1990 No. 507 (S.65)

TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (Appeals) (Written Submissions Procedure) (Scotland) Regulations 1990

Made - - - -	*6th March 1990*
Laid before Parliament	*9th March 1990*
Coming into force	*31st March 1990*

The Secretary of State, in exercise of the powers conferred on him by sections 267B and 273 of the Town and Country Planning (Scotland) Act 1972(**a**), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Town and Country Planning (Appeals) (Written Submissions Procedure) (Scotland) Regulations 1990 and shall come into force on 31st March 1990.

Interpretation

2. In these Regulations, unless the context otherwise requires–

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

"the 1984 Act" means the Town and Country Planning Act 1984(**b**);

"appeals questionnaire" means a document in the form supplied by the Secretary of State to planning authorities for the purpose of proceedings under these Regulations;

"application" means the application to which the appeal relates and, in the case of an appeal under any of the provisions listed in paragraphs 3, 4, 6 and 7 of the Schedule, includes the notice to which the appeal relates;

"planning authority" means the planning authority who were responsible for dealing with an application or serving a notice;

"Schedule" means the Schedule to these Regulations;

"written submissions" includes any supporting documents.

Application

3.—(1) These Regulations shall apply where, after they come into force, a person appealing to the Secretary of State under any of the statutory provisions listed in the Schedule informs the Secretary of State that he wishes the appeal to be disposed of on the basis of written submissions.

(2) Where–

(a) an appeal under any of the statutory provisions listed in the Schedule is being disposed of otherwise than on the basis of written submissions;

(**a**) 1972 c.52; section 267B was inserted by paragraph 41 of Schedule 11 to the Housing and Planning Act 1986 (c.63).

(**b**) 1984 c.10.

(b) the appellant and the planning authority inform the Secretary of State that they wish it to be disposed of on the basis of written submissions; and

(c) the Secretary of State agrees;

these Regulations thereafter shall apply to the proceedings to such extent as the Secretary of State may specify having regard to any steps already taken in the proceedings.

(3) These Regulations shall cease to apply to proceedings if the Secretary of State informs the parties that the appeal is to be disposed of other than on the basis of written submissions.

Notice to interested persons

4.—(1) The planning authority shall give notice of the appeal and of the appellant's wish to have the appeal disposed of on the basis of written submissions–

(a) by post to any person notified or consulted under the Act by them other than by newspaper advertisement and who made representations to the planning authority in connection with the application; and

(b) by post or by advertisement in a newspaper circulating in the locality where the proposed development is situated, to any person who made representations to the planning authority in connection with the application.

(2) A notice under paragraph (1) shall–

(a) be given not later than 14 days after receiving from the appellant or the Secretary of State notification of the appeal and of the appellant's wish to have the appeal disposed of on the basis of written submissions;

(b) state the name of the appellant and the address of the site to which the appeal relates;

(c) describe the application;

(d) state that copies of any representations previously made to the planning authority by any person mentioned in paragraph (1), other than representations which the maker thereof has asked to be treated as confidential, will be sent to the Secretary of State and the appellant; and will be considered by the Secretary of State when determining the appeal unless within 14 days of the date of receipt of the notice the person who made the representations asks the Secretary of State to disregard them; and

(e) state that any written submissions in relation to the appeal shall be sent to the Secretary of State within 14 days of the date of receipt of the notice, or of the date of publication in a newspaper as the case may be.

Appeals questionnaire

5.—(1) In appeals under any of the provisions listed in paragraph 1 of the Schedule, the planning authority shall, not later than 14 days after receiving notification of the appeal and of the appellant's wish to have the appeal disposed of on the basis of written submissions, send to the Secretary of State–

(a) a completed appeals questionnaire;

(b) a copy of all documents relating to the case which are referred to in the completed appeals questionnaire other than any written representations which the maker thereof has asked to be treated as confidential.

(2) The planning authority shall at the same time send to the appellant a copy of the appeals questionnaire and of all documents sent to the Secretary of State under paragraph (1)(b).

Written submissions

6.—(1) In appeals under any of the provisions listed in paragraph 1 of the Schedule, the planning authority at the same time as submitting the appeals questionnaire and the documents sent with it under regulation 5(1) shall inform the Secretary of State either that the appeals questionnaire and documents comprise their written submissions or that they intend to send him further written submissions.

(2) In appeals under any of the provisions listed in paragraphs 3, 4 and 6 of the Schedule, the planning authority at the same time as sending a statement under regulation 6 of the Town

and Country Planning (Enforcement of Control) (Scotland) Regulations 1984(a) shall inform the Secretary of State either that the statement comprises their written submissions or that they intend to send him further written submissions.

(3) In appeals under any of the provisions listed in paragraphs 2, 5, 7 and 8 of the Schedule and where the planning authority have informed the Secretary of State under paragraph (1) or (2) that they intend to send him further written submissions, they shall send him written submissions not later than 28 days after receiving notification of the appeal and of the appellant's wish to have it disposed of on the basis of written submissions and shall at the same time send the appellant a copy of the submissions.

(4) The appellant may make further written submissions to the Secretary of State in reply to the planning authority not later than 14 days after the receipt by him of any of the planning authority's written submissions and shall send to the planning authority at the same time a copy of any further written submissions he makes.

(5) Any interested party may make written submissions to the Secretary of State not later than 28 days after the date on which the appeal is received by the Secretary of State and where the Secretary of State sends to the appellant and the planning authority a copy of any such submissions, he shall allow them a period of not less than 14 days in which to reply to them.

Power to set later time limits

7. The Secretary of State may in a particular case give directions extending or setting later time limits than those prescribed by these Regulations.

Decision on appeal

8.—(1) The Secretary of State may proceed to a decision on an appeal taking into account only such written submissions as have been sent to him within the relevant time limits.

(2) The Secretary of State may, after giving written notice to the appellant and the planning authority of his intention to do so, proceed to a decision on an appeal notwithstanding that no written submissions have been made to him within the relevant time limits if it appears to him that he has sufficient material before him to enable him to reach a decision on the merits of the case.

(3) In this regulation, "relevant time limits" means the time limits prescribed by, or set by direction of the Secretary of State under, these Regulations.

James Douglas-Hamilton
Parliamentary Under Secretary of State,
Scottish Office

St. Andrew's House, Edinburgh
6th March 1990

(a) S.I. 1984/236.

SCHEDULE

Regulations 2, 3, 5 and 6

PROVISIONS OF THE ACT WHERE WRITTEN SUBMISSIONS PROCEDURE APPLICABLE

1. (a) Section 33 of the Act (appeals against planning decisions);

(b) that section as applied by section 34 of the Act (appeals in default of planning decisions);

(c) the provisions of sub-paragraph (a) or (b) as applied by section 179 of the Local Government (Scotland) Act 1973(**a**) (appeals against decisions by regional planning authorities); or

(d) the provisions of sub-paragraph (a), (b) or (c) as applied by section 1 of the 1984 Act (appeals in relation to applications for planning permission etc in anticipation of disposal of Crown land).

2.(a) The provisions of paragraph 1(a) or (b) as applied by –

(i) section 51 of the Act (appeals against determinations as to whether a use or operation constitutes or involves development); or

(ii) an order made under either section 58 of the Act or under section 58 of the Act and section 2 of the 1984 Act (appeals in relation to consent to felling etc of trees subject to a tree preservation order);

(b) the provisions of sub-paragraph (a)(i) as applied by section 1 of the 1984 Act (appeals against determinations as to whether a use or operation constitutes or involves development in anticipation of disposal of Crown land).

3. Section 63A(**b**) of the Act (appeals against notices under section 63 of the Act).

4. Section 85 of the Act (appeals against enforcement notices) or that section as applied by section 3 of the 1984 Act (appeals against special enforcement notices relating to development on Crown land).

5. Section 91 of the Act (appeals against refusals of established use certificates).

6. Section 93 of the Act (appeals against listed building enforcement notices) or that section as applied by section 262A(**c**) (appeals against enforcement notices in respect of the demolition of buildings in conservation areas).

7. Section 99 of the Act (appeals against enforcement notices requiring the replacement of trees).

8. (a) Paragraph 7 of Schedule 10 to the Act (appeals against refusal of, or conditional consent to, applications for listed building consent or against refusal of approval required by a condition);

(b) that paragraph as applied by paragraph 8 of Schedule 10 to the Act (appeals in default of decisions on applications for listed building consent or for approvals required by a condition);

(c) the provisions of sub-paragraph (a) or (b), as applied by section 54D(**d**) (appeals in relation to applications for variation or discharge of conditions) or 262A of the Act (appeals in relation to consent to demolition of buildings in conservation areas); or

(d) any of the foregoing provisions as applied by section 1 of the 1984 Act (the foregoing appeals in relation to anticipation of the disposal of Crown land).

(**a**) 1973 c.65; section 179 was substituted by the Local Government and Planning (Scotland) Act 1982 (c.43), Schedule 3, paragraph 24.

(**b**) Section 63A was inserted by the Local Government and Planning (Scotland) Act 1982, Schedule 2, paragraph 18; and amended by the Housing and Planning Act 1986 (c.63), Schedule 11, paragraph 34.

(**c**) Section 262A was inserted by the Town and Country Amenities Act 1974 (c.32), section 2(1).

(**d**) Section 54D was inserted by the Housing and Planning Act 1986, Schedule 9, paragraph 17.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The provisions of the Town and Country Planning (Scotland) Act 1972 listed in the Schedule to these Regulations confer a right of appeal against certain decisions of planning authorities.

An appellant and the planning authority are entitled in any appeal proceedings to appear before and be heard by a person appointed by the Secretary of State but they may agree to the appeal being determined on the basis of written submissions.

These Regulations lay down the procedure and time limits in connection with appeals to be disposed of on the basis of written submissions.

Regulation 3 prescribes the circumstances in which the Regulations apply.

Where the Regulations apply–

(a) the planning authority must give specified information to interested third parties (regulation 4) and must also complete a questionnaire and return it to the Secretary of State together with copies of related documents including representations already made by interested third parties (regulation 5);

(b) submissions must be sent to the Secretary of State within prescribed time limits (regulation 6), but the Secretary of State may set later time limits in particular cases (regulation 7);

(c) after the expiry of the relevant time limits the Secretary of State may proceed to a decision on the appeal (regulation 8).

A copy of the appeals questionnaire referred to in these Regulations may be obtained from the Scottish Office Inquiry Reporters Unit, 16 Waterloo Place, Edinburgh, EH1 3DN.