



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART III

#### CONTROL OVER DEVELOPMENT

##### *Duration of planning permission*

#### 58 [F1Duration of planning permission]

- [F2(1) Subject to subsection (2), a planning permission to which this section applies, whether granted or deemed to be granted, lapses on the expiration of a period of 3 years (beginning with the date on which the permission is granted or as the case may be deemed to be granted) unless the development to which the permission relates is begun before that expiration.
- (2) The authority concerned may, in granting any such planning permission (or as the case may be in making a direction under section 57), direct that subsection (1) is not to apply as respects the permission but that the permission is to lapse on the expiration of a period, whether longer or shorter than 3 years, specified in the direction (under this section) unless the development to which the permission relates is begun before that expiration.
- (3) For the purposes of [sections 43A(8)(b) and] 47(1)(a), (3) and (4)(a)—
- (a) any such direction, or
  - (b) the effect of subsection (1) as that subsection applies in consequence of the authority electing not to make such a direction,
- is to be treated as a condition subject to which the application is granted.
- (3A) A period specified under subsection (2) is to be a period—
- (a) beginning as mentioned in subsection (1), and

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- (b) which the authority concerned consider appropriate having regard to the provisions of the development plan and to any other material considerations.]
- [<sup>F3</sup>(3B) During the emergency period, a planning permission which otherwise would lapse under subsection (1) or (2) lapses at the end of the extended period, unless, before the end of the extended period, the development to which the permission relates is begun.
- (3C) In subsection (3B)—
- “emergency period” means the period of 6 months beginning with the date on which paragraph 9 of schedule 7 of the Coronavirus (Scotland) Act 2020 came into force,
- “extended period” means the period of 12 months beginning with that date.
- (3D) The Scottish Ministers may, by regulations, amend the definition of “emergency period” or “extended period” in subsection (3C).
- (3E) Regulations under subsection (3D) are subject to the negative procedure.]
- (4) [<sup>F4</sup>This section applies to every planning permission with the exception of]—
- (a) any planning permission granted by a development order,
  - (b) any planning permission for any development carried out before the grant of planning permission,
  - (c) any planning permission granted for a limited period,
  - [<sup>F5</sup>(ca) any planning permission granted before the date on which section 20 of the Planning etc. (Scotland) Act 2006 came into force,]
  - (d) any planning permission for development consisting of the winning and working of minerals or involving the depositing of mineral waste which is granted (or deemed to be granted) subject to a condition that the development to which it relates must be begun before the expiration of a specified period after—
    - (i) the completion of other development consisting of the winning and working of minerals already being carried out by the applicant for the planning permission, or
    - (ii) the cessation of depositing of mineral waste already being carried out by the applicant for the planning permission,
  - (e) any planning permission granted by an enterprise zone scheme,
  - (f) any planning permission granted by a simplified planning zone scheme, or
  - (g) any [<sup>F6</sup>planning permission in principle], within the meaning of section 59.

#### Textual Amendments

- F1** S. 58 heading substituted (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 20(2), 59(2) (with S.S.I. 2009/222, art. 10(2)(b)); S.S.I. 2008/411, art. 2(2)(3)(a), S.S.I. 2009/219, art. 2, sch.
- F2** S. 58(1)-(3A) substituted for s. 58(1)-(3) (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), ss. 20(1)(a), 59(2) (as amended (2.8.2009) by S.S.I. 2009/256, arts. 1(2), 5(2)) (with S.S.I. 2009/222, art. 10(2)(b)); S.S.I. 2008/411, art. 2(2)(3)(a), S.S.I. 2009/219, art. 2, sch.
- F3** S. 58(3B)-(3E) inserted (temp.) (7.4.2020) by virtue of Coronavirus (Scotland) Act 2020 (asp 7), s. 17(1), sch. 7 para. 9 (with ss. 11-13)

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- F4** Words in s. 58(4) substituted (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 20(1)(b)(i)**, 59(2) (with S.S.I. 2009/222, **art. 10(2)(b)**); S.S.I. 2008/411, art. 2(2)(3)(a), S.S.I. 2009/219, art. 2, sch.
- F5** S. 58(4)(ca) inserted (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 20(1)(b)(ii)**, 59(2) (with S.S.I. 2009/222, **art. 10(2)(b)**); S.S.I. 2008/411, art. 2(2)(3)(a), S.S.I. 2009/219, art. 2, sch.
- F6** Words in s. 58(4)(g) substituted (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 20(1)(b)(iii)**, 59(2) (with S.S.I. 2009/222, **art. 10(2)(b)**); S.S.I. 2008/411, art. 2(2)(3)(a), S.S.I. 2009/219, art. 2, sch.

## **[F7 59 Planning permission in principle**

- (1) “Planning permission in principle” is planning permission (granted in accordance with the provisions of regulations or a development order)—
- (a) in respect of the carrying out of building, engineering, mining or other operations in, on, over or under land, and
  - (b) subject to a condition, imposed under section 37(1)(a), that the development in question will not be begun until certain matters (which may, but need not be, particularised in the application) have been approved by the planning authority or as the case may be the Scottish Ministers.
- (2) Application for the approval mentioned in subsection (1)(b)—
- (a) must be made before whichever is latest of the following—
    - (i) the expiration of 3 years from the date of the grant of the permission,
    - (ii) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, and
    - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed <sup>[F8]</sup>or, where the earlier application is the subject of a review by virtue of section 43A(8), the expiration of 6 months from the date of the notice of the decision to uphold the determination given by virtue of section 43A(11)(e)], and
  - (b) may be made for—
    - (i) different matters, and
    - (ii) different parts of the development,at different times.
- (3) But, in relation to any matter, only one application may be made by virtue of sub-paragraphs (ii) and (iii) of subsection (2)(a) after the expiration of the 3 year period mentioned in sub-paragraph (i) of that subsection.
- (4) Subject to subsection (5), a planning permission in principle lapses on the expiration of 2 years from the requisite approval being obtained (or, in the case of approval of different matters on different dates, from the requisite approval for the last such matter being obtained) unless the development to which the permission relates is begun before that expiration.
- (5) Where a planning permission in principle is to be granted, the authority concerned with the terms of the permission may direct that (either or both)—
- (a) subsections (2)(a)(i) and (3) are to apply as respects the permission with the substitution, for the period of 3 years referred to in each of those subsections,

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- (b) subsection (4) is to apply as respects the permission with the substitution, for the period of 2 years referred to in that subsection, of such other periods respectively (whether longer or shorter) as they consider appropriate.
- (6) For the purposes of [sections 43A(8)(b) and] 47(1)(a), (3) and (4)(a)—
- (a) any such direction, or
  - (b) the effect of subsection (4) as that subsection applies in consequence of the authority electing not to make such a direction,
- is to be treated as a condition subject to which the application is granted.
- (7) A direction under subsection (5) may provide for the substitution of different periods for different parts of the development (or for no substitution to be made for some part of the development).
- (8) In considering whether to exercise their powers under subsections (5) and (7), the authority is to have regard to the provisions of the development plan and to any other material considerations.]
- [<sup>F9</sup>(8A) During the emergency period, a planning permission which otherwise would lapse under subsection (4) (including by virtue of a direction made under subsection (5)) lapses at the end of the extended period, unless, before the end of the extended period, the development to which the permission relates is begun.
- (8B) Where the latest date by which an application would otherwise be required to be made under subsection (2)(a) falls within the emergency period, then that application may be made at any time before the end of the extended period.
- (8C) In subsections (8A) and (8B)—
- “emergency period” means the period of 6 months beginning with the date on which paragraph 10 of schedule 7 of the Coronavirus (Scotland) Act 2020 came into force,
- “extended period” means the period of 12 months beginning with that date.
- (8D) The Scottish Ministers may, by regulations, amend the definition of “emergency period” or “extended period” in subsection (8C).
- (8E) Regulations under subsection (8D) are subject to the negative procedure.]

#### Textual Amendments

- F7** S. 59 substituted (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 21**, 59(2) (as amended (2.8.2009) by [S.S.I. 2009/256](#), arts. 1(2), 5(2)) (with [S.S.I. 2009/222](#), **art. 11**); [S.S.I. 2008/411](#), **art. 2(2)(3)(a)**, [S.S.I. 2009/219](#), **art. 2**, [sch.](#)
- F8** Words in s. 59(2)(a)(iii) inserted (2.2.2013) by [The Planning etc. \(Scotland\) Act 2006 \(Supplementary and Consequential Provisions\) Order 2013 \(S.S.I. 2013/26\)](#), arts. 1, **2(5)**
- F9** S. 59(8A)-(8E) inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), **sch. 7 para. 10** (with [ss. 11-13](#))

## 60 Provisions supplementary to sections 58 and 59.

- (1) The authority referred to in section [<sup>F10</sup>58(2) and (3A)(b)] and 59(5) is—

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- (a) the planning authority or the Secretary of State, in the case of planning permission granted by them,
  - (b) in the case of planning permission deemed to be granted under section 57(1), the department on whose direction planning permission is deemed to be granted,
  - (c) in the case of planning permission deemed to be granted under section 57(2), the Secretary of State, and
  - (d) in the case of planning permission granted on an appeal determined under paragraph 1 or 5 of Schedule 4 by a person appointed by the Secretary of State to determine the appeal, that person.
- (2) For the purposes of section 59, a <sup>F11</sup>... matter shall be treated as finally approved—
- (a) when an application for approval is granted, <sup>F12</sup>...
  - (b) in a case where the application is made to the planning authority and on an appeal to the Secretary of State against the authority's decision on the application the Secretary of State or a person mentioned in subsection (1)(d) grants the approval, when the appeal is determined<sup>F13</sup>, or
  - (c) in a case where the application is determined by a person appointed by virtue of a scheme of delegation and on a review of the case under section 43A(8) the planning authority grant the approval, on the date of the notice of the decision given by virtue of section 43A(11)(e)]

<sup>F14</sup>(3) .....

<sup>F14</sup>(4) .....

#### Textual Amendments

- F10** Words in s. 60(1) substituted (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 22(1)(a)**, 59(2); S.S.I. 2008/411, [art. 2\(2\)\(3\)\(a\)](#) (with S.S.I. 2009/222, **art. 10(2)(c)**); S.S.I. 2009/219, [art. 2](#), sch.
- F11** Word in s. 60(2) repealed (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 22(1)(b)**, 59(2) (with S.S.I. 2009/222, **art. 10(2)(c)**); S.S.I. 2008/411, [art. 2\(2\)\(3\)\(a\)](#); S.S.I. 2009/219, [art. 2](#), sch.
- F12** Word in s. 60(2) repealed (3.8.2009) by [Planning etc. \(Scotland\) Act 2006 \(Consequential Amendments\) Order 2009 \(S.S.I. 2009/256\)](#), [arts. 1\(3\)](#), **2(3)(a)**
- F13** S. 60(2)(c) and word inserted (3.8.2009) by [Planning etc. \(Scotland\) Act 2006 \(Consequential Amendments\) Order 2009 \(S.S.I. 2009/256\)](#), [arts. 1\(3\)](#), **2(3)(b)**
- F14** S. 60(3)(4) repealed (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 22(1)(c)**, 59(2) (with S.S.I. 2009/222, **art. 10(2)(c)**); S.S.I. 2008/411, [art. 2\(2\)\(3\)\(a\)](#); S.S.I. 2009/219, [art. 2](#), sch.

## 61 Termination of planning permission by reference to time limit: completion notices.

- (1) This section applies where—
- <sup>F15</sup>(a) a development to which a planning permission relates has been begun but not completed by the date on which the permission would have lapsed had the development not been begun,]

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- (b) development has been begun in accordance with planning permission under a simplified planning zone scheme but has not been completed by the time the area ceases to be a simplified planning zone, or
  - (c) development has been begun in accordance with planning permission under an enterprise zone scheme but has not been completed by the time the area ceases to be an enterprise zone.
- (2) If the planning authority are of the opinion that the development will not be completed within a reasonable period, they may serve a notice (“a completion notice”) stating that the planning permission will cease to have effect at the expiration of a further period specified in the notice.
- (3) The period so specified must not be less than 12 months after the notice takes effect.
- (4) A completion notice shall be served—
- (a) on the owner of the land,
  - (b) on the occupier of the land, and
  - (c) on any other person who in the opinion of the planning authority will be affected by the notice.
- (5) The planning authority may withdraw a completion notice at any time before the expiration of the period specified in it as the period at the expiration of which the planning permission is to cease to have effect.
- (6) If they do so they shall immediately give notice of the withdrawal to every person who was served with the completion notice.

#### Textual Amendments

**F15** S. 61(1)(a) substituted (12.12.2008 for specified purposes, 3.8.2009 in so far as not already in force) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), **ss. 22(2)**, [59\(2\)](#) (with [S.S.I. 2009/222](#), **art. 10(2)(d)**); [S.S.I. 2008/411](#), [art. 2\(2\)\(3\)\(a\)](#); [S.S.I. 2009/219](#), [art. 2](#), [sch.](#)

## 62 Effect of completion notice.

- (1) A completion notice shall not take effect unless and until it is confirmed by the Secretary of State.
- (2) In confirming a completion notice the Secretary of State may substitute some longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.
- (3) If, within such period as may be specified in a completion notice (which must not be less than 28 days from its service) any person on whom the notice is served so requires, the Secretary of State, before confirming the notice, shall give him and the planning authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) If a completion notice takes effect, the planning permission referred to in it shall become invalid at the expiration of the period specified in the notice (whether the original period specified under section 61(2) or a longer period substituted by the Secretary of State under subsection (2)).

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- (5) Subsection (4) shall not affect any permission so far as development carried out under it before the end of the period mentioned in that subsection is concerned.

### **63 Power of Secretary of State to serve completion notice.**

- (1) If it appears to the Secretary of State that it is expedient that a completion notice should be served in respect of any land, he may himself serve such a notice under section 61.
- (2) A completion notice served by the Secretary of State shall have the same effect as if it had been served by the planning authority.
- (3) The Secretary of State shall not serve such a notice without consulting the planning authority.
- (4) The provisions of this Act relating to completion notices apply, so far as relevant, to a completion notice served by the Secretary of State as they apply to a completion notice served by a planning authority, but with the substitution for any reference in those provisions to the planning authority of a reference to the Secretary of State, and any other necessary modifications.

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