SCOTTISH STATUTORY INSTRUMENTS

2008 No. 426

TOWN AND COUNTRY PLANNING

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

Made - - - -	*18th December 2008*
Laid before the Scottish Parliament - - - -	*19th December 2008*
Coming into force - -	*28th February 2009*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7(2)(a), 8(1)(b), 9(4)(c), 9(6), 10(1)(d), 10(7), 12(3), 12A(8), 15(3) and (4)(a), 16(2)(b), 17(4)(b) and (6), 18(1)(d) and (e), (4)(b) and (5), 19(5) and (10)(b), 19A(8), 20B(7), 21(7), 22(2), 23A(1), 23D and 275 of the Town and Country Planning (Scotland) Act 1997(**1**) and all other powers enabling them to do so.

PART 1

Introductory

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 and come into force on 28th February 2009.

(2) In these Regulations–

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

"the 2005 Act" means the Environmental Assessment (Scotland) Act 2005(**2**);

[[F1]"the 2015 Regulations" means the Control of Major Accident Hazards Regulations 2015,**]**

(**1**) 1997 c. 8. The enabling powers contained in Part 2 of the Act were 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 under the Town and Country Planning (Scotland) Act 1997 transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) 2005 asp 15.

"community council" means a community council established in accordance with the provisions of Part IV of the Local Government (Scotland) Act 1973(**3**);

[[F2]"the Directive" means Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC**[**[F3], as Directive 2012/18/EU had effect immediately before IP completion day**];]**

"environmental report" means the environmental report prepared in connection with a proposed plan in accordance with the 2005 Act;

[[F4]"flood risk management plan" and "local flood risk management plan" have the same meaning as in the Flood Risk Management (Scotland) Act 2009;**]**

"key agency" means a body specified as a key agency in regulation 28;

"local development plan area" means the area of land to which a proposed local development plan relates;

"local housing strategy" means a strategy (and any modified strategy) prepared and submitted to the Scottish Ministers in accordance with section 89 of the Housing (Scotland) Act 2001(**4**);

[[F5]"national marine plan" and "regional marine plan" have the same meaning as in Part 3 of the Marine (Scotland) Act 2010;**]**

"National Park" and "National Park authority" have the same meaning as in the National Parks (Scotland) Act 2000(**5**);

"national waste management plan" has the same meaning as in the National Waste Management Plan for Scotland Regulations 2007(**6**);

"neighbouring land" means land which is conterminous with or within 20 metres of the boundary of a specific site in respect of which a local development plan includes a proposal;

"regional transport strategy" means a transport strategy approved by the Scottish Ministers under section 6 of the Transport (Scotland) Act 2005(**7**);

"relevant date" means the date on which section 2 of the Planning etc. (Scotland) Act 2006 comes into force for all purposes;

"river basin management plan" means a river basin management plan approved by the Scottish Ministers under section 13(1) of the Water Environment and Water Services Act 2003(**8**); and

[[F6]"Scottish marine area" has the meaning given in section 1 of the Marine (Scotland) Act 2010;**]**

"supplementary guidance" has the same meaning as in section 22(1) of the Act.

(3) Expressions which are used in regulations 3(2) and 10(2) and which are also used in the Directive have the same meaning as in the Directive.

(4) Any reference to a numbered Schedule is a reference to the Schedule bearing that number in these Regulations and any requirement that a form shall be as set out in a specified Schedule shall be construed as meaning a form as so specified or a form substantially to the like effect.

(**3**) 1973 c. 65. Part IV was relevantly amended by section 180(2) and Schedule 14 to the Local Government etc. (Scotland) Act 1994 (c. 39).
(**4**) 2001 asp 10.
(**5**) 2000 asp 10.
(**6**) S.S.I. 2007/251.
(**7**) 2005 asp 12.
(**8**) 2003 asp 3.

Textual Amendments

F1 Words in reg. 1(2) inserted (31.12.2020) by The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 (S.S.I. 2019/80), regs. 1, **2(2)(a)** (as amended by S.S.I. 2019/274, regs. 1, 2(2) and S.S.I. 2020/310, regs. 1, 2(2), 4(2)); 2020 c. 1, Sch. 5 para. 1(1)

F2 Words in reg. 1(2) substituted (1.6.2015) by The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015 (S.S.I. 2015/181), reg. 1, **sch. 8 para. 2(2)**

F3 Words in reg. 1(2) inserted (31.12.2020) by The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 (S.S.I. 2019/80), regs. 1, **2(2)(b)** (as amended by S.S.I. 2019/274, regs. 1, **2(2)** and S.S.I. 2020/310, regs. 1, **2(2)(3)**, 4(2)); 2020 c. 1, **Sch. 5 para. 1(1)**

F4 Words in reg. 1(2) inserted (1.4.2011) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011 (S.S.I. 2011/138), regs. 1(2), **5(2)(a)**

F5 Words in reg. 1(2) inserted (1.4.2011) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011 (S.S.I. 2011/138), regs. 1(2), **5(2)(b)**

F6 Words in reg. 1(2) inserted (1.4.2011) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011 (S.S.I. 2011/138), regs. 1(2), **5(2)(c)**

Commencement Information

I1 Reg. 1 in force at 28.2.2009, see **reg. 1(1)**

PART 2

Strategic Development Plans

Maps or Diagrams to be included in strategic development plan

2. A strategic development plan must contain a map or a diagram (or a combination thereof) describing the spatial strategy set out in the strategic development plan.

Commencement Information

I2 Reg. 2 in force at 28.2.2009, see **reg. 1(1)**

Information and considerations

3.—(1) In preparing a strategic development plan or a main issues report the strategic development planning authority are to have regard to–

(a) the resources available or likely to be available for the carrying out of the policies and proposals set out in the strategic development plan;

(b) any strategic development plan for a strategic development plan area which adjoins the strategic development plan area in respect of which the plan is being prepared;

(c) any proposed strategic development plan prepared for a strategic development plan area which adjoins the strategic development plan area which has been submitted to the Scottish Ministers in accordance with section 10(3)(b) or 12A(5)(b)(ii) of the Act;

[[F7](ca) any adopted national marine plan or regional marine plan relating to parts of the Scottish marine area adjoining the strategic development plan area;**]**

(d) any regional transport strategy relating to the strategic development plan area;

[F8(da) any approved flood risk management plan or finalised local flood risk management plan relating to the strategic development plan area;]

(e) any river basin management plan relating to the strategic development plan area;

(f) any local housing strategy relating to the strategic development plan area; and

(g) the national waste management plan.

(2) In addition to the matters specified in paragraph (1), the strategic development planning authority when preparing a strategic development plan or main issues report are also to have regard to–

[F9(a) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment; and

(b) the need in the long term—

(i) to maintain appropriate safety distances between establishments covered by the Directive and residential areas, buildings and areas of public use, recreational areas and, as far as possible, major transport routes;

(ii) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through appropriate safety distances or other relevant measures; and

(iii) in the case of existing establishments, to take additional technical measures in accordance with [F10regulation 5 of the 2015 Regulations] so as not to increase the risks to human health and the environment.]

Textual Amendments

F7 Reg. 3(1)(ca) inserted (1.4.2011) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011 (S.S.I. 2011/138), regs. 1(2), **5(3)(a)**

F8 Reg. 3(1)(da) inserted (1.4.2011) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011 (S.S.I. 2011/138), regs. 1(2), **5(3)(b)**

F9 Reg. 3(2)(a)(b) substituted for reg. 3(2)(a)-(c) (1.6.2015) by The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015 (S.S.I. 2015/181), reg. 1, **sch. 8 para. 2(3)**

F10 Words in reg. 3(2)(b)(iii) substituted (31.12.2020) by The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 (S.S.I. 2019/80), regs. 1, **2(3)** (as amended by S.S.I. 2019/274, regs. 1, 2(2) and S.S.I. 2020/310, regs. 1, 2(2), 4(2)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I3 Reg. 3 in force at 28.2.2009, see **reg. 1(1)**

Consultation for main issues report

4. The Scottish Ministers are, for the purposes of section 9(4)(c) of the Act, persons whose views a strategic development planning authority is to seek and have regard to when compiling a main issues report.

Commencement Information

I4 Reg. 4 in force at 28.2.2009, see **reg. 1(1)**

Publication in accordance with section 9(6)

5.—(1) The manner of publication prescribed for the purpose of section 9(6) of the Act is as set out in paragraph (2).

(2) Publication is to be by–

(a) publishing in a local newspaper circulating in the strategic development plan area and on the internet a notice containing the following information–

(i) a statement that the document has been prepared and where and at what times it may be inspected;

(ii) a brief description of the content and purpose of the document;

(iii) details of how further information may be obtained regarding the document, including that it is to be published on the internet under paragraph (2)(d);

(iv) a statement that any person wishing to do so may make representations on the content of the document; and

(v) information as to how and to whom any representations should be made and the date by which they should be made;

(b) sending a notice containing that information to–

(i) the key agencies;

(ii) a strategic development planning authority or a planning authority for land which adjoins the strategic development plan area; and

(iii) any community council any part of whose area is within the strategic development plan area;

(c) making a copy of the document available for inspection at an office of each of the planning authorities comprising the strategic development planning authority and in every public library in the strategic development plan area; and

(d) publishing the document on the internet.

(3) For the purposes of publication in accordance with the following provisions, in paragraph (2) "document" means, as the case may be–

(a) in section 9(6) of the Act, a main issues report;

(b) in section 10(1)(a) of the Act, a proposed strategic development plan;

(c) in section 10(6) of the Act, a proposed strategic development plan as modified under section 10(3) of the Act; and

(d) in section 12A(7) of the Act, a proposed strategic development plan as modified under section 12A(5)(b)(i) of the Act.

Commencement Information

I5 Reg. 5 in force at 28.2.2009, see **reg. 1(1)**

Consultation on proposed strategic development plan

6. The strategic development planning authority must–

(a) with regard to a proposed strategic development plan consult the Scottish Ministers; and

(b) with regard to a new proposed strategic development plan prepared in accordance with section 10(4) of the Act, in addition consult all persons who made timeous representation with respect to the original plan.

Commencement Information
I6 Reg. 6 in force at 28.2.2009, see **reg. 1(1)**

Publication of submission of proposed strategic development plan

7. On submitting a proposed strategic development plan to the Scottish Ministers under section 10(3)(b) or section 12A(5)(b)(ii) of the Act the strategic development planning authority are to advertise that they have done so by–

(a) publishing in a local newspaper circulating in the strategic development plan area a notice containing the following information–

(i) a statement that a proposed strategic development plan has been submitted to the Scottish Ministers;

(ii) the date of submission of such proposed plan; and

(iii) details of when and where a copy of the proposed plan may be inspected (including details of where such copy may be inspected by means of the internet);

(b) publishing a copy of the notice referred in paragraph (a) together with a copy of the proposed strategic development plan on the internet;

(c) making a copy of the proposed plan available for inspection at an office of each of the planning authorities comprising the strategic development planning authority and in every public library in the strategic development plan area; and

(d) sending a copy of the notice to the key agencies and all those persons who submitted representations to such proposed plan.

Commencement Information
I7 Reg. 7 in force at 28.2.2009, see **reg. 1(1)**

PART 3

Local Development Plans

Maps to be included in local development plan

8.—(1) A local development plan is to contain a map or maps, (to be known as "the Proposals Map"), describing the policies and proposals set out in the local development plan, so far as practicable to illustrate such policies or proposals spatially.

(2) The Proposals Map is to be sufficiently detailed so as to enable the location of proposals for the development and use of land to be identified.

Commencement Information
I8 Reg. 8 in force at 28.2.2009, see **reg. 1(1)**

Schedule of land ownership

9.—(1) The schedule of land ownership required to be appended to the plan by section 15(3) of the Act is to be in the form set out in Schedule 1.

(2) Where a local development plan is prepared by a National Park authority, the schedule of land ownership is also to include land owned by a local authority.

Commencement Information

I9 Reg. 9 in force at 28.2.2009, see **reg. 1(1)**

Information and considerations

10.—(1) In preparing a local development plan the planning authority are to have regard to–

(a) the resources available or likely to be available for the carrying out of the policies and proposals set out in the local development plan;

(b) any local development plan prepared for a different purpose for the local development plan area;

(c) any local development plan or strategic development plan prepared for an area adjoining the local development plan area;

[[F11](ca) any adopted national marine plan or regional marine plan relating to parts of the Scottish marine area adjoining the local development plan area;**]**

(d) any regional transport strategy relating to the local development plan area;

[[F12](da) any approved flood risk management plan or finalised local flood risk management plan relating to the local development plan area;**]**

(e) any local transport strategy relating to the local development plan area;

(f) any river basin management plan relating to the local development plan area;

(g) any local housing strategy relating to the local development plan area;

(h) the national waste management plan; and

(i) where the local development plan area adjoins land in England, any regional spatial strategy or local development framework published in respect of that land.

(2) In addition to the matters specified in paragraph (1), in preparing a local development plan the planning authority are also to have regard to–

[[F13](a) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment; and

(b) the need in the long term—

(i) to maintain appropriate safety distances between establishments covered by the Directive and residential areas, buildings and areas of public use, recreational areas and, as far as possible, major transport routes;

(ii) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through appropriate safety distances or other relevant measures; and

(iii) in the case of existing establishments, to take additional technical measures in accordance with **[**[F14]regulation 5 of the 2015 Regulations**]** so as not to increase the risks to human health and the environment.**]**

(3) In paragraph (1) references to a local development plan or a strategic development plan include, as the case may be, a reference to a proposed local development plan submitted to the Scottish Ministers in accordance with section 18(4)(a) or section 19A(5)(b)(ii) of the Act or a proposed strategic development plan submitted to the Scottish Ministers in accordance with section 10(3)(b) or 12A(5)(b)(ii) of the Act.

(4) In this regulation "local transport strategy" has the same meaning as in section 82(1) of the Transport (Scotland) Act 2001(**9**).

Textual Amendments

F11 Reg. 10(1)(ca) inserted (1.4.2011) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011 (S.S.I. 2011/138), regs. 1(2), **5(4)(a)**

F12 Reg. 10(1)(da) inserted (1.4.2011) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011 (S.S.I. 2011/138), regs. 1(2), **5(4)(b)**

F13 Reg. 10(2)(a)(b) substituted for reg. 10(2)(a)-(c) (1.6.2015) by The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015 (S.S.I. 2015/181), reg. 1, **sch. 8 para. 2(4)**

F14 Words in reg. 10(2)(b)(iii) substituted (31.12.2020) by The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 (S.S.I. 2019/80), regs. 1, **2(4)** (as amended by S.S.I. 2019/274, regs. 1, 2(2) and S.S.I. 2020/310, regs. 1, 2(2), 4(2)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I10 Reg. 10 in force at 28.2.2009, see **reg. 1(1)**

Consultation for main issues report

11. The following persons are prescribed for the purposes of section 17(4)(b) of the Act as a person whose views a planning authority are to seek and have regard to when compiling a main issues report–

(a) the Scottish Ministers;

(b) any planning authority whose district adjoins and any National Park authority for a National Park which adjoins, the district of that planning authority area; and

(c) where the district of that planning authority, or any part of it, is within a strategic development plan area, the other planning authorities comprising the strategic development planning authority for that area.

Commencement Information

I11 Reg. 11 in force at 28.2.2009, see **reg. 1(1)**

Publication in accordance with section 17(6) of the Act

12.—(1) The manner of publication prescribed for the purposes of section 17(6) of the Act is as set out in paragraph (2).

(2) Publication is to be by–

(a) publishing in a local newspaper circulating in the area and on the internet a notice containing the following information–

(**9**) 2001 asp 2.

(i) a statement that the document has been prepared and where and at what times it may be inspected;

(ii) a brief description of the content and purpose of the document;

(iii) details of how further information may be obtained regarding the document, including that it is to be published on the internet under paragraph (2)(d);

(iv) a statement that any person wishing to do so may make representations on the content of the document; and

(v) information as to how and to whom any representations should be made and the date by which they should be made;

(b) sending a notice containing that information to–

(i) the key agencies;

(ii) a planning authority for the land which adjoins the local development plan area;

(iii) where the local development plan area, or any part of it, is within a strategic development plan area, the other planning authorities comprising the strategic development planning authority for that area; and

(iv) any community council any part of whose area is within the local development plan area;

(c) making a copy of the document available for inspection at an office of the planning authority and in every public library in the local development plan area; and

(d) publishing the document on the internet.

(3) For the purposes of publication in accordance with the following provisions, in paragraph (2) "document" means, as the case may be–

(a) in section 17(6) of the Act, a main issues report;

(b) in section 18(1)(a) of the Act, a proposed local development plan; and

(c) in section 18(5)(a) of the Act, a proposed local development plan modified under section 18(3) or (6) of the Act, as the case may be.

Commencement Information

I12 Reg. 12 in force at 28.2.2009, see **reg. 1(1)**

Consultation on proposed local development plan

13. The planning authority must–

(a) with regard to a proposed local development plan, consult the Scottish Ministers; and

(b) with regard to a new proposed local development plan prepared in accordance with section 18(8) of the Act, in addition consult all persons who made timeous representation with respect to the original plan.

Commencement Information

I13 Reg. 13 in force at 28.2.2009, see **reg. 1(1)**

Notification of publication of proposed local development plan

14.—(1) Where the proposed local development plan includes a proposal for development relating to a specific site which, if implemented, would be likely to have a significant effect on the use or amenity of that site or of neighbouring land, the planning authority are to give notice to the owner, lessee or occupier of any premises situated on that site, or on such neighbouring land, as the case may be, in accordance with paragraph (2).

(2) Notice given under paragraph (1) is to be–

(a) in the form set out in Schedule 2 (and completed in accordance with the instructions therein);

(b) accompanied by a map showing the location of the site in question; and

(c) sent to the premises situated on the site or neighbouring land, as the case may be, addressed to "the Owner, Lessee or Occupier".

Commencement Information

I14 Reg. 14 in force at 28.2.2009, see **reg. 1(1)**

Notification of modifications

15.—(1) The kind of modifications prescribed for the purposes of section 18(5) of the Act are modifications which–

(a) remove or significantly alter any policies or any proposals set out in the proposed local development plan published in accordance with section 18(1) or republished in accordance with section 18(5)(a) of the Act; or

(b) introduce new policies or proposals into the proposed local development plan.

(2) Where the planning authority make such modifications to a proposed local development plan they must give notice to the owner, lessee or occupier of any premises situated on a relevant site or on neighbouring land in accordance with paragraph (3).

(3) Notice given under paragraph (2) is to be–

(a) in the form set out in Schedule 3 (and completed in accordance with the instructions therein);

(b) accompanied by a map showing the location of the relevant site in question; and

(c) sent to the premises situated on the site or land, as the case may be, addressed to the Owner, Lessee or Occupier".

(4) In this regulation "relevant site" means land in respect of which a modification mentioned in paragraph (1) removes, alters or introduces a specific proposal for the development of that land which if implemented would be likely to have a significant effect on the use or amenity of that land or neighbouring land.

Commencement Information

I15 Reg. 15 in force at 28.2.2009, see **reg. 1(1)**

Publication of proposed local development plan as submitted to the Scottish Ministers

16.—(1) The manner of publication or advertisement prescribed for the purposes of section 18(4)(b) and 19A(8) of the Act (publication of a proposed local development plan as submitted to the Scottish Ministers) is as set out in paragraph (2).

(2) Publication or advertisement is to be by–

(a) publishing in a local newspaper circulating in the area a notice containing the following information–

(i) a statement that a proposed local development plan has been submitted to the Scottish Ministers; and

(ii) the date of submission of the proposed plan and details of where and at what times it may be inspected;

(b) making a copy of the proposed local development plan available for inspection at an office of the planning authority and in every public library in the local development plan area; and

(c) publishing the proposed local development plan on the internet.

Commencement Information

I16 Reg. 16 in force at 28.2.2009, see **reg. 1(1)**

Publication of proposed local development plan following examination

17.—(1) The manner of publication prescribed for the purposes of section 19(10)(b) is as set out in paragraph (2).

(2) Publication is to be by–

(a) publishing in a local newspaper circulating in the area a notice containing the following information–

(i) a statement that the planning authority intend to adopt the proposed local development plan;

(ii) whether or not the proposed local development plan has been modified following receipt of the report prepared following examination; and

(iii) where and at what times the proposed local development plan (as modified if appropriate) and the modifications (if appropriate) may be inspected;

(b) making copies of the proposed local development plan (as modified if appropriate) and the modifications (if appropriate) available for inspection at an office of the planning authority and in every public library in the local development plan area; and

(c) publishing the proposed local development plan (as modified if appropriate) and the modifications (if appropriate) on the internet.

Commencement Information

I17 Reg. 17 in force at 28.2.2009, see **reg. 1(1)**

PART 4

Examinations

Application and interpretation of Part 4

18.—(1) Part 4 of these regulations applies to–

(a) an examination under section 12(1) and (2) of the Act; and

(b) an examination under section 19(3) or (4) of the Act.

(2) In this Part of these Regulations–

"appointed person" means, as the case may be, a person appointed by the Scottish Ministers–

(a) under section 12(1) of the Act to examine a proposed strategic development plan; or

(b) under section 19(3) of the Act to examine a proposed local development plan;

"authority" means in respect of–

(a) an examination under section 12(1) or (2) of the Act, the strategic development planning authority which submitted the proposed plan; and

(b) an examination under section 19(3) or (4) of the Act, the planning authority which submitted the proposed plan;

"monitoring statement" means, in relation to–

(a) a proposed strategic development plan, a statement published in accordance with section 4(10); and

(b) a proposed local development plan, a statement published in accordance with section 16(9);

"plan area" means in relation to–

(a) an examination under section 12 of the Act, the strategic development plan area for the proposed plan; and

(b) an examination under section 19 of the Act, the area to which the proposed plan relates;

"proposed plan" means in relation to–

(a) an examination under section 12 of the Act, the proposed strategic development plan; and

(b) an examination under section 19 of the Act, the proposed local development plan; and

"unresolved representations" means–

(a) in respect of a proposed strategic development plan, representations mentioned in section 12(1)(a) of the Act; and

(b) in respect of a proposed local development plan, representations mentioned in section 19(2) of the Act.

Commencement Information

I18 Reg. 18 in force at 28.2.2009, see **reg. 1(1)**

Notification of appointment of appointed person

19. The Scottish Ministers must as soon as practicable after appointing a person to examine a proposed local development plan under section 19(3) of the Act notify the authority that such an appointment has been made and of the name of the appointed person.

Commencement Information
I19 Reg. 19 in force at 28.2.2009, see **reg. 1(1)**

Summary of unresolved issues

20.—(1) The authority must, to the extent that they have not already done so, send to the appointed person within 14 days of receiving notification under section 12(4)(b) of the Act or regulation 19, as the case may be–

(a) a summary of unresolved issues prepared in accordance with paragraph (2);

(b) copies of the unresolved representations;

(c) the environmental report prepared in connection with the proposed plan and copies of opinions expressed in response to the invitations referred to in section 16(1) and (2)(a)(iii) of the 2005 Act;

(d) the proposed action programme prepared for the proposed plan in accordance with section 21 of the Act;

(e) the most recently published monitoring statement for the area to which the proposed plan relates; and

(f) a copy of the authority's participation statement current at the time when the proposed plan was published under section 10(1)(a) or 18(1)(a) of the Act, as the case may be.

(2) The summary of unresolved issues to be submitted under paragraph (1)(a) is to–

(a) specify the number of and list all unresolved representations (including the name of the person who made the representation);

(b) include, in the form set out in Schedule 4–

(i) a summary of each of the various issues raised in the unresolved representations; and

(ii) a statement of the reasons why the planning authority did not modify the proposed plan in response to the issues raised in the representations; and

(c) be arranged, so far as practicable, so that such summaries of issues appear in the same order as those parts of the proposed plan to which the issues relate are set out in the plan.

(3) When advertising or giving notice of the examination–

(a) under section 12(4) or (5) or section 12A(8) of the Act, the Scottish Ministers or the authority, as the case may be; or

(b) under section 19(6) or section 19A(8) of the Act, the authority,

are to include a statement that the authority has, or is to, provide to the appointed person a summary of the issues it considers should be assessed at the examination and information as to where it is possible to inspect such summary and other information and documents provided by the authority in connection with the examination.

(4) In the application of paragraph (3) to advertisement under sections 12A(8) or 19A(8) of the Act the reference to a "summary" includes a reference to the note and report submitted under section 12A(5)(b)(ii) or 19A(5)(b)(ii), as the case may be.

Commencement Information
I20 Reg. 20 in force at 28.2.2009, see **reg. 1(1)**

Scope of the examination

21.—(1) An examination held under section 12(1) of the Act is to assess–

(a) issues raised in unresolved representations;

(b) any alternative proposals included in the proposed plan by virtue of section 11; and

(c) matters specified in any direction made by virtue of section 12(1)(c) of the Act.

(2) An examination held under section 19(3) of the Act is only to assess issues raised in unresolved representations.

Commencement Information
I21 Reg. 21 in force at 28.2.2009, see **reg. 1(1)**

Further representations or information

22.—(1) Where the appointed person determines that further representations should be made or further information should be provided by any person in connection with the examination of the proposed plan the appointed person may by notice request that person to make such further representations or to provide such further information.

(2) The appointed person may make a request under paragraph (1) at any stage of the examination.

Commencement Information
I22 Reg. 22 in force at 28.2.2009, see **reg. 1(1)**

Expenses of examination

23. The general administrative costs, staff costs (including any remuneration due to the appointed person) and overheads (including the costs of provision of a venue for the examination) incurred by the Scottish Ministers or the appointed person in relation to an examination held under–

(a) section 12(1) or (2) of the Act, are to be met equally by the strategic development planning authority and the Scottish Ministers; and

(b) section 19(3) or (4) of the Act, are to be met by the planning authority.

Commencement Information
I23 Reg. 23 in force at 28.2.2009, see **reg. 1(1)**

PART 5

General

Development plan schemes

24. In addition to those matters specified by the Act, a development plan scheme must state the timetable **[**[F15]proposed**]** (specifying the proposed month) by the strategic development planning authority or the planning authority, as the case may be, with regard to–

(a) publication of its main issues report;

(b) publication of its proposed strategic development plan or local development plan; and

(c) submission of its proposed strategic development plan or local development plan to the Scottish Ministers.

Textual Amendments

F15 Word in reg. 24 inserted (3.8.2009) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2009 (S.S.I. 2009/220), regs. 1(1), **6(2)**

Commencement Information

I24 Reg. 24 in force at 28.2.2009, see **reg. 1(1)**

Consultation for action programmes

25. The following persons are prescribed for the purposes of section 21(3)(b) of the Act as a person whose views the strategic development planning authority or the planning authority in question is to seek and have regard to when compiling an action programme:–

(a) the Scottish Ministers; and

(b) any person whom that authority proposes to specify by name in the action programme.

Commencement Information

I25 Reg. 25 in force at 28.2.2009, see **reg. 1(1)**

Form and content of action programmes

26. An action programme is to set out the following matters–

(a) a list of actions required to deliver each of the policies and proposals contained in the relevant plan;

(b) the name of the person who is to carry out each such action; and

(c) the timescale for the conclusion of each such action.

Commencement Information

I26 Reg. 26 in force at 28.2.2009, see **reg. 1(1)**

Supplementary Guidance

27.—[[F16](A1) In preparing any supplementary guidance for the purpose of section 22(1) of the Act—

(a) a strategic development planning authority must have regard to the matters referred to in regulation 3(2); and

(b) a planning authority must to have regard to the matters referred to in regulation 10(2).**]**

(1) When submitting a copy of any proposed supplementary guidance to the Scottish Ministers in accordance with section 22(6) of the Act the strategic development planning authority or the planning authority, as case may be, must provide to the Scottish Ministers a statement describing–

(a) what steps the authority took to secure adequate publicity of the proposal to adopt and issue supplementary guidance in accordance with section 22(3)(a) of the Act;

(b) any representations made to the authority; and

(c) the extent to which such representations were taken account of in the preparation of the proposed supplementary guidance.

(2) Supplementary guidance adopted and issued under section 22(1) of the Act in connection with a particular strategic development plan or local development plan may only deal with the provision of further information or detail in respect of the policies or proposals set out in that plan and then only provided that those are matters which are expressly identified in a statement contained in the plan as matters which are to be dealt with in supplementary guidance.

Textual Amendments

F16 Reg. 27(A1) inserted (1.6.2015) by The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015 (S.S.I. 2015/181), reg. 1, **sch. 8 para. 2(5)**

Commencement Information

I27 Reg. 27 in force at 28.2.2009, see **reg. 1(1)**

Key Agencies

28.—(1) The bodies mentioned in paragraph (2) are, subject to the limitations set out in paragraph (3), specified as a key agency for the purposes of sections 9(4)(a) and (5), 10(1)(b)(i) and (d) and (9), 13(4)(b)(ii), 17(4)(a) and (5), 18(1)(b) and (d) and (10) and 21(3)(a) and (5) of the Act.

(2) The bodies are–

(a) Scottish Natural Heritage;

[[F17](aa) Historic Environment Scotland;**]**

(b) the Scottish Environment Protection Agency;

(c) Scottish Water;

(d) Scottish Enterprise;

(e) Highlands and Islands Enterprise;

(f) a regional Transport Partnership;

(g) the Crofters Commission; and

(h) a Health Board.

(3) The limitations are–

(a) Scottish Enterprise is specified as a key agency only where the strategic development plan or local development plan in question relates to an area within which or in relation to which the functions of that body are exercisable under or by virtue of the Enterprise and New Towns (Scotland) Act 1990(**10**);

(b) Highlands and Islands Enterprise is specified as a key agency only where the strategic development plan or local development plan in question relates to an area within which or in relation to which the functions of that body are exercisable under or by virtue of section 21(1) of the Enterprise and New Towns (Scotland) Act 1990;

(**10**) 1990 c. 35.

(c) a regional Transport Partnership is specified as a key agency only where the strategic development plan or local development plan in question relates to the region for which that body is constituted as the Transport Partnership by virtue of an order under section 1(1) of the Transport (Scotland) Act 2005(**11**);

(d) the Crofters Commission is specified as a key agency only where the strategic development plan or local development plan in question relates to the crofting counties (within the meaning of the Crofters (Scotland) Act 1993(**12**)); and

(e) a Health Board is specified as a key agency only where the strategic development plan or local development plan in question relates to the area of that Health Board.

(4) In paragraphs (2) and (3), 'Health Board' means a board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978(**13**).

Textual Amendments

F17 Reg. 28(2)(aa) inserted (1.10.2015) by The Town and Country Planning (Historic Environment Scotland) Amendment Regulations 2015 (S.S.I. 2015/237), regs. 1(1), **3(2)** (with reg. 3(3)(4))

Commencement Information

I28 Reg. 28 in force at 28.2.2009, see **reg. 1(1)**

Transitional Provisions – structure plans

29.—(1) This regulation applies to a structure plan or a proposal for the alteration or repeal and replacement of a structure plan (within the meaning of the Act immediately before the relevant date)–

(a) in respect of which the planning authority have, before the relevant date, taken such steps as will in their opinion secure that the requirements of section 8(1) (publicity and consultation) or as, the case may be section 9(4) (alteration and replacement of structure plans) of the Act (as those sections applied immediately before the relevant date) are satisfied; but

(b) has not been submitted to the Scottish Ministers before the relevant date.

(2) Where this regulation applies, regulations 1, 5 to 7, 18 to 23 and Schedule 4 apply to a structure plan or a proposal for the alteration or repeal and replacement of a structure plan as they apply to a strategic development plan subject to the modifications specified in paragraph (3).

(3) The modifications are–

(a) references to–

(i) a strategic development plan are to be treated as references to a structure plan or, as the case may be, a proposal for the alteration or repeal and replacement of a structure plan;

(ii) the strategic development plan area are to be treated as references to the district of the planning authority or, where two or more planning authorities are to prepare a structure plan jointly under section 5 of the Act (as that section applied immediately before the relevant date), references to the structure plan area designated by order under subsection (1) of that section; and

(**11**) 2005 asp 12.
(**12**) 1993 c. 44.
(**13**) 1978 c. 29. Section 2(1)(a) was amended by paragraph 2(2) of Schedule 2 to the Smoking, Health & Social Care (Scotland) Act 2005 (asp 13).

(iii) a strategic development planning authority are to be treated as references to the planning authority or planning authorities, as the case may be, which are preparing the structure plan; and

(b) paragraphs (d) to (f) of regulation 20(1) do not apply.

Commencement Information

I29 Reg. 29 in force at 28.2.2009, see **reg. 1(1)**

Transitional Provisions – local plans

30.—(1) This regulation applies to a local plan or a proposal to alter, repeal or replace a local plan in respect of which, before the relevant date–

(a) the planning authority have taken such steps as will in their opinion secure that the requirements of section 12(1)(a) of the Act (publicity and consultation) (as that section applied immediately before the relevant date) are satisfied; but

(b) notice of a local inquiry under regulation 34 of the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983(**14**) has not been given by local advertisement (within the meaning of those Regulations).

(2) Where this regulation applies, regulations 1, 17 to 23 and Schedule 4 apply to a local plan or a proposal to alter, repeal or replace a local plan as they apply to a local development plan subject to the modifications specified in paragraph (3).

(3) The modifications are–

(a) references to–

(i) a local development plan are to be treated as references to a local plan or, as the case may be, a proposal to alter, repeal or replace a local plan; and

(ii) the local development plan area are to be treated as references to the area of land to which the local plan **[**[F18]or, as the case may be, a proposal to alter, repeal or replace a local plan**]** relates;

(b) in regulation 18 for the definition of "unresolved representations" substitute–

[[F19]""""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)."""**]**; and

(c) paragraphs (d) to (f) of regulation 20(1) do not apply.

Textual Amendments

F18 Words in reg. 30(3)(a)(ii) inserted (16.11.2009) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2009 (S.S.I. 2009/343), regs. 1, **4(2)(a)**

F19 Words in reg. 30(3)(b) substituted (16.11.2009) by The Town and Country Planning (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2009 (S.S.I. 2009/343), regs. 1, **4(2)(b)**

(**14**) S.I.1983/1590.

Commencement Information

I30 Reg. 30 in force at 28.2.2009, see **reg. 1(1)**

St Andrew's House,
Edinburgh

STEWART STEVENSON
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 9

Form of schedule of land ownership

Commencement Information

I31 Sch. 1 in force at 28.2.2009, see **reg. 1(1)**

Description of land owned by planning authority	*Reference to policies, proposals or views contained in local development plan which relate to the occurrence of development of the land*
(a)	(b)

Notes: (a) insert description of land. The description should include the address of the land and be sufficient to identify it;

(b) insert reference to policies, proposals or views contained in the local development plan which relate to the occurrence of development of that land.

SCHEDULE 2

Regulation 14(2)

Form of Notice

Commencement Information

I32 Sch. 2 in force at 28.2.2009, see **reg. 1(1)**

Notification of publication of proposed local development plan

Proposal for development at [*insert location*].

Notice is given that [*insert name of Council*] Council has published a proposed local development plan for [*insert name of the local development plan in question*] area which includes a proposal for development of the above site

Description of the proposal

[*insert brief description of the proposal included in the proposed local development plan in respect of which notice is being given*]

Summary of the background to the proposal

[*insert a brief summary of the background to the inclusion of the proposal in the local development plan*]

The proposed local development plan may be viewed at [*insert details of where plan can be viewed*].

The proposed local development plan is available for inspection from [*date*] until [*date*].

Any person who wishes to make representations to the Council should [*insert details of how people may make representations*]

SCHEDULE 3

Regulation 15(3)

Form of Notice

Commencement Information

I33 Sch. 3 in force at 28.2.2009, see **reg. 1(1)**

Notification of modifications made to proposed local development plan

Proposal for development at [*insert location*].

Notice is given that [*insert name of Council*] Council has published modifications to a proposed local development plan for [*insert name of the local development plan in question*] area which includes a proposal for development of the above site.

Description of the modification

[*insert brief description of the modification to the proposed local development plan in respect of which notice is being given*]

Summary of the background to the proposal

[*insert a brief summary of the background to the modification to the local development plan*]

The proposed local development plan and the modifications to it may be viewed at [*insert details of where plan can be viewed*].

The proposed local development plan and the modifications to it are available for inspection from [*date*] until [*date*].

Any person who wishes to make representations to the Council should [*insert details of how people may make representations*].

SCHEDULE 4

Regulation 20(2)(b)

Summary of Unresolved Issues

Commencement Information

I34 Sch. 4 in force at 28.2.2009, see **reg. 1(1)**

Issue (ref and heading):	
Development plan reference:	
Body or persons submitting a representation raising the issue:	**Representation ref(s):**
Provision of the Development Plan to which the issue relates:	
Summary of representation(s):	
Modifications sought by those submitting representations:	
Summary of response by planning authority [Note 1]:	

Note 1 – include a statement of the reasons why the authority did not modify the proposed plan to take account of the issues raised by the representations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the preparation of strategic development plans and local development plans under Part 2 of the Town and Country Planning (Scotland) Act 1997 ("the Act") as substituted by section 2 of the Planning etc. (Scotland) Act 2006. Strategic development plans are prepared by strategic development planning authorities. These authorities are groups of planning authorities designed by Order made under section 4 of the Act (S.S.I.s

2008/195,

2008/196,

2008/197 and

2008/198). A local development plan is prepared by a planning authority or by two or more planning authorities jointly under section 16(5) of the Act. Part 2 of the Regulations relates to the preparation and publication of strategic development plans, Part 3 relates to the preparation and publication of

local development plans, Part 4 makes provision in relation to the examination of both such plans and Part 5 makes general and transitional provisions.

Regulation 2 requires a strategic development plan to include a map or diagram or combinations of such which describe the plan's spatial strategy. Regulation 3 sets out matters to which the strategic development planning authority are to have regard when preparing a strategic development plan and when preparing a main issues report under section 9 of the Act.

Regulation 3(2) with respect to strategic development plans and regulation 10(2) with respect to local development plans implement in part, in relation to town and country planning in Scotland, Article 12 of Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances. The main requirements of Article 12 of the Directive, which these Regulations implement, is to ensure that the objectives of preventing major accidents and limiting their consequences are taken into account in land-use planning policies.

Regulation 4 requires the authority to consult with the Scottish Ministers when compiling a main issues report. Regulation 5 sets out the manner of publication for the purposes of section 9(6) of the Act. Section 9(6) relates to the publication of the main issues report. Regulation 5 however also sets out the manner in which other documents, listed in regulation 5(3), are to be published. Regulation 6 sets out who the authority must consult in connection with a proposed strategic development plan in addition to the requirements of section 10(1) of the Act. Regulation 7 sets out how the authority is to advertise that they have submitted a proposed strategic development plan to the Scottish Ministers.

Regulation 8 requires a local development plan to include a proposals map describing the policies and proposals set out in the plan so far as it is practicable to illustrate these spatially. Regulation 9 and Schedule 1 prescribe the form of the schedule of land ownership to be appended to the plan in accordance with section 15(3) of the Act.

Regulation 10 sets out matters to which the planning authority are to have regard when preparing a local development plan under section 16 and a main issues report under section 17 of the Act. Regulation 11 requires the authority when compiling a main issues report to consult with the Scottish Ministers and, where the land to which the plan relates adjoins the district of another planning authority or a National Park, the respective planning or National Park authorities.

Regulation 12 sets out the manner of publication for the purposes of section 17(6) of the Act. Section 17(6) relates to the publication of the main issues report. Regulation 12 however also sets out the manner in which other documents, listed in regulation 12(3), are to be published. Regulation 13 sets out who the authority must consult in connection with a proposed local development plan in addition to the requirements of section 18(1) of the Act. Regulation 14 prescribes circumstances in which certain persons must be notified of the proposed local development plan under section 18(1)(e) of the Act. This requirement arises where the plan includes site specific proposals which would affect the amenity of a person's land or of neighbouring land as defined in regulation 1(2). The form of notice is set out in Schedule 2. Regulation 15 prescribes the kinds of modification to a proposed plan which will require to be published under section 18(5)(a) of the Act and also to whom and how notice of modifications which affect site specific proposals is to be given. The form of notice is set out in Schedule 3.

Regulation 16 sets out how the submission of a proposed local development plan to the Scottish Ministers is to be publicised. Regulation 17 sets out how the planning authority are to publish the proposed local development plan as modified following an examination under section 19 of the Act.

Regulation 18 provides certain definitions for the purposes of Part 4 of the Regulations. Regulation 19 requires notification of the appointment of a person to hold an examination into a local development plan to be given to the planning authority. Where the examination relates to a strategic development plan notice is given under section 12(4)(b) of the Act. Regulation 20 sets out the materials which the authority are to provide in connection with an examination into a strategic or local development plan. Regulation 22 makes it clear that the person appointed to hold the

examination may seek further information. Regulation 21 limits the scope of the matters which are to be considered at the examination and regulation 23 deals with the expenses of the examination.

Regulation 24 makes provision for the content of development plan schemes prepared under section 20B of the Act. Regulations 25 and 26 make provision relating to the content of and consultation in respect of action programmes prepared under section 21 of the Act. Regulation 27 makes provision as to the matters which may be dealt with in supplementary guidance under section 22 of the Act and in respect of the procedure to be followed for the adoption of such guidance. Regulation 28 specifies the bodies which are key agencies for the purpose of various provisions of the Act.

Regulations 29 and 30 make transitional provisions in relation to the application of the Regulations to structure plans and local plans which are under preparation at the time when the Regulations come into force. There are also transitional provisions in this regard in the Planning etc. (Scotland) Act 2006 (Development Planning) (Saving, Transitional and Consequential Provisions) Order 2008.

A regulatory impact assessment has been prepared in relation to these Regulations and has been placed in the Scottish Parliament Information Centre. Copies may be obtained free of charge from the Scottish Government Planning Directorate, Area 2H, Victoria Quay, Edinburgh, EH6 6QQ.

Changes to legislation:
There are currently no known outstanding effects for the The Town and Country Planning (Development Planning) (Scotland) Regulations 2008.