
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with appeals to the Scottish Ministers under sections 83(6) of the Community Empowerment (Scotland) Act 2015 (“the Act”) and applications for directions under section 83(8) and 90(5) of the Act.

Part 2 and 3 of the Regulations make provision in relation to appeals under section 83(6) of the Act. Regulation 3 sets out how an appeal is to be made. Regulation 4 provides for intimation of the appeal to the relevant authority and sets out procedures for how the relevant authority are to respond. Regulation 5 requires the Scottish Ministers to appoint persons to form a review panel to consider the appeal and report to them on their findings and recommendations for disposal of the appeal. Regulation 6 to 8 make provision for the procedure, if any is considered to be required, to be followed by the review panel when considering an appeal. Regulation 8 sets out procedures for how written submissions are to be sought and the Hearing Session Rules set out in the schedule contain rules as to how hearings are to be conducted. Regulation 9 relates to further procedure by the Scottish Ministers where they propose to consider new evidence after the review panel has reported. Regulation 10 requires notice of the decision on appeal to be given to both the community transfer body and to the relevant authority.

Part 4 makes provision for the procedure to be followed in relation to applications for a direction under section 83(6) of the Act. Regulation 11 sets out how and when an application is to be made to the Scottish Ministers. An application must be made within the relevant period which is defined in regulation 11(7). Regulation 12 requires the community transfer body who applies for a direction to send a copy of the application to the relevant authority and gives the relevant authority an opportunity to comment. In terms of regulation 13 any direction must be sent to both the community transfer body and to the relevant authority.

Part 5 makes provision for the procedure to be followed in relation to applications for a direction under section 90(5) of the Act. Regulation 14 sets out how and by when an application is to be made to the Scottish Ministers. Regulation 15 requires the community transfer body who applies for a direction to send a copy of the application to the relevant authority and gives the relevant authority an opportunity to comment. A copy of any direction given to the relevant authority must be sent to the community transfer body in accordance with regulation 16.

Part 6 makes general provisions in relation to the provision of further copies of documents (regulation 17), the definition of ‘contact address’ (regulation 18) and the use of electronic communication (regulation 19).