
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 181

The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015

PART 7

Enforcement

Appeals against hazardous substances contravention notices

43.—(1) A person on whom a hazardous substances contravention notice is served or any other person having an interest in the land to which the notice relates, may appeal to the Scottish Ministers against the notice on the grounds that—

- (a) the matters alleged to constitute a contravention of hazardous substances control have not occurred;
- (b) those matters (if they occurred) do not constitute a contravention of hazardous substances control;
- (c) copies of the hazardous substances contravention notice were not served in accordance with section 22 of the principal Act;
- (d) the steps required by the notice to be taken exceed what is necessary to remedy any contravention of hazardous substances control; or
- (e) any period specified in the notice in accordance with section 22(5) of the principal Act falls short of what should reasonably be allowed.

(2) An appeal under this regulation is to be made to the Scottish Ministers by giving them notice in writing in accordance with this regulation.

(3) The notice of appeal must be served before the date specified in the hazardous substances contravention notice as the date on which it is to take effect.

(4) The notice of appeal must contain—

- (a) the grounds of appeal;
- (b) all matters which the appellant intends to raise in the appeal;
- (c) a note of the matters which the appellant considers require determination and by what, if any, procedure (or combination of procedures) referred to in regulation 30(3) (decisions as to further procedure) the appellant considers the appeal should be conducted and in particular—
 - (i) a statement of whether or not the appellant wishes the opportunity to appear before and be heard by a person appointed for that purpose; and
 - (ii) if the appellant so wishes, a statement of the matters on which the appellant wishes the opportunity to be heard;
- (d) the name and address of the appellant; and

- (e) the name and address of any agent acting on behalf of the appellant and whether any notice or other correspondence which is required by these Regulations to be sent to the appellant should be sent to the agent instead of the appellant.
- (5) The notice of appeal must be accompanied by—
- (a) a copy of the hazardous substances contravention notice to which the appeal relates;
 - (b) a copy of any hazardous substances consent to which the hazardous substances contravention notice relates; and
 - (c) copies of all documents, materials and evidence which the appellant intends to rely on in the appeal.
- (6) In addition to matters set out in the notice of appeal and the documents accompanying it the appellant may raise matters only in accordance with regulation 32 (written submissions procedure) and 44 (intimation of appeal to planning authority and planning authority's response), the Hearing Session Rules and the Hazardous Substances Inquiry Session Rules.
- (7) Part 5 (appeals under section 19 of the principal Act) (other than regulations 24 (notice of appeal), 25 (intimation to planning authority and planning authority's response), 26 (notification to interested parties) and 27 (publication of appeal documents), 36 (compliance with notification and consultation procedures) and 39 (called-in applications)) and the Hearing Session Rules apply to appeals under this regulation with the modification that references to the Schedule to the principal Act in regulation 40 (non-delegated appeals) are to be treated as references to Schedule 4 to the 1997 Act as applied by virtue of regulation 54 (application of provisions of the 1997 Act).

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015, Section 43.