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STATUTORY INSTRUMENTS

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1986 No. 509 (S.45)

ROADS AND BRIDGES, SCOTLAND

**The Road Construction Consent (Appeals Procedure)  
(Scotland) Regulations 1986**

<i>Made</i>	- - - -	<i>7th March 1986</i>
<i>Laid before Parliament</i>		<i>24th March 1986</i>
<i>Coming into Operation</i>		<i>18th April 1986</i>

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The Secretary of State, in exercise of the powers conferred on him by sections 21(7) and 143(1) of the Roads (Scotland) Act 1984(a) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the Road Construction Consent (Appeals Procedure) (Scotland) Regulations 1986 and shall come into operation on 18th April 1986.

*Interpretation*

- 2.— (1) In these regulations, unless the context otherwise requires—
- “the Act” means the Roads (Scotland) Act 1984;
- “the appeal” means an appeal under section 21(6) of the Act against a

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(a) 1984 c. 54.

decision of a local roads authority refusing an application for construction consent or granting such a consent subject to conditions;

“the application” means the application for construction consent under section 21(1) of the Act giving rise to the appeal;

“the appointed person” means a person appointed by the Secretary of State to determine the appeal;

“section 21 parties” means persons entitled to receive notice of an application for construction consent under section 21(2)(b) of the Act.

(2) Any reference in these regulations to a numbered regulation shall, unless the context otherwise requires, be construed as a reference to the regulation bearing that number in the regulations.

#### *Application of regulations*

3. These regulations apply to any appeal lodged after the date on which these regulations come into operation.

#### *Appeal*

4.— (1) The appeal shall be submitted in writing to the Secretary of State within 28 days of the date of the intimation by the local roads authority of their decision on the application.

(2) The appeal shall be accompanied by a statement of the grounds of appeal together with—

- (a) a copy of the application;
- (b) the names and addresses of all section 21 parties; and
- (c) a copy of the local roads authority’s notice of decision.

#### *Information to and from the local roads authority*

5. The Secretary of State shall notify the local roads authority in writing of the appeal and may require them to provide him by a specified date with—

- (a) a statement of the reasons for reaching their decision;
- (b) a copy of each representation (if any) made by section 21 parties and any subsequent correspondence thereon;
- (c) a copy of the record of any hearing under section 21(3) of the Act; and
- (d) any other information which appears to him to be relevant.

#### *Notice to section 21 parties*

6. At the same time as notification is given to the local roads authority the Secretary of State shall notify all section 21 parties in writing of the appeal and give them the opportunity to make written representations by the date specified in the notice for this purpose.

*Appointed person*

7.— (1) The Secretary of State may, instead of determining the appeal himself, appoint a person to do so in his place.

(2) For the purposes of the Act a determination by the appointed person shall be treated as a determination by the Secretary of State.

(3) Where a person has been appointed to determine the appeal, the Secretary of State may, at any time before the determination, appoint another person to determine the appeal instead of the previously appointed person.

*Notification of identity of appointed person*

8. The Secretary of State shall give to the appellant, the local roads authority and section 21 parties written notice of the name of the appointed person:

Provided that, where the Secretary of State has appointed under regulation 7(3) another person to determine the appeal and, where a hearing is to take place, it is not practicable to give written notice of the new appointment before the date of the hearing, the person holding the hearing shall, in lieu of the Secretary of State giving such notice, announce his name himself and the fact of his appointment at the commencement of the hearing.

*Determination*

9. The Secretary of State, or the appointed person, may determine the appeal on the basis of the written information submitted to him; but may, if he considers it appropriate to do so, hold a hearing before making the determination.

*Notification of decision*

10. The Secretary of State or the appointed person shall notify his decision and his reasons therefor in writing to the appellant, the local roads authority and the section 21 parties.

*Michael Ancram,*  
Parliamentary Under Secretary of State,  
Scottish Office.

New St Andrew's House,  
Edinburgh.  
7th March 1986.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations prescribe the procedure to be followed in appeals to the Secretary of State against the refusal or conditional grant by a local roads authority of construction consent for the building of a new road.

The regulations provide a time limit for appeals, for the particulars to be supplied by appellants, for notification of appeals to the local roads authority and for the information to be provided by them to the Secretary of State (regulations 4 and 5). The procedures for notification of appeals to owners and other interested parties are contained in regulation 6. The regulations also enable the Secretary of State to appoint a person to determine an appeal on his behalf and provision is made for notification of his identity (regulations 7 and 8). Regulations 9 and 10 provide for the determination of appeals and notification of decisions.

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