

## POLICY NOTE

### THE TOWN AND COUNTRY PLANNING (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2015

#### SSI 2015/249

1. The above Regulations are to be made in exercise of the powers conferred on the Scottish Ministers by section 2(2) of the European Communities Act 1972, sections 32, 40, 43, 43A(10), 75A, 75E, 267, 275 and 275A of the Town and Country Planning (Scotland) Act 1997 and all other powers enabling them to do so. The Regulations are subject to the negative procedure.

#### Introduction

2. The above Regulations make a number of highly technical amendments to existing Scottish Statutory Instruments, as set out below.

3. Regulation 5 amends The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011<sup>1</sup> (the EIA Regulations) to:

- Update references to European Directive 2011/92/EU, known as the Environmental Impact Assessment or 'EIA' Directive, and replacing previous references to Directive 85/337/EEC.
- Clarify, on the face of those Regulations, transposition of Article 3 of the EIA Directive, in keeping with existing practice set out in Planning Advice Note 1/2013.

4. Regulation 5 also makes a number of additional technical changes which serve to clarify the time periods governing the determination of multi-stage EIA applications. In so doing, in addition to amendment of the EIA Regulations, we are also required to amend, through regulations 6, 7 and 8 respectively;

- The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013<sup>2</sup>,
- The Town and Country Planning (Appeals) (Scotland) Regulations 2013<sup>3</sup>, and
- The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013<sup>4</sup>

5. Regulation 2 amends the definition of "European site" in the Conservation (Natural Habitats, & c.) Regulations 1994. The changes made by regulation 2 and, to the extent they relate to applications for multi-stage consent by regulation 5, are made under powers contained in section 2(2) of the European Communities Act 1972.

6. Finally, Regulations 3 and 4 make technical amendments to correct a procedural anomaly in relation to the timing of decisions taken by planning authorities on applications to

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<sup>1</sup> S.S.I. 2011/139

<sup>2</sup> S.S.I. 2013/155

<sup>3</sup> S.S.I. 2013/156

<sup>4</sup> S.S.I. 2013/157

modify or discharge Planning Obligations or Good Neighbour agreements respectively. In so doing, the following Scottish Statutory Instruments are amended:

- The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010<sup>5</sup>(SSI 2010/432), and
- The Town and Country Planning (Modification and Discharge of Good Neighbour Agreements) (Scotland) Regulations 2010<sup>6</sup> (SSI 2010/433)

### **Policy context**

7. These are technical amendments which do not result in any substantial change in the application of the legislation. The Regulations do not introduce any new elements into legislation. Rather, they serve to clarify a number of matters, remove certain existing technical anomalies, and seek to apply a more consistent approach across planning legislation.

### **Consultation**

8. The above regulations are highly technical in nature. As they do not result in any substantial change in the application of the legislation no consultation has been undertaken.

### **Financial Implications**

9. The proposed amendments do not introduce any new statutory requirements that would have financial implications for either business or planning authorities.

### **Regulatory Impact Assessment**

10. A Business and Regulatory Impact Assessment is not considered necessary for these amendments as we consider there will be no negative impact on business.

11. In particular, amendments to the EIA Regulations in relation to transposition of Article 3 of the EIA Directive are intended to clarify on the face of the regulations existing practice as set out in Planning Advice Note 1/2013. There are therefore no new obligations or burdens arising for business or planning authorities.

12. The Scottish Government consider that the changes in relation to multi-stage EIA applications similarly do not introduce any new legislative burdens on business or planning authorities. There is a benefit in clarifying timescales in that business and planning authorities will have greater certainty as to the timing of processes and procedures, allowing them to plan accordingly.

13. The amendments to the regulations concerning modification or discharge of planning obligations or good neighbour agreements are procedural and would not place any additional cost or resource burdens on either applicants or planning authorities.

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<sup>5</sup> S.S.I. 2010/432

<sup>6</sup> S.S.I. 2010/433

## **Equalities Impact Assessment**

14. The Scottish Government is committed to ensuring the planning system is designed and delivered in a way that is sensitive and relevant to the diverse needs and experiences of all people living in Scotland. We have considered the impact of the Regulations on particular groups of people (whatever their age, gender, sexual orientation, religion or belief, or whether disabled or not). We are not aware of any evidence that any of these groups will be negatively affected by the proposed amendments. We do not consider that there will be any particular impact, adverse or otherwise on children's rights or wellbeing as a consequence of these Regulations.

**Scottish Government**  
**May 2015**