



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART III

#### CONTROL OVER DEVELOPMENT

##### *Publicity for applications*

#### **[<sup>F1</sup>35A Pre-application consultation: preliminary**

- (1) Before submitting an application for planning permission for a development of a class prescribed under this section the prospective applicant is, subject to the following provisions of this section, to comply with section 35B.

[ Subsection (1) does not apply to an application for planning permission]

- <sup>F2</sup>(1A) (a) [<sup>F3</sup>to which section 42 applies][<sup>F4</sup>, or  
(b) in circumstances specified by the Scottish Ministers in regulations under this section.]
- (2) The regulations in question may, in prescribing classes of development, make different provision for different cases or classes of case and for different areas.
- (3) A prospective applicant for planning permission for a development may, by notice, require the planning authority to state whether or not, in their opinion, [<sup>F5</sup>compliance with section 35B is required].
- (4) But the regulations may, in prescribing a class of development, provide that subsections (3) and (5) to (9) are not to apply—
  - (a) as respects that class, or
  - (b) as respects that class in circumstances specified in the regulations.

*Changes to legislation: Town and Country Planning (Scotland) Act 1997, Section 35A is up to date with all changes known to be in force on or before 07 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (5) Any notice under subsection (3) is to be in such form<sup>[F6]</sup>, and have such content,] as may be prescribed in the regulations but must in any event contain the information mentioned in paragraphs (a) to (d) of section 35B(4).
- (6) A planning authority receiving such a notice may, if they do not consider that it contains sufficient information to enable them to provide the statement sought, request the prospective applicant to provide additional information specified by them.
- (7) Where such a notice is given it is the duty of the planning authority to provide the requisite statement within the period of 21 days after it is given (or within such other period as may be substituted for that period by the regulations).
- (8) The period of 21 days mentioned in subsection (7) (or any other period substituted for that period) does not include any period between a request for information being made under subsection (6) and that information being provided to the planning authority
- (9) If the authority respond by stating that in their opinion <sup>[F7]</sup>compliance with section 35B is not required], then provided that the application for planning permission for the development in question is submitted within 12 months after the notice was given and does not differ materially from the information regarding it contained in the notice and mentioned in paragraphs (a) to (c) of section 35B(4) the prospective applicant need not comply with section 35B.
- (10) In the case of an application for planning permission made to the Scottish Ministers, this section has effect as if any reference to the “ planning authority ” or “the authority” were a reference to the Scottish Ministers. ]

#### Textual Amendments

- F1** Ss. 35A-35C inserted (12.12.2008 for specified purposes, 6.4.2009 in so far as not already in force) by Planning etc. (Scotland) Act 2006 (asp 17), **ss. 11**, 59(2) (with S.S.I. 2009/101, arts. 1(1), **2**); S.S.I. 2008/411, art. 2(2)(3)(a); S.S.I. 2009/100, art. 2, sch.
- F2** S. 35A(1A) inserted (2.2.2013) by The Public Services Reform (Planning) (Pre-application consultation) (Scotland) Order 2013 (S.S.I. 2013/25), arts. 1, **2(2)**
- F3** Words in s. 35A(1A) renumbered as s. 35A(1A)(a) (1.12.2019) by Planning (Scotland) Act 2019 (asp 13), **ss. 18(2)(a)(i)**, 63(2); S.S.I. 2019/385, reg. 2
- F4** S. 35A(1A)(b) and word inserted (1.12.2019) by Planning (Scotland) Act 2019 (asp 13), **ss. 18(2)(a)(ii)**, 63(2); S.S.I. 2019/385, reg. 2
- F5** Words in s. 35A(3) substituted (1.12.2019) by Planning (Scotland) Act 2019 (asp 13), **ss. 18(2)(b)**, 63(2); S.S.I. 2019/385, reg. 2
- F6** Words in s. 35A(5) inserted (1.12.2019) by Planning (Scotland) Act 2019 (asp 13), **ss. 18(2)(c)**, 63(2); S.S.I. 2019/385, reg. 2
- F7** Words in s. 35A(9) substituted (1.12.2019) by Planning (Scotland) Act 2019 (asp 13), **ss. 18(2)(d)**, 63(2); S.S.I. 2019/385, reg. 2

**Changes to legislation:**

Town and Country Planning (Scotland) Act 1997, Section 35A is up to date with all changes known to be in force on or before 07 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)