



Town and Country Planning (Scotland) Act 1972

1972 CHAPTER 52

PART III

GENERAL PLANNING CONTROL

Duration of planning permission

40 Provisions supplementary to ss. 38 and 39

- (1) For the purposes of sections 38 and 39 of this Act, development shall be taken to be begun on the earliest date on which any specified operation comprised in the development begins to be carried out.
- (2) In subsection (1) of this section " specified operation " means any of the following, that is to say—
 - (a) any work of construction in the course of the erection of a building;
 - (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
 - (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph;
 - (d) any operation in the course of laying out or constructing a road or part of a road ;
 - (e) any change in the use of any land, where that change constitutes material development.
- (3) In subsection (2)(e) of this section " material development" means any development other than—
 - (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to

Status: This is the original version (as it was originally enacted).

- comply with any condition or limitation subject to which planning permission is so granted ;
- (b) development falling within any of paragraphs 1, 2, 3 and 5 to 9 of Schedule 6 to this Act, as read with Part III of that Schedule; and
 - (c) development of any class prescribed for the purposes of this subsection;
- and in this subsection " general development order " means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in Scotland.
- (4) The authority referred to in sections 38(1)(b) and 39(4) of this Act is the local planning authority or the Secretary of State, in the case of planning permission granted by them, and—
 - (a) in the case of planning permission under section 37 of this Act is the department on whose direction planning permission is deemed to be granted; and
 - (b) in the case of planning permission granted on an appeal determined, under paragraph 1 or 4 of Schedule 7 to this Act, by a person appointed by the Secretary of State to determine the appeal, is that person.
 - (5) For the purposes of section 39 of this Act, a reserved matter shall be treated as finally approved when an application for approval is granted or, in a case where the application is made to the local planning authority and there is an appeal to the Secretary of State against the authority's decision on the application and the Secretary of State or a person appointed by him under paragraph 1 or 4 of Schedule 7 to this Act to determine the appeal grants the approval, on the date of the determination of the appeal by the Secretary of State or that person.
 - (6) Where a local planning authority grant planning permission, the fact that any of the conditions of the permission are required by the provisions of sections 38 or 39 of this Act to be imposed, or are deemed by those provisions to be imposed, shall not prevent the conditions being the subject of an appeal under section 33 of this Act against the decision of the authority.
 - (7) In the case of planning permission (whether outline or other) having conditions attached to it by or under section 38 or 39 of this Act—
 - (a) development carried out after the date by which the conditions of the permission require it to be carried out shall be treated as not authorised by the permission; and
 - (b) an application for approval of a reserved matter, if it is made after the date by which the conditions require it to be made, shall be treated as not made in accordance with the terms of the permission.