

PLANNING ETC. (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 3 – Development Management

Section 19 – Appeals etc.

109. **Subsection (1)** amends section 47 of the 1997 Act to clarify that an appeal under subsection (1) is to be against the decision of a planning authority to refuse an application or grant it subject to conditions. It also adds a new subsection (1A) to exclude from subsection (1) actions taken by an authority in a review of a delegated decision under section 43A(8). This change combined with the changes made by subsections (3) and (4) give a party aggrieved by the decision on a review of a delegated decision the right to appeal to the Court of Session rather than to the Scottish Ministers.
110. **Subsection (2)** inserts a new section 47A into the 1997 Act. This sets out the circumstances under which the applicant may be allowed to raise a matter which was not part of the application determined by the planning authority, when making an appeal under section 47(1).
111. **Subsection (3)** amends section 237 of the 1997 Act (validity of certain plans, schemes, orders and actions) in relation to the delegation of decisions by planning authorities under new section 43A.
112. **Subsection (4)** amends section 239 of the 1997 Act (proceedings for questioning the validity of certain orders, decisions and directions) in relation to the delegation of decisions by planning authorities under new section 43A.
113. **Subsection (5)** amends section 267 of the 1997 Act (procedure on certain appeals and applications) to extend the scope of regulations to cover appeals and applications under the 1997 Act irrespective of whether the Scottish Ministers are required to afford any person an opportunity of appearing before and being heard by a person appointed by Ministers. It inserts new subsections (1A), (1B) and (1C) which clarify further the content of the regulations. These provisions replace subsection (3) which is repealed.