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STATUTORY INSTRUMENTS

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**1984 No. 467**

**The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984**

**PART V**

**APPLICATIONS FOR EXPRESS CONSENT**

**How to apply for consent**

**15.**—(1) Subject to the provisions of this regulation an application to a planning authority for consent to display advertisements shall be made on a form issued by that authority and shall include such particulars as may be required by that authority and shall be accompanied by such plans together with such additional number of copies (not exceeding 2) of the form and plans as may be required by the direction of the planning authority printed on the form.

(2) On receipt of the application the planning authority shall send an acknowledgement in writing to the applicant, including a statement of the right of appeal under regulation 21.

(3) If the planning authority consider that the information contained in the application is insufficient to enable them properly to determine it they may call for such further information as they require for that purpose.

**Duty to consult with respect to an application**

**16.**—(1) Before determining an application for consent to display advertisements the planning authority shall consult—

- (a) with any other planning authority whose district, or any part thereof, appears likely to be affected by the display of advertisements to which the application relates;
- (b) where it appears to the planning authority that the display of advertisements to which the application relates may affect the safety of persons using—
  - (i) any trunk road, with the Secretary of State;
  - (ii) any road (other than a trunk road) for which the planning authority are not also the local highway authority, with the local highway authority concerned;
  - (iii) any railway, waterway, (including any coastal waters), dock, harbour or airfield with the authority, statutory undertaker, body or person responsible for the operation thereof and, in the case of any coastal waters, with the Commissioner of Northern Lighthouses.

(2) A planning authority shall give to any authority, person or body with whom they are required to consult not less than 14 days' notice that an application is to be taken into consideration and shall on determining the application take into account any representations made by such authority, person or body.

### **Power of planning authority to deal with an application**

17.—(1) Where application for consent for the display of advertisements is made to the planning authority, that authority may grant consent subject to the standard conditions specified in Schedule 1 and to such additional conditions as they think fit, or may refuse consent:

Provided that where the application relates to the display (in accordance with the relevant provisions of Schedule 4) of an advertisement of a specified class the authority shall not refuse consent, or impose a condition more restrictive in effect than any provision of that regulation in relation to advertisements of that class, unless they are satisfied that such refusal or condition is required to prevent or remedy a substantial injury to the amenity of the locality or a danger to members of the public.

(2) Without prejudice to the generality of paragraph (1) above and subject to the provisions of regulation 4 conditions may be imposed on the grant of consent under this regulation—

- (a) regulating the display of advertisements to which the consent relates, or the use of land by the applicant for the display of advertisements (whether it is land in respect of which the application was made or adjacent land under the control of the applicant), or requiring the carrying out of works on any such land, so far as appears to the planning authority to be expedient for the purposes of or in connection with the display of advertisements authorised by the consent;
  - (b) requiring the removal of any advertisement authorised by the consent, or the discontinuance of any use of land so authorised, at the expiration of a specified period, and the carrying out of any works required for the reinstatement of land at the expiration of that period.
- (3) Consent under this regulation may be—
- (a) for the display of a particular advertisement or advertisements with or without illumination, as the application specifies; or
  - (b) for the use of a particular site for the display of advertisements in a specified manner, whether by reference to the number, siting, size or illumination of the advertisements or the structures intended for such display, or the design or appearance of any such structure, or otherwise.

(4) The power to grant consent for the display of advertisements under these regulations shall include power to grant consent for the retention on a site of any advertisements being displayed thereon before the date of the application or for the continuance of any use of a site for the display of advertisements begun before that date; and reference in these regulations to consent for the display of advertisements and to applications for such consent shall be construed accordingly.

### **Consent to be limited**

18.—(1) Subject to paragraph (4) of this regulation, every grant of express consent shall operate for a period of 5 years from the date of the granting of consent:

Provided that the planning authority may, in the document granting consent, specify such shorter or longer period as they may consider expedient having regard to the provisions of regulation 4 and any period specified in the application for consent.

(2) The limitation in time specified in the consent, or the 5 year period having effect when no period is specified in the consent, shall, for the purposes of these regulations, be deemed to be a condition imposed upon the granting of the consent.

(3) Where the planning authority grant consent for a period of less than 5 years they shall (unless the application specified such shorter period) state in writing their reasons for doing so.

(4) Where, at the time when a consent is granted for the display of advertisements, the display to which the consent relates has not already begun, the planning authority may express the specified period as a period running, in the alternative, from the date of commencement of the display or from a date not later than 6 months after the date on which the consent is granted, whichever is the earlier.

(5) At any time within a period of 6 months before the expiry of a consent, application may be made for its renewal and the provisions of these regulations relating to applications for consent and to their determination shall apply where application is made for such renewal.

### **Display of advertisements after the expiration of express consent**

**19.**—(1) Except where the planning authority when granting consent impose a condition to the contrary or where renewal of consent is applied for and refused, advertisements displayed with express consent may on the expiry of their term continue to be displayed subject to service by the planning authority of a discontinuance notice but without prejudice to the exercise of any other power in these regulations to require the removal of such advertisements.

(2) Where under paragraph (1) of this regulation advertisements continue to be displayed after the expiry of express consent, consent shall be deemed to be granted in respect of the continuance of such display, subject to the like conditions as those to which the express consent immediately preceding it was subject and, unless previously brought to an end, shall expire when the site ceases to be used for such display of advertisements.

### **Notification of planning authority's decision**

**20.**—(1) The grant or refusal by a planning authority of an application for consent for the display of advertisements shall be given by notice in writing to the applicant within 2 months from the date of receipt of the application or within such longer period as may be agreed in writing by the planning authority and the applicant.

(2) Where the planning authority decide to grant consent subject to conditions in addition to the standard conditions, or to refuse consent, the reasons for their decision shall be stated in writing.

(3) Where, within 2 months from the date of the receipt of the application, or within such longer period as the planning authority and the applicant may have agreed, the planning authority fail to give notice to the applicant of their decision, the provisions of regulation 21 shall apply as if the planning authority had notified the applicant of refusal of consent.

### **Appeals to the Secretary of State**

**21.**—(1) Where, on application being made, consent is refused by the planning authority or is granted by them subject to conditions, the applicant may appeal to the Secretary of State:

Provided that the Secretary of State shall not be required to entertain an appeal under this regulation if it appears to him, having regard to the provisions of these regulations, that consent for the display of advertisements in respect of which application was made could not have been granted otherwise and subject to the conditions imposed by them.

(2) Where the planning authority serve a discontinuance notice on any person the provisions of paragraph (1) above shall apply as if that person had made an application for consent for the display of the advertisements, or for the use of the site, to which the notice relates and the planning authority had refused consent for the reasons stated in the notice and as if the discontinuance notice constituted notification of the planning authority's decision in terms of regulation 20.

(3) Any person who desires to appeal under this regulation shall give notice of appeal in writing to the Secretary of State stating the grounds on which the appeal is based within 6 months from the receipt of notification of the planning authority's decision, or in the case of a discontinuance notice

within 28 days from the date of service of the notice, and shall within 28 days from giving notice of appeal send to the Secretary of State a copy of each of the following documents:—

- (a) the application made to the planning authority or, as the case may be, the discontinuance notice served by the planning authority;
- (b) all relevant plans and particulars submitted to the planning authority;
- (c) the notice of the decision of the planning authority, if any;
- (d) any notice of variation of the discontinuance notice;
- (e) all other relevant correspondence with the planning authority.

(4) The planning authority shall, within 28 days from the date when the Secretary of State advises them of the appeal, submit a statement in writing of their observations on the appeal.

(5) Before determining an appeal under this regulation the Secretary of State shall, if either the applicant or the planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) Where the appellant or the planning authority have failed to comply with the requirements of paragraphs (3) or (4) above or to supply any further observations or documents which may be required by the Secretary of State within any time specified by him, the Secretary of State may nevertheless proceed to determine the appeal.

(7) The Secretary of State may allow or dismiss an appeal where an application has been made to the planning authority or may reverse or vary any part of the decision of the planning authority whether or not the appeal relates to that part or may deal with the application as if it has been made to him in the first instance.

(8) On the determination of an appeal under this regulation in respect of a discontinuance notice served by the planning authority the Secretary of State shall give such direction as may be necessary for giving effect to his determination including, where appropriate, directions for quashing the discontinuance notice or for varying the terms of the discontinuance notice in favour of the appellant.

(9) The decision of the Secretary of State on any appeal under this regulation shall be final and shall otherwise have effect as if it were the decision of the planning authority.