The Town and Country Planning (Development by Local Planning Authorities) (Scotland) Regulations, 1949

1949 No. 74 (S. 4)

Made - - - -	14*th January*, 1949
Laid before Parliament	20*th January*, 1949
Coming into Operation	1*st March*, 1949

In exercise of the powers conferred on me by subsection (3) of section 32 and by section 107 of the Town and Country Planning (Scotland) Act, 1947(a), (hereinafter referred to as "the Act") and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation, interpretation and commencement

1. These regulations may be cited as the Town and Country Planning (Development by Local Planning Authorities) (Scotland) Regulations, 1949, and shall come into operation on the first day of March, 1949.

2.—(1) In these regulations—
"the Act" means the Town and Country Planning (Scotland) Act, 1947.

(2) The Interpretation Act, 1889(b), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Development permissions

3. In relation to the development by local authorities of land in respect of which they are the local planning authority, the provisions of Part II of the Act (including subsection (2) of section 32 and the Fifth Schedule) shall have effect subject to the exceptions and modifications prescribed in the following regulations.

4.—(1) Where the authority require planning permission to develop the land, the authority shall give notice in the form set out in the Schedule to these regulations to the Secretary of State of their intention to develop the land in the manner described in the notice, and unless within one month from the date of receipt of such notice (or such extended period as the Secretary of State may during the said month or any period so extended notify in writing to the authority) the Secretary of State requires the authority to make a formal application to him for planning permission, the Secretary of State shall be deemed to have granted such permission for the development described in the notice.

(2) If the Secretary of State requires the authority to make to him a formal application for planning permission in accordance with the preceding paragraph of this regulation, the application shall be deemed to be an application referred to the Secretary of State under section 13 of the Act and the provisions of that section shall apply to the determination of the application by the Secretary of State.

(a) 10 & 11 Geo. 6. c. 53. (b) 52 & 53 Vict. c. 63.

5.—(1) Subsection (4) of section 12 of the Act (under which a certificate of the Board of Trade is required in relation to development consisting of the erection of certain industrial buildings) and subsection (5) of that section (which provides for the keeping of a register with respect to applications for planning permission) shall apply as if references in those subsections to an application to the local planning authority for planning permission included a reference to a notice of intention to develop under these regulations.

(2) Before giving notice to the Secretary of State under the last preceding regulation of their intention to develop the land, the authority shall consult with any authority, person or body with whom but for the modifications herein prescribed the local planning authority would have been required to consult before dealing with the application.

(3) In any case in which any such consultation has taken place, and in any case in which directions have been given to the local planning authority restricting the grant of planning permission in respect of such development as is applied for, or in which representations have been made to the authority objecting to that development, a statement giving brief particulars of such consultation, directions or representations, shall accompany the notice of intention to develop referred to in the last preceding regulation.

(4) When the sanction of a government department referred to in subsection (1) of section 32 of the Act has been obtained by the authority in respect of the development of land, but without a direction that planning permission shall be deemed to be granted as provided in that subsection, a statement to this effect shall accompany the notice of intention to develop referred to in the last preceding regulation.

Other Consents

6.—(1) Where the authority require, in relation to the land, any consent or approval of the local planning authority other than a planning permission and that authority are themselves the local planning authority to whom the application for such consent or approval should be made, such application shall be made to the Secretary of State and his decision thereon shall be final and shall take the place of the decision of the local planning authority.

(2) Where a local planning authority propose to execute or cause or permit to be executed any works for the demolition, alteration or extension of any building belonging to them, being a building listed under section 28 of the Act, the notice required under subsection (6) of that section shall be given to the Secretary of State instead of to the local planning authority, and references in that section to the local planning authority shall be construed as if they were references to the Secretary of State.

Purchase Notices and Compensation

7. No claim shall be made by a local authority in relation to land in respect of which they are the local planning authority under the following sections and paragraphs of the Act:—

Section 17 (which entitles the owner or lessee of land, on refusal of planning permission, to require the local planning authority to purchase his interest);

Section 18 (which entitles any person having an interest in land to compensation on refusal of planning permission);

Section 20 (which entitles any person interested in the land to claim compensation for revocation or modification of a planning permission);

Section 25 (which entitles any person to claim compensation who has suffered damage in consequence of an order requiring the discontinuance or removal of an authorised use or building);

Subsection (2) of section 26 (relating to compensation under tree preservation orders);

Subsection (2) of section 27 (relating to compensation under building preservation orders); and

Paragraphs 1(3), 2(1)(*a*) and (2), and 3(3) of the Fifth Schedule (relating to compensation in respect of operational land).

Dated this 14th day of January, nineteen hundred and forty-nine.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

SCHEDULE

Form of Notice of Intention to Develop
Town and Country Planning (Scotland) Act, 1947 (Section 32 (3))

To the Secretary of State.

In accordance with the provisions of the Town and Country Planning (Development by Local Planning Authorities) (Scotland) Regulations, 1949, the $\frac{\text{County}}{\text{Town}}$ Council of hereby give notice of their intention to develop land of which they are the local planning authority, as follows:—

Here state the nature of the proposed development (including the proposed use) and the address or location of the site. (If necessary a site plan should be enclosed for identification purposes.)

.....
.....

in accordance with the plans enclosed herewith. [A site plan of the land is also enclosed.]

The $\frac{\text{County}}{\text{Town}}$ Council have consulted with every authority, person and body with whom a local planning authority are required to consult before dealing with an application for planning permission, and the Schedule hereto contains brief particulars of such consultation, of all representations (if any) which have been made to the Council objecting to the proposed development, and of any directions restricting the grant of planning permission in respect thereof.

Signature of Clerk to the local planning authority .....

Date.....

Schedule referred to in the foregoing Notice

1. Names of parties consulted as to the proposed development, with particulars of any observations received.....
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2. Particulars of any representations objecting to the proposed development which have been made to the Council.....
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3. If the proposals involve development affecting trunk roads within the meaning of the Town and Country Planning (General Development) (Scotland) Order 1948,* particulars of the observations of the Divisional Road Engineer of the Ministry of Transport.....
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* S.I. 1948 No. 1030.

4. Particulars of any direction restricting the grant of planning permission for the proposed development given by the Minister of Transport under Article 7 of the Town and Country Planning (General Development) (Scotland) Order, 1948*.....
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5. Particulars of any direction restricting the grant of planning permission for the proposed development given by the Secretary of State under Article 6 of the Town and Country Planning (General Development) (Scotland) Order, 1948*.....
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6. The proposed development †does / does not involve the demolition, alteration or extension of any building included in any list compiled or approved under section 28 of the Act.

7. The proposed development requires the sanction of..... Here insert name of sanctioning Department other than the Secretary of State.
.....
Application †has been made under sanction reference number..... / will be made for such sanction, but no direction † has been given / will be applied for that planning permission shall be deemed to be granted under the provisions of subsection (1) of Section 32 of the Act.

* S.I. 1948 No. 1030. † Delete whichever is not applicable.

EXPLANATORY NOTE

(This Note is not part of the regulations, but is intended to indicate their general purport.)

These regulations are made under section 32 (3) of the Town and Country Planning (Scotland) Act, 1947, which provides that where a local authority own land, or wish to develop land, for which they are themselves the local planning authority, Part II of the Act (which includes the power of the local planning authority to grant planning permission and the power of the Secretary of State to direct a local planning authority to refer any application for such permission to him for determination), shall have effect, subject to such exceptions and modifications as are prescribed by regulations.

The main modifications made by these regulations are—(1) that such an authority shall notify their intention to develop to the Secretary of State who, unless he considers a formal application for planning permission unnecessary, may require such an application to be made to him and the application shall be deemed to be an application referred to him for determination; (2) that any other application by such an authority for any consent or approval of the local planning authority in relation to any such land shall be made to the Secretary of State whose decision shall be final; and (3) that compensation in cases of refusal or revocation of the planning permission, and in other kindred cases shall not be claimed by the authority in respect of such land.