



# Town and Country Planning (Scotland) Act 1972

## 1972 CHAPTER 52

### PART II

#### DEVELOPMENT PLANS

##### *Survey and structure plan*

#### **4 Survey of planning districts**

- (1) It shall be the duty of the local planning authority to institute a survey of their district, in so far as they have not already done so, examining the matters which may be expected to affect the development of that district or the planning of its development and in any event to keep all such matters under review.
- (2) Notwithstanding that the local planning authority have carried out their duty under subsection (1) of this section, the authority may, if they think fit, and shall, if directed to do so by the Secretary of State, institute a fresh survey of their district examining the matters mentioned in that subsection.
- (3) Without prejudice to the generality of the preceding provisions of this section, the matters to be examined and kept under review thereunder shall include the following, that is to say—
  - (a) the principal physical and economic characteristics of the district of the authority (including the principal purposes for which land is used) and, so far as they may be expected to affect that district, of any neighbouring districts;
  - (b) the size, composition and distribution of the population of that district (whether resident or otherwise);
  - (c) without prejudice to paragraph (a) of this subsection, the communications, transport system and traffic of that district and, so far as they may be expected to affect that district, of any neighbouring districts;

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- (d) any considerations not mentioned in any of the preceding paragraphs which may be expected to affect any matters so mentioned;
  - (e) such other matters as may be prescribed or as the Secretary of State may in a particular case direct;
  - (f) any changes already projected in any of the matters mentioned in any of the preceding paragraphs and the effect which those changes are likely to have on the development of that district or the planning of such development.
- (4) A local planning authority shall, for the purpose of discharging their functions under this section of examining and keeping under review any matters relating to the district of another such authority, consult with that other authority about those matters.
- (5) Subsection (1) of this section shall, as respects any period during which this section is in operation in part only of the district of a local planning authority, be construed as requiring a local planning authority to institute a survey of that part of that district and to keep under review matters affecting only that part of that district; and subsection (2) of this section shall, whether or not this section is in operation in the whole of such a district, have effect as if the power thereby conferred included power for a local planning authority to institute, and for the Secretary of State to direct them to institute, a fresh survey of part only of their district; and references in subsection (3) of this section to the district of a local planning authority or any neighbouring districts shall be construed accordingly.

## **5 Preparation of structure plans**

- (1) The local planning authority shall, within such period from the commencement of this section within their district as the Secretary of State may direct, prepare and send the Secretary of State a report of their survey under section 4 of this Act and at the same time prepare and submit to him for his approval a structure plan for their district complying with the provisions of subsection (3) of this section.
- (2) The said report shall include an estimate of any changes likely to occur during such period as the Secretary of State may direct in the matters mentioned in section 4(3) of this Act; and different periods may be specified by any such direction in relation to different matters.
- (3) The structure plan for any district shall be a written statement—
- (a) formulating the local planning authority's policy and general proposals in respect of the development and other use of land in that district (including measures for the improvement of the physical environment and the management of traffic);
  - (b) stating the relationship of those proposals to general proposals for the development and other use of land in neighbouring districts which may be expected to affect that district; and
  - (c) containing such other matters as may be prescribed or as the Secretary of State may in any particular case direct.
- (4) In formulating their policy and general proposals under subsection (3)(a) of this section, the local planning authority shall secure that the policy and proposals are justified by the results of their survey under section 4 of this Act and by any other information which they may obtain and shall have regard—
- (a) to current policies with respect to the economic planning and development of the region as a whole;

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- (b) to the resources likely to be available for the carrying out of the proposals of the structure plan ; and
  - (c) to such other matters as the Secretary of State may direct them to take into account.
- (5) A local planning authority's general proposals under this section with respect to land in their district shall indicate any part of that district (in this Act referred to as an " action area ") which they have selected for the commencement during a prescribed period of comprehensive treatment, in accordance with a local plan prepared for the selected area as a whole, by development, redevelopment or improvement of the whole or part of the area selected, or partly by one and partly by another method, and the nature of the treatment selected.
- (6) A structure plan for any district shall contain or be accompanied by such diagrams, illustrations and descriptive matter as the local planning authority think appropriate for the purpose of explaining or illustrating the proposals in the plan, or as may be prescribed, or as may in any particular case be specified in directions given by the Secretary of State; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.
- (7) At any time before the Secretary of State has under section 7 of this Act approved a structure plan with respect to the whole of the district of a local planning authority, the authority may with his consent, and shall, if so directed by him, prepare and submit to him for his approval a structure plan relating to part of that district; and where the Secretary of State has given a consent or direction for the preparation of a structure plan for part of such a district, references in this Part of this Act to such a district shall, in relation to a structure plan, be construed as including references to part of that district.

## **6 Publicity in connection with preparation of structure plans**

- (1) When preparing a structure plan for their district and before finally determining its content for submission to the Secretary of State, the local planning authority shall take such steps as will in their opinion secure—
- (a) that adequate publicity is given in their district to the report of the survey under section 4 of this Act and to the matters which they propose to include in the plan;
  - (b) that persons who may be expected to desire an opportunity of making representations to the authority with respect to those matters are made aware that they are entitled to an opportunity of doing so; and
  - (c) that such persons are given an adequate opportunity of making such representations;
- and the authority shall, consider any representations made to them within the prescribed period.
- (2) Not later than the submission of a structure plan to the Secretary of State, the local planning authority shall make copies of the plan as submitted to the Secretary of State available for inspection at their office and at such other places as may be prescribed; and each copy shall be accompanied by a statement of the time within which objections to the plan may be made to the Secretary of State.

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- (3) A structure plan submitted by the local planning authority to the Secretary of State for his approval shall be accompanied by a statement containing such particulars, if any, as may be prescribed—
- (a) of the steps which the authority have taken to comply with subsection (1) of this section ; and
  - (b) of the authority's consultations with, and consideration of the views of, other persons with respect to those matters.
- (4) If after considering the statement submitted with, and the matters included in, the structure plan and any other information provided by the local planning authority, the Secretary of State is satisfied that the purposes of paragraphs (a) to (c) of subsection (1) of this section have been adequately achieved by the steps taken by the authority in compliance with that subsection, he shall proceed to consider whether to approve the structure plan; and if he is not so satisfied, he shall return the plan to the authority and direct them—
- (a) to take such further action as he may specify in order better to achieve those purposes; and
  - (b) after doing so, to resubmit the plan with such modifications, if any, as they then consider appropriate and, if so required by the direction, to do so within a specified, period.
- (5) Where the Secretary of State returns the structure plan to the local planning authority under subsection (4) of this section, he shall inform the authority of his reasons for doing so and, if any person has made to him an objection to the plan, shall also inform that person that he has returned the plan.
- (6) A local planning authority who are given directions by the Secretary of State under subsection (4) of this section shall forthwith withdraw the copies of the plan made available for inspection as required by subsection (2) of this section.
- (7) Subsections (2) to (6) of this section shall apply, with the necessary modifications, in relation to a structure plan resubmitted to the Secretary of State in accordance with directions given by him under subsection (4) as they apply in relation to the plan as originally submitted.

## **7 Approval or rejection of structure plan by Secretary of State**

- (1) The Secretary of State may, after considering a structure plan submitted (or resubmitted) to him, either approve it (in whole or in part and with or without modifications or reservations) or reject it.
- (2) In considering any such plan the Secretary of State may take into account any matters which he thinks are relevant, whether or not they were taken into account in the plan as submitted to him.
- (3) Where on taking any such plan into consideration the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—
- (a) consider any objections to the plan, so far as they are made in accordance with regulations under this Part of this Act;
  - (b) afford to any persons whose objections so made are not withdrawn an opportunity of appearing before, and being heard by, a person appointed by him for the purpose; and

- (c) if a local inquiry or other hearing is held, also afford the like opportunity to the local planning authority and such other persons as he thinks fit.
- (4) Without prejudice to subsection (3) of this section, on considering a structure plan the Secretary of State may consult with, or consider the views of, any local planning authority or other persons, but shall not be under an obligation to consult with, or consider the views of, any other authority or persons or, except as provided by that subsection, to afford an opportunity for the making of any objections or other representations, or to cause any local inquiry or other hearing to be held.

## **8 Alteration of structure plans**

- (1) At any time after the approval of a structure plan for their district a local planning authority may submit to the Secretary of State and shall, if so directed by the Secretary of State, submit to him within a period specified in the direction, proposals for such alterations to that plan as appear to them to be expedient or as the Secretary of State may direct, as the case may be, and any such proposals may relate to the whole or to part of that district.
- (2) The local planning authority shall send with the proposals submitted by them under this section a report of the results of their review of the relevant matters under section 4 of this Act together with any other information on which the proposals are based, and sections 6 and 7 of this Act shall apply, with any necessary modifications, in relation to the proposals as they apply in relation to a structure plan.

### *Local plans*

## **9 Preparation of local plans**

- (1) A local planning authority who are in course of preparing a structure plan for their district, or have prepared for their district a structure plan which has not been approved or rejected by the Secretary of State, may prepare a local plan for any part of that district.
- (2) Where a structure plan for their district has been approved by the Secretary of State, the local planning authority shall as soon as practicable consider, and thereafter keep under review, the desirability of preparing and, if they consider it desirable and they have not already done so, shall prepare a local plan for any part of the district.
- (3) A local plan shall consist of a map and a written statement and shall—
  - (a) formulate in such detail as the authority think appropriate the authority's proposals for the development and other use of land in that part of their district or for any description of development or other use of such land (including in either case such measures as the authority think fit for the improvement of the physical environment and the management of traffic); and
  - (b) contain such matters as may be prescribed or as the Secretary of State may in any particular case direct.
- (4) Different local plans may be prepared for different purposes for the same part of any district.
- (5) A local plan shall contain, or be accompanied by, such diagrams, illustrations and descriptive matter as the local planning authority think appropriate for the purpose of

explaining or illustrating the proposals in the plan, or as may be prescribed, or as may in any particular case be specified in directions given by the Secretary of State; and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.

- (6) Where an area is indicated as an action area in a structure plan which has been approved by the Secretary of State, the local planning authority shall (if they have not already done so), as soon as practicable after the approval of the plan, prepare a local plan for that area.
- (7) Without prejudice to the preceding provisions of this section, the local planning authority shall, if the Secretary of State gives them a direction in that behalf with respect to a part of a district for which a structure plan has been, or is in course of being, prepared, as soon as practicable prepare for that part a local plan of such nature as may be specified in the direction.
- (8) Directions under subsection (7) of this section may be given by the Secretary of State either before or after he approves the structure plan ; but no such directions shall require a local planning authority to take any steps to comply therewith until the structure plan has been approved by him.
- (9) In formulating their proposals in a local plan the local planning authority shall secure that the proposals conform generally to the structure plan as it stands for the time being (whether or not it has been approved by the Secretary of State) and shall have regard to any information and any other considerations which appear to them to be relevant, or which may be prescribed, or which the Secretary of State may in any particular case direct them to take into account.
- (10) Before giving a direction under the preceding provisions of this section to a local planning authority, the Secretary of State shall consult the authority with respect to the proposed direction.
- (11) Where a local planning authority are required by this section to prepare a local plan, they shall take steps for the adoption of the plan.

## **10 Publicity in connection with preparation of local plans**

- (1) A local planning authority who propose to prepare a local plan shall take such steps as will in their opinion secure—
  - (a) that adequate publicity is given in their district to any relevant matter arising out of a survey of the district carried out by them under section 4 of this Act and to the matters proposed to be included in the plan;
  - (b) that persons who may be expected to desire an opportunity of making representations to the authority with respect to those matters are made aware that they are entitled to an opportunity of doing so ; and
  - (c) that such persons are given an adequate opportunity of making such representations;

and the authority shall consider any representations made to them within the prescribed period.

- (2) When the local planning authority have prepared a local plan, they shall, before adopting it or submitting it for approval under section 12(4) of this Act (but not before the Secretary of State has approved the structure plan so far as it applies to the area of that local plan), make copies of the local plan available for inspection at their office

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and at such other places as may be prescribed and send a copy to the Secretary of State ; and each copy made available for inspection shall be accompanied by a statement of the time within which objections to the local plan may be made to the authority.

- (3) A copy of a local plan sent to the Secretary of State under subsection (2) of this section shall be accompanied by a statement containing such particulars, if any, as may be prescribed—
- (a) of the steps which the authority have taken to comply with subsection (1) of this section ; and
  - (b) of the authority's consultations with, and their consideration of the views of, other persons.
- (4) If, on considering the statement submitted with, and the matters included in, the local plan and any other information provided by the local planning authority, the Secretary of State is not satisfied that the purposes of paragraphs (a) to (c) of subsection (1) of this section have been adequately achieved by the steps taken by the authority in compliance with that subsection, he may, within twenty-one days of the receipt of the statement, direct the authority not to take any further steps for the adoption of the plan without taking such further action as he may specify in order better to achieve those purposes and satisfying him that they have done so.
- (5) A local planning authority who are given directions by the Secretary of State under subsection (4) of this section shall—
- (a) forthwith withdraw the copies of the local plan made available for inspection as required by subsection (2) of this section ; and
  - (b) notify any person by whom objections to the local plan have been made to the authority that the Secretary of State has given such directions as aforesaid.

## **11 Inquiries, etc. with respect to local plans**

- (1) For the purpose of considering objections made to a local plan the local planning authority may, and shall in the case of objections so made in accordance with regulations under this Act, cause a local inquiry or other hearing to be held by a person appointed by the Secretary of State or, in such cases as may be prescribed by regulations under this Act, by the authority themselves, and—
- (a) subsections (4) to (6) of section 267 of this Act shall apply to an inquiry held under this section as they apply to an inquiry held under that section ;
  - (b) the Tribunals and Inquiries Act 1971 shall apply to a local inquiry or other hearing held under this section as it applies to a statutory inquiry held by the Secretary of State, but as if in section 12(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a local authority.
- (2) Regulations made for the purposes of subsection (1) of this section may—
- (a) make provision with respect to the appointment and qualifications for appointment of persons to hold a local inquiry or other hearing under that subsection, including provision enabling the Secretary of State to direct a local planning authority to appoint a particular person, or one of a specified list or class of persons;
  - (b) make provision with respect to the remuneration and allowances of a person appointed for the said purpose.

## 12 Adoption and approval of local plans

- (1) After the expiry of the period afforded for making objections to a local plan or, if such objections have been duly made during that period, after considering the objections so made, the local planning authority may, subject to section 10 of this Act and subsections (2) and (3) of this section, by resolution adopt the plan either as originally prepared or as modified so as to take account of any such objections or of any matters arising out of such objections.
- (2) The local planning authority shall not adopt a local plan unless it conforms generally to the structure plan as approved by the Secretary of State.
- (3) After copies of a local plan have been sent to the Secretary of State and before the plan has been adopted by the local planning authority, the Secretary of State may direct that the plan shall not have effect unless approved by him.
- (4) Where the Secretary of State gives a direction under subsection (3) of this section, the local planning authority shall submit the plan accordingly to him for his approval, and—
  - (a) section 7 of this Act shall, subject to paragraph (b) of this subsection, apply in relation to the plan as it applies in relation to a structure plan;
  - (b) before deciding whether or not to approve the plan the Secretary of State shall consider any objections thereto which have been considered by the authority, but he shall not be obliged to cause an inquiry or other hearing to be held into the plan if any such inquiry or hearing has already been held at the instance of the authority; and
  - (c) after the giving of the direction the authority shall have no further power or duty to hold a local inquiry or other hearing under section 11 of this Act in connection with the plan.

## 13 Alteration of local plans

- (1) A local planning authority may at any time make proposals for the alteration, repeal or replacement of a local plan adopted by them and may at any time, with the consent of the Secretary of State, make proposals for the alteration, repeal or replacement of a local plan approved by him.
- (2) Without prejudice to subsection (1) of this section, a local planning authority shall, if the Secretary of State gives them a direction in that behalf with respect to a local plan adopted by them or approved by him, as soon as practicable prepare proposals of a kind specified in the direction, being proposals for the alteration, repeal or replacement of the plan.
- (3) The provisions of sections 9(9) to (11), 10, 11 and 12 of this Act shall apply in relation to the making of proposals for the alteration, repeal or replacement of a local plan under this section, and to alterations to a local plan so proposed, as they apply in relation to the preparation of a local plan under section 9 of this Act and to a local plan prepared thereunder, but as if the reference in section 12(4) (a) to section 7 of this Act were a reference to section 8 of this Act.



### *Supplementary provisions*

#### **14 Disregarding of representations with respect to development authorised by or under other enactments**

Notwithstanding anything in the preceding provisions of this Act, neither the Secretary of State nor a local planning authority shall be required to consider representations or objections with respect to a structure plan, a local plan or any proposal to alter, repeal or replace any such plan if it appears to the Secretary of State or the authority, as the case may be, that those representations or objections are in substance representations or objections with respect to things done or proposed to be done in pursuance of—

- (a) an order or scheme under section 1 of the Trunk Roads Act 1936, sections 1 and 4 of the Trunk Roads Act 1946 or section 1, 3 or 14 of the Special Roads Act 1949 (trunk road orders, special road schemes and ancillary orders);
- (b) an order under section 1 of the New Towns Act 1946 or section 1 of the New Towns (Scotland) Act 1968 (designation of sites of new towns).

#### **15 Default powers of Secretary of State**

- (1) Where, by virtue of any of the preceding provisions of this Part of this Act, any survey is required to be carried out, or any structure or local plan or proposals for the alteration, repeal or replacement thereof are required to be prepared or submitted to the Secretary of State, or steps are required to be taken for the adoption of any such plan or proposals, then—

- (a) if at any time the Secretary of State is satisfied, after holding a local inquiry or other hearing, that the local planning authority are not carrying out the survey or are not taking the steps necessary to enable them to submit or adopt such a plan or proposals within a reasonable period; or
- (b) in a case where a period is specified for the submission or adoption of any such plan or proposals, if no such plan or proposals have been submitted or adopted within that period,

the Secretary of State may carry out the survey or prepare and make a structure plan or local plan or, as the case may be, alter repeal or replace it, as he thinks fit.

- (2) Where under subsection (1) of this section the Secretary of State has power to do anything which should have been done by a local planning authority, he may, if he thinks fit, authorise any other local planning authority who appear to the Secretary of State to have an interest in the proper planning of the district of the first-mentioned authority to do that thing.
- (3) Where under this section anything which ought to have been done by a local planning authority is done by the Secretary of State or another such authority, the preceding provisions of this Part of this Act shall, so far as applicable, apply with any necessary modifications in relation to the doing of that thing by the Secretary of State and the latter authority and the thing so done.
- (4) Where the Secretary of State incurs expenses under this section in connection with the doing of anything which should have been done by a local planning authority, so much of those expenses as may be certified by the Secretary of State to have been incurred in the performance of functions of that authority shall on demand be repaid by that authority to the Secretary of State.

- (5) Where under this section anything which should have been done by one local planning authority is done by another such authority, any expenses reasonably incurred in connection with the doing of that thing by the latter authority, as certified by the Secretary of State, shall be repaid to the latter authority by the former authority.

## 16 Supplementary provisions as to structure and local plans

- (1) Without prejudice to the powers conferred on him by the preceding provisions of this Part of this Act, the Secretary of State may make regulations with respect to the form and content of structure and local plans and with respect to the procedure to be followed in connection with their preparation, submission, withdrawal, approval, adoption, making, alteration, repeal and replacement; and in particular any such regulations may—
- (a) provide for the publicity to be given to the report of any survey carried out by a local planning authority under section 4 of this Act;
  - (b) provide for the notice to be given of, or the publicity to be given to, matters included or proposed to be included in any such plan, and the approval, adoption or making of any such plan or any alteration, repeal or replacement thereof or to any other prescribed procedural step, and for publicity to be given to the procedure to be followed as aforesaid;
  - (c) make provision with respect to the making and consideration of representations with respect to matters to be included in, or objections to, any such plan or proposals for its alteration, repeal or replacement;
  - (d) without prejudice to paragraph (b) of this subsection, provide for notice to be given to particular persons of the approval, adoption or alteration of any plan, if they have objected to the plan and have notified the local planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge for receiving it;
  - (e) require or authorise a local planning authority to consult with, or consider the views of, other persons before taking any prescribed procedural step;
  - (f) require a local planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons making a request in that behalf with copies of any plan or document which has been made public for the purpose mentioned in section 6(1)(a) or 10(1)(a) of this Act or has been made available for inspection under section 6(2) or 10(2) of this Act, subject (if the regulations so provide) to the payment of a reasonable charge therefor;
  - (g) provide for the publication and inspection of any structure plan or local plan which has been approved, adopted or made, or any document approved, adopted or made altering, repealing or replacing any such plan, and for copies of any such plan or document to be made available on sale.
- (2) Regulations under this section may extend throughout Scotland or to specified areas only and may make different provisions for different cases.
- (3) Subject to the preceding provisions of this Part of this Act and to any regulations under this section, the Secretary of State may give directions to any local planning authority, or to local planning authorities generally.—
- (a) for formulating the procedure for the carrying out of their functions under this Part of this Act;

- (b) for requiring them to give him such information as he may require for carrying out any of his functions under this Part of this Act.
- (4) Subject to the provisions of section 231 of this Act, a structure plan or local plan or any alteration, repeal or replacement thereof shall become operative on a date appointed for the purpose in the relevant notice of approval, resolution of adoption or notice of the making, alteration, repeal or replacement of the plan.

## **17 Meaning of "development plan "**

- (1) For the purposes of this Act, any other enactment relating to town and country planning and the Land Compensation (Scotland) Act 1963, the development plan for any area (whether the whole or part of the district of a local planning authority) shall be taken as consisting of—
- (a) the provisions of the structure plan for the time being in force for that district or the relevant part of that district, together with the Secretary of State's notice of approval of the plan;
  - (b) any alterations to that plan, together with the Secretary of State's notices of approval thereof;
  - (c) any provisions of a local plan for the time being applicable to the area, together with a copy of the authority's resolution of adoption or, as the case may be, the Secretary of State's notice of approval of the local plan; and
  - (d) any alterations to that local plan, together with a copy of the authority's resolutions of adoption or, as the case may be, the Secretary of State's notices of approval thereof.
- (2) References in subsection (1) of this section to the provisions of any plan, notices of approval, alterations and resolutions of adoption shall, in relation to an area forming part of the district to which they are applicable, be respectively construed as references to so much of those provisions, notices, alterations and resolutions as is applicable to the area.
- (3) References in subsections (1) and (2) of this section to notices of approval shall in relation to any plan or alteration made by the Secretary of State under section 1S of this Act be construed as references to notices of the making of the plan or alteration.
- (4) This section has effect subject to Schedule 5 and Part I of Schedule 21 to this Act

## **18 Commencement of Part II and interim provisions**

- (1) The preceding provisions of this Part of this Act (other than section 16 and except so far as they enable any matter or thing to be prescribed), and Part I of Schedule 21 to this Act, shall come into operation on a day appointed by an order made by the Secretary of State.
- (2) The provisions of Schedules 3 and 4 to this Act shall have effect until they are repealed by an order made by the Secretary of State.
- (3) Schedule 5 to this Act shall have effect as respects the transition from the said Schedules 3 and 4 to the preceding provisions of this Part of this Act.
- (4) Different days may be appointed under this section for different purposes and, in particular, different days may be so appointed for the coming into operation or repeal of the same provisions in different areas.

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- (5) Any reference in this Part of this Act to the commencement of any provision thereof shall be construed as a reference to the day appointed for the coming into operation of that provision or, in the case of a provision which comes into operation on different days in different areas, shall, in relation to any area, be construed as a reference to the day appointed for the coming into operation of that provision in that area.
- (6) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation or repealed, including such adaptation of those provisions or of any other provision of this Act then in force as appears to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).
- (7) The Secretary of State shall maintain and keep up to date a register showing the effect of orders made under this section in such a way as enables members of the public to inform themselves—
  - (a) as to the provisions which have come, or are to be brought, into operation or have been, or are to be, repealed, and on which dates and in relation to which areas; and
  - (b) as to whether, in the case of a particular area, any transitional provision has been made by such an order.
- (8) The register maintained under this section by the Secretary of State shall be kept at his principal offices in Edinburgh and shall be available for inspection by the public at all reasonable hours.