

*Draft Regulations laid before the Scottish Parliament under section 275(7A) of the Town and Country Planning (Scotland) Act 1997, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2009 No.**

**TOWN AND COUNTRY PLANNING**

**The Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009**

*Made* - - - - 2009  
*Coming into force* - - 28th February 2009

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 19(10)(a)(i) of the Town and Country Planning (Scotland) Act 1997<sup>(1)</sup> and of all other powers enabling them to do so.

In accordance with section 275(7A) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009 and come into force on 28th February 2009.

(2) In these Regulations—

“the Act” means the Town and Country Planning (Scotland) Act 1997;

“appointed person” means the person appointed by the Scottish Ministers under section 19(3) of the Act to examine a proposed local development plan.

**Grounds for declining to follow recommendations**

2. The grounds, for the purposes of section 19(10)(a)(i) of the Act, on which a planning authority may decline to make modifications to a proposed local development plan as recommended by an appointed person are—

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(1) 1997 c. 8. The functions of the Secretary of State under the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). Section 19(10)(a)(i) was inserted by section 2 of the Planning etc. (Scotland) Act 2006 (asp 17) and section 275 was further amended by section 54(16) (f) of that Act. See section 277(1) of the 1997 Act for the definition of “prescribed”.

- (a) the modification, if made, would have the effect that the proposed local development plan would not be consistent with—
  - (i) the National Planning Framework;
  - (ii) the strategic development plan for the land to which the proposed local development plan relates; or
  - (iii) any plan adopted as a National Park Plan under section 12(7)(a) of the National Parks (Scotland) Act 2000<sup>(2)</sup> for such land;
- (b) that the adoption of the local development plan as so modified would not be compatible with the requirements of Part IVA of the Conservation (Natural Habitats, &c.) Regulations 1994<sup>(3)</sup>;
- (c) the recommendation in respect of the modification is based on conclusions that the appointed person could not reasonably have reached based on the evidence considered in the course of the examination under section 19(3) of the Act.

St Andrew's House,  
Edinburgh  
2009

Authorised to sign by the Scottish Ministers

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(2) 2000 asp 10.  
(3) S.I.1994/2716 as relevantly amended by S.S.I. 2007/80 and S.I. 2007/1843.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe the grounds on which a planning authority may decline to modify a proposed local development plan as recommended in a report by a person appointed following the completion of an examination into a proposed local development plan under section 19(3) of the Town and Country Planning (Scotland) Act 1997.