

2009 No. 343

TOWN AND COUNTRY PLANNING

**The Town and Country Planning (Miscellaneous Amendments)
(Scotland) (No. 2) Regulations 2009**

<i>Made</i>	- - - -	<i>7th October 2009</i>
<i>Laid before the Scottish Parliament</i>		<i>8th October 2009</i>
<i>Coming into force</i>	- -	<i>16th November 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 19(5), 40, and 275 of the Town and Country Planning (Scotland) Act 1997(a), section 2(2) of the European Communities Act 1972(b) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Town and Country Planning (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2009 and come into force on 16th November 2009.

Amendment of Conservation (Natural Habitats, &c.) Regulations 1994

2.—(1) The Conservation (Natural Habitats, &c.) Regulations 1994(c) are amended in accordance with paragraph (2).

(2) In regulation 85A(1) (interpretation) in sub-paragraph (c) of the definition of “plan making authority” for “23A” substitute “23B”.

Amendment of the Environmental Impact Assessment (Scotland) Regulations 1999

3.—(1) Subject to paragraph (6), the Environmental Impact Assessment (Scotland) Regulations 1999(d) are amended in accordance with paragraphs (2) to (5).

(2) Omit regulation 2A(4)(b) (use of electronic communications).

(3) In regulation 19 (further information and evidence relating to environmental statements)—

(a) in paragraph (2) omit—

(i) “or” at the end of paragraph (a);

(ii) paragraph (b); and

(a) 1997 c.8. Section 19(5) was inserted by section 2 of the Planning etc. (Scotland) Act 2006 (asp 17). Section 275 was relevantly amended by section 54(16) of that Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1972 c.68. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(c) S.I. 1994/2716 as relevantly amended by S.I. 2007/1843 and S.S.I. 2007/80 and 2009/427.

(d) S.S.I. 1999/1 as relevantly amended by S.S.I. 2004/332 and 2006/614.

- (iii) “or appeal procedure as the case may be”; and
- (b) in paragraph (2A) omit “or for the purposes of an appeal under section 130 of the Act” and “or appeal procedure as the case may be”.
- (4) Omit regulations 29 to 39 (unauthorised development).
- (5) In regulation 43 (application to the Court of Session), omit “or 29”.
- (6) Regulations 2A(4)(b), 19(2) and (2A), 29 to 39 and 43 continue to have effect in relation to an appeal made under section 130 (appeal against enforcement notice) of the Town and Country Planning (Scotland) Act 1997 in respect of which notice of appeal was given to the Scottish Ministers under section 130(2) before 3rd August 2009 as they had effect immediately before the date on which these Regulations come into force.

Amendment of The Town and Country Planning (Development Planning) (Scotland) Regulations 2008

4.—(1) The Town and Country Planning (Development Planning) (Scotland) Regulations 2008(a) are amended in accordance with paragraph (2).

(2) In regulation 30(3) (transitional provisions – local plans)—

- (a) in paragraph (a)(ii) after “local plan” insert “or, as the case may be, a proposal to alter, repeal or replace a local plan”; and
- (b) in paragraph (b) for the definition of “unresolved representations” set out in that paragraph substitute—

““unresolved representations” means any objections to a local plan or a proposal to alter, repeal or replace a local plan, as the case may be, timeously made to the planning authority (and not subsequently withdrawn) following the local plan or proposal being made available for inspection under section 12(3)(a) of the Act (as that section applied immediately before the relevant date).””.

STEWART STEVENSON
Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
7th October 2009

(a) S.S.I. 2008/426 as amended by S.S.I. 2009/220.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make minor amendments to the Conservation (Natural Habitats, &c.) Regulations 1994 (“the 1994 Regulations”), the Environmental Impact Assessment (Scotland) Regulations 1999 (“the 1999 Regulations”) and the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 (“the 2008 Regulations”).

Regulation 2 amends the 1994 Regulations to correct an erroneous reference to a statutory provision.

Regulation 3 amends the 1999 Regulations to remove Chapter 9 and related provisions, subject to saving provisions in respect of appeals made under section 130 of the 1997 Act before 3rd August 2009. These provisions are no longer required following the repeal of sections 130(1)(a) and 133(1)(a) to (c) of the Town and Country Planning (Scotland) Act 1997 by the Schedule to the Planning etc. (Scotland) Act 2006.

Regulation 4 amends the transitional provisions in the 2008 Regulations as they apply to examinations of a local plan or proposals to alter, repeal or replace a local plan.

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