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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 220**

**TOWN AND COUNTRY PLANNING**

**The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2009**

<i>Made</i>	- - - -	<i>3rd June 2009</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>4th June 2009</i>
<i>Coming into force</i>	- -	<i>3rd August 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20B, 30, 32, 34, 38A, 43A, 131, 147, 267 and 275 of the Town and Country Planning (Scotland) Act 1997<sup>(1)</sup> and of all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2009 and come into force on 3rd August 2009.

(2) In these Regulations—

“the 1990 Regulations” means the Town and Country Planning (Appeals) (Written Submissions Procedure) (Scotland) Regulations 1990<sup>(2)</sup>;

“the 1992 Regulations” means the Town and Country Planning (Enforcement of Control) (No. 2) (Scotland) Regulations 1992<sup>(3)</sup>.

**Amendment of the Town and Country Planning (Appeals) (Written Submissions Procedure) (Scotland) Regulations 1990**

2.—(1) Subject to paragraph (6) the 1990 Regulations are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation) in the definition of “application” for “paragraphs 3, 4, 6, and 7” substitute “paragraph 6”.

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(1) 1997 c. 8. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). Sections 20B, 38A and 43A are introduced into the Town and Country Planning (Scotland) Act 1997 by sections 2, 14 and 17 of the Planning etc. (Scotland) Act 2006 (asp 17) (“the 2006 Act”) and sections 30, 32, 34, 267 and 275 are amended by sections 7, 10, 18 and 54 of the 2006 Act.

(2) S.I.1990/507 as amended by S.S.I. 2004/332.

(3) S.I. 1992/2086 as amended by S.S.I. 2004/332 and S.S.I. 2007/268.

- (3) Omit regulation 5 (appeals questionnaire).
- (4) In regulation 6 (written submissions)–
  - (a) omit paragraph (1);
  - (b) in paragraph (2) for “paragraphs 3, 4 and 6” substitute “paragraph 6”; and
  - (c) in paragraph (3)–
    - (i) for “paragraphs 2, 5, 7 and 8” substitute “paragraph 8”; and
    - (ii) omit “(1) or”.
- (5) In the Schedule omit paragraphs 1, 2, 3, 4, 5 and 7.
- (6) The 1990 Regulations shall continue to have effect in relation to an appeal in respect of which notice of appeal is given to the Scottish Ministers before 3rd August 2009 as they had effect immediately before that date.

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

- 3.—(1) Subject to paragraph (6), the 1992 Regulations are amended in accordance with paragraphs (2) to (5).
- (2) In regulation 5 (statement by appellant)–
    - (a) for “sections 63A(2), 85(2) or” substitute “section”; and
    - (b) omit “a waste land notice, an enforcement notice,”.
  - (3) In regulation 6(1) (statement by planning authority) omit–
    - (a) “a waste land notice, an enforcement notice,”; and
    - (b) sub paragraph (b).
  - (4) In regulation 7 (register of wasteland notices, enforcement notices, breach of condition notices and stop notices)–
    - (a) in paragraph (1)–
      - (i) after “breach of condition notice” where those words first occur insert “, notice under section 33A of the Act, temporary stop notice”; and
      - (ii) after sub-paragraph (m) insert–
        - “(n) in the case of a temporary stop notice, a statement or summary of the activity prohibited by the notice and the date on which the temporary stop notice is to cease to have effect;
        - (o) in the case of a notice under section 33A, the date specified in the notice by which an application for planning permission for the development to which the notice relates is to be made;”; and
    - (b) in paragraph (2)–
      - (i) omit “and” following sub-paragraph (b); and
      - (ii) at the end of sub-paragraph (c) insert–
        - “; and
        - (d) in the case of a temporary stop notice, when the notice is withdrawn.”.
  - (5) In regulation 8 (application of regulations)–
    - (a) omit “, to appeals made against such notices”; and
    - (b) in paragraph (d) in the text of regulation 6 as substituted omit “an enforcement notice”.

(6) Regulations 5, 6 and 8 of the 1992 Regulations shall continue to have effect in relation to an appeal in respect of which notice is given to the Scottish Ministers under section 130(2) or 180(2) before 3rd August 2009 as they had effect immediately before that date.

#### **Amendment of the Town and Country Planning (Appeals) (Scotland) Regulations 2008**

4.—(1) The Town and Country Planning (Appeals) (Scotland) Regulations 2008(4) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 5(2)(a) and (b) (notification to interested parties) for “person” substitute “party”.

(3) In regulation 19(1)(a) (further copies of documents etc) for “appropriate” substitute “appointed”.

#### **Amendment of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008**

5.—(1) The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008(5) are amended in accordance with paragraph (2).

(2) In regulation 10(2)(a) and (b) (notification to interested parties and publication) for “person” substitute “party”.

#### **Amendment of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008**

6.—(1) The Town and Country Planning (Development Planning) (Scotland) Regulations 2008(6) are amended in accordance with paragraph (2).

(2) In regulation 24 (development plan schemes) after “timetable” insert “proposed”.

#### **Amendment of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008**

7.—(1) The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008(7) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 2(1)(b) (application) omit “in principle”.

(3) In regulation 3(1) (interpretation) in the definition of “neighbouring land” for “land which” substitute “an area or plot of land which, or part of which,”.

(4) In regulation 13(3) (design and access statements) at the end of sub-paragraph (b)(iii) insert—  
“; or

(c) an application for planning permission in principle.”.

(5) In regulation 20(1)(c) and (d) (publication of application by the planning authority) after “application” insert “is made under regulation 9, 10 or 11 and”.

(6) In regulation 27(1)(b) (pre-determination of hearings) omit “local”.

(7) In regulation 45 (transitional provisions)—

(a) in paragraph (1)(b) omit “in principle”; and

(b) for paragraph (3) substitute—

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(4) S.S.I. 2008/434.

(5) S.S.I. 2008/433.

(6) S.S.I. 2008/426.

(7) S.S.I. 2008/432.

“(3) In regulation 26–

- (a) in paragraph (2)(a) and (b) for “validation date” substitute, “the date of receipt of the application”; and
- (b) omit paragraph (4).

(3A) References in regulations 26 and 28 and in Schedule 2 to applications made under regulations 9 to 12 of these Regulations are to be treated for the purposes of the application of those provisions in the case mentioned in paragraph (1) as references to applications made under articles 3, 4, 5 or 6, as the case may be, of the 1992 Order.”.

(8) In regulation 47 (revocations and savings)–

- (a) in paragraph (1) for “(4)” substitute (4A);
- (b) in paragraph (3)(b) omit “in principle”;
- (c) in paragraph (4)(b) for “14” substitute “14(2)”; and
- (d) after paragraph (4) insert–

“(4A) Parts 1 and 2 and Schedules 2 and 4 to the 1992 Order shall continue to apply as they did immediately before 3rd August 2009 for the purposes of paragraph 7(5) of Schedule 9 and paragraph 6(3) of Schedule 10 to the Act.”.

(9) In Schedule 2 (registers under sections 36(1) to (4))–

- (a) omit “and” following paragraph 3(d); and
- (b) at the end of paragraph 3(e) insert–

“; and

- (f) where an application is deemed to be refused under regulation 7(5) of the Environmental Impact Assessment (Scotland) Regulations 1999(8) a statement to that effect including the date on which the application is deemed to be refused”.

St Andrew’s House,  
Edinburgh  
3rd June 2009

*STEWART STEVENSON*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

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

These Regulations make amendments to the Town and Country Planning (Appeals) (Written Submissions Procedure) (Scotland) Regulations 1990; the Town and Country Planning (Enforcement of Control) (No. 2) (Scotland) Regulations 1992; Town and Country Planning (Appeals) (Scotland) Regulations 2008; the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008; the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

Regulation 2 amends the Town and Country Planning (Appeals) (Written Submissions Procedure) (Scotland) Regulations 1990 to the effect that they will not apply on or after 3rd August 2009 to appeals in respect of which the procedure is governed by the Town and Country Planning (Appeals) (Scotland) Regulations 2008. Regulation 2(6) makes a transitional provision to ensure that these Regulations continue to apply in respect of appeals made to the Scottish Ministers before that date.

Regulation 3 amends the Town and Country Planning (Enforcement of Control) (No. 2) (Scotland) Regulations 1992. Provisions relating to the content of a statement which is to accompany an appeal to the Scottish Ministers under sections 130 and 180 of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) (previously sections 85 and 63A respectively of the Town and Country Planning (Scotland) Act 1972) are contained in Town and Country Planning (Appeals) (Scotland) Regulations 2008 and regulation 3(2) and (3) amends regulations 5, 6 and 8 of the Regulations to remove references to these proceedings. Regulation 3(6) however continues to apply regulations 6 and 8 in their unamended form to appeals made to the Scottish Ministers before 3rd August 2009. Regulation 3(4) makes provision in relation to information to be placed on the enforcement register in respect of temporary stop notices and notices under section 33A of the 1997 Act.

Regulations 4 to 6 make minor typographical amendments to the Town and Country Planning (Appeals) (Scotland) Regulations 2008; the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008; the Town and Country Planning (Development Planning) (Scotland) Regulations 2008, respectively.

Regulation 7 amends the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. Regulation 7(3) amends the definition of “neighbouring land” to make it clear that the land in question is an area or plot of land conterminous with or within 20 metres of the boundary of the land for which development is proposed. Regulation 7(4) amends regulation 13 to ensure that it is consistent with the terms of regulation 10 in not requiring a design and access statement in connection with an application for planning permission in principle. Regulation 7(5) provides that the requirement to publish a newspaper notice in the circumstances specified in regulation 20(1)(c) and (d) only applies in respect of applications for planning permission. Regulation 7(6) amends regulation 27(1) to the effect that a pre determination hearing under section 38A of the 1997 Act will have to be offered in connection with an application for planning permission for a major development which is significantly contrary to the development plan rather than to the local development plan. Regulations 7(7) and (8) make minor alterations to the transitional provisions contained in regulations 45 and 47. Regulation 7(9) amends Schedule 5 to require information regarding deemed refusals of applications under the Environmental Impact Assessment (Scotland) Regulations 1999 to be placed on the planning register.

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