
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with appeals to the Scottish Ministers under sections 47, 75B, 75F, 130, 154, 169 and 180 of the Town and Country Planning (Scotland) Act 1997 (c.8) (“the Act”) and appeals under sections 18 and 35 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (“the Listed Buildings Act”). They apply to appeals under sections 47 and 130 as those sections are applied in relation to the control of advertisement by regulations under section 182 of the Act. These Regulations also apply in relation to the procedure for dealing with applications made under section 242A of the Act and applications called-in for determination by the Scottish Ministers by virtue of a direction under section 46 of the Act or section 11 of the Listed Buildings Act.

Part 1 of the Regulations sets out how the Regulations apply to these various appeals and applications.

Part 2 of the Regulations makes provision in relation to the time period within which and how an appeal under section 47 must be made. Regulation 3 sets out the requirements for the form and content of the notice of review and the documents which must accompany such notice. Regulation 3(3) requires the notice of appeal to be given to the Scottish Ministers within three months of the date of the planning authority’s decision or of expiry of the period allowed for determination of the application, which is defined in regulation 2. Regulation 4 requires the notice of appeal to be given to the planning authority and makes provision for the planning authority to respond to the notice and for the appellant to make comments on such response. Regulation 5 makes provision for notification and publication of the appeal and gives interested parties an opportunity to make representations on the case to the Scottish Ministers. The appellant is given the right to respond to any such representations. Regulation 6 requires the planning authority to make the documents relating to the appeal available for inspection and, where practicable, to allow copies to be made of such documents.

Part 3 of the Regulations relates to the process of determination of the appeal. Where the appointed person consider that no further information is required to enable the case to be determined the appointed person may, under regulation 7, do so without any further procedure. The appointed person is not required to determine the case without further procedure and may under regulation 9 seek further information or representations by means of further procedure. The procedures available are those described in regulation 9(4). The procedures to be followed are, in terms of regulation 9(5), further written submission in accordance with regulation 11, a hearing session held under the Hearing Session Rules in Schedule 1, an inquiry session held under the Inquiry Session Rules in Schedule 2 and a site visit in accordance with regulation 12. Regulation 10 makes provision for the holding of pre-examination meetings to consider how the appeal may be conducted. Regulation 8 enables the appointed person to seek confirmation from interested parties as to whether they wish to be involved in any further procedure.

Regulation 13 requires the appointed person to afford the appellant and other parties a further opportunity to make representations in respect of any new and material evidence which the appointed person proposes to take into account in determining the appeal.

Part 4 of the Regulations makes provision relating to how an appeal under sections 130, 169 and 180 of the Act or under section 35 if the Listed Building Act is made. Regulation 14 specifies information which must be included in a statement of appeal. Regulation 15 requires the appellant to give a copy of the notice of appeal and supporting documents to the planning authority when making an appeal and allows the planning authority to respond to the appeal and the appellant to make comments on

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their response. Regulation 16 provides for the notification to be given to other parties on whom a notice which is the subject of the appeal was served and allows such persons to make representations.

Part 5 of the Regulations makes provision in relation to appeals under section 18 of the Listed Buildings Act. Regulation 17(6) requires an appeal to be accompanied by a certificate required under regulation 18 and the forms of notice to be used in relation to this requirement are set out in Schedule 3.

Part 6 of the Regulations makes provision in relation to appeals under section 47 of the Act as that section is applied by regulations made under section 182 of the Act, currently the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

Part 7 of the Regulations makes provision relating to how appeals under section 75B of the Act relating to planning obligations (regulation 21), section 75F of the Act relating to good neighbour agreement (regulation 22) and section 154 of the Act relating to certificates of lawfulness of existing use or development or proposed development (regulation 23) are made.

Part 8 of the Regulations makes provision in relation to applications called-in by the Scottish Ministers for determination by a direction under section 46 of the Act or section 11 of the Listed Buildings Act. In addition Part 8 makes provision in relation to applications made directly to the Scottish Ministers under section 242A of the Act. In these situations the determination is made by the Scottish Ministers rather than by a person appointed to do so. Regulations 24 and 25 apply specified provisions of the Regulations with modifications to take account of this distinction in both cases and, in the case of called-in applications to refer to an application and applicant rather than an appeal and appellant.

Part 9 of the Regulations contains general provisions. Regulation 26 sets out how the Regulations apply in relation to non-delegated appeals. The provisions of the Regulations are generally framed in the context of delegated appeals. An appeal is a delegated appeal where it is to be determined by a person appointed for that purpose under Schedule 4 to the Act or Schedule 3 to the Listed Buildings Act. The prescribed classes of appeals which are to be determined by an appointed person are specified in the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 2010 ([S.S.I. 2010/467](#)). Those Regulations also set out classes of appeal which are reserved for determination by the Scottish Ministers. Appeals falling within that class or within a class specified in directions made under Schedule 4 to the Act or Schedule 3 to the Listed Buildings Act are, together with those appeals which are recalled for determination by virtue of powers contained in those Schedules, defined as non-delegated appeals. Part 9 in addition makes provision relating to cases giving rise to national security issues (regulation 27), the provision of further copies of documents (regulation 28), the appointment of an assessor to advise the appointed person (regulation 30) and the use of electronic communications (regulation 32). Regulation 29 requires the appointed person to comply with consultation and notification requirements in connection with an appeal or application to the extent that they have not already been met. Regulation 31 makes provision for the content and publication of the decision on the appeal or application.

Part 10 of the Regulations and Schedule 5 revoke the Town and Country Planning (Appeals) (Scotland) Regulations 2008 and other enactments which amended those Regulations and make transitional and saving provisions.