



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART III

#### CONTROL OVER DEVELOPMENT

##### *Secretary of State's powers in relation to planning applications and decisions*

#### **48 Determination of appeals.**

- (1) On an appeal under section 47 the Secretary of State may—
  - (a) allow or dismiss the appeal, or
  - (b) reverse or vary any part of the decision of the planning authority (whether the appeal relates to that part of it or not),and may deal with the application as if it had been made to him in the first instance.
- (2) Before determining the appeal the Secretary of State shall, if either the appellant or the planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (3) If the Secretary of State proposes to reverse or vary any part of the decision of the planning authority to which the appeal does not relate, he shall give notice of his intention to the planning authority and to the appellant and shall give each of them an opportunity of making representations about his proposals.
- (4) Subsection (2) does not apply to an appeal referred to—
  - (a) a Planning Inquiry Commission under section 69, or
  - (b) a Joint Planning Inquiry Commission under section 70.
- (5) Subject to subsection (2), in relation to an appeal to the Secretary of State under section 47—

---

*Status: Point in time view as at 02/04/2004. This version of this provision has been superseded.*

*Changes to legislation: Town and Country Planning (Scotland) Act 1997, Section 48 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

---

- (a) sections 33, 37(1) to (3), 38(1) to (3), 41(1) and (2) and 42 and Part I of Schedule 3 shall apply, with any necessary modifications, as they apply in relation to an application for planning permission which falls to be determined by the planning authority, and
  - (b) regulations or a development order may apply, with or without modifications, to such an appeal any requirements imposed by the regulations or order by virtue of section 34 or 35.
- (6) The decision of the Secretary of State on such an appeal shall be final.
- (7) If, before or during the determination of such an appeal in respect of an application for planning permission to develop land, the Secretary of State forms the opinion that, having regard to the provisions of sections 37 and 41(1) and (2), any regulations made under this Act in that regard and of any development order and any directions given under such regulations or order, planning permission for that development—
- (a) could not have been granted by the planning authority, or
  - (b) could not have been granted otherwise than subject to the conditions imposed,
- he may decline to determine the appeal or to proceed with the determination.
- (8) If at any time before or during the determination of an appeal under section 47 it appears to the Secretary of State that the appellant is responsible for undue delay in the progress of the appeal, he may—
- (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal, and
  - (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.
- (9) Schedule 4 applies to appeals under section 47, including appeals under that section as applied by or under any other provision of this Act.

**Status:**

Point in time view as at 02/04/2004. This version of this provision has been superseded.

**Changes to legislation:**

Town and Country Planning (Scotland) Act 1997, Section 48 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.