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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 155**

**The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

**PART 3**

Procedure on applications for planning permission

**Applications for planning permission**

**8.** Any application made under any of regulations 9 to 12 is to be made to the planning authority within whose district the development to which the application relates is situated.

**Form and content of an application for planning permission**

**9.—(1)** An application to a planning authority for planning permission (other than planning permission in principle) is to be made in accordance with this regulation.

- (2) An application for planning permission must contain—
- (a) a written description of the development to which it relates;
  - (b) the postal address of the land to which the development relates or, if the land in question has no postal address, a description of the location of the land; and
  - (c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.
- (3) The application must be accompanied—
- (a) by a plan—
    - (i) sufficient to identify the land to which it relates; and
    - (ii) showing the situation of the land in relation to the locality and in particular in relation to neighbouring land;
  - (b) by such other plans and drawings as are necessary to describe the development to which it relates;
  - (c) where any neighbouring land is owned by the applicant, by a plan identifying that land;
  - (d) by one or other of the certificates required under regulation 15;
  - (e) where the application relates to development belonging to the categories of national developments or major developments, by a pre-application consultation report;
  - (f) where the application relates to the installation of an antenna to be employed in an electronic communications network, by an ICNIRP declaration;
  - (g) where required under regulation 13, by a design statement or a design and access statement;
  - (h) where the application relates to Crown land by a statement that the application is made in respect of Crown land; and
  - (i) by any fee payable under the Fees Regulations.

## (4) In this regulation—

“electronic communications network” has the same meaning as in section 32 of the Communications Act 2003<sup>(1)</sup> (meaning of electronic communications networks and services); and

“ICNIRP declaration” means a declaration by the applicant that the antenna is designed to be in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionising Radiation Protection, as expressed in EU Council recommendation of 12th July 1999<sup>(2)</sup> on the limitation of exposure of the general public to electromagnetic fields (0Hz to 300GHz).

**Application for planning permission in principle**

**10.**—(1) An application to a planning authority for planning permission in principle is to be made in accordance with the requirements of this regulation.

## (2) An application for planning permission in principle must contain—

- (a) a written description outlining the development to which it relates;
- (b) the postal address of the land to which the development relates or, if the land in question has no postal address, a description of the location of the land; and
- (c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.

## (3) The application must be accompanied—

- (a) by a plan—
  - (i) sufficient to identify the land to which it relates; and
  - (ii) showing the situation of the land in relation to the locality and in particular in relation to neighbouring land;
- (b) where any neighbouring land is owned by the applicant, by a plan identifying that land;
- (c) by one or other of the certificates required under regulation 15;
- (d) where access to the site is to be taken directly from a road, by a description of the location of the access points to the proposed development;
- (e) where the application relates to development belonging to the categories of national developments or major developments, by a pre-application consultation report;
- (f) where the application relates to Crown land by a statement that the application is made in respect of Crown land; and
- (g) by any fee payable under the Fees Regulations.

**Further applications****11.**—(1) Where—

- (a) planning permission has been granted for development;
- (b) that development has not been commenced; and
- (c) a time limit imposed by or under section 58 (duration of planning permission) or section 59 (planning permission in principle) of the Act has not expired,

an application (other than an application made under section 42 of the Act (application to develop land without compliance with previous conditions)) is made for planning permission for the same

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(1) 2003 c.21.

(2) 1999/519/EC.

development, the application may be made without complying with the provisions of regulation 9 or regulation 10 other than regulation 9(2)(c) and (3)(c), (d), (e), (h), and (i) or regulation 10(2)(c) and (3)(b), (c), (e), (f) and (g).

(2) Where an application for planning permission is made under section 42 of the Act, the application may be made without complying with the provisions of regulation 9 or regulation 10 other than regulation 9(2)(c) and (3)(c), (d), (h), and (i) or regulation 10(2)(c) and (3)(b), (c), (f) and (g).

(3) An application mentioned in paragraph (1) or (2) is to be in writing and is to give sufficient information to enable the planning authority to identify the previous grant of planning permission and where it is made under section 42 of the Act is to contain a statement to that effect.

### **Application for approval of matters specified in conditions**

**12.**—(1) An application to a planning authority for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle must be made in accordance with this regulation.

(2) An application for such approval, consent or agreement is to be in writing and must—

- (a) identify the planning permission to which it relates;
- (b) contain a description of the matter in respect of which the application is made;
- (c) state the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent;
- (d) be accompanied—
  - (i) where the application relates to the alteration or construction of buildings, other structures or roads or to landscaping, by plans and drawings describing the matter in respect of which the application is made;
  - (ii) where any neighbouring land is owned by the applicant, by a plan identifying that land; and
  - (iii) by any fee payable under the Fees Regulations.

(3) In this regulation “landscaping” means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes screening by fences, walls or other means, the planting of trees, hedges, shrubs or grass, the formation of banks, terraces or other earthworks, the laying out or provision of gardens, courts or squares, water features, sculpture, or public art and the provision of other amenity features.

### **Design and access statements**

**13.**—(1) Subject to paragraph (3), an application for planning permission for development belonging to the categories of national developments or major developments must be accompanied by a design and access statement.

(2) Subject to paragraph (3), an application for planning permission for development belonging to the category of local developments where the land to which the application relates is situated within—

- (a) a World Heritage Site;
- (b) a conservation area;
- (c) a historic garden or designed landscape;
- (d) a National Scenic Area;
- (e) the site of a scheduled monument; or

(f) the curtilage of a category A listed building,  
must be accompanied by a design statement other than where the development in question comprises the alteration or extension of an existing building.

(3) This regulation does not apply to—

- (a) an application for planning permission made under section 42 of the Act;
- (b) an application for planning permission for—
  - (i) engineering or mining operations;
  - (ii) householder development; or
  - (iii) a material change in the use of land or buildings; or
- (c) an application for planning permission in principle.

(4) A design statement is a written statement about the design principles and concepts that have been applied to the development and which—

- (a) explains the policy or approach adopted as to design and how any policies relating to design in the development plan have been taken into account;
- (b) describes the steps taken to appraise the context of the development and demonstrates how the design of the development takes that context into account in relation to its proposed use; and
- (c) states what, if any, consultation has been undertaken on issues relating to the design principles and concepts that have been applied to the development and what account has been taken of the outcome of any such consultation.

(5) A design and access statement is a document containing both a design statement and written statement about how issues relating to access to the development for disabled people have been dealt with and which—

- (a) explains the policy or approach adopted as to such access and, in particular, how—
  - (i) policies relating to such access in the development plan have been taken into account; and
  - (ii) any specific issues which might affect access to the development for disabled people have been addressed;
- (b) describes how features which ensure access to the development for disabled people will be maintained; and
- (c) states what, if any, consultation has been undertaken on issues relating to access to the development for disabled people and what account has been taken of the outcome of any such consultation.

(6) In this regulation “conservation area” means an area for the time being designated under section 61 of the Listed Buildings Act(3) (designation of conservation areas).

#### **Validation date**

14.—(1) An application made under any of regulations 9 to 12 is to be taken to have been made on the date on which the last of the items or information required to be contained in or accompany the application in accordance with regulations 9, 10, 11 or 12 respectively is received by the planning authority.

(2) Where the planning authority has received an application for their determination that their approval is required as a condition of permission granted by a development order and the planning

authority has determined that their approval is required, the date when the application is to be taken to have been made is the date when any details required under the development order and the appropriate fee were lodged with the planning authority or, where these events do not all occur on the same day, the date when the last of such events occurs.

(3) The date on which an application for any other approval, consent or agreement required by a condition imposed on a grant of planning permission is to be taken to have been made is the date on which it is received by the planning authority.

### **Notices to owners and agricultural tenants under section 35 of the Act**

**15.**—(1) The applicant is to give notice in the form set out in Schedule 1 to any person (other than the applicant) who at the beginning of the prescribed period is the owner of any land to which the application relates or an agricultural tenant.

(2) The applicant must issue a certificate—

(a) stating whether or not the land or part of the land to which the application relates constitutes or forms part of agricultural land; and

(b) stating, as appropriate—

(i) that at the beginning of the prescribed period no person (other than the applicant) was the owner of any of the land to which the application relates or an agricultural tenant;

(ii) that the applicant has given notice to every person (other than the applicant) who at the beginning of the prescribed period was the owner of any land to which the application relates or an agricultural tenant; or

(iii) that the applicant is unable to give notice to every such person.

(3) A certificate issued—

(a) under paragraph 2(b)(ii) or (iii) must set out the name of every person to whom notice was given and the address at and date on which such notice was given;

(b) under paragraph 2(b)(iii) must certify that the applicant has taken reasonable steps (specifying them) to ascertain the names and addresses of those persons to whom the applicant has been unable to give notice.

(4) In the case of a minerals application this regulation applies with the modifications that in paragraphs (1) and (2)(b) for “the owner” substitute “, to the applicant’s knowledge, the owner”.

(5) The applications prescribed for the purposes of paragraph (b) of the definition of “owner” in section 35(7) of the Act are minerals applications, and the minerals prescribed for the purposes of that paragraph are any minerals other than oil, gas, coal, gold or silver.

(6) In this regulation—

“agricultural land” has the meaning given to it by section 35(7) of the Act (notice etc. of applications to owners and agricultural tenants);

“agricultural tenant” means the tenant of agricultural land any part of which is comprised in the land to which an application relates; and

“prescribed period” means the period of 21 days ending with the date of the application.