

PLANNING ETC. (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 3 – Development Management

Section 17 – Local developments: schemes of delegation

103. This section inserts **new sections 43A and 43B** into the 1997 Act. Section 43A(1) requires each planning authority to prepare a scheme of delegation, describing how applications relating to local developments are to be determined by appointed persons (such as officials) instead of elected members. Section 43A(3) indicates that the scheme of delegation required by section 43A(1) does not apply to cases specified under section 38A(1) as requiring pre-determination hearings. As part of the new enhanced scrutiny procedures, such cases are to be decided by the full council.
104. Section 43A(4) allows regulations to set out the procedures for preparing and adopting schemes of delegation, and their form and content. Section 43A(5) applies the relevant parts of sections 37 to 39, 41, 42 and Part 1 of Schedule 3 to the 1997 Act to planning applications dealt with by the appointed person. Section 43A(6) allows the authority to determine any delegated application themselves, and section 43A(7) requires them to produce a statement of reasons for doing so, which must be copied to the applicant.
105. Section 43A(8) to (17) covers the procedure under which the applicant can require a review of a delegated decision where an application was refused or granted subject to conditions, or where the appointed person failed to determine an application within the prescribed time period. The form and procedure of such a review may be set out in regulations or a development order under section 43A(10). The regulations will also set out the time limits for requiring a review and the terms in which the case has been reviewed and the reasons for the decision. There is no right of appeal to the Scottish Ministers (other than in relation to a failure to determine the application). The applicant has a right to apply to the Court of Session under section 239 of the 1997 Act.
106. Section 43A(18) substitutes paragraph 1(6)(b) of Schedule 3 to the 1997 Act. This applies to planning applications dealt with by the appointed person as set out in section 43A(8).
107. **New section 43B** sets out the circumstances under which the applicant may be allowed to raise a matter which was not part of the application determined by the appointed person, when the planning authority conduct a review under section 43A(8).