
  - (b) may disregard the failure of the planning authority to serve the notice upon a person upon whom it should have been served, if it appears to him that neither that person nor the appellant has been substantially prejudiced by that failure.
- (5) Where an appeal is brought under this section, the notice under section 179 shall be of no effect pending the final determination, or the withdrawal, of the appeal.
- (6) In determining an appeal under this section the Secretary of State shall give such directions as seem to him appropriate; and these may include directions for quashing the notice or for varying its terms in favour of the appellant.
- (7) Schedule 4 applies to appeals under this section.

**181 Register of notices under section 179**

- (1) Every planning authority shall keep a register of notices under section 179 which have been served in relation to land in their district—
  - (a) in such manner, and
  - (b) containing such information,as may be prescribed; and there may also be prescribed circumstances in which an entry in the register shall be deleted.
- (2) Every register kept under subsection (1) shall be available for inspection by the public at all reasonable hours.