

1987 No. 1531 (S.114)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1987

<i>Made</i>	- - - -	<i>28th August 1987</i>
<i>Laid before Parliament</i>		<i>10th September 1987</i>
<i>Coming into force</i>		<i>1st October 1987</i>

The Secretary of State, in exercise of the powers conferred on him by sections 273 and 275(1) of, and paragraph 1 of Schedule 7 to, the Town and Country Planning (Scotland) Act 1972(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Application, citation and commencement

1.—(1) These Regulations may be cited as the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1987 and shall come into force on 1st October 1987.

(2) Subject to regulation 6 below, these Regulations apply to appeals within the classes prescribed in regulation 3 of which notice is given on or after the date when they come into force.

Interpretation

2.—(1) In the Regulations, unless the context otherwise requires—

“the Act” means the Town and Country Planning (Scotland) Act 1972;

“the 1984 Act” means the Town and Country Planning Act 1984(b);

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of electricity, hydraulic power or water and includes the British Airports Authority, the Civil Aviation Authority, the Post Office and companies which are deemed to be statutory undertakers by virtue of section 141(2) of the Transport Act 1968(c), telecommunications code system operators within the meaning of the Telecommunications Act 1984(d) and public gas suppliers within the meaning of Part I of the Gas Act 1986(e).

(2) Any reference to a numbered regulation or to a numbered Schedule is, unless otherwise expressly provided or the context otherwise requires, a reference to the regulation or Schedule bearing that number in these Regulations.

(a) 1972 c.52; section 275(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

(b) 1984 c.10.

(c) 1968 c.73; section 141(2) was relevantly amended by the Town and Country Planning (Scotland) Act 1972 (c.52), Schedule 21, Part II.

(d) 1984 c.12.

(e) 1986 c.44.

Classes of appeal for determination by appointed persons

3. Subject to the provisions of regulation 4, the classes of appeal specified in Schedule 1 are prescribed for the purposes of paragraph 1(1) of Schedule 7 to the Act as appeals to be determined by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State.

Classes of appeal reserved for determination by the Secretary of State

4. The classes of case specified in Schedule 2 are prescribed for the purposes of paragraph 1(1) of Schedule 7 to the Act as appeals which are not to be determined in the manner set out in that paragraph.

Publicity for directions under paragraph 1(1) of Schedule 7 to the Act

5. On the making by the Secretary of State of a direction under paragraph 1(1) of Schedule 7 to the Act, he may by notice in writing enclosing a copy of the direction require the planning authority for every area in respect of which the direction has effect to publish as soon as may be a notice in at least one newspaper circulating in the area; and such notice shall contain a concise statement of the effect of the direction and shall specify the place or places where a copy of the direction may be seen at all reasonable hours.

Revocation and saving

6. The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1980(a) are hereby revoked and any appeal to which those Regulations applied, but in respect of which a person had not been appointed to determine the appeal before the coming into force of these Regulations, shall be determined under and in accordance with the provisions of these Regulations.

New St. Andrew's House, Edinburgh
28th August 1987

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

(a) S.I. 1980/1675.

SCHEDULE 1

Regulation 3

CLASSES OF APPEALS FOR DETERMINATION BY APPOINTED PERSONS

Appeals under—

- (1) section 33 of the Act (appeals against planning decisions) or under that section as applied by section 34 of the Act (appeals in default of planning decisions) or by section 51 of the Act (appeals against determinations as to whether a use or operation constitutes or involves development) or appeals under any of these provisions as applied by section 1 of the 1984 Act, or as applied to any application for consent under an order made under section 58 of the Act or under section 58 of the Act and section 2 of the 1984 Act (appeals against refusal of consent or conditional consent in respect of the felling of trees subject to a tree preservation order) or as applied by section 179 of the Local Government (Scotland) Act 1973(a) (appeals against decisions by regional planning authorities referred to them);
- (2) section 63A of the Act (appeals against notices under section 63 of the Act);
- (3) section 85 of the Act (appeals against enforcement notices) or under section 85 as applied by section 3 of the 1984 Act (appeals against special enforcement notices);
- (4) section 91 of the Act (appeals against refusals of established use certificates);
- (5) section 93 of the Act (appeals against listed building enforcement notices) or under that section as applied by section 262A (appeals against enforcement notices in respect of the demolition of buildings in conservation areas);
- (6) section 99 of the Act (appeals against an enforcement notice requiring the replacement of trees);
- (7) paragraph 7 of Schedule 10 to the Act (appeals against refusal of or conditional consent to applications for listed building consent or against refusal of approval required by a condition), or under that paragraph as applied by paragraph 8 of Schedule 10 to the Act (appeals in default of decision on application for listed building consent or for approval required by a condition), or under either of those provisions as applied by section 54D of the Act (applications for variation or discharge of conditions) or by section 262A of the Act (control of demolition of buildings in conservation areas), or appeals under any of these provisions as applied by section 1 of the 1984 Act.

SCHEDULE 2

Regulation 4

CLASSES OF APPEALS RESERVED FOR DETERMINATION BY THE SECRETARY OF STATE

Appeals by statutory undertakers (in relation to land to which section 214(2) of the Act applies) under section 33 or section 85 of the Act or under either of these provisions as applied by section 1 and section 3 respectively of the 1984 Act.

(a) 1973 c.65.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations re-enact with amendments the provisions of the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1980. They prescribe the classes of appeal which are to be determined by persons appointed for the purpose by the Secretary of State instead of being determined by the Secretary of State and they also prescribe certain classes of appeal within those prescribed classes which are to continue to be determined by the Secretary of State. They provide for publication by planning authorities of any direction made by the Secretary of State specifying classes of case within the prescribed classes which are to be determined by the Secretary of State.

The change of substance is the extension of the classes of delegated appeal to cover the determination of appeals against refusal of listed building consent, consent to demolish buildings in conservation areas and enforcement notices related to such cases.

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