
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the preparation and content of schemes of delegation under section 43A(1) of the Town and Country Planning (Scotland) Act 1997 (c. 8) (“the Act”) and the procedure for reviews held by virtue of section 43A(8) of the Act.

Part 2 of the Regulations relates to schemes of delegation. Section 43A(1) as introduced into the Act by section 17 of the [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#) requires a planning authority to prepare a scheme of delegation by which applications for planning permission and for consent, agreement or approval required by a condition imposed on a grant of planning permission are to be determined by an appointed person. This person is defined in regulation 2 as the “appointed officer”. Regulation 3 makes provision in relation to the content of a scheme of delegation and requires the scheme must include a restriction which prevents an appointed officer from determining an application in the circumstances mentioned in regulation 3(4). Regulation 4 requires a planning authority to send a copy of the proposed scheme of delegation to the Scottish Ministers and that that they may not adopt the scheme until it has been approved by the Scottish Ministers. Regulation 5 sets out the manner of publication of the adopted scheme. Section 43A(1)(b) of the Act requires a planning authority to prepare a scheme of delegation at such intervals as may be provided for in regulations and regulation 6 sets this period at no greater than every five years.

Part 3 of the Regulations makes provision in relation to the time period within which a review must be made and the manner in which a review is to be required and the form which the review is to take. Regulation 7 provides that the review is to be conducted by a committee of the planning authority to be known as the local review body. The meetings of this committee are to be held in public and notification of the date, place and time of the meetings is to be given to the applicant and interested parties. Regulation 8(1) provides that an applicant may require a review of the case if the appointed officer has not determined it within a period of 2 months. Regulation 8(2) provides that, in the event that the local review body do not then determine such a review within 2 months of the review being required, the applicant may appeal the case to the Scottish Ministers under section 47 of the Act by virtue of section 43A(17) of the Act.

Regulation 9 sets out the requirements for the form and content of the notice of review and the documents which must accompany such notice. Regulation 9(2) requires the notice of review to be given to the local review body within three months of the date of the appointed officer’s decision or of expiry of the two month period within the application should have been determined. Regulation 10 makes provision for notification and publication of the review and gives interested parties an opportunity to make representations on the case to the local review body. The applicant is given the right to respond to any such representations. Regulation 11 requires the planning authority to make the documents relating to the review available for inspection and, where practicable, to allow copies to be made of such documents.

Part 4 of the Regulations relates to the process of determination of the review. Where the local review body consider that they have sufficient information available to them to determine the case they may, under regulation 12, do so without seeking any further representations and without any further procedure. Where the local review body are not required to determine the case without further procedure and may under regulation 13 require further procedure. The procedures available are those described in regulation 13(4) and the procedures to be followed are, in terms of regulation 13(5), those set out in regulation 15, the Hearing Session Rules in Schedule 1 and regulation 16. Regulation

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14 makes provision for the holding of pre examination meetings to consider how the review may be conducted.

Regulation 15 sets out the process by which further representations may be made or information provided by means of written submissions. Regulation 16 makes provision for site inspections by the local review body. Regulation 17 requires the local review body to afford the applicant and other parties a further opportunity to make representations in respect of any new and material evidence which they propose to take into account in determining the case.

Part 5 of the Regulations contains provisions relating to the provision of further copies of documents (regulation 18), the appointment of an assessor to advise the local review body (regulation 20) and the use of electronic communications (regulation 22). Regulation 19 requires the local review body to comply with consultation and notification requirements in connection with an application under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 to the extent that they have not already been met. Regulation 21 and Schedule 2 make provision for the content and publication of the decision of the local review body.

Where a local review body determine that a hearing session should be held to consider aspects of the case, the Hearing Session Rules in Schedule 1 provide for who is to be notified of the hearing and what matters it is to deal with (rule 1) and who is entitled to appear at the hearing session (rule 2), notice of the date, place and time of the hearing session (rule 3), the provision of documents to the local review body and other parties (rule 4) and the conduct of and procedure to be followed at the hearing session (rule 5).