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STATUTORY INSTRUMENTS

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**1992 No. 2086 (S.214)**

**TOWN AND COUNTRY PLANNING, SCOTLAND**

**The Town and Country Planning (Enforcement of Control) (No. 2) (Scotland) Regulations 1992**

<i>Made</i>	- - - -	<i>31st August 1992</i>
<i>Laid before Parliament</i>		<i>4th September 1992</i>
<i>Coming into force</i>	- -	<i>25th September 1992</i>

The Secretary of State, in exercise of the powers conferred on him by sections 84AA(10), 85(2B), including that section as read with sections 63A(3) and 93(2A), 87A and 273 of the Town and Country Planning (Scotland) Act 1972(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**PART I**

**CITATION, COMMENCEMENT AND INTERPRETATION**

**Citation and commencement**

1. These Regulations may be cited as the Town and Country Planning (Enforcement of Control) (No. 2) (Scotland) Regulations 1992 and shall come into force on 25th September 1992.

**Interpretation**

2. In these Regulations, unless the context otherwise requires,—

“the Act” means the Town and Country Planning (Scotland) Act 1972;

“conservation area consent” means consent required by section 262A(2)(2) of the Act;

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- (1) 1972 c. 52; section 63A(3) was inserted by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 2, paragraph 18; section 84AA(10) was inserted by the Planning and Compensation Act 1991 (c. 34), section 37; sections 87A and 85(2B) were inserted respectively by the Local Government and Planning (Scotland) Act 1982, section 44 and Schedule 2, paragraph 20(b); section 87A was amended by the Planning and Compensation Act 1991, Schedule 13, paragraph 22; section 93(2A) was inserted by the Local Government and Planning (Scotland) Act 1982, Schedule 2, paragraph 27(b); section 273 was amended by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), Schedule 3 paragraph 22, and by the Housing and Planning Act 1986 (c. 63), Schedule 6, Part IV, paragraph 6, and Schedule 9, paragraph 18(2).
- (2) Section 262A was inserted by the Town and Country Amenities Act 1974 (c. 32), section 2(1).

“conservation area enforcement notice” means a notice served under section 92(3), as applied by section 262A(8)(4), of the Act; and

other expressions have the same meaning for the purposes of these Regulations as they have for the purposes of the Act, or, as the case may be, for the purposes of Part IX (Planning Functions) of the Local Government (Scotland) Act 1973(5).

## PART II

### ENFORCEMENT NOTICES

#### Matters to be specified in an enforcement notice

3. Enforcement notices served under section 84 of the Act shall specify—
  - (a) the reasons why the planning authority consider it expedient to issue the notice; and
  - (b) the precise boundaries of the land to which the notice relates whether by reference to a plan or otherwise.

#### Explanatory note to be included in an enforcement notice

4. Every enforcement notice served by a planning authority under section 84 of the Act shall include an explanatory note which shall contain the following:—
  - (a) a copy of sections 83A, 83B, and 84 to 86 of the Act(6), or a summary of those sections including the following information:—
    - (i) that there is a right of appeal to the Secretary of State against the enforcement notice;
    - (ii) that an appeal must be made in writing to the Secretary of State—
      - (aa) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
      - (bb) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date;
    - (iii) the grounds on which an appeal may be brought under section 85 of the Act;
  - (b) notification that an appellant must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends him a notice so requiring him, a statement in writing specifying the grounds on which he is appealing against the enforcement notice and stating briefly the facts on which he proposes to rely in support of each of these grounds.

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(3) Section 92 was amended by Local Government (Scotland) Act 1973 (c. 65), section 172(2), and amended and repealed in part by the Local Government and Planning (Scotland) Act 1982, Schedule 2, paragraph 26 and Schedule 4, Part I.

(4) Section 262A(8) was amended and repealed in part by the Local Government and Planning (Scotland) Act 1982, Schedule 2, paragraph 38, and Schedule 4, Part I and was amended by the Housing and Planning Act 1986, Schedule 9, paragraph 21.

(5) 1973 c. 65.

(6) Sections 83A, 83B, 84, 84AA and 84AB were inserted by the Planning and Compensation Act 1991, sections 36 and 37; section 85(1) and (2) was substituted and sections 85(7A) and 86 were inserted by the Planning and Compensation Act 1991, sections 38 and 40; section 85 was amended and repealed in part by the Local Government and Planning (Scotland) Act 1982, Schedule 2, paragraph 20 and Schedule 4, Part I; section 85(7) was amended by the Local Government (Scotland) Act 1973, section 172(2).

## PART III

### APPEALS

#### Statement by appellant

5. A person who gives notice to the Secretary of State under sections 63A(2)(7), 85(2)(8), or 93(2) or section 93(2) as applied by section 262A(8) of the Act appealing against a waste land notice, an enforcement notice, a listed building enforcement notice or a conservation area enforcement notice and who does not send with it a statement in writing specifying the grounds on which he is appealing against the notice and stating briefly the facts on which he proposes to rely in support of each of those grounds shall submit such a statement to the Secretary of State not later than 14 days from the date on which the Secretary of State sends him a notice so requiring him.

#### Statement by planning authority

6.—(1) Where an appeal has been made to the Secretary of State against a waste land notice, an enforcement notice, a listed building enforcement notice or a conservation area enforcement notice, the planning authority shall submit to the Secretary of State and to the appellant a statement indicating the submissions which they propose to put forward on the appeal and including the following matters:—

- (a) a summary of the authority's response to each ground of appeal pleaded by the appellant;
- (b) in the case of an enforcement notice, a statement as to whether the authority would be prepared to grant planning permission for the development alleged in the enforcement notice to have been carried out and, if so, the details of any condition they would wish to attach to such permission;
- (c) in the case of a listed building enforcement notice or a conservation area enforcement notice, a statement as to whether the authority would be prepared to grant listed building consent or conservation area consent, whichever is appropriate, for the works to which such notice relates and, if so, the details of any condition they would wish to attach to such consent.

(2) Any statement which is required to be submitted by paragraph (1) of this regulation shall be submitted within 28 days of the Secretary of State notifying the planning authority of the appeal.

## PART IV

### REGISTER OF WASTE LAND NOTICES, ENFORCEMENT NOTICES, BREACH OF CONDITION NOTICES AND STOP NOTICES

#### Register of waste land notices, enforcement notices, breach of condition notices and stop notices

7.—(1) Subject to paragraph (2) of this regulation, the register which every general and district planning authority are required to keep under the provisions of section 87A of the Act shall contain the following information with respect to every waste land notice, enforcement notice, breach of condition notice and stop notice served in relation to land in their district:—

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(7) Section 63A was inserted by the Local Government and Planning (Scotland) Act 1982, Schedule 2, paragraph 18 and amended by the Housing and Planning Act 1986, Schedule 11, paragraphs 33 and 34.

(8) Section 85(2) was substituted by the Planning and Compensation Act 1991, section 38(1).

- (a) the address of the land to which the notice relates, or a plan by reference to which its situation may be ascertained;
  - (b) the name of the authority serving the notice;
  - (c) the date of service of the notice;
  - (d) the names of the persons on whom the notice is served;
  - (e) in the case of a waste land notice, a statement or summary of the circumstances giving rise to the notice;
  - (f) in the case of an enforcement notice, a statement or summary of—
    - (i) the breach of planning control alleged; and
    - (ii) any waiver or relaxation of any requirement of the notice made in accordance with section 84AB(1)(b) of the Act.
  - (g) in the case of a breach of condition notice, sufficient details of the relevant planning permission in order to enable it to be identified together with a statement or summary of the condition which has not been complied with;
  - (h) in the case of a stop notice, a statement or summary of activity prohibited by any such stop notice with reference to the relevant enforcement notice;
  - (i) a statement or summary of the requirements of the notice, including the period within which any required steps are to be taken;
  - (j) the date specified in the notice on which it is to take effect;
  - (k) in the case of a waste land notice or an enforcement notice, information on any postponement of the date specified in the notice on which it is to take effect where an appeal has been made against the notice; and, if applicable, whether any correction or variation was made to the notice by the Secretary of State on appeal;
  - (l) if applicable, the date of the withdrawal of any stop notice with reference to the relevant enforcement notice;
  - (m) the date, if any, on which the planning authority are satisfied that the steps required under section 84AA(3) of the Act have been taken.
- (2) The entry relating to any notice and everything related to such notice shall be deleted from the register—
- (a) in the case of waste land notice or an enforcement notice, when the notice is either quashed by the Secretary of State following an appeal or the notice is withdrawn;
  - (b) in the case of a breach of condition notice, when an order for reduction has been granted by the Court of Session or the notice is withdrawn; and
  - (c) in the case of a stop notice, when the enforcement notice to which it relates is either quashed by the Secretary of State following an appeal or the notice is withdrawn.
- (3) Every register shall include an index for enabling a person to trace an entry in the register by reference to the address of the land to which the notice relates.
- (4) The information specified in paragraph (1) of this regulation shall be entered in the register as soon as practicable and in any event within 9 days of the occurrence to which it relates.
- (5) Registers shall be kept at the office of every general and district planning authority: Provided that so much of the register as relates to land in a part of the district of the authority may be kept at a place within or convenient to that part.
- (6) Reference in this regulation to the Secretary of State shall be construed as including references to a person appointed by the Secretary of State under Schedule 7 to the Act to determine an appeal.

## PART V

### NOTICES ISSUED BY THE SECRETARY OF STATE

#### Application of regulations

**8.** These Regulations shall apply with respect to enforcement notices served by the Secretary of State, to appeals made against such notices, to stop notices served by the Secretary of State and to appeals against listed building enforcement notices and conservation area enforcement notices served by the Secretary of State as they apply with respect to such notices served by planning authorities or, as the case may be, to appeals against such notices, as if—

- (a) for references to a planning authority there were substituted references to the Secretary of State;
- (b) in regulation 3, and in regulation 4 for “section 84” there were substituted “sections 260(5)”;
- (c) in regulation 4, paragraph (a) for “sections 83A, 83B, and 84 to 86” there were substituted “sections 83A, 83B and 84 to 86, and 260(5)”;
- (d) for regulation 6 the following were substituted:—

“**6.** Where an appeal has been made to the Secretary of State against an enforcement notice, a listed building enforcement notice or a conservation area enforcement notice which he has served, the Secretary of State shall serve on the appellant a statement indicating the submissions which he proposes to put forward on the appeal including a summary of his response to each ground of appeal pleaded by the appellant.”.

## PART VI

#### Revocation

**9.** The Town and Country Planning (Enforcement of Control) (Scotland) Regulations 1992(9) are hereby revoked.

St Andrew’s House,  
Edinburgh  
31st August 1992

*Allan Stewart*  
Parliamentary Under Secretary of State, Scottish  
Office

**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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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and re-enact, with certain amendments, the Town and Country Planning (Enforcement of Control) (Scotland) Regulations 1992.

The main amendments now introduced are:

- (a) the amendment of the requirement for planning authorities to copy or summarise sections 83A to 85 of the 1972 Act as part of the explanatory note to be included with each enforcement notice. Sections 83C and 83D, which were inadvertently included in the requirement as set out in the previous regulations, are now excluded from that requirement, while section 86 is added;
- (b) the inclusion of a requirement to register, in the register required by section 87A of the 1972 Act, certain details in respect of breach of condition notices;
- (c) the inclusion of a requirement to register, in the register required by section 87A of the 1972 Act, the details of any decision by a planning authority to waive or relax the requirements of an enforcement notice.