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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 4

#### Procedure by planning authority

##### Registers of applications

**16.** The register of applications for planning permission, which every planning authority is required to keep under section 36(1) of the Act (registers of applications etc.), is to be kept in the manner specified in Schedule 2.

##### Acknowledgment of applications

**17.—(1)** When the planning authority are in receipt of an application made in accordance with and accompanied by the information and documents required by regulation 9, 10, 11 or 12, as the case may be, the planning authority must send to the applicant an acknowledgement thereof.

(2) The acknowledgement sent under paragraph (1) is to—

- (a) include an explanation of the timescales within which the planning authority are to give notice to the applicant of their decision on the application; and
- (b) inform the applicant of the right to appeal to the Scottish Ministers under section 47 of the Act or to require a review under section 43A(8) of the Act (local development schemes and delegation).

(3) Where the application is not made in accordance with and accompanied by the information and documents required by regulation 9, 10, 11 or 12, as the case may be, the planning authority must send to the applicant a notice identifying the information or documentation which the applicant still requires to submit in order to comply with such regulation.

##### Notification by the planning authority

**18.—(1)** Subject to regulation 19, a planning authority must give notice in accordance with this regulation that—

- (a) an application for planning permission; or
- (b) an application for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle,

has been made.

(2) Notice under paragraph (1) is to be given—

- (a) where there are premises situated on the neighbouring land to which the notice can be sent to the owner, lessee or occupier of such premises, by sending a notice addressed to “the Owner, Lessee or Occupier” to such premises; and

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- (b) where there are no such premises, by publication of a notice in accordance with regulation 20.
- (3) The notice to be given in accordance with paragraph (2)(a) must—
  - (a) state the date on which the notice is sent;
  - (b) state the name of the applicant and, where an agent is acting on behalf of the applicant, the name and address of such agent;
  - (c) include the reference number given to the application by the planning authority;
  - (d) include a description of the development to which the application relates;
  - (e) include 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;
  - (f) state how the application, plans or drawings relating to it and other documents submitted in connection with it may be inspected;
  - (g) state that representations may be made to the planning authority and include information as to how any representations may be made and by which date they must be made (being a date not earlier than 21 days after the date on which the notice is sent);
  - (h) be accompanied by a plan showing the situation of the land to which the application relates in relation to neighbouring land;
  - (i) include a statement as to how information explaining the manner in which applications for planning permission are handled and the procedures which are followed in relation to such applications can be obtained; and
  - (j) where the development to which the application belongs is a class of development prescribed for the purposes of section 35A(1) of the Act, include a statement that notwithstanding that comments may have been made to the applicant prior to the application being made, persons wishing to make representations in respect of the application should do so to the planning authority in the manner indicated in the notice.

### **Notification of minerals applications**

**19.—(1)** In the case of a minerals application the planning authority are to give notice of the application by affixing a notice to objects (not exceeding 5 in number) situated in the vicinity of the land to which the development relates.

- (2) Notice under paragraph (1) must—
  - (a) be displayed so as to be easily visible to and legible by members of the public;
  - (b) be left in position for not less than 7 days;
  - (c) state that an application for planning permission has been made to the planning authority and give a brief description of the proposed development and its location;
  - (d) state how the application, plans or drawings relating to it and other documents submitted in connection with it may be inspected; and
  - (e) state that representations may be made to the planning authority and include information as to how any representations may be made and by which date they must be made (being a date not earlier than 14 days beginning with the date of the notice).

(3) The planning authority is not to be treated as having failed to satisfy the requirements of paragraph (1), if the notice is, without any fault or intention of the planning authority, removed, obscured or defaced before the period of 7 days has elapsed, if the planning authority have taken reasonable steps for its protection and, if need be, replacement.

### **Publication of application by the planning authority**

**20.**—(1) Subject to paragraphs (3) to (5), in the circumstances specified in paragraph (2) the planning authority must publish a notice in the form set out in Schedule 4 in a newspaper circulating in the locality in which the neighbouring land is situated.

(2) The circumstances are—

- (a) it is not possible for the planning authority to carry out notification in terms of regulation 18 because there are no premises situated on the neighbouring land to which the notification can be sent;
- (b) the applicant has submitted with an application for planning permission under regulations 9, 10 or 11 a certificate issued under regulation 15(2)(b)(iii);
- (c) the application is made under regulation 9, 10 or 11 and relates to development of one or more of the classes of development specified in Schedule 3, or
- (d) the application is made under regulation 9, 10 or 11 and relates to development which does not accord with the provisions of the development plan.

(3) Paragraph (2)(a) does not apply where—

- (a) all the neighbouring land referred to in that paragraph is owned by the planning authority or by the applicant; or
- (b) the application relates to householder development.

(4) The planning authority are not required to publish a notice in accordance with paragraph (1) where a notice is required to be published by the planning authority in accordance with section 60(2)(a) (publicity for applications affecting setting of listed buildings) or 65(2)(a) (publicity for applications affecting conservation areas) of the Listed Buildings Act.

(5) Where any of paragraphs (2)(a) to (d) apply but notice has already been published with respect to the application under paragraph (1) the planning authority are not required to publish a further notice.

### **List of applications**

**21.**—(1) The list of applications to be kept in accordance with section 36A of the Act (lists of applications) is to be kept in two sections.

(2) The first section must—

- (a) in relation to applications for planning permission made to the planning authority, include the information specified in paragraph (4);
- (b) in relation to applications referred to in regulation 12(1) made to the planning authority, include the information specified in paragraph (4) and also a description of the matter in respect of which the application is made; and
- (c) in relation to applications made to the Scottish Ministers in respect of development in the district of the planning authority which have been notified to the planning authority—
  - (i) include the information specified in paragraph (4);
  - (ii) identify those applications as having been made to the Scottish Ministers under section 242A of the Act; and
  - (iii) include a statement that representations may be made to the Scottish Ministers and where any such representations should be sent.

(3) The second section must, in relation to proposal of application notices received by the planning authority, include the information specified in paragraph (4)(a), (b) and (d) and—

- (a) details as to how the prospective applicant may be contacted;

- (b) the earliest date on which an application for planning permission in respect of the development may be submitted to the planning authority; and
  - (c) where the planning authority give notice to the prospective applicant under section 35B(7) of the Act, specify any additional persons to whom a proposal of application notice is to be given and any additional consultation to be undertaken as regards the proposed development.
- (4) The information is—
- (a) the reference number given to the application by the planning authority, or as the case may be, the Scottish Ministers;
  - (b) the site location;
  - (c) the name of the applicant and, where an agent is acting for the applicant, the name and address of that agent;
  - (d) a description of the proposed development to which the application relates; and
  - (e) the date of expiry of the period mentioned in section 34(4)(a) of the Act (period within which application may not be determined).
- (5) The list of applications is also to contain a statement as to how further information in respect of an application may be obtained from the planning authority.

#### **Publication of list of applications**

**22.** The planning authority are to publish the list of applications kept in accordance with section 36A of the Act by means of the internet on their website and are to make the list of applications available for inspection at their principal office and at public libraries in their district.

#### **Provision of information to community councils and within public libraries**

**23.—**(1) The planning authority must send to every community council in their district at weekly intervals a list of—

- (a) all applications made to the authority during the previous week made under any of regulations 9 to 12; and
- (b) all applications made to the Scottish Ministers in respect of land within the district of the planning authority which were notified to the planning authority during the previous week,

containing the information set out in regulation 21(4) and a statement as to how further information in respect of an application may be obtained from the planning authority.

(2) The planning authority are to make the list sent to community councils under paragraph (1) available for inspection at their principal office and at public libraries in their district.

#### **Further information**

**24.** A planning authority may require from the applicant further particulars, documents, materials or evidence which they consider that they require to enable them to deal with the application and, in respect of an application made under regulations 9 to 12, may do so in addition to the particulars, documents, materials or evidence which are to be included in or accompany an application in accordance with regulation 9, 10, 11 or 12, as the case may be.

### Consultation by the planning authority

**25.**—(1) Before determining an application for planning permission the planning authority must consult in accordance with this regulation and Schedule 5 and any direction given under regulation 30.

(2) Where under this regulation and Schedule 5, a planning authority are required to consult with any authority, person or body as to any application, the planning authority—

- (a) must give not less than 14 days' notice to such authority, person or body that such application is to be taken into consideration; and
- (b) must not determine the application until after the expiration of that period.

(3) Where—

- (a) any authority, person or body with which a planning authority are required to consult under this regulation and Schedule 5 (except under paragraph 3 or 4 of Schedule 5) consider that consultation with them is not required in respect of any case or class of case or in respect of development within any area; and
- (b) so inform the planning authority in writing,

the planning authority are not required to consult the authority, person or body in respect of any development coming within the case or class of case or within the area or areas specified.

### Time periods for decision

**26.**—(1) Where a planning authority has received—

- (a) an application made under any of regulations 9 to 12;
- (b) an application for their determination that their approval is required as a condition of planning permission granted by a development order and the planning authority has determined that their approval is required; or
- (c) an application for any other approval, consent or agreement required by a condition imposed on a grant of planning permission,

the period within which the authority must give notice to an applicant of their decision or determination or referral of the application to the Scottish Ministers is the period mentioned in paragraph (2).

(2) The period is—

- (a) in the case of an application for planning permission for development within the category of national developments or major developments, four months after the validation date; and
- (b) in any other case, two months after the validation date.

(3) Paragraph (1)—

- (a) does not apply where—
  - (i) the applicant and the planning authority agree an extended period for the purposes of section 47(2) of the Act (appeals against failure to take planning decision); or
  - (ii) the applicant and the appointed officer agree an extended period for the purposes of section 43A(8)(c) of the Act <sup>M1</sup> (review where a failure to take planning decision).
- (b) is subject to—
  - (i) paragraph (4);
  - (ii) section 34(4) of the Act; and
  - (iii) sections 60(3) and 65(3) of the Listed Buildings Act <sup>M2</sup>.

(4) An application made under any of regulations 9 to 12 is not to be determined until the date, or the latest date, of the expiry of the period allowed for the making of representations in respect of that application specified in notice—

- (a) given in accordance with regulation 18 or 19; or
- (b) published in accordance with regulation 20.

#### **Marginal Citations**

- M1** Section 43A was inserted by section 17 of the Planning etc. (Scotland) Act 2006 and is amended by S.S.I. 2013/24 and 2013/26.
- M2** 1997 c.9.

#### **Pre-determination hearings**

27.—(1) Before determining an application for planning permission for a development within the classes of development specified in paragraph (2), the planning authority are to give to the applicant and to persons who submit representations to the planning authority in respect of that application in accordance with these Regulations an opportunity of appearing before and being heard by a committee of the authority.

(2) The classes of development prescribed for the purposes of section 38A(1) of the Act (pre-determination hearings) are developments within the categories of—

- (a) national developments; and
- (b) major developments which are significantly contrary to the development plan.

#### **Decision notice**

28.—(1) The planning authority must as regards an application mentioned in paragraph (2) within the period mentioned in regulation 26(2)—

- (a) give to the applicant (or where an agent is acting for the applicant, that agent) notice (“a decision notice”) of their decision on the application; and
- (b) inform every authority, person or body who made written representations in respect of the application (and provided an address) of their decision on the application and where a copy of the decision notice is available for inspection.

(2) The applications are—

- (a) for planning permission; and
- (b) for an approval, consent or agreement required by a condition imposed on a grant of planning permission.

(3) A decision notice must, in addition to the matters required by section 43(1A)(a) of the Act (directions etc. as to method of dealing with applications)—

- (a) in the case of an application made under regulation 9, 10 or 11 include—
  - (i) a description of the proposed development (including identification of the plans and drawings showing the proposed development) for which planning permission has been granted, or as the case may be, refused;
  - (ii) a description of the location of the proposed development including, where applicable, a postal address;
  - (iii) the reference number of the application;

- (iv) a description of any variation made to the application in accordance with section 32A of the Act (variation of application);
  - (v) a statement as to the effect of section 58(1) (duration of planning permission) or 59(4) (planning permission in principal) of the Act, as the case may be, or where the planning authority have made a direction under section 58(2) or 59(5) of the Act, give details of that direction; and
  - (vi) if any obligation is to be entered into under section 75 of the Act (planning obligations) in connection with the application a statement as to where the terms of such obligation or a summary of such terms may be inspected; and
- (b) in the case of an application under regulation 12 include—
- (i) a description of the matter in respect of which approval, consent or agreement has been granted, or as the case may be, refused;
  - (ii) the reference number of the application; and
  - (iii) the reference number of the application for the planning permission in respect of which the condition in question was imposed.
- (4) Where an application is refused or is granted subject to conditions the decision notice must—
- (a) in a case where the application is determined by an appointed officer, be accompanied by—
    - (i) notification in terms of Form 1 set out in Schedule 6; and
    - (ii) a statement explaining how the applicant may obtain information on how to require a review of the case by the planning authority under section 43A(8) of the Act; or
  - (b) in other cases, be accompanied by—
    - (i) notification in terms of Form 2 set out in Schedule 6; and
    - (ii) a statement explaining how the applicant may obtain information on how to appeal to the Scottish Ministers under section 47 of the Act.
- (5) Where representations in respect of the application are made by three or more persons in the same document, it is sufficient for the purposes of paragraph (1)(b) that the planning authority notify—
- (a) only the person who sent that document to the planning authority, where it is possible for the planning authority to identify that person; or
  - (b) where it is not possible to do so, only the first named person on the document for whom an address is provided.

### **Schemes of delegation**

**29.**—(1) Where an application is determined by an appointed officer, references to the planning authority in the provisions specified in paragraph (2) are to be treated as references to that appointed officer.

- (2) The provisions are—
- (a) regulations 24 to 26;
  - (b) regulation 28;
  - (c) regulation 30 to 35;
  - (d) regulation 39;
  - (e) paragraphs 3 and 4 of Schedule 2; and
  - (f) Schedule 5.

**Status:**

Point in time view as at 30/06/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, PART 4.