



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

## 1997 CHAPTER 9

### PART III

#### GENERAL

#### *Special cases*

#### **73 Application of Act to land and works of planning authorities**

- (1) In relation to land of planning authorities, sections 1(1) and (3) and 2 shall have effect subject to such exceptions and modifications as may be prescribed by regulations.
- (2) The provisions mentioned in subsection (3) shall have effect for the purpose of applications by planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings, subject to such exceptions and modifications as may be prescribed by regulations.
- (3) Those provisions are—
  - section 1(2), (4) and (5),
  - sections 3 to 26,
  - sections 28 to 45,
  - sections 56 to 58,
  - section 59(1),
  - section 60(2)(b), (3) and (4),
  - section 65(2)(b), (3) and (4),
  - Schedules 1 and 2, and
  - sections 54(1) to (4) and 55 as they apply with respect to the foregoing provisions.
- (4) The regulations may in particular provide—

- (a) for the making of applications for listed building consent to the Secretary of State, and
- (b) for the service by him of notices under section 2(2) and the provisions mentioned in subsection (3) of this section.

#### **74 Exercise of powers in relation to Crown land**

- (1) Notwithstanding any interest of the Crown in Crown land, but subject to the following provisions of this section—
- (a) a building which for the time being is Crown land may be included in a list compiled or approved by the Secretary of State under section 1,
  - (b) any restrictions imposed or powers conferred by any of sections 1 to 24, 28 to 41, 49, 50, 53 to 56, 59(1), 60, 65 and 68 and Schedules 1 to 3 shall apply and be exercisable in relation to Crown land, to the extent of any interest in it for the time being held otherwise than by or on behalf of the Crown, and
  - (c) any power to acquire land compulsorily under section 42 may be exercised in relation to any interest in the land which is for the time being held otherwise than by or on behalf of the Crown.
- (2) Except with the consent of the appropriate authority—
- (a) no notice shall be served under section 34 in relation to land which for the time being is Crown land, and
  - (b) no interest in land which for the time being is Crown land shall be acquired compulsorily under section 42.
- (3) No listed building enforcement notice shall be served in respect of works executed by or on behalf of the Crown in respect of a building which was Crown land at the time when the works were executed.
- (4) No listed building purchase notice shall be served in relation to any interest in Crown land unless—
- (a) an offer has previously been made by the owner of the interest to dispose of it to the appropriate authority on terms that the price payable for it—
    - (i) shall be equal to the compensation which would be payable in respect of the interest if it were acquired in pursuance of such a notice, or
    - (ii) in default of agreement shall be determined in a similar manner to that in which that compensation would be determined, and
  - (b) that offer has been refused by the appropriate authority.
- (5) A person who is entitled to occupy Crown land by virtue of a contract in writing shall be treated for the purposes of subsection (1)(b) as having an interest in land.
- (6) In this section—
- “Crown land” means land in which there is a Crown interest, and
  - “Crown interest” means an interest belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.
- (7) For the purposes of this section “the appropriate authority”, in relation to any land—
- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners,

- (b) in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land, and
  - (c) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department.
- (8) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

## **75 Application for listed building or conservation area consent in anticipation of disposal of Crown land**

- (1) This section has effect for the purpose of enabling Crown land, or an interest in Crown land, to be disposed of with the benefit of listed building consent or conservation area consent.
- (2) Notwithstanding the interest of the Crown in the land in question, an application for any such consent may be made by—
- (a) the appropriate authority, or
  - (b) any person authorised by that authority in writing,
- and, subject to subsections (3) and (4), all the statutory provisions relating to the making and determination of any such application shall accordingly apply as if the land were not Crown land.
- (3) Any listed building consent or conservation area consent granted by virtue of this section shall apply only—
- (a) to works carried out after the land in question has ceased to be Crown land, and
  - (b) so long as that land continues to be Crown land, to works carried out by virtue of a private interest in the land.
- (4) The Secretary of State may by regulations—
- (a) modify or exclude—
    - (i) any of the statutory provisions referred to in subsection (2), and
    - (ii) any other statutory provisions,in their application to consents granted by virtue of this section,
  - (b) make provision for requiring a planning authority to be notified of any disposal of, or of an interest in, any Crown land in respect of which an application has been made by virtue of this section, and
  - (c) make such other provision in relation to the making and determination of applications by virtue of this section as he thinks necessary or expedient.
- (5) This section shall not be construed as affecting any right to apply for any listed building consent or conservation area consent in respect of Crown land in a case in which such an application can be made by virtue of a private interest in the land.
- (6) A person who is entitled to occupy Crown land by virtue of a contract in writing shall be treated for the purpose of this section as having an interest in land and references to the disposal or grant of an interest in Crown land and to a private interest in such land shall be construed accordingly.
- (7) In this section “statutory provisions” means provisions contained in or having effect under any enactment and references to the disposal of an interest in Crown land include references to the grant of an interest in such land.

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

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- (8) Subsections (6) to (8) of section 74 apply for the purposes of this section as they apply for the purposes of that section.