

EXECUTIVE NOTE

THE TOWN AND COUNTRY PLANNING (DETERMINATION OF APPEALS BY APPOINTED PERSONS) (PRESCRIBED CLASSES) (SCOTLAND) REGULATIONS 2010 SSI 2010/467

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by paragraph 1 of schedule 4 to the Town and Country planning (Scotland) Act 1997, paragraph 1 of schedule 3 to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, paragraph 1 to the schedule to the Planning (Hazardous Substances) (Scotland) Act 1997 and all other powers enabling them to do so.

Policy context/objective

The instrument has two functions;

- To consolidate and replace the provisions of the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1987 and the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Amendment Regulations 1989. Regulation 8 of this instrument revokes both these Regulations.
- To extend the classes of delegated appeals to include appeals made under sections 75B and 75F of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006. These sections relate to the modification or discharge of planning obligations and good neighbour agreements respectively.

Where appeals are made to the Scottish Ministers, they may prescribe certain classes of appeal which may be determined by a person appointed by them for this purpose. The Regulations prescribe the classes of appeal which may be determined by an appointed person acting on behalf of the Scottish Ministers.

Regulation 3 sets out classes in respect of appeals made under provisions of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act). Regulations 4 and 5 do likewise for appeals under provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Regulation 5 for the Planning (Hazardous Substances) (Scotland) Act 1997 respectively.

Regulation 6 provides that appeals made under sections 47 and 130 of the 1997 Act may not be determined by an appointed person where the appellant is, or is deemed to be, a statutory undertaker for the purposes of section 214 of the 1997 Act.

Regulation 7 relates to situations where Ministers may make directions specifying classes of case within the prescribed classes which are to be determined by the Scottish Ministers. The Regulation sets out requirements to publicise such directions.

Consultation

The provisions of the Regulations have not been subject to consultation outside the Scottish Government. The consolidation of the provisions of the current Regulations repealed by this Statutory Instrument raises no new issues or obligations for external stakeholders

The extension of the Regulations to include appeals relating to Planning Obligations and Good Neighbour Agreements (GNAs) is set out in SSI 2010/432 and SSI 2010/433 respectively. Both these SSIs were subject to public consultation. The provisions of this SSI follow on from these and are procedural in nature. It is the Scottish Governments view that no further consultation was required on these provisions.

Financial effects

The effects of the main changes to the planning system were covered in the financial memorandum accompanying the Bill, which became the Planning etc. (Scotland) Act 2006. The regulations resulting from these powers will be accompanied by Business and Regulatory Impact Assessments.

Financial memorandum for the Bill

<http://www.scottish.parliament.uk/business/bills/51-planning/index.htm>

A Business and Regulatory Impact Assessment (BRIA) was completed in respect of the Regulations relating to Planning Obligations and GNAs.

BRIA;

http://www.legislation.gov.uk/ssi/2010/432/pdfs/ssien_20100432_en.pdf

Directorate for the Built Environment

November 2010