



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART VII

#### SPECIAL CONTROLS

#### CHAPTER I

#### TREES

*Consequences of tree removal etc.*

#### **169 Appeal against section 168 notice.**

- (1) A person on whom a notice under section 168(1) is served may appeal to the Secretary of State against the notice on any of the following grounds—
- (a) that the provisions of section 167 or, as the case may be, the conditions mentioned in section 168(1)(b) are not applicable or have been complied with;
  - (b) that in all the circumstances of the case the duty imposed by section 167 should be dispensed with in relation to any tree;
  - (c) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified in it;
  - (d) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;
  - (e) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose.
- (2) An appeal under subsection (1) may be made either by giving written notice to the Secretary of State before the end of the period specified in accordance with section 168(3), or by sending such notice to him in a properly addressed and prepaid

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*Status: Point in time view as at 18/01/2006. This version of this provision has been superseded.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1997, Section 169 is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before the end of that period.

- (3) A person who gives notice under subsection (2) shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed under subsection (4), a statement in writing—
  - (a) specifying the grounds on which he is appealing against the notice under section 168(1), and
  - (b) giving such further information as may be so prescribed.
- (4) The Secretary of State may prescribe the procedure to be followed on appeals under this section, and (without prejudice to the generality of the foregoing provisions of this subsection) in so prescribing—
  - (a) may specify the time within which an appellant is to submit a statement under subsection (3) and the matters on which information is to be given in such a statement;
  - (b) may require the planning authority to submit, within such time as may be specified, a statement indicating the submissions which they propose to put forward on the appeal;
  - (c) may specify the matters to be included in such a statement;
  - (d) may require the authority or the appellant to give such notice of an appeal under this section as may be specified to such persons as may be specified;
  - (e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be specified, a copy of the notice and a list of the persons on whom the notice has been served.
- (5) The Secretary of State may—
  - (a) dismiss an appeal if the appellant fails to comply with subsection (3) within the time prescribed under subsection (4)(a), and
  - (b) allow an appeal and quash the notice under section 168(1) if the planning authority fail to comply with any requirement imposed by virtue of paragraph (b), (c) or (e) of subsection (4).
- (6) Subject to subsection (5), the Secretary of State shall, if either the planning authority or the appellant so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.
- (7) Where such an appeal is brought, the notice under section 168(1) shall be of no effect pending the final determination or the withdrawal of the appeal.
- (8) On such an appeal the Secretary of State may—
  - (a) correct any defect, error or misdescription in the notice under section 168(1), or
  - (b) vary its terms,
 if he is satisfied that the correction or variation will not cause injustice to the appellant or the planning authority.
- (9) On the determination of such an appeal the Secretary of State shall give directions for giving effect to the determination including, where appropriate, directions for quashing the notice under section 168(1).
- (10) Schedule 4 applies to appeals under this section.

**Status:**

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