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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 432**

**The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010**

**PART 2**

**Applications for modification or discharge of a planning obligation**

**Form and content of an application for modification or discharge of a planning obligation**

**3.—(1)** An application to a planning authority for modification or discharge of a planning obligation is to be made in accordance with this regulation.

(2) An application is to be made in writing and is to—

- (a) contain the postal address of the land to which the planning obligation relates, or if the land in question has no postal address, a description of the location of the land;
- (b) be accompanied by a plan sufficient to identify that land;
- (c) be accompanied by a copy of the planning obligation to which the application relates, or otherwise contain sufficient information to identify that planning obligation;
- (d) contain the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.
- (e) state the relationship of the applicant to the land to which the planning obligation relates and why the planning obligation is enforceable against the applicant;
- (f) state whether the applicant seeks the modification or discharge of the planning obligation and, if modification of the obligation is sought, set out the changes which the applicant wishes to be made to the obligation;
- (g) set out the grounds on which the applicant seeks modification or discharge of the planning obligation; and
- (h) be accompanied by a statement setting out (to the extent known to the applicant)—
  - (i) the names of the other parties to the relevant instrument and of other interested parties; and
  - (ii) the address at which such parties may be contacted.

**Validation date**

**4.** An application under regulation 3 is to be taken to have been made on the date on which the last of the items or information required in accordance with that regulation is received by the planning authority.

**Notification of application**

**5.—(1)** Subject to paragraph (3), a planning authority must notify every interested party in accordance with this regulation that an application has been made.

- (2) The notice to be given in accordance with paragraph (1) must—
- (a) state the name of the applicant;
  - (b) describe the planning obligation and the relevant instrument within which it is contained and state that an application for modification or discharge of the obligation has been made;
  - (c) be accompanied by a copy of the application; and
  - (d) 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 service of the notice).

(3) The planning authority are not required to make any investigation as to the identity or whereabouts of an interested party and it shall be sufficient for the purposes of this regulation that notice is given to those persons detailed in the statement referred to in regulation 3(2)(h) at the address given in that statement.

#### **Further information**

6. A planning authority may, in addition to the particulars, documents, materials or information which are to be included in or accompany an application in accordance with regulation 3, require from the applicant further particulars, documents, materials or information which they consider that they require to enable them to deal with the application.

#### **Determination of application**

7.—(1) Subject to paragraph (3), the planning authority are to give notice of their determination to an applicant under section 75A(5) of the Act within the period of two months after the date on which the application is taken to have been made in accordance with regulation 4.

(2) The planning authority must when giving notice of their determination to the applicant send a copy of that notice to every interested party.

(3) An application is not to be determined until the expiry of the period allowed for the making of representations in respect of that application specified in notice given in accordance with regulation 5.

#### **Notice of determination**

8. A notice of determination must include—
- (a) a statement of the terms of the planning authority's decision and the reasons on which the authority based that decision;
  - (b) the reference number of the application;
  - (c) where the relevant instrument was entered into in connection with the grant of planning permission, the reference number given to the application for such permission by the planning authority; and
  - (d) information regarding the applicant's right to appeal under section 75B in the terms set out in the Schedule to these Regulations.