

2013 No. 26

TOWN AND COUNTRY PLANNING

**The Planning etc. (Scotland) Act 2006 (Supplementary and
Consequential Provisions) Order 2013**

Made - - - - 29th January 2013

Coming into force - - 2nd February 2013

The Scottish Ministers make the following Order in exercise of the powers conferred by section 58(1) and (2) of the Planning etc. (Scotland) Act 2006^(a) and all other powers enabling them to do so.

In accordance with section 58(5)^(b) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Planning etc. (Scotland) Act 2006 (Supplementary and Consequential Provisions) Order 2013 and comes into force on 2nd February 2013.

Amendment of the Town and Country Planning (Scotland) Act 1997

2.—(1) The Town and Country Planning (Scotland) Act 1997^(c) is amended in accordance with paragraphs (2) to (6).

(2) After section 39(2)^(d) (declining to determine an application) insert—

“(2A) For the purposes of the application of this section by virtue of section 43A(5)—

- (a) the references in subsection (1) to an appeal to the Scottish Ministers include a reference to a requirement on the planning authority to review a case by virtue of section 43A(8);
- (b) the references in that subsection to the dismissal by the Scottish Ministers of an appeal include a reference to the upholding by the planning authority of a determination on review; and
- (c) the references to an appeal under section 47(2) include a reference to a requirement to review under section 43A(8)(c).”.

(a) 2006 asp 17.

(b) Section 58(5) of the 2006 Act has been modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(c) 1997 c.8. Section 43A was inserted by section 17 of the Planning etc. (Scotland) Act 2006 (“the 2006 Act”).

(d) Section 39(2) was substituted by section 15(a) of the 2006 Act.

- (3) In section 43A (local developments: schemes of delegation)—
- (a) in subsection (5)—
 - (i) after “sections” insert “27A(2), 27B(2), 30(3), 32A(a),”;
 - (ii) after “39” insert “, 40(b)”;
 - (iii) for “and 42” substitute “, 42, 43(1) to (2), 46, 58, 59 and 60(c)”;
 - (b) after subsection (8) insert—

“(8A) A requirement to review may not be made by virtue of paragraph (c) of subsection (8) if within the period (or extended period) mentioned in that paragraph notice has been given to the applicant that—

 - (a) the power under section 39 to decline to determine the application has been exercised; or
 - (b) the application has been referred to the Scottish Ministers in accordance with directions given under section 46.”.
- (4) In section 46(2) (call-in of applications) after paragraph (a) insert—
- “(ab) may relate to an application which is the subject of a review by the planning authority under section 43A(8).”.
- (5) In section 59(2)(a)(iii) (planning permission in principle) after “dismissed” insert—
- “or, where the earlier application is the subject of a review by virtue of section 43A(8), the expiration of 6 months from the date of the notice of the decision to uphold the determination given by virtue of section 43A(11)(e)”.
- (6) In section 218(1)(d) (applications for planning permission by statutory undertakers)—
- (a) after paragraph (a) insert “or”; and
 - (b) omit paragraph (c) and the preceding “or”.

DEREK MACKAY

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
29th January 2013

(a) Sections 27A and 27B were inserted by section 6(1) of the Planning etc. (Scotland) Act 2006 (asp 17) (“the 2006 Act”) and section 32A was inserted by section 8 of the 2006 Act.

(b) Section 40 was amended by section 24(3) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3) and S.I. 2011/1043.

(c) Sections 43(1), 46, 58 and 60 were respectively amended by sections 16(a), 18, 20(1) and 22(1) of the 2006 Act. Section 59 was substituted by section 21 of the 2006 Act.

(d) Section 218 was amended by S.I. 1999/1820.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the provisions of the Town and Country Planning (Scotland) Act 1997 (“the Act”). The changes are minor supplementary and consequential provisions following from the amendments made to the Act by the Planning etc. (Scotland) Act 2006 (“the 2006 Act”).

Article 2(2) amends section 39(2) of the Act so that the provisions apply in relation to local reviews under section 43A of the Act as they do in relation to appeals made under section 47 of the Act. Article 2(3)(a), (4) and (5) also make amendment to ensure that the Act operates in relation to applications to be determined under schemes of delegation or on review by virtue of section 43A of the Act as it does in relation to other applications or appeals. The amendment made by article 2(3)(b) places the right to require a review under section 43A(8)(c) on the same footing as the right to appeal under section 47(2). Article 2(6) removes section 218(1)(c) of the Act as this is no longer applicable following the repeal of section 133(7) by the 2006 Act.

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