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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 432**

**The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008**

**PART 9**

**Certificates of lawful use or development**

**Application for certificate of lawful use or development**

**39.** An application for a certificate under section 150(1) or 151(1) of the Act shall be in writing and must, in addition to specifying the land and describing the use, operations or other matter in question in accordance with those sections, include the following information—

- (a) the paragraph of section 150(1) or, as the case may be, section 151(1) of the Act, under which the application is made;
- (b) in the case of an application under section 150(1) of the Act, the date on which the use, operations or other matter began or, in the case of operations carried out without planning permission, the date on which the operations were substantially completed;
- (c) in the case of an application under section 150(1)(a) of the Act, the name of any use class specified in an order under section 26(2)(f) of the Act which the applicant considers applicable to the existing use;
- (d) in the case of an application under section 150(1)(c) of the Act, sufficient details of the relevant planning permission to enable it to be identified;
- (e) in the case of an application under section 151(1)(a) of the Act, the use of the land at the date of the application (or, when the land is not in use at that date, the purpose for which it was last used) and the name of any use class specified in an order under section 26(2)(f) of the Act which the applicant considers applicable to the proposed use;
- (f) the applicant's reasons, if any, for regarding the use, operations or other matter described in the application as lawful; and
- (g) such other information as the applicant considers to be relevant to the application.

**Documentation accompanying applications**

**40.—(1)** An application to which regulation 39 applies must be accompanied by—

- (a) a plan identifying the land to which the application relates;
- (b) such evidence verifying the information included in the application as the applicant can provide; and
- (c) a statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application.

(2) Where such an application specifies two or more uses, operations or other matters, the plan which accompanies the application is to indicate to which part of the land each such use, operation or matter relates.

### **Procedure on receipt of application**

**41.**—(1) When a planning authority receive an application to which regulation 39 applies and any fee required to be paid in respect of the application, they must, as soon as reasonably practicable, send to the applicant an acknowledgement of the application.

(2) Where, after sending an acknowledgement as required by paragraph (1), the planning authority consider that the application is invalid by reason of the failure to comply with regulations 39 and 40 or any other statutory requirement, they must, as soon as practicable, notify the applicant that the application is invalid.

(3) The planning authority may by notice in writing require the applicant to provide such further information as may be specified to enable them to deal with the application.

(4) The planning authority must give the applicant written notice of their decision within a period of 2 months beginning with the date of receipt by the authority of the application and any fee required to be paid in respect of the application.

(5) Where an application is refused in whole or in part (including a case in which the authority modify the description of the use, operations or other matter in the application or substitute an alternative description for that description), the notice of decision must be in writing and shall—

- (a) state the authority's reasons for their decision; and
- (b) include a statement to the effect that the applicant may appeal to the Scottish Ministers under section 154 of the Act.

(6) A certificate under section 150 or 151 of the Act is to be in the form set out in Schedule 8.

(7) Regulation 31(1) applies to applications for a certificate to which regulation 39 applies as it applies to applications for planning permission.

### **Revocations of certificate of lawful use or development**

**42.**—(1) Where a planning authority propose to revoke a certificate issued under section 150 or 151 of the Act in accordance with section 152(7) of the Act, they must, before they revoke the certificate, give notice of that proposal to—

- (a) the owner of the land affected;
- (b) the occupier of the land affected;
- (c) any other person who will in their opinion be affected by the revocation; and
- (d) in the case of a certificate issued by the Scottish Ministers under section 154 of the Act, the Scottish Ministers.

(2) A notice issued under paragraph (1) is to invite the person on whom the notice is served to make representations on the proposal to the authority within 14 days of service of the notice and the authority must not revoke the certificate until all such periods allowed for making representations have expired.

(3) An authority must give written notice of any revocation under section 152(7) of the Act to every person on whom notice of the proposed revocation was served under paragraph (1).