
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 156

**The Town and Country Planning
(Appeals) (Scotland) Regulations 2013**

PART 3

Procedure for determination

Determination without further procedure

7. Where the appointed person considers that no further representations are or information is required to enable the appeal to be determined, the appointed person may determine the appeal without further procedure.

Opt-in notice to interested parties

8.—(1) Where the appointed person does not determine the appeal without further procedure, the appointed person may (but is not required to) invite, by notice given in accordance with this regulation, any or all interested parties to confirm if they wish to participate in any further procedure.

(2) The notice given under paragraph (1) is to—

- (a) state that if the interested party wishes to participate in any further procedure conducted in relation to the appeal they must send a notice ('an opt-in notice') to the appointed person informing the appointed person of that wish;
- (b) include information as to how the opt-in notice may be given and specify the date (being not less than 14 days after the date on which the notice under paragraph (1) is given) on or before which the opt-in notice must be given to the appointed person; and
- (c) inform the interested party that if they do not give an opt-in notice to the appointed person before that date they may lose the opportunity to participate in any further procedure.

(3) Where notice is given under paragraph (1) any reference in regulations 10 and 12 and in the Hearing Session Rules and Inquiry Session Rules to an interested party is to be treated as including only those interested parties who have given an opt-in notice to the appointed person in accordance with this regulation.

(4) In this regulation "opt-in notice" has the meaning given in paragraph (2)(a).

Decision as to further procedure

9.—(1) Where the appointed person does not determine the appeal without further procedure, the appointed person may determine the manner in which the appeal is to be conducted.

(2) The appointed person may determine at any stage of the appeal that further representations should be made or further information should be made available or provided to enable the appeal to be determined.

(3) Where the appointed person so determines, the appeal or a stage of the appeal is to be conducted by one of, or by a combination of, the procedures mentioned in paragraph (4).

- (4) The procedures are—
 - (a) by means of written submissions;
 - (b) by the holding of one or more hearing sessions;
 - (c) by the holding of one or more inquiry sessions;
 - (d) by means of an inspection of the land to which the appeal relates.
- (5) Where the appointed person considers that further representations should be made or further information should be made available or provided by means of—
 - (a) written submissions, regulation 11 applies.
 - (b) a hearing session, the Hearing Session Rules apply;
 - (c) an inquiry session, the Inquiry Session Rules apply;
 - (d) an inspection of the land, regulation 12 applies.
- (6) Notices given under regulation 11(1), rule 1(1) of the Hearing Session Rules or rule 1(1) of the Inquiry Session Rules may be given separately or combined into a single notice.

Pre-examination meetings

- 10.**—(1) The appointed person may hold a meeting (“a pre-examination meeting”) to consider the manner in which the appeal or any stage of the appeal is to be conducted with a view to securing that the appeal or any stage of the appeal is conducted efficiently and expeditiously.
- (2) The appointed person is to determine (and may subsequently vary) the date, time and place for the holding of a pre-examination meeting.
 - (3) The appointed person must give such notice of the holding of a pre-examination meeting and of the date, time and place where it is to be held (and any subsequent variation thereof) as may appear to the appointed person to be reasonable in the circumstances—
 - (a) where a pre-examination meeting is to be held in connection only with the conduct of a particular hearing session or inquiry session, to those persons entitled to appear at that hearing session or inquiry session; and
 - (b) in any other case, to the appellant, the planning authority and any interested party.
 - (4) The appointed person is to determine the matters to be discussed and the procedure to be followed at the pre-examination meeting.

Written submissions

- 11.**—(1) Where the appointed person has determined that further representations should be made or further information should be provided by means of written submissions, the appointed person may request such further representations or information and is to do so by giving written notice to that effect to—
- (a) both the appellant and the planning authority; and
 - (b) any other person from whom the appointed person wishes to receive further representations or information.
- (2) The procedure notice given under paragraph (1) is to—
 - (a) set out the matters on which such further representations or information is requested;
 - (b) specify the date by which such further representations or information are to be sent to the appointed person; and
 - (c) state the name and address of any person to whom the procedure notice is given.

(3) Any further representations made or information provided in response to the procedure notice (“the procedure notice response”) are to be sent to the appointed person on or before the date specified for that purpose in the procedure notice and a copy of any procedure notice response is to be sent on or before that date to any other person to whom the procedure notice was given.

(4) Within a period of 14 days from receipt of a copy of the procedure notice response, any person to whom the procedure notice was given—

- (a) may send comments to the appointed person in reply to the procedure notice response; and
- (b) must, when doing so, send a copy of such comments to any other person to whom the procedure notice was given.

(5) A copy of any procedure notice response or any comments required to be sent to a person under this regulation is to be sent to the person at the address stated for that person in the procedure notice.

(6) In this regulation “procedure notice response” has the meaning given in paragraph (3).

Site inspections

12.—(1) The appointed person may at any time make—

- (a) an unaccompanied inspection of the land to which the appeal relates; or
- (b) an inspection of the land in the company of such of the persons notified under paragraph (3) as desire to attend the inspection.

(2) Where the appointed person intends to make an unaccompanied inspection, the appointed person is to inform the appellant and the planning authority of such intention.

(3) Where the appointed person intends to make an accompanied inspection, the appointed person is to give such notice of the date and time of the proposed inspection as may appear to the appointed person to be reasonable in the circumstances to—

- (a) the appellant;
- (b) the planning authority; and
- (c) any interested party.

(4) The appointed person is not bound to defer an inspection if any person to whom notice was given under paragraph (3) is not present at the time appointed.

New evidence

13.—(1) If, after the conclusion of any further procedure conducted by virtue of regulation 9, the appointed person proposes to take into consideration any new evidence which is material to the determination of the appeal, the appointed person must not reach a decision on the appeal without affording the appellant, the planning authority and any other relevant party an opportunity of making representations on such new evidence.

(2) In this regulation—

“relevant party” means—

- (a) where the new evidence relates to a specified matter considered at a hearing session or inquiry session, any person entitled to appear at that hearing session or inquiry session;
- (b) where the new evidence relates to matters in respect of which further written representations or information was sought by a procedure notice under regulation 11, any person to whom such notice was sent.