



# Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

## 1997 CHAPTER 9

### PART I

#### LISTED BUILDINGS

#### CHAPTER II

##### AUTHORISATION OF WORKS AFFECTING LISTED BUILDINGS

##### *Applications for listed building consent*

#### **9 Making of applications for listed building consent.**

- (1) Except as provided in sections 11 to 14 [<sup>F1</sup>or section 73B] , an application for listed building consent shall be made to and dealt with by the planning authority.
- (2) Such an application shall be made in such form as the planning authority may require and shall contain—
  - (a) sufficient particulars to identify the building to which it relates, including a plan,
  - (b) such other plans and drawings as are necessary to describe the works which are the subject of the application, and
  - (c) such other particulars as may be required by the planning authority.
- (3) Provision may be made by regulations with respect to—
  - (a) the manner in which applications for listed building consent are to be made,
  - (b) the manner in which such applications are to be advertised, and
  - (c) the time within which they are to be dealt with by planning authorities or, as the case may be, by the Secretary of State.

*Status: Point in time view as at 01/06/2008.*

*Changes to legislation: Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Cross Heading: Applications for listed building consent is up to date with all changes known to be in force on or before 22 July 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)*

### Textual Amendments

- F1** Words in s. 9(1) inserted (11.5.2006) by [The Planning and Compulsory Purchase Act 2004 \(Commencement No. 2 and Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/243\)](#), arts. 1(1), 5(2)

## 10 Certificates as to interests in listed building etc.

- (1) Regulations may provide that an application for listed building consent shall not be entertained unless it is accompanied by a certificate in the prescribed form as to the interests in the building to which the application relates.
- (2) Any such regulations may—
  - (a) include requirements corresponding to those mentioned in sections 35 and 38(2) of the principal Act,
  - (b) make provision as to who, in the case of any building, is to be treated as the owner for the purposes of any provision of the regulations, and
  - (c) make different provision for different cases or classes of case.
- (3) If any person—
  - (a) issues a certificate which purports to comply with the requirements of regulations made by virtue of this section and which 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 those requirements and which contains a statement which is false or misleading in a material particular,
 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## 11 Reference of certain applications to Secretary of State.

- (1) The Secretary of State may give directions requiring applications for listed building consent to be referred to him instead of being dealt with by the planning authority.
- (2) A direction under this section may relate either to a particular application or to applications in respect of such buildings as may be specified in the direction.
- (3) An application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.
- (4) Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State.
- (5) The decision of the Secretary of State on any application referred to him under this section shall be final.

### Modifications etc. (not altering text)

- C1** [S. 11](#) applied (7.1.2003) by [The Cairngorms National Park Designation, Transitional and Consequential Provisions \(Scotland\) Order 2003 \(S.S.I. 2003/1\)](#), arts. 1, 7(7)(b)

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- C2** S. 11 modified (28.12.2007) by [The Transport and Works \(Scotland\) Act 2007 \(Consents under Enactments\) Regulations 2007 \(S.S.I. 2007/569\)](#), regs. 1, **5(2)**
- C3** S. 11(1)-(3) modified (7.1.2003) by [The Cairngorms National Park Designation, Transitional and Consequential Provisions \(Scotland\) Order 2003 \(S.S.I. 2003/1\)](#), arts. 1, **7(3)(b)** (with art. 3(4)(5)(6))

## **12 Duty to notify Secretary of State of applications.**

- (1) If a planning authority to whom application is made for listed building consent intend to grant such consent they shall first notify the Secretary of State of the application giving particulars of the works for which the consent is required.
- (2) The Secretary of State may within the period of 28 days beginning with the date of the notification—
  - (a) direct the reference of the application to him under section 11, or
  - (b) give notice to the authority that he requires further time in which to consider whether to require such a reference.
- (3) The planning authority shall not grant listed building consent until—
  - (a) the period mentioned in subsection (2) has expired without the Secretary of State directing the reference of the application to him or giving them notice under paragraph (b) of that subsection, or
  - (b) the Secretary of State has notified them that he does not intend to require the reference of the application.

## **13 Directions concerning notification of applications etc.**

- (1) The Secretary of State may give directions that, in the case of such descriptions of applications for listed building consent as he may specify, other than such consent for the demolition of a building, section 12 shall not apply.
  - (2) Where a direction is in force under subsection (1) in respect of any description of application, planning authorities may determine applications of that description in any manner they think fit, without notifying the Secretary of State.
  - (3) Without prejudice to sections 9 to 12, the Secretary of State may give directions to planning authorities requiring them, in such cases or classes of case as may be specified in the directions, to notify to him and to such other persons as may be so specified—
    - (a) any applications made to them for listed building consent, and
    - (b) the decisions taken by the authorities on those applications.
- [<sup>F2</sup>(4) Directions under subsection (1) or (3) may be given to—
  - (a) planning authorities generally;
  - (b) a particular planning authority; or
  - (c) a description of planning authority.]

### **Textual Amendments**

- F2** S. 13(4) added (1.6.2008) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), ss. **55(2)**, 59(2); S.S.I. 2008/191, art. 2

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## **14 Decision on application.**

- (1) Subject to the previous provisions of this Part, the planning authority or, as the case may be, the Secretary of State may grant or refuse an application for listed building consent and, if granting consent, may grant it subject to conditions.
- (2) In considering whether to grant listed building consent for any works, the planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- (3) Any listed building consent shall (except in so far as it otherwise provides) enure for the benefit of the building and of all persons for the time being interested in it.

**Status:**

Point in time view as at 01/06/2008.

**Changes to legislation:**

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