

2009 No. 212

TRIBUNALS AND INQUIRIES

**The Town and Country Planning (Inquiries Procedure)
(Scotland) Amendment Rules 2009**

<i>Made</i> - - - -	<i>2nd June 2009</i>
<i>Laid before the Scottish Parliament</i>	<i>3rd June 2009</i>
<i>Coming into force</i> - -	<i>3rd August 2009</i>

The Scottish Ministers make the following Rules in exercise of the powers conferred by section 9 of the Tribunals and Inquiries Act 1992(a) and of all other powers enabling them to do so.

In accordance with section 9 they have consulted the Administrative Justice and Tribunals Council and that Council has consulted its Scottish Committee.

Citation and commencement

1. These Rules may be cited as the Town and Country Planning (Inquiries Procedure) (Scotland) Amendment Rules 2009 and come into force on 3rd August 2009.

Amendment of The Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997

2.—(1) The Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997(b) are amended in accordance with paragraph (2).

(2) For rule 2(2) substitute—

“(2) Subject to paragraph (2A), these Rules shall not apply to a local inquiry—

- (a) held for the purpose of any application referred to the Scottish Ministers following a direction under section 46(1) of the Act;
- (b) held for the purposes of an appeal made under—
 - (i) section 47 (appeals against planning decisions and failure to take such decisions) of the Act;
 - (ii) section 75B (appeal relating to modification or discharge of planning obligations) of the Act;
 - (iii) section 75F (appeal relating to modification or discharge of good neighbour agreements) of the Act;
 - (iv) section 130 (appeal against enforcement notice) of the Act;

(a) 1992 c.53. The functions of the Lord Advocate were transferred to the Secretary of State by S.I. 1991/678. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(b) S.I. 1997/796 as amended by S.I. 1998/2311 and S.S.I. 2004/332.

(v) section 154 (appeals against refusal of certificate of lawful use or development) of the Act;

(vi) section 169 (appeal against section 168 notice) of the Act; and

(vii) section 180 (appeal against amenity notice) of the Act,

where notice of appeal is given to the Scottish Ministers under section 47(3), 75B(3), 75F(3), 130(2), 154(2), 169(2) or 180(2) of the Act, as the case may be, on or after 3rd August 2009; or

(c) held under–

(i) Schedule 4 to the Act;

(ii) Schedule 3 to the Listed Buildings Act; or

(iii) the Schedule to the Hazardous Substances Act.

(2A) Where the Scottish Ministers direct under paragraph 3(1) of–

(a) Schedule 4 to the Act;

(b) Schedule 3 to the Listed Buildings Act; or

(c) the Schedule to the Hazardous Substances Act,

that an appeal (other than an appeal mentioned in paragraph (2)(b)) shall be determined by the Scottish Ministers instead of by a person appointed by virtue of paragraph 1 of the relevant Schedule, these Rules apply to an inquiry held for the purposes of such appeal in relation to any step taken or thing done after the giving of the said direction, but do not affect any step taken or thing done before the giving of such direction.”.

(3) In rule 2(3) omit paragraphs (a) and (b).

(4) In rule 3 in the definition of “referred application” omit “under section 46 of the Act or that section as applied by a tree preservation order.”.

Amendment of The Town and Country Planning Appeal (Determination by Appointed Person) (Inquiries Procedure) (Scotland) Rules 1997

3.—(1) The Town and Country Planning Appeal (Determination by Appointed Person) (Inquiries Procedure) (Scotland) Rules 1997(a) are amended in accordance with paragraph (2).

(2) For rule 2(2) substitute–

“(2) These Rules shall not apply to a local inquiry–

(a) held for the purposes of an appeal made under–

(i) section 47 (appeals against planning decisions and failure to take such decisions) of the Act;

(ii) section 75B (appeal relating to modification or discharge of planning obligations) of the Act;

(iii) section 75F (appeal relating to modification or discharge of good neighbour agreements) of the Act;

(iv) section 130 (appeal against enforcement notice) of the Act;

(v) section 154 (appeals against refusal of certificate of lawful use or development) of the Act;

(vi) section 169 (appeal against section 168 notice) of the Act; and

(vii) section 180 (appeal against amenity notice) of the Act,

where notice of appeal is given to the Scottish Ministers under section 47(3), 75B(3), 75F(3), 130(2), 154(2), 169(2) or 180(2) of the Act, as the case may be, on or after 3rd August 2009; or

(a) S.I. 1997/750 as amended by S.I. 1998/2312 and S.S.I. 2004/332.

(b) where, in exercise of powers under paragraph 3(1) or 7 of Schedule 4 to the Act, or of paragraph 3(1) of Schedule 3 to the Listed Buildings Act or the Schedule to the Hazardous Substances Act, as the case may be, the Scottish Ministers direct that an appeal which, by virtue of paragraph 1 of that Schedule, falls to be determined by a person appointed by them, shall, instead of being determined by that person, be determined by them, or as the case may be, not be begun or proceeded with.”.

(3) In rule 2(3) omit paragraphs (a) and (b).

STEWART STEVENSON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2nd June 2009

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997 and the Town and Country Planning Appeal (Determination by Appointed Person) (Inquiries Procedure) (Scotland) Rules 1997. The amendments made by rules 2 and 3 provide that those Rules do not apply to inquiries held in connection with appeals whose procedure is regulated by the Town and Country Planning (Appeals) (Scotland) Regulations 2008 or appeals in relation to the discharge of planning obligations and good neighbour agreements.

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