

SCHEDULE 1

Regulation 2

Hearing Session Rules

Notice of hearing session and specified matters

1.—(1) Where the appointed person has determined that a hearing session should be held the appointed person is to give written notice to that effect to—

- (a) the appellant;
- (b) the planning authority;
- (c) any interested party who made representations in relation to specified matters; and
- (d) any person who the appointed person wishes to make further representations or to provide further information on specified matters at the hearing session.

(2) The notice given under paragraph (1) is to specify the matters to be considered at the hearing session.

(3) Only specified matters are to be considered at the hearing session.

(4) A person given notice under paragraph (1) and who intends to appear at the hearing session must within 14 days of the date of such notice inform the appointed person in writing of that intention.

Appearances at hearing session

2. The persons entitled to appear at a hearing session are—

- (a) the appellant;
- (b) the planning authority; and
- (c) any other person who, in response to a procedure notice, has informed the appointed person of their intention to appear at the hearing session in accordance with rule 1(4).

Date and notification of hearing session

3.—(1) The date, time and place at which the hearing session is to be held is to be determined (and may subsequently be varied) by the appointed person.

(2) The appointed person is to give to those persons entitled to appear at the hearing session such notice of the date, time and place fixed for the holding of a hearing session (and any subsequent variation thereof) as may appear to the appointed person to be reasonable in the circumstances.

Service of hearing statements and documents

4.—(1) Where required to do so by notice given by the appointed person, a person entitled to appear at the hearing session must, by such date as is specified in the notice, send to—

- (a) the appointed person—
 - (i) a hearing statement; and
 - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list of such documents comprised in that hearing statement; and
- (b) the appellant and the planning authority and to such other persons entitled to appear at the hearing session as the appointed person may specify in such notice—
 - (i) a hearing statement; and

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

- (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list comprised in that hearing statement which is not already available for inspection under regulation 6, 15(4) or 28(2) or paragraph (2) of this rule.
- (2) The planning authority are, until such time as the appeal is determined, to afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any hearing statement or other document (or any part thereof) which, or a copy of which, has been sent to them in accordance with this rule.
- (3) Any person who has served a hearing statement in accordance with this rule must—
 - (a) when required by notice in writing from the appointed person provide such further information about the matters contained in the statement as the appointed person may specify; and
 - (b) at the same time send a copy of such further information to any other person on whom the hearing statement has been served.
- (4) Different dates and different persons may be specified for the purposes of paragraph (1).
- (5) In this rule, “hearing statement” means, and is comprised of—
 - (a) a written statement which fully sets out the case relating to the specified matters which a person proposes to put forward to a hearing session;
 - (b) a list of documents (if any) which the person putting forward such case intends to refer to or rely on; and
 - (c) a list of any other persons who are to speak at the hearing session in respect of such case, any matters which such persons are particularly to address and any relevant qualifications of such persons to do so.

Procedure at hearing

- 5.—(1) Except as otherwise provided in these Hearing Session Rules, the procedure at a hearing session shall be as the appointed person determines.
- (2) The appointed person is, having considered any submission by the persons entitled to appear at the hearing session, to state at the commencement of the hearing session the procedure the appointed person proposes to adopt.
- (3) Any person entitled to appear may do so on that person’s own behalf or be represented by another person.
- (4) Where there are two or more persons having a similar interest in the issues being considered at the hearing session, the appointed person may allow one or more persons to appear on behalf of some or all of any persons so interested.
- (5) A hearing is to take the form of a discussion led by the appointed person and cross-examination is not permitted.
- (6) The appointed person may proceed with a hearing session in the absence of any person entitled to appear at the hearing session.
- (7) The appointed person may from time to time adjourn the hearing session and, if the date, time and place of the adjourned hearing session are announced before the adjournment, no further notice is required otherwise rule 3 applies as it applies to the variation of the date, time or place at which a hearing session is to be held.

SCHEDULE 2

Regulation 2

Inquiry Session Rules

Notice of inquiry session and specified matters

1.—(1) Where the appointed person has determined that an inquiry session is to be held the appointed person is to give written notice to that effect to—

- (a) the appellant;
- (b) the planning authority;
- (c) any interested party who made representations in relation to specified matters; and
- (d) any person who the appointed person wishes to make further representations or to provide further information on specified matters at the inquiry session.

(2) The notice given under paragraph (1) is to specify the matters to be considered at the inquiry session.

(3) Only specified matters are to be considered at the inquiry session.

(4) A person given notice under paragraph (1) and who intends to appear at the inquiry session must within 14 days of date of such notice inform the appointed person in writing of that intention.

Appearances at inquiry session

2. The persons entitled to appear at the inquiry session are—

- (a) the appellant;
- (b) the planning authority; and
- (c) any other person who, in a response to a procedure notice, has informed the appointed person of their intention to appear at the inquiry session in accordance with rule 1(4).

Date and notification of inquiry

3.—(1) The date, time and place for the holding of the inquiry session is to be fixed (and may subsequently be varied) by the appointed person.

(2) The appointed person is to give to those persons entitled to appear at the inquiry session such notice of the date, time and place fixed for the holding of the inquiry session (and of any subsequent variation thereof) as may appear to the appointed person to be reasonable in the circumstances.

(3) The appointed person may require the planning authority to take one or more of the following steps—

- (a) not less than 14 days before the date fixed for the holding of the inquiry session, to publish—
 - (i) in one or more local newspapers circulating in the locality in which the land is situated; and
 - (ii) on a website,such notices of the inquiry session as the appointed person may direct; or
- (b) to serve notice of the inquiry session in such form and on such persons or classes of persons as the appointed person may specify.

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

Service of inquiry statements, documents and precognitions

4.—(1) Where required to do so by notice given by the appointed person, a person entitled to appear at the inquiry session must, by such date as is specified in the notice, send to—

- (a) the appointed person—
 - (i) an inquiry statement;
 - (ii) a copy of every document (or the relevant part of a document) on the list of such documents comprised in that inquiry statement; and
 - (iii) a precognition in respect of any evidence to be given to the inquiry session by a person included on the list of witnesses comprised in that inquiry statement; and
- (b) the appellant and the planning authority and to such other persons entitled to appear at the hearing session as the appointed person may specify in such notice—
 - (i) an inquiry statement; and
 - (ii) a copy of every document (or the relevant part of a document) and precognition sent to the appointed person under sub-paragraph (a)(ii) or (iii) and which is not already available for inspection under regulation 6, 15(4) or 28(2) or paragraph (2) of this rule.

(2) The planning authority are, until such time as the appeal is determined, to afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any inquiry statement, precognition or other document (or any part hereof) which, or a copy of which, has been sent to them in accordance with this rule.

(3) A precognition must not, unless the appointed person otherwise so agrees, contain more than 2000 words.

(4) Different dates and different persons may be specified for the purposes of paragraph (1).

(5) In this rule—

“inquiry statement” means, and is comprised of—

- (a) a written statement which contains particulars of the case relating to the specified matters which a person proposes to put forward to an inquiry session;
- (b) a list of documents (if any) which the person putting forward such case intends to refer to, rely on or put in evidence; and
- (c) a list of witnesses specifying the persons who are to give, or be called to give, evidence at the inquiry session, the matters in respect of which such persons are to give evidence and the relevant qualifications of such persons to do so; and

“precognition” means a written statement of the evidence which it is proposed that a witness will give to the inquiry session.

Procedure at inquiry session

5.—(1) Except as otherwise provided in these Inquiry Session Rules, the procedure at the inquiry session shall be as the appointed person determines.

(2) The appointed person is, having considered any submission by the persons entitled to appear at the inquiry session, to state at or before the commencement of the inquiry session the procedure which the appointed person proposes to adopt and in particular is to state—

- (a) the order in which the specified matters are to be considered at the inquiry session; and
- (b) the order in which the persons entitled to appear at the inquiry session are to be heard in relation to a specified matter (a different order may be chosen for different specified matters).

(3) Any person entitled to appear may do so on that person's own behalf or be represented by another person.

(4) Where there are two or more persons having a similar interest in the matter under inquiry, the appointed person may allow one or more persons to appear for the benefit of some or all persons so interested.

(5) Subject to paragraph (6), any person entitled to appear at the inquiry session is entitled to call evidence and to cross-examine persons giving evidence and to make closing statements.

(6) The appointed person may refuse to permit—

- (a) the giving or production of evidence;
- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any other matter,

which the appointed person considers to be irrelevant or repetitious.

(7) If any person entitled to appear at the inquiry session fails to do so, the appointed person may proceed with the inquiry session at the appointed person's discretion.

(8) The appointed person may from time to time adjourn the inquiry session and, if the date, time and place of the adjourned inquiry session are announced before the adjournment, no further notice is required, otherwise rule 3 applies as it applies to the variation of the date, time or place at which a inquiry session is to be held.

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

SCHEDULE 3

Regulation 18(1) and (3)

Notices under regulation 18

PART 1

Notice for service on owner of the building

TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013

Notice under regulation 18(1) of appeal under section 18 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

Proposed works at [Note 1]

TAKE NOTICE

1. That appeal is being made to the Scottish Ministers by [Note 2]

**(i)* against the decision of [Note 3].

**(ii)* on the failure of [Note 3] to give a decision on an application to them.

2. If you wish to make representations to the Scottish Ministers about the appeal, you should make them in writing not later than [Note 4] to [Note 5].

Signed

*On behalf of

Date

*Delete where inappropriate

Note 1 - Insert address or location of building and brief description of the proposed works.

Note 2 - Insert name of applicant.

Note 3 - Insert name of Council.

Note 4 - Insert date. The date must not be earlier than 21 days after the date on which notice is given.

Note 5 - Insert address. The address is the same address to which the notice of appeal is sent.

PART 2

Notice for publication in local newspaper

TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2013

Notice under regulation 18(2) of appeal under section 18 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

Proposed works at [Note 1]

TAKE NOTICE

1. That appeal is being made to the Scottish Ministers by [Note 2]

*(i) against the decision of [Note 3].

*(ii) on the failure of [Note 3] to give a decision on an application to them.

2. Representations about the appeal may be made by any owner of the building. If you wish to make representations you should make them in writing not later than [Note 4] to [Note 5].

Signed

*On behalf of

Date

*Delete where inappropriate

Note 1 - Insert address or location of building and brief description of the proposed works.

Note 2 - Insert name of applicant.

Note 3 - Insert name of Council.

Note 4 - Insert date. The date must not be earlier than 21 days after the date of publication of the notice.

Note 5 - Insert address. The address is the same address to which the notice of appeal is sent.

SCHEDULE 4

Regulation 1(10)

Closed Evidence

Modification of provisions where security direction given

1. Where a security direction has been given or a request for a security direction has been made in relation to an inquiry session these Regulations apply in accordance with paragraphs 2 to 12.

2. Where closed evidence is to be discussed at a pre-examination meeting—

(a) only specified persons and any appointed representative may attend the pre-examination meeting while closed evidence is being discussed; and

(b) the notice to be given under regulation 10(3) must state that while closed evidence is being discussed at the pre-examination meeting attendance at the meeting is restricted to specified persons and any appointed representative.

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

3. Where a site inspection will involve inspection of closed evidence—
 - (a) regulation 12 does not apply; and
 - (b) the appointed person may inspect the land in the company of specified persons and any appointed representative.
4. Where the appointed person is notified that a security direction has been given—
 - (a) before the appointed person gives notice that an inquiry session is to be held under rule 1(1) of the Inquiry Session Rules, the appointed person must include in that notice a statement that a security direction has been given; and
 - (b) after giving that notice, the appointed person must as soon as practicable after being notified of the making of the direction, give notice of the making of the security direction to any person known at that date to be entitled to appear at the inquiry session.
5. While closed evidence is being considered at an inquiry session the persons entitled to appear at the inquiry session is restricted to—
 - (a) specified persons; and
 - (b) any appointed representative.
6. Where any provision of these Regulations requires or permits a document (or other materials or evidence) to be sent to any person that provision is to be read as requiring, or permitting—
 - (a) the sending of such documents (or other materials or evidence) which contain or make reference to any closed evidence to specified persons or any appointed representative; and
 - (b) the sending of such documents (or other materials or evidence) to any other person only to the extent that they do not contain or make reference to any closed evidence.
7. Where any rule of the Inquiry Session Rules requires or permits an inquiry statement (including any amended or additional inquiry statement) to be sent to any person that rule is to be read as requiring, or permitting—
 - (a) a closed inquiry statement to be sent to specified persons and any appointed representative; and
 - (b) an open inquiry statement to be sent to any other person.
8. Where any rule of the Inquiry Session Rules requires or permits a precognition (including any amended or additional precognition) to be sent to any person that rule is to be read as requiring, or permitting—
 - (a) a closed precognition to be sent to specified persons and any appointed representative; and
 - (b) an open precognition to any other person.
9. Where closed evidence was considered at an inquiry session the assessor, where one has been appointed, if making a report in accordance with regulation 30 is to set out in a separate part (“the closed part”) of the report any matters which relate to that evidence.
10. Where the appointed person’s reasons for a decision relate to matters in respect of which closed evidence has been given, nothing in these Regulations requires notification of those reasons to any person other than a specified person and any appointed representative.
11. Closed evidence must not be published and nothing in these Regulations is to be taken to require or permit closed evidence to be disclosed to a person other than—
 - (a) a specified person; and
 - (b) any appointed representative.
- 12.—(1) In this Schedule—

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

“appointed representative” means a person (who is also a specified person) to represent the interests of any party to the inquiry, under or by virtue of—

- (a) section 265A(5) of the Act (planning inquiries to be held in public subject to certain exceptions); or
- (b) paragraph 6(7) of Schedule 3 to the Listed Buildings Act (determination of certain appeals by person appointed by the Scottish Ministers);

“closed evidence” means evidence which is subject to a security direction;

“closed inquiry statement” means such part (if any) of an inquiry statement as includes or refers to closed evidence;

“closed precognition” means such part (if any) of a precognition as includes or refers to closed evidence;

“open inquiry statement” means such part (if any) of an inquiry statement as does not include or refer to closed evidence;

“open precognition” means such part (if any) of a precognition as does not include or refer to closed evidence;

“potentially closed evidence” means evidence in respect of which a request for a security direction has been made; and

“specified person” means a person specified in, or a person of such description as is specified in, a security direction as being entitled to hear or inspect closed evidence.

(2) Where a request for a security direction has been made to the Scottish Ministers or the Secretary of State but no determination as to whether or not to give a direction has been made, references in paragraphs 2 to 12(1) to closed evidence are to be treated as references to potentially closed evidence and references to specified persons are to be treated as references to persons who, in terms of the request for a direction, would be permitted to hear or, as the case may be, inspect closed evidence if a security direction is given.

SCHEDULE 5

Regulation 34

Revocations

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
<i>Regulations revoked</i>	<i>References</i>	<i>Extent of Revocations</i>
The Town and Country Planning (Appeals) (Scotland) Regulations 2008	S.S.I. 2008/434	The whole Regulations
The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2009	S.S.I. 2009/220	Regulation 4
The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010	S.S.I. 2010/432	Regulation 9

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

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
<i>Regulations revoked</i>	<i>References</i>	<i>Extent of Revocations</i>
The Town and Country Planning (Modification and Discharge of Good Neighbour Agreement) (Scotland) Regulations 2010	S.S.I. 2010/433	Regulation 9
The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011	S.S.I. 2011/138	Regulations 3, 6 and 7
The Town and Country Planning (Appeals) (Scotland) Amendment Regulations 2011	S.S.I. 2011/378	The whole Regulations