

1987 No. 1522 (S.111)

TRIBUNALS AND INQUIRIES

**The Town and Country Planning Appeals
(Determination by Appointed Person) (Inquiries
Procedure) (Scotland) Amendment Rules 1987**

Made 26th August 1987
Laid before Parliament 10th September 1987
Coming into force 1st October 1987

The Lord Advocate, in exercise of the powers conferred on him by section 11 of the Tribunals and Inquiries Act 1971(a), as applied by paragraph 7 of Schedule 7 to the Town and Country Planning (Scotland) Act 1972(b), and now vested in him(c) and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Town and Country Planning Appeals (Determination by Appointed Person) (Inquiries Procedure) (Scotland) Amendment Rules 1987 and shall come into force on 1st October 1987.

Amendment of principal Rules

2. The Town and Country Planning Appeals (Determination by Appointed Person) (Inquiries Procedure) (Scotland) Rules 1980(d) are hereby amended as follows:-

(a) in rule 2-

(i) in paragraph (1), there shall be omitted the words "under any of the classes of appeal specified in the Schedule to these rules";

(ii) the following paragraph shall be added at the end:-

"(4) Where the appeal is made by virtue of section 51 or 63A or 85 or 93 or 99 of the Act (appeals against determinations whether planning permission is required, appeals against notices under section 63 of the Act, enforcement notices, listed building enforcement notices or notices requiring the replacement of trees) or under section 33 as applied to an application for consent under an order made under section 58 (appeals in relation to tree preservation orders), rule 4(1) below shall not apply and the reference in these Rules to section 26 parties shall be omitted.";

(b) in rule 3-

(i) in paragraph (1) for the definition of "section 26 parties" there shall be substituted-

"“section 26 parties” means persons from whom representations are received-

(a) 1971 c.62.
(b) 1972 c.52.
(c) S.I. 1972/2002.
(d) S.I. 1980/1677.

- (a) by the planning authority in pursuance of section 26(3) of the Act or by the Secretary of State in pursuance of section 26(3), as applied by section 33(5) of the Act, before the end of the period mentioned in section 24(4) of the Act; and
 - (b) within the time prescribed, in relation to appeals under paragraph 7 of Schedule 10 to the Act, under that paragraph as applied by paragraph 8 of that Schedule, under either of these provisions as applied by section 54D or 262A of the Act or under any of these provisions as applied by section 1 of the Town and Country Planning Act 1984(a) in pursuance of regulations made under paragraph 2 of Schedule 10 to the Act; and
 - (c) within the time prescribed, in relation to appeals under section 91 of the Act, in terms of a development order under paragraph 3 of Schedule 12 to the Act;”;
- (ii) in paragraph (1) the following definitions shall be added:-
- ““conservation area consent” means the consent required by section 53(2) of the Act, as applied by section 262A of the Act, for works for the demolition of a building in a conservation area;”;
- ““listed building consent” means consent under section 53(2) or (2A) of the Act in respect of works for the demolition, extension or alteration of a listed building;”;
- (iii) the following paragraph shall be substituted in place of paragraph (2):-
- “(2) Where the appeal is an appeal against a notice served under the Act, any reference in these Rules to an application shall be construed as a reference to such a notice.”;
- (iv) the following paragraph shall be added after paragraph (2):-
- “(3) Where the appeal is made under provisions of the Act relating to a listed building, a building in a conservation area or a tree preservation order, the reference in these Rules to-
- (a) development, shall be construed as a reference to works for the demolition, alteration or extension of a listed building or to works for the demolition of a building in a conservation area or to the cutting down, topping or lopping of trees as the case may be; and
 - (b) permission, shall be construed as a reference to listed building consent, conservation area consent or consent under a tree preservation order as the case may be.”;
- (c) the Schedule shall be omitted.

Lord Advocate's Chambers
26th August 1987

Cameron of Lochbroom
Lord Advocate

(a) 1984 c.10.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Town and Country Planning Appeals (Determination by Appointed Person) (Inquiries Procedure) (Scotland) Rules 1980. The amendments are consequential on the extension of the prescribed classes of appeal which are to be determined by persons appointed for the purpose by the Secretary of State instead of by the Secretary of State and which are accordingly to be subject to the 1980 Rules. The additional prescribed classes of appeal to which the 1980 Rules now apply are appeals against refusal of listed building consent, consent to demolish buildings in conservation areas and enforcement notices related to such cases. These Rules also expressly disapply rule 4(1) of the 1980 Rules (which relates to requirements to supply preliminary information) in respect of appeals against determinations whether planning permission is required, appeals against notices under section 63 of the Town and Country Planning (Scotland) Act 1972, enforcement notices, listed building enforcement notices, notices requiring replacement of trees and refusal of consent under tree preservation orders.