

1980 No. 1675 (S.139)

TOWN AND COUNTRY PLANNING, SCOTLAND

**The Town and Country Planning (Determination of
Appeals by Appointed Persons) (Prescribed Classes)
(Scotland) Regulations 1980**

<i>Made - - - -</i>	<i>28th October 1980</i>
<i>Laid before Parliament</i>	<i>13th November 1980</i>
<i>Coming into Operation</i>	<i>22nd December 1980</i>

In exercise of the powers conferred on me by section 273 of and paragraph 1 of Schedule 7 to the Town and Country Planning (Scotland) Act 1972(a) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1980 and shall come into operation on 22nd December 1980.

Interpretation

2. In the regulations, unless the context otherwise requires

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

“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, gas, hydraulic power or water and includes the British Airports Authority, the Civil Aviation Authority, the National Coal Board, the Post Office and companies which are deemed to be statutory undertakers by virtue of section 141(2) of the Transport Act 1968(b).

Classes of appeal for determination by appointed persons

3. Subject to regulation 4 hereof the Secretary of State hereby prescribes the classes of appeal specified in Schedule 1 to these regulations as being 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. Regulation 3 hereof shall not apply to any such appeal as mentioned therein if it relates to an application in respect of development falling within any one or both of the classes of appeal specified in Schedule 2 to these regulations, or to an enforcement notice alleging a breach of planning control in respect of development falling within any one or both of the classes specified in the said Schedule.

 (a) 1972 c. 52.

(b) 1968 c. 73.

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

5. On the making by the Secretary of State of a direction under paragraph 1 of Schedule 7 to the Act he may by notice in writing enclosing a copy of the direction require the planning authority of any area for which the direction has effect to publish as soon as may be a notice in at least one newspaper circulating in the area; and this 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 1978^(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 operation of these regulations, shall be determined under and in accordance with the provisions of these regulations.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
28th October 1980.

SCHEDULE 1

Regulation 3

CLASSES OF APPEALS TO BE DETERMINED BY APPOINTED PERSONS

Appeals under—

- (1) section 33 of the Act as originally enacted (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 by regulations made under section 58 of the Act (appeals against tree preservation orders) or as applied by section 179 of the Local Government (Scotland) Act 1973 (appeals against decisions by regional planning authorities referred to them);
- (2) section 85 of the Act as originally enacted (appeals against enforcement notices) or that section as applied by section 63 of the Act (appeals against notices requiring proper maintenance of waste land);
- (3) section 91 of the Act (appeals against refusals of established use certificates);
- (4) section 99 of the Act (appeals against an enforcement notice requiring the replacement of trees).

SCHEDULE 2

Regulation 4

CLASSES OF APPEALS EXCEPTED FROM SCHEDULE 1

1. Development by statutory undertakers on land where circumstances mentioned in section 214(2) of the Act apply and the appeal is to be dealt with by the Secretary of State and the appropriate Minister.
2. Development where the same land is concurrently the subject or part of the subject of another appeal to the Secretary of State under Schedule 10 to the Act or of an application referred to him under any provisions of the Act.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations revoke and re-enact, with amendments, the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Scotland) Regulations 1978.

The regulations delegate almost all planning appeals for decision by an appointed person instead of by the Secretary of State by extending the prescribed classes of appeals under the Town and Country Planning (Scotland) Act 1972 which are to be determined by a person appointed for the purpose by the Secretary of State instead of by the Secretary of State.

The principal changes are:

- (a) The removal of the limitations on the classes of appeals under section 33 and section 85 of the Act to be determined by appointed persons, and
- (b) the extension of the classes of appeals to cover appeals against determination as to whether a use or operation constitutes or involves development, tree preservation orders, decisions by regional planning authorities referred to them and notices requiring the proper maintenance of waste land.

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