

CORONAVIRUS (SCOTLAND) ACT 2020: EXTENSION OF PLANNING PERMISSIONS

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The Scottish Parliament introduced emergency legislation in the form of the Coronavirus (Scotland) Bill on 31 March 2020 to mitigate some of the impacts of Covid-19 in Scotland. The Bill received Royal Assent on 6 April 2020.

Extension to planning permissions (in Scotland)

In a welcome move for clients with development interests in Scotland, the Coronavirus (Scotland) Act applies an automatic extension to the life of planning permissions that are due to expire during the current crisis¹.

This measure is not covered by the Coronavirus Act 2020 and so is not available for planning permissions granted in England, although BCLP is lobbying Central Government for similar provisions to be included either in a second iteration of Coronavirus legislation or through a temporary amendment to the General Permitted Development Order 2015.

Under usual planning rules, planning permissions in Scotland lapse if development is not begun by the end of a specified period, usually 3 years, from the date of the grant of planning permission². However, the measures introduced to extend the life of planning permissions in Scotland recognise the practical and commercial difficulties in procuring the discharge of pre-start conditions from local authorities and commissioning implementation works to start on site at this time, and without them there is a real risk that important permissions could lapse during the current crisis.

How long have planning permissions been extended?

Where a full planning permission or a planning permission in principle would under the normal rules lapse during the "emergency period" (which is **between 6 April 2020 to 6 October 2020**), then the planning permission is automatically extended and will instead lapse at the end of the "extended period" (**6 April 2021**).

The permission will then only lapse if it has not been implemented and development has not begun before 6 April 2021.

¹ See Schedule 7, Paragraphs 9 and 10 of the Coronavirus (Scotland) Act 2020.

² Town and Country Planning (Scotland) Act 1997, Section 58.

Are there any limitations?

There is no ability to extend a planning permission that lapsed after the lockdown restrictions came into place, but before the extension provisions came into force on 6 April 2020.

The Act is clear in that the extension provisions only apply to those planning permissions expiring between 6 April 2020 – 6 October 2020.

However, there is the ability for Scottish Ministers to amend these timescales to reflect the uncertain timescale of the crisis situation if necessary.

What are the practical implications of the provisions?

Although the challenges of the pandemic are set to continue for some time developers in Scotland have been given some breathing space within which to make commercial and practical decisions about whether and when to take the necessary steps to implement planning permissions.

The provisions will also ease the pressure for under-resourced councils who might otherwise have received a flurry of applications to discharge pre-start conditions.

Finally, these measures will hopefully provide some assurance to the construction and property sector that time lost due to the current emergency will not necessarily derail the potential for important development to eventually come forward, which will no doubt be invaluable in helping to restart the economy.

We are hopeful that similar measures will be introduced in England in the near future either through a change in primary legislation or through an amendment the General Permitted Development (England) Order 2015.

Getting in touch

When you need a practical legal solution for your next business opportunity or challenge, please get in touch.

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