

# **TOWN AND COUNTRY PLANNING (HAZARDOUS SUBSTANCES) (SCOTLAND) REGULATIONS 2015 AND THE TOWN AND COUNTRY PLANNING (HAZARDOUS SUBSTANCES INQUIRY SESSION PROCEDURE) (SCOTLAND) RULES 2015**

## **Introduction**

In implementing the land use planning elements of European Directive 2012/18/EU on the control of major accident hazards involving dangerous substances<sup>1</sup> (the Seveso III Directive), we are taking the opportunity to update the procedures for applications, appeals and applications called-in for determination by Scottish Ministers relating to hazardous substances consent.

The current Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 are over twenty years old and the related procedures for dealing with appeals and called-in applications were not updated alongside those relating to applications for planning permission in 2009.

## **Changes to planning permission procedures in 2009**

One of the main change made in 2009, in part via the Planning etc. (Scotland) Act 2006, was the removal of the right for applicants/ appellants and the planning authority to appear before and be heard by a person appointed by the Scottish Ministers (the right to be heard) in appeal and called-in applications. The need and form of any further processing of the case at appeal or called-in stage could then be determined by the Scottish Ministers or a reporter acting in their behalf.

Another significant change was the introduction of a local review procedure by the planning authority instead of a right of appeal to Scottish Ministers against the decision of the planning authority or their failure to take a decision on applications for planning permission. This applied where applications for local development (the relatively smaller scale developments in the hierarchy of developments specified in planning legislation) were delegated to an officer for determination.

Beyond that, the changes in 2009 sought to streamline and front load the process for dealing with planning permission appeals and called-in applications.

## **Proposed changes to planning hazardous substances consent procedures in 2015**

With the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015 (draft PHS Regulations) and the Town and Country Planning (Hazardous Substances Inquiry Session Procedure) (Scotland) Rules 2015 (draft hazardous substances inquiry rules), the right to be heard remains.

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<sup>1</sup> In domestic legislation dangerous substances are referred to as hazardous substances.

The changes necessary to make a change in this regard would require changes to primary legislation, which would be outside the powers for making the draft PHS Regulations.

We also have no plans at present for introducing local review procedures in relation to hazardous substances consent procedure.

The changes to procedures for called-in applications and appeals for hazardous substances consent relate to bringing these into line with those for planning permission cases, while still allowing the applicant and/or planning authority to exercise their right to be heard. So the changes aim to front load and streamline the process.

If neither party want to exercise their right to be heard, the Scottish Ministers/ reporter can decide whether further processing is required and, if so, what form it should take: an inquiry sessions(s), hearing session(s), written submissions, site inspection or combination of some or all of these.

Where the planning authority or applicant/ appellant want to exercise their right to be heard in relation to any matter(s), then that matter(s) will be considered by means of a hearing session(s) or inquiry session(s) or combination of these.

**Planning & Architecture Division**  
**Scottish Government**  
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