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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 156**

The Town and Country Planning  
(Appeals) (Scotland) Regulations 2013

PART 9

General

**Non-delegated appeals**

**26.**—(1) Parts 1, 3, 9 and 10, the Hearing Session Rules and the Inquiry Session Rules apply to a non-delegated appeal as they apply to a delegated appeal with the modifications specified in regulation 24(2)(b) and (c).

(2) In this regulation—

“delegated appeal” means an appeal to the Scottish Ministers which falls to be determined by a person appointed by the Scottish Ministers for that purpose by virtue of powers contained in Schedule 4 to the Act or Schedule 3 to the Listed Buildings Act; and

“non-delegated appeal” means—

- (a) a recalled appeal;
- (b) an appeal within such classes of case as may be—
  - (i) for the time being prescribed; or
  - (ii) specified in directions given,  
under paragraph 1(2) of Schedule 4 to the Act or paragraph 1(2) of Schedule 3 to the Listed Buildings Act.

**National security**

**27.** The validity of an appeal is not affected by failure to disclose information as to—

- (a) national security; and
- (b) the measures taken, or to be taken, to ensure the security of any premises or property,

where the notice of appeal is accompanied by a written statement from the appellant that, in the opinion of the appellant, the information relates to the matters mentioned in paragraph (a) or (b) above, and that public disclosure of that information would be contrary to the national interest.

**Further copies of documents etc.**

**28.**—(1) The appointed person may require any person who has submitted documents, materials or evidence under these Regulations in connection with the appeal to—

- (a) provide to the appointed person such number of additional copies of such of those documents, materials or evidence as the appointed person may specify;

- (b) provide to such other persons as the appointed person may specify such copies or additional copies of any document, materials or evidence as the appointed person may specify.

(2) The appointed person may require the planning authority to make copies of such documents, materials or evidence as the appointed person may specify available for inspection at an office of that planning authority until such time as the appeal is determined and to afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any such documents, materials or evidence (or any part thereof) which, or a copy of which, has been sent to the planning authority in accordance with this regulation.

### **Compliance with notification and consultation procedures**

**29.**—(1) The appointed person must, to the extent not already done so by the planning authority—

- (a) in the case of an appeal under section 47 of the Act (other than an appeal under that section as applied by regulation 21 of the 1984 Regulations), comply with—
- (i) regulation 18 (notification by the planning authority);
  - (ii) regulation 19 (notification of minerals applications);
  - (iii) regulation 20 (publication by the planning authority); and
  - (iv) regulation 25 (consultation by the planning authority),
- of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013<sup>(1)</sup> before determining the appeal or the application, as the case may be;
- (b) in the case of an appeal under section 18 of the Listed Buildings Act, comply with regulation 5(1) (advertisement of applications) of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987<sup>(2)</sup> before determining the appeal;
- (c) in the case of an appeal under section 75B of the Act, comply with regulation 5 (notification of application) of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010<sup>(3)</sup> before determining the appeal;
- (d) in the case of an appeal under section 75F of the Act, comply with regulation 5 (notification of application) of the Town and Country Planning (Modification and Discharge of Good Neighbour Agreement) (Scotland) Regulations 2010<sup>(4)</sup> before determining the appeal; and
- (e) in the case of an appeal under section 47 of the Act as applied by regulation 21 of the 1984 Regulations, comply with regulation 16 (duty to consult with respect to an application) of the 1984 Regulations before determining the appeal.

(2) Subject to regulation 8(3), where the appointed person notifies or consults with any person in accordance with paragraph (1) references in these Regulations (other than regulation 5) to an interested party includes any such person from whom the appointed person received representations (which are not subsequently withdrawn) in connection with the appeal.

### **Appointment of assessor**

**30.**—(1) The Scottish Ministers may appoint a person to sit with the appointed person at a hearing session or inquiry session to advise the appointed person on such matters arising as the Scottish Ministers may specify (“an assessor”) and where they do so they are to notify every person entitled

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(1) S.S.I. 2013/155.  
 (2) S.I. 1987/1529.  
 (3) S.S.I. 2010/432.  
 (4) S.S.I. 2010/433.

to appear at the inquiry session or hearing session, as the case may be, of the name of the assessor and of the matters on which the assessor is to advise the appointed person.

(2) Where an assessor has been appointed, the assessor may (and if so required by the appointed person, must), after the close of the hearing session or inquiry session, make a report in writing to the appointed person in respect of the matters on which the assessor was appointed to advise.

### **Decision notice**

**31.** The appointed person must—

- (a) give notice of the decision to the appellant and to the planning authority; and
- (b) notify every person who has made (and did not subsequently withdraw) representations in respect of the appeal that a decision on the appeal has been made and where a copy of the notice of the decision is available for inspection.

### **Electronic communications**

**32.**—(1) Where the criteria in paragraph (2) are met, any document required or authorised to be sent by these Regulations may be sent by electronic communications and any requirement in these Regulations that any document is to be in writing is fulfilled.

(2) The criteria are—

- (a) the recipient consents, or is deemed to have agreed under paragraph (3), to receive it electronically; and
- (b) the document transmitted by the electronic communication is—
  - (i) capable of being accessed by the recipient;
  - (ii) legible in all material respects; and
  - (iii) sufficiently permanent to be used for subsequent reference.

(3) Any person sending a document using electronic communications is to be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the appeal which are capable of being carried out electronically; and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(4) Deemed agreement under paragraph (3) subsists until that person gives notice to revoke the agreement.

(5) Notice of withdrawal of consent to the use of electronic communications or of revocation of agreement under paragraph (4) takes effect on a date specified by the person in the notice, but not less than seven days after the date on which the notice is given.

(6) In this regulation—

“address” includes any number or address used for the purpose of such communications or storage;

“document” includes any notice, consent, agreement, decision, representation, statement, report or other information or communication;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(5);

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(5) 2000 c.7. Section 15 was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.

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**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and

“sent” includes served, submitted or given and cognate expressions are to be construed accordingly.