
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 434

**The Town and Country Planning
(Appeals) (Scotland) Regulations 2008**

PART 1

Preliminary

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Appeals) (Scotland) Regulations 2008 and come into force on 3rd August 2009.

(2) These Regulations apply, as specified in paragraph (3), to appeals made under—

- (a) section 47 (appeals against planning decisions and failure to take such decisions) of the Act;
- (b) section 130 (appeal against enforcement notice) of the Act;
- (c) section 154 (appeals against refusal of certificate of lawful use or development) of the Act;
- (d) section 169 (appeal against section 168 notice) of the Act; and
- (e) section 180 (appeal against amenity notice) of the Act,

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—

- (a) other than Parts 4, 5 and 6, apply to a delegated appeal under section 47 of the Act;
- (b) other than Parts 2, 5 and 6, apply to appeals under sections 130, 169 and section 180 of the Act as they apply to an appeal made under section 47 of the Act;
- (c) apply to an appeal under section 154 of the Act in accordance with regulation 16; and
- (d) apply to non delegated appeals in accordance with regulation 18.

(4) These Regulations apply in accordance with regulation 17 to applications referred to the Scottish Ministers following a direction under section 46(1) (call in of applications by the Scottish Ministers) of the Act given on or after 3rd August 2009.

Interpretation

2. In these Regulations—

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

“appellant” means a person who gives notice of appeal under section 47, 130, 154, 169 or 180 of the Act;

“appointed person” subject to regulations 17 and 18, means a person appointed under paragraph 1 of Schedule 4 to the Act to determine an appeal instead of the Scottish Ministers;

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

“delegated appeal” means an appeal to the Scottish Ministers which falls to be determined by a person appointed by the Scottish Ministers for that purpose by virtue of powers contained in Schedule 4 to the Act;

“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 to these Regulations;

“inquiry session” means a local inquiry held or to be held under section 265 of or paragraph 6 of Schedule 4 to the 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 to these Regulations;

“interested party” means–

- (a) in the case of an appeal under section 47 of the Act–
 - (i) any authority or 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; and
- (b) in the case of an appeal under section 130, 169 or 180 of the Act, any person given notice of the appeal in accordance with regulation 15(1) and from whom representations were received (and not subsequently withdrawn);

“non-delegated appeal” means–

- (a) a recalled appeal;
- (b) an appeal within such classes of case as may be–
 - (i) for the time being prescribed; or
 - (ii) specified in directions given,
 under paragraph 1(2) of Schedule 4 to the Act;

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

- (a) section 47(2) of the Act, the period specified in regulation 26(2) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008⁽¹⁾;
- (b) section 154(1)(b) of the Act, the period specified in regulation 41(4) of those Regulations, 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), as the case may be;

“procedure notice” means a notice given (whether separately or in combination) under regulation 10(1), rule 1(1) of the Hearing Session Rules or rule 1(1) of the Inquiry Session Rules;

“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⁽²⁾ in respect of the application to which the appeal relates;

⁽¹⁾ S.S.I. 2008/432.

⁽²⁾ Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 requires the register to contain a report.

“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;

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

“specified matters” are in relation to a request for further written representations or information under regulation 10 or to a particular hearing session or inquiry session, those matters which are set out in the procedure notice.