
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 156

TOWN AND COUNTRY PLANNING

The Town and Country Planning
(Appeals) (Scotland) Regulations 2013

<i>Made</i>	- - - -	<i>21st May 2013</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>23rd May 2013</i>
<i>Coming into force</i>	- -	<i>30th June 2013</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 47(2) and (3), 75B, 75F, 130(3) and 131(1) (and as applied by section 180(3)), 154(2), 169(3) and (4), 182, 186, 267, 275 and 275A of the Town and Country Planning (Scotland) Act 1997(1), sections 18, 19, 35, 36 and 82 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997(2) and all other powers enabling them to do so.

PART 1

Preliminary

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Appeals) (Scotland) Regulations 2013 and come into force on 30th June 2013.

(2) Subject to paragraph (4), these Regulations apply as specified in paragraph (6) to appeals under—

- (a) section 47 of the Act (appeal against planning decisions and failure to take such decisions);
- (b) section 130 of the Act (appeal against enforcement notice);
- (c) section 154 of the Act (appeal against refusal of certificate of lawful use or development);

(1) 1997 c.8. The Town and Country Planning (Scotland) Act 1997 (“the Act”) was amended by sections 19 and 54(6) of, and the schedule to, the Planning etc. (Scotland) Act 2006 (asp 17). The functions of the Secretary of State under the Act transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). See section 277(1) of the Act for the definition of “prescribed”.

(2) 1997 c.9. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. Section 81(1) defines “prescribed”. Section 79 applies various provisions of the Town and Country Planning (Scotland) Act 1997, including sections 267 and 275A, for the purposes of the Act. Section 82 is amended by section 30 of the Historic Environment (Amendment) (Scotland) Act 2011 (asp 3).

- (d) section 169 of the Act (appeal against section 168 notice); and
- (e) section 180 of the Act (appeal against amenity notice),

where notice of appeal is given to the Scottish Ministers under section 47(3), 130(2), 154(2), 169(2) or 180(2) of the Act, as the case may be, on or after 3rd August 2009.

- (3) These Regulations apply as specified in paragraph (8) to appeals under—
 - (a) section 18(1) of the Listed Buildings Act (appeal against refusal of, or conditional consent to, applications for listed building consent or against refusal of approval required by a condition);
 - (b) section 18(2) of the Listed Buildings Act (appeal in default of decision on application for listed building consent or for approval required by a condition);
 - (c) section 18(1) and (2) of the Listed Buildings Act as applied by—
 - (i) section 17 of that Act (applications for variation or discharge of conditions); or
 - (ii) section 66 of that Act (control of demolition of buildings in conservation areas);
 - (d) section 35 of the Listed Buildings Act (appeal against listed building enforcement notices); and
 - (e) section 35 of the Listed Buildings Act as applied by section 66 of that Act (appeals against enforcement notices in respect of the demolition of buildings in conservation areas),

where notice of appeal is given to the Scottish Ministers under section 19(1) or 35(2) of the Listed Buildings Act, as the case may be, on or after 1st December 2011.

- (4) These Regulations apply as specified—
 - (a) in Part 6 to appeals under section 47 of the Act as applied by regulation 21 of the 1984 Regulations; and
 - (b) in regulation 14(7) to appeals under section 130 of the Act as applied by regulation 25 of the 1984 Regulations,

where notice of appeal is given to the Scottish Ministers on or after 30th June 2013.

- (5) These Regulations apply as specified—
 - (a) in regulation 21 to appeals under section 75B of the Act (planning obligations: appeals); and
 - (b) in regulation 22 to appeals under section 75F of the Act (good neighbour agreements: appeals).

- (6) These Regulations—
 - (a) other than Parts 4 to 8 and Schedule 3, apply to an appeal under section 47 of the Act;
 - (b) apply to appeals under sections 130, 169 and 180 of the Act in accordance with regulation 14(6); and
 - (c) apply to an appeal under section 154 of the Act in accordance with regulation 23.

(7) These Regulations apply in accordance with regulation 24 to applications referred to the Scottish Ministers following—

- (a) a direction under section 46(1) of the Act (call#in of applications by the Scottish Ministers) given on or after 3rd August 2009; and
- (b) a direction under section 11(1) of the Listed Buildings Act (reference of certain applications to the Scottish Ministers) given on or after 1st December 2011.

(8) These Regulations apply—

- (a) to an appeal under section 18 of the Listed Buildings Act in accordance with regulation 17(4); and

(b) to an appeal under section 35 of the Listed Buildings Act in accordance with regulation 14(6).

(9) These Regulations apply in accordance with regulation 25 to applications made to the Scottish Ministers under section 242A of the Act (urgent crown development: application) on or after 30th June 2013.

(10) These Regulations apply as specified in Schedule 4 where—

- (a) a security direction has been given in relation to an application or appeal; or
- (b) a request for a security direction has been made to the Scottish Ministers or the Secretary of State but no determination as to whether or not to give a direction has been made.

Interpretation

2. In these Regulations—

“the 1984 Regulations” means the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984(3);

“the Act” means the Town and Country Planning (Scotland) Act 1997;

“appellant” means a person who gives notice of appeal under section 47, 75B, 75F, 130, 154, 169 or 180 of the Act or section 19 or 35 of the Listed Buildings Act;

“application” means, in the case of an appeal, the application to which the appeal relates;

“appointed person” subject to regulations 24 to 26, means a person appointed under paragraph 1 of Schedule 4 to the Act or paragraph 1 of Schedule 3 to the Listed Buildings Act to determine an appeal instead of the Scottish Ministers;

“assessor” has the meaning given in regulation 30(1);

“community body” means the community body (within the meaning of section 75D(2) of the Act) which entered into the good neighbour agreement to which the application relates;

“decision notice” means the notice given by the planning authority of their decision on the application to which the appeal relates;

“EIA development” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011(4);

“hearing session” means a hearing held or to be held into matters specified in a procedure notice given under rule 1(1) of the Hearing Session Rules;

“Hearing Session Rules” means the rules set out in Schedule 1;

“inquiry session” means a local inquiry held or to be held under—

- (a) section 265 of the Act;
- (b) section 265 of the Act as applied by section 79(1) of the Listed Buildings Act;
- (c) paragraph 6 of Schedule 4 to the Act; or
- (d) paragraph 6 of Schedule 3 to the Listed Buildings Act,

into matters specified in a procedure notice given under rule 1(1) of the Inquiry Session Rules;

“Inquiry Session Rules” means the rules set out in Schedule 2;

“interested party” means—

- (a) in the case of an appeal under section 47 of the Act (other than an appeal specified in regulation 19(1) or 20(1)) or an application (other than an application made under

(3) [S.I. 1984/467](#) as amended by [S.S.I. 2013/154](#) and to which there are other amendments which are not relevant to those Regulations.

(4) [S.S.I. 2011/139](#).

section 75A(2) of the Act) referred to the Scottish Ministers following a direction under section 46(1) of the Act—

- (i) any person consulted by the planning authority in compliance with a requirement imposed by virtue of section 43(1)(c) of the Act and from whom the planning authority received representations (which were not subsequently withdrawn) in connection with the application; and
 - (ii) any other person from whom the planning authority received representations (which were not subsequently withdrawn) in connection with the application, before the end of the period mentioned in section 38(1) of the Act;
- (b) in the case of an appeal under section 47 of the Act—
- (i) specified in regulation 19(1), any person from whom the planning authority received representations (which were not subsequently withdrawn) in connection with the application; and
 - (ii) specified in regulation 20(1), any person given notice of the appeal in accordance with regulation 20(5) and from whom representations were received (and not subsequently withdrawn);
- (c) in the case of an appeal under section 75B of the Act or an application made under section 75A(2) of the Act referred to the Scottish Ministers following a direction under section 46(1) of the Act (other than where such a person is the appellant)—
- (i) the owner of the land to which the planning obligation in respect of which the appeal is made relates; and
 - (ii) any other person against whom the planning obligation is enforceable;
- (d) in the case of an appeal under section 75F of the Act (other than where such a person is the appellant)—
- (i) the community body;
 - (ii) the owner of the land to which the obligation in respect of which the appeal is made relates; and
 - (iii) any other person against whom the obligation is enforceable;
- (e) in the case of an appeal under section 130, 169 or 180 of the Act or section 35 of the Listed Buildings Act, any person given notice of the appeal in accordance with regulation 16(1) and from whom representations were received (and not subsequently withdrawn); and
- (f) in the case of an appeal under section 18 of the Listed Buildings Act—
- (i) any person from whom the planning authority received representations (which were not subsequently withdrawn) in connection with the application; and
 - (ii) any person from whom the Scottish Ministers received representations (which are not subsequently withdrawn) in connection with the appeal in accordance with the terms of a notice given under regulation 18(1) or published under regulation 18(2);
- (g) in the case of an application referred to the Scottish Ministers following a direction under section 11(1) of the Listed Buildings Act, any person from whom the planning authority received representations (which were not subsequently withdrawn) in connection with the application; and
- (h) in the case of an application made under section 242A of the Act, any person from whom the Scottish Ministers received representations (which are not subsequently withdrawn) in connection with the application;

“Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997⁽⁵⁾;

“period allowed for determination of the application” is, in the case of an appeal under—

- (a) section 47(2) of the Act, the period prescribed under regulation 3(2) in respect of the application;
- (b) section 154(1)(b) of the Act, the period prescribed under regulation 23(2) in respect of the application;
- (c) section 18(2) of the Listed Buildings Act—
 - (i) in respect of an application mentioned in section 18(1)(a) or (b) of the Listed Buildings Act, the relevant period prescribed under regulation 17(2); and
 - (ii) in respect of an application mentioned in section 18(1)(c) of the Listed Buildings Act, the relevant period within the meaning of section 18(3)(b)(6) of that Act, or such extended period as may be agreed in writing between the applicant and the planning authority under section 47(2) or 154(1)(b) of the Act or section 18(2) of the Listed Buildings Act, as the case may be;

“person” includes authorities and other bodies;

“planning authority’s response” has the meaning given in regulation 4(2)(a) or 15(2)(a), as the case may be;

“planning obligation” and “relevant instrument” have the same meaning as in section 75 of the Act;

“pre-examination meeting” has the meaning given in regulation 10(1);

“procedure notice” means a notice given (whether separately or in combination) under regulation 11(1), rule 1(1) of the Hearing Session Rules or rule 1(1) of the Inquiry Session Rules;

“recalled appeal” means an appeal which is to be determined by the Scottish Ministers in accordance with a direction under paragraph 3(1) of Schedule 4 to the Act or paragraph 3(1) of Schedule 3 to the Listed Buildings Act;

“Report on Handling” means, in respect of an appeal, the report to be placed in the register of applications which the planning authority is required to keep in accordance with regulations made under section 36(1) of the Act⁽⁷⁾ in respect of the application to which the appeal relates;

“rule” means a rule set out in Schedule 1 or 2 to these Regulations;

“security direction” means a direction by the Scottish Ministers, or the Secretary of State, under or by virtue of—

- (a) section 265A(3) of the Act; or
- (b) paragraph 6(7) of Schedule 3 to the Listed Buildings Act;

“specified matters” are in relation to a request for further written representations or information under regulation 11 or to a particular hearing session or inquiry session, those matters which are set out in the procedure notice;

“validation date” has—

(5) 1997 c.9.

(6) Section 18(3)(b) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 provides that the relevant period for the purposes of an appeal under section 18(2) in respect of an application for approval required by a condition imposed on the grant of listed building consent is the period of two months from the date of receipt by the planning authority of the application.

(7) Schedule 2 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 requires the register to contain a report.