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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 155**

**The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

**PART 1**

Introductory

**Citation and commencement**

1. These Regulations may be cited as the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and come into force on 30th June 2013.

**Application**

2.—(1) Subject to Part 10 and paragraphs (2) to (4), these Regulations apply to—

- (a) applications for planning permission;
- (b) applications for approval, consent or agreement required by a condition imposed on a grant of planning permission; and
- (c) applications for a certificate under sections 150 (certificate of lawfulness of existing use or development) or 151 (certificate of lawfulness of proposed use or development) of the Act,

made on or after 3rd August 2009.

(2) If a special development order is made, or has been made before the commencement of these Regulations, in relation to any land, these Regulations apply to that order only to such extent and subject to such modifications as may be specified in the order.

(3) These Regulations apply to an application for planning permission relating to marine fish farm development in accordance with regulation 36.

(4) These Regulations do not apply to applications for planning permission made under section 31A <sup>F1</sup>... (planning permission in respect of the operation of a marine fish farm) [<sup>F2</sup>or 242A (urgent Crown development) of the Act].

**F1** Words in reg. 2(4) omitted (14.9.2015) by virtue of [The Town and Country Planning \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/249\)](#), regs. 1, **6(2)**

**F2** Words in reg. 2(4) inserted (14.9.2015) by [The Town and Country Planning \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/249\)](#), regs. 1, **6(2)**

**Interpretation**

3.—(1) In these Regulations—

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

“appointed officer” means a person appointed by virtue of a scheme of delegation under section 43A(1) of the Act (local developments: schemes of delegation) by the planning authority to determine the application;

[<sup>F3</sup>“category A listed building” means a listed building specified as being category A in a list of buildings compiled or approved under section 1 of the Listed Buildings Act <sup>M1</sup> (listing of buildings of special architectural or historic interest);]

“cemetery” includes a burial ground or any other place of interment for the dead;

“community council” means a community council established in accordance with the provisions of Part IV of the Local Government (Scotland) Act 1973 <sup>M2</sup>;

“Crown land” has the meaning given in section 242(1) the Act (Crown land: preliminary definitions);

“design statement” and “design and access statement” have the meaning given in regulation 13;

“dwellinghouse” includes a building containing one or more flats, or a flat contained within such a building.”

[<sup>F4</sup>“EIA report” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;]

“environmental statement” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 <sup>M3</sup> [<sup>F5</sup>as those Regulations had effect on 15th May 2017];

“the Fees Regulations” means the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004 <sup>M4</sup>;

“historic garden or designed landscape” means a garden or landscape which is included in the inventory of gardens and designed landscapes compiled and maintained under section 32A of the Ancient Monuments and Archaeological Areas Act 1979 <sup>M5</sup> (inventory of gardens and designed landscapes);

“householder development” means the carrying out of building, engineering or other operations—

- (a) to improve, add to or alter an existing dwellinghouse;
- (b) within the curtilage of a dwellinghouse for a purpose incidental to the enjoyment of that dwellinghouse; and
- (c) to erect or construct a gate, fence or wall or other means of enclosure along a boundary of the curtilage of a dwellinghouse;

“licensed premises” means premises licensed for the sale of alcoholic liquor pursuant to the provisions of the Licensing (Scotland) Act 2005 <sup>M6</sup> or premises authorised by a premises licence under Part 8 of the Gambling Act 2005 <sup>M7</sup> to be used for activities described in section 150 of that Act (nature of licence);

“listed building” means a listed building within the meaning of section 1(4) of the Listed Buildings Act;

“Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;

“marine fish farm development” means the placing or assembly of any equipment in marine waters for the purposes of fish farming (“equipment” and “fish farming” having the same meaning as in section 26(6) of the Act (meaning of development)) and any material change of use of equipment so placed or assembled;

“marine planning zone” has the same meaning as in the Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007 <sup>M8</sup>;

“marine waters” means the waters described in section 26(6)(b) and (c) of the Act;

“minerals application” means an application for planning permission for development consisting of the winning and working of minerals by underground working;

“National Scenic Area” means an area designated by a direction made by the Scottish Ministers under section 263A of the Act <sup>M9</sup> (national scenic areas);

“neighbouring land” means an area or plot of land (other than land forming part of a road) which, or part of which, is conterminous with or within 20 metres of the boundary of the land for which the development is proposed;

“planning permission in principle” means a planning permission granted pursuant to an application made under regulation 10 for the carrying out of building, engineering, mining or other operations in, on, over or under land which is granted subject to a condition (in addition to any other conditions which may be imposed) that the development in question will not begin until certain matters have been approved by the planning authority or, as the case may be, the Scottish Ministers;

“pre-application consultation report” means a written report prepared in accordance with section 35C of the Act;

“road” has the same meaning as in section 151 of the Roads (Scotland) Act 1984 <sup>M10</sup> (interpretation);

“scheduled monument” has the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979 (schedule of monuments);

“validation date” is the date on which an application is taken to have been made in terms of regulation 14;

“World Heritage Site” means land appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage <sup>M11</sup>.

(2) Other than in regulations 12 and 18, references to an approval, consent or agreement required by a condition imposed on a grant of planning permission include an approval required by or under a development order.

(3) References to distance are references to distance measured along a horizontal plane.

(4) Any requirement that a form is to be as set out in a specified Schedule is to be construed as meaning a form as so specified or a form substantially to the like effect.

(5) Any power conferred by these Regulations to give a direction is to be construed as including power to cancel or vary the direction by a subsequent direction.

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| <b>F3</b> | Words in reg. 3 substituted (1.10.2015) by <a href="#">The Town and Country Planning (Historic Environment Scotland) Amendment Regulations 2015 (S.S.I. 2015/237)</a> , regs. 1(1), <b>5(2)</b>  |
| <b>F4</b> | Words in reg. 3 inserted (16.5.2017) by <a href="#">The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I. 2017/102)</a> , regs. 1, <b>57(2)(a)</b> (with regs. 2(10), 38, 39, 40, 60(7)) |
| <b>F5</b> | Words in reg. 3 inserted (16.5.2017) by <a href="#">The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (S.S.I. 2017/102)</a> , regs. 1, <b>57(2)(b)</b> (with regs. 2(10), 38, 39, 40, 60(7)) |

### Marginal Citations

- M1** 1997 c.9. Section 1 is amended by paragraph 2 of Schedule 3 to the [Historic Environment Scotland Act 2014](#) (asp 19).
- M2** 1973 c.65.
- M3** S.S.I. 2011/139.
- M4** S.S.I. 2004/219 as relevantly amended by S.S.I. 2007/253, S.S.I. 2007/268 and S.S.I. 2013/105.
- M5** 1979 c.46. Section 32A was inserted by section 11 of the [Historic Environment \(Amendment\) \(Scotland\) Act 2011](#) (asp 3).
- M6** 2005 asp 16.
- M7** 2005 c.19.
- M8** S.S.I. 2007/268.
- M9** Section 263A was inserted by section 50 of the [Planning etc. \(Scotland\) Act 2006](#) (asp 17).
- M10** 1984 c.54.
- M11** See command paper 9424.

## PART 2

### Pre-application consultation

#### Pre-application consultation – classes of development

4. The classes of development prescribed for the purposes of section 35A(1) of the Act (pre-application consultation: preliminary) are development belonging to the categories of national developments and major developments.

#### [<sup>F6</sup>Pre-application consultation – exemptions

4A.—(1) The circumstances specified for the purposes of section 35A(1A)(b) of the Act (pre-application consultation: preliminary) in which section 35A(1) of the Act does not apply to an application for planning permission are set out in paragraph (2).

- (2) The circumstances are where all of paragraphs (a) to (d) apply—
- (a) the application for planning permission relates to proposed development—
    - (i) of the same character or description as development (or part of the development) in respect of which an earlier application for planning permission was made (“the earlier application”),
    - (ii) comprised within the description of the development contained in the proposal of application notice given to the planning authority under section 35B(2) of the Act in respect of the earlier application, and
    - (iii) to be situated on or within the same site as the development to which the earlier application related and on no other land except land which is solely for the purpose of providing a different means of access to the site of the proposed development,
  - (b) there has been compliance with the requirements of section 35B in respect of the earlier application,
  - (c) the planning authority have not exercised their power under section 39 to decline to determine the earlier application, and
  - (d) the application for planning permission is made no later than 18 months after the validation date of the earlier application.

(3) Where the applicant believes that section 35A(1) of the Act does not apply to an application for planning permission by virtue of section 35A(1A)(b) a statement to that effect must accompany the application for planning permission and that statement must identify the earlier application.]

**F6** Reg. 4A inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), 3

### Content of pre-application screening notice

5.—(1) A notice under section 35A(3) of the Act in addition to the information mentioned in paragraphs (a) to (d) of section 35B(4) of the Act (pre-application consultation: compliance), must also contain a statement as to whether or not the planning authority have adopted a screening opinion or the Scottish Ministers have made a screening direction in respect of the development to which the notice relates.

[<sup>F7</sup>(1A) If the notice under section 35A(3) of the Act relates to a prospective application for planning permission for development of the same character or description as development in respect of which an earlier application for planning permission was made, or part of that development, the notice must contain—

- (a) sufficient information to enable the earlier application to be identified by the planning authority,
- (b) the information contained in the proposal of application notice given to the planning authority under section 35B(2) of the Act in respect of the earlier application, and
- (c) a statement (for the purposes of assessment of the need to comply with section 35B), confirming the date, or latest date, on which the prospective applicant intends to make that application for planning permission.]

(2) In this regulation “screening opinion” and “screening direction” have the same meaning as in the *Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations* [<sup>F8</sup>2017].

**F7** Reg. 5(1A) inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), 4

**F8** Word in reg. 5(2) substituted (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/102\)](#), regs. 1, 57(3) (with regs. 2(10), 38, 39, 40, 60(7))

### Content of proposal of application notice

6. A proposal of application notice must, in addition to those matters required by section 35B(4) of the Act, also contain an account of what consultation the applicant intends to undertake, [<sup>F9</sup>including information as to] when such consultation is to take place, with whom and what form it will take.

**F9** Words in reg. 6 inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), 5

### Pre-application consultation

7.—(1) The prospective applicant is to consult as respects a proposed application every community council any part of whose area is within or adjoins the land where the proposed

development is situated and in doing so is to give a copy of the proposal of application notice to the community council.

- (2) [<sup>F10</sup>Subject to regulation 7A,] the prospective applicant is to—
- (a) hold at least [<sup>F11</sup>two public events] where members of the public may make comments to the prospective applicant as regards the proposed development; and
  - [<sup>F12</sup>(b) publish in a local newspaper circulating in the locality in which the proposed development is situated—
    - (i) a notice in respect of the first public event containing the information specified in paragraph (2A), and
    - (ii) a further notice in respect of the final public event containing the information specified in sub-paragraphs (a) to (c) and (e) of paragraph (2A).]

[<sup>F13</sup>(2A) The information is—

- (a) a description of, and the location of, the proposed development,
- (b) details as to how (including by what electronic means) further information may be obtained concerning the proposed development,
- (c) the date and place of the public event,
- (d) a statement explaining how, and by when, persons wishing to make comments to the prospective applicant relating to the proposal may do so, and
- (e) a statement that comments made to the prospective applicant are not representations to the planning authority and if the prospective applicant submits an application there will be an opportunity to make representations on that application to the planning authority.]

(3) A public event held by the prospective applicant in accordance with paragraph (2)(a) is not to be held earlier than 7 days after notification of the date and place of [<sup>F14</sup>the public event is given under paragraph (2)(b)(i) or (ii), as the case may be, and the final public event must be held at least 14 days after the first public event].

[<sup>F15</sup>(4) The prospective applicant must at the final public event provide feedback to members of the public in respect of comments received by the prospective applicant as regards the proposed development.]

- F10** Words in reg. 7(2) inserted (24.4.2020) by [The Town and Country Planning \(Miscellaneous Temporary Modifications\) \(Coronavirus\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/124\)](#), regs. 1, **2(2)**
- F11** Words in reg. 7(2)(a) substituted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), **6(a)** (with reg. 10(a))
- F12** Reg. 7(2)(b) substituted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), **6(b)** (with reg. 10(a))
- F13** Reg. 7(2A) inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), **6(c)** (with reg. 10(a))
- F14** Words in reg. 7(3) substituted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), **6(d)** (with reg. 10(a))
- F15** Reg. 7(4) inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), **6(e)** (with reg. 10(a))

**[<sup>F16</sup>Temporary relaxation of pre-application consultation requirements during Coronavirus emergency period**

**7A.—(1)** This regulation applies in relation to an application for planning permission submitted—

- (a) either—
  - (i) during the emergency period, or
  - (ii) within the period of 6 months immediately following the expiry of the emergency period, and
- (b) in respect of which a proposal of application notice is given to the planning authority before, or during, the emergency period.

(2) Where this regulation applies in relation to an application for planning permission, regulation 7 applies in relation to that application—

- (a) as if paragraphs (2)(a) and (b)(iii) and (3) were omitted, <sup>F17</sup>...

<sup>F17</sup>(b) .....

(3) For the purposes of this regulation, the “emergency period” is the period beginning on 24 April 2020 and ending [<sup>F18</sup>at the end of [<sup>F19</sup>30 September 2022]].]

<b>F16</b>	Reg. 7A inserted (24.4.2020) by <a href="#">The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 (S.S.I. 2020/124)</a> , regs. 1, <b>2(3)</b>
<b>F17</b>	Reg. 7A(2)(b) and word omitted (29.9.2021) by virtue of <a href="#">The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2021 (S.S.I. 2021/292)</a> , regs. 1(1), <b>7(3)(a)</b>
<b>F18</b>	Words in reg. 7A(3) substituted (29.9.2021) by <a href="#">The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2021 (S.S.I. 2021/292)</a> , regs. 1(1), <b>7(3)(b)</b>
<b>F19</b>	Words in reg. 7A(3) substituted (30.3.2022) by <a href="#">The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2022 (S.S.I. 2022/66)</a> , regs. 1(1), <b>7(2)</b>

**[<sup>F20</sup>Form and content of pre-application consultation report**

**7B.** A pre-application consultation report must contain—

- (a) the dates on which, and places where, public events were held as required in accordance with regulation 7(2),
- (b) a description of—
  - (i) any additional consultation or notification required by the planning authority in relation to the proposed application under section 35B(7) of the Act,
  - (ii) any additional steps taken by the prospective applicant to consult with members of the public as regards the proposed development,
- (c) a list of bodies, groups and organisations who were consulted by the prospective applicant,
- (d) evidence as to how the prospective applicant carried out the activities described under subparagraphs (a), (b) and (c),
- (e) copies of—
  - (i) any materials sent to consultees,
  - (ii) any materials provided to those attending a public event, and
  - (iii) any visual presentation shown or displayed at a public event,

- (f) photographs of any display boards or models at public events,
- (g) confirmation as to whether consultees and attendees at public events were informed that pre-application consultation does not remove the right or the potential need to comment on the final application once it is made to the planning authority,
- (i) a summary of—
  - (i) the written responses to consultations, and
  - (ii) views raised at public events,
 including an indication of the number of written responses received and the number of persons who attended the public events,
- (j) an explanation of how the prospective applicant took account of views raised during the pre-application consultation process, and
- (k) an explanation of how members of the public were given feedback on the prospective applicant's consideration of the views raised during the pre-application consultation process.]

**F20** Reg. 7B inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), 7 (with reg. 10(b))

## **PART 3**

### Procedure on applications for planning permission

#### **Applications for planning permission**

**8.** Any application made under any of regulations 9 to 12 is to be made to the planning authority within whose district the development to which the application relates is situated.

#### **Form and content of an application for planning permission**

**9.—(1)** An application to a planning authority for planning permission (other than planning permission in principle) is to be made in accordance with this regulation.

- (2) An application for planning permission must contain—
  - (a) a written description of the development to which it relates;
  - (b) the postal address of the land to which the development relates or, if the land in question has no postal address, a description of the location of the land; and
  - (c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.
- (3) The application must be accompanied—
  - (a) by a plan—
    - (i) sufficient to identify the land to which it relates; and
    - (ii) showing the situation of the land in relation to the locality and in particular in relation to neighbouring land;
  - (b) by such other plans and drawings as are necessary to describe the development to which it relates;
  - (c) where any neighbouring land is owned by the applicant, by a plan identifying that land;



- (d) by one or other of the certificates required under regulation 15;
- (e) where the application [<sup>F21</sup>is not an exempt application and] relates to development belonging to the categories of national developments or major developments, by a pre-application consultation report;
- (f) where the application relates to the installation of an antenna to be employed in an electronic communications network, by an ICNIRP declaration;
- (g) where required under regulation 13, by a design statement or a design and access statement;
- (h) where the application relates to Crown land by a statement that the application is made in respect of Crown land; and
- (i) by any fee payable under the Fees Regulations.

(4) In this regulation—

“electronic communications network” has the same meaning as in section 32 of the Communications Act 2003 <sup>M12</sup> (meaning of electronic communications networks and services); and

[<sup>F22</sup>“exempt application” means an application for planning permission relating to development belonging to the categories of national developments or major developments to which section 35A(1) of the Act does not apply,]

“ICNIRP declaration” means a declaration by the applicant that the antenna is designed to be in full compliance with the requirements of the radio frequency public exposure guidelines of the International Commission on Non-Ionising Radiation Protection, as expressed in EU Council recommendation of 12th July 1999 <sup>M13</sup> on the limitation of exposure of the general public to electromagnetic fields (0Hz to 300GHz).

**F21** Words in reg. 9(3)(e) inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), **8(a)**

**F22** Words in reg. 9(4) inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), **8(b)**

**Marginal Citations**

**M12** 2003 c.21.

**M13** 1999/519/EC.

**Application for planning permission in principle**

**10.**—(1) An application to a planning authority for planning permission in principle is to be made in accordance with the requirements of this regulation.

- (2) An application for planning permission in principle must contain—
  - (a) a written description outlining the development to which it relates;
  - (b) the postal address of the land to which the development relates or, if the land in question has no postal address, a description of the location of the land; and
  - (c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.
- (3) The application must be accompanied—
  - (a) by a plan—
    - (i) sufficient to identify the land to which it relates; and

- (ii) showing the situation of the land in relation to the locality and in particular in relation to neighbouring land;
- (b) where any neighbouring land is owned by the applicant, by a plan identifying that land;
- (c) by one or other of the certificates required under regulation 15;
- (d) where access to the site is to be taken directly from a road, by a description of the location of the access points to the proposed development;
- (e) where the application <sup>F23</sup>is not an exempt application (as defined in regulation 9(4)) and] relates to development belonging to the categories of national developments or major developments, by a pre-application consultation report;
- (f) where the application relates to Crown land by a statement that the application is made in respect of Crown land; and
- (g) by any fee payable under the Fees Regulations.

**F23** Words in [reg. 10\(3\)\(e\)](#) inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), [regs. 1\(1\)](#), [9](#)

### Further applications

**11.—(1)** Where—

- (a) planning permission has been granted for development;
- (b) that development has not been commenced; and
- (c) a time limit imposed by or under section 58 (duration of planning permission) or section 59 (planning permission in principle) of the Act has not expired,

an application (other than an application made under section 42 of the Act (application to develop land without compliance with previous conditions)) is made for planning permission for the same development, the application may be made without complying with the provisions of regulation 9 or regulation 10 other than regulation 9(2)(c) and (3)(c), (d), (e), (h), and (i) or regulation 10(2)(c) and (3)(b), (c), (e), (f) and (g).

(2) Where an application for planning permission is made under section 42 of the Act, the application may be made without complying with the provisions of regulation 9 or regulation 10 other than regulation 9(2)(c) and (3)(c), (d), (h), and (i) or regulation 10(2)(c) and (3)(b), (c), (f) and (g).

(3) An application mentioned in paragraph (1) or (2) is to be in writing and is to give sufficient information to enable the planning authority to identify the previous grant of planning permission and where it is made under section 42 of the Act is to contain a statement to that effect.

### Application for approval of matters specified in conditions

**12.—(1)** An application to a planning authority for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle must be made in accordance with this regulation.

(2) An application for such approval, consent or agreement is to be in writing and must—

- (a) identify the planning permission to which it relates;
- (b) contain a description of the matter in respect of which the application is made;
- (c) state the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent;

- (d) be accompanied—
  - (i) where the application relates to the alteration or construction of buildings, other structures or roads or to landscaping, by plans and drawings describing the matter in respect of which the application is made;
  - (ii) where any neighbouring land is owned by the applicant, by a plan identifying that land; and
  - (iii) by any fee payable under the Fees Regulations.

(3) In this regulation “landscaping” means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes screening by fences, walls or other means, the planting of trees, hedges, shrubs or grass, the formation of banks, terraces or other earthworks, the laying out or provision of gardens, courts or squares, water features, sculpture, or public art and the provision of other amenity features.

### **Design and access statements**

**13.**—(1) Subject to paragraph (3), an application for planning permission for development belonging to the categories of national developments or major developments must be accompanied by a design and access statement.

(2) Subject to paragraph (3), an application for planning permission for development belonging to the category of local developments where the land to which the application relates is situated within—

- (a) a World Heritage Site;
- (b) a conservation area;
- (c) a historic garden or designed landscape;
- (d) a National Scenic Area;
- (e) the site of a scheduled monument; or
- (f) the curtilage of a category A listed building,

must be accompanied by a design statement other than where the development in question comprises the alteration or extension of an existing building.

(3) This regulation does not apply to—

- (a) an application for planning permission made under section 42 of the Act;
- (b) an application for planning permission for—
  - (i) engineering or mining operations;
  - (ii) householder development; or
  - (iii) a material change in the use of land or buildings; or
- (c) an application for planning permission in principle.

(4) A design statement is a written statement about the design principles and concepts that have been applied to the development and which—

- (a) explains the policy or approach adopted as to design and how any policies relating to design in the development plan have been taken into account;
- (b) describes the steps taken to appraise the context of the development and demonstrates how the design of the development takes that context into account in relation to its proposed use; and

- (c) states what, if any, consultation has been undertaken on issues relating to the design principles and concepts that have been applied to the development and what account has been taken of the outcome of any such consultation.
- (5) A design and access statement is a document containing both a design statement and written statement about how issues relating to access to the development for disabled people have been dealt with and which—
- (a) explains the policy or approach adopted as to such access and, in particular, how—
- (i) policies relating to such access in the development plan have been taken into account; and
  - (ii) any specific issues which might affect access to the development for disabled people have been addressed;
- (b) describes how features which ensure access to the development for disabled people will be maintained; and
- (c) states what, if any, consultation has been undertaken on issues relating to access to the development for disabled people and what account has been taken of the outcome of any such consultation.
- (6) In this regulation “conservation area” means an area for the time being designated under section 61 of the Listed Buildings Act <sup>M14</sup> (designation of conservation areas).

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**Marginal Citations**

M14 1997 c.9.

**Validation date**

14.—(1) An application made under any of regulations 9 to 12 is to be taken to have been made on the date on which the last of the items or information required to be contained in or accompany the application in accordance with regulations 9, 10, 11 or 12 respectively is received by the planning authority.

(2) Where the planning authority has received an application for their determination that their approval is required as a condition of permission granted by a development order and the planning authority has determined that their approval is required, the date when the application is to be taken to have been made is the date when any details required under the development order and the appropriate fee were lodged with the planning authority or, where these events do not all occur on the same day, the date when the last of such events occurs.

(3) The date on which an application for any other approval, consent or agreement required by a condition imposed on a grant of planning permission is to be taken to have been made is the date on which it is received by the planning authority.

**Notices to owners and agricultural tenants under section 35 of the Act**

15.—(1) The applicant is to give notice in the form set out in Schedule 1 to any person (other than the applicant) who at the beginning of the prescribed period is the owner of any land to which the application relates or an agricultural tenant.

(2) The applicant must issue a certificate—

- (a) stating whether or not the land or part of the land to which the application relates constitutes or forms part of agricultural land; and
- (b) stating, as appropriate—

- (i) that at the beginning of the prescribed period no person (other than the applicant) was the owner of any of the land to which the application relates or an agricultural tenant;
  - (ii) that the applicant has given notice to every person (other than the applicant) who at the beginning of the prescribed period was the owner of any land to which the application relates or an agricultural tenant; or
  - (iii) that the applicant is unable to give notice to every such person.
- (3) A certificate issued—
- (a) under paragraph 2(b)(ii) or (iii) must set out the name of every person to whom notice was given and the address at and date on which such notice was given;
  - (b) under paragraph 2(b)(iii) must certify that the applicant has taken reasonable steps (specifying them) to ascertain the names and addresses of those persons to whom the applicant has been unable to give notice.
- (4) In the case of a minerals application this regulation applies with the modifications that in paragraphs (1) and (2)(b) for “the owner” substitute “, to the applicant's knowledge, the owner”.
- (5) The applications prescribed for the purposes of paragraph (b) of the definition of “owner” in section 35(7) of the Act are minerals applications, and the minerals prescribed for the purposes of that paragraph are any minerals other than oil, gas, coal, gold or silver.
- (6) In this regulation—
- “agricultural land” has the meaning given to it by section 35(7) of the Act (notice etc. of applications to owners and agricultural tenants);
  - “agricultural tenant” means the tenant of agricultural land any part of which is comprised in the land to which an application relates; and
  - “prescribed period” means the period of 21 days ending with the date of the application.

## **PART 4**

### **Procedure by planning authority**

#### **Registers of applications**

16. The register of applications for planning permission, which every planning authority is required to keep under section 36(1) of the Act (registers of applications etc.), is to be kept in the manner specified in Schedule 2.

#### **Acknowledgment of applications**

17.—(1) When the planning authority are in receipt of an application made in accordance with and accompanied by the information and documents required by regulation 9, 10, 11 or 12, as the case may be, the planning authority must send to the applicant an acknowledgement thereof.

(2) The acknowledgement sent under paragraph (1) is to—

- (a) include an explanation of the timescales within which the planning authority are to give notice to the applicant of their decision on the application; and
- (b) inform the applicant of the right to appeal to the Scottish Ministers under section 47 of the Act or to require a review under section 43A(8) of the Act (local development schemes and delegation).

(3) Where the application is not made in accordance with and accompanied by the information and documents required by regulation 9, 10, 11 or 12, as the case may be, the planning authority

must send to the applicant a notice identifying the information or documentation which the applicant still requires to submit in order to comply with such regulation.

### **Notification by the planning authority**

**18.**—(1) Subject to regulation 19, a planning authority must give notice in accordance with this regulation that—

- (a) an application for planning permission; or
- (b) an application for approval, consent or agreement required by a condition imposed on a grant of planning permission in principle,

has been made.

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

- (a) where there are premises situated on the neighbouring land to which the notice can be sent to the owner, lessee or occupier of such premises, by sending a notice addressed to “the Owner, Lessee or Occupier” to such premises; and
- (b) where there are no such premises, by publication of a notice in accordance with regulation 20.

(3) The notice to be given in accordance with paragraph (2)(a) must—

- (a) state the date on which the notice is sent;
- (b) state the name of the applicant and, where an agent is acting on behalf of the applicant, the name and address of such agent;
- (c) include the reference number given to the application by the planning authority;
- (d) include a description of the development to which the application relates;
- (e) include the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land;
- (f) state how the application, plans or drawings relating to it and other documents submitted in connection with it may be inspected;
- (g) state that representations may be made to the planning authority and include information as to how any representations may be made and by which date they must be made (being a date not earlier than 21 days after the date on which the notice is sent);
- (h) be accompanied by a plan showing the situation of the land to which the application relates in relation to neighbouring land;
- (i) include a statement as to how information explaining the manner in which applications for planning permission are handled and the procedures which are followed in relation to such applications can be obtained; and
- (j) where the development to which the application belongs is a class of development prescribed for the purposes of section 35A(1) of the Act, include a statement that notwithstanding that comments may have been made to the applicant prior to the application being made, persons wishing to make representations in respect of the application should do so to the planning authority in the manner indicated in the notice.

### **Notification of minerals applications**

**19.**—(1) In the case of a minerals application the planning authority are to give notice of the application by affixing a notice to objects (not exceeding 5 in number) situated in the vicinity of the land to which the development relates.

(2) Notice under paragraph (1) must—

- (a) be displayed so as to be easily visible to and legible by members of the public;
- (b) be left in position for not less than 7 days;
- (c) state that an application for planning permission has been made to the planning authority and give a brief description of the proposed development and its location;
- (d) state how the application, plans or drawings relating to it and other documents submitted in connection with it may be inspected; and
- (e) state that representations may be made to the planning authority and include information as to how any representations may be made and by which date they must be made (being a date not earlier than 14 days beginning with the date of the notice).

(3) The planning authority is not to be treated as having failed to satisfy the requirements of paragraph (1), if the notice is, without any fault or intention of the planning authority, removed, obscured or defaced before the period of 7 days has elapsed, if the planning authority have taken reasonable steps for its protection and, if need be, replacement.

### **Publication of application by the planning authority**

**20.**—(1) Subject to paragraphs (3) to [F24(6) and regulation 20A], in the circumstances specified in paragraph (2) the planning authority must publish a notice in the form set out in Schedule 4 in a newspaper circulating in the locality in which the neighbouring land is situated.

(2) The circumstances are—

- (a) it is not possible for the planning authority to carry out notification in terms of regulation 18 because there are no premises situated on the neighbouring land to which the notification can be sent;
- (b) the applicant has submitted with an application for planning permission under regulations 9, 10 or 11 a certificate issued under regulation 15(2)(b)(iii);
- (c) the application is made under regulation 9, 10 or 11 and relates to development of one or more of the classes of development specified in Schedule 3, or
- (d) the application is made under regulation 9, 10 or 11 and relates to development which does not accord with the provisions of the development plan;
- [F25(e) the application is made under regulation 9, 10 or 11 and relates to development falling within paragraphs 3, 3A or 4 of Schedule 5.]

(3) Paragraph (2)(a) does not apply where—

- (a) all the neighbouring land referred to in that paragraph is owned by the planning authority or by the applicant; or
- (b) the application relates to householder development.

(4) The planning authority are not required to publish a notice in accordance with paragraph (1) where a notice is required to be published by the planning authority in accordance with section 60(2)(a) (publicity for applications affecting setting of listed buildings) or 65(2)(a) (publicity for applications affecting conservation areas) of the Listed Buildings Act.

(5) Where any of paragraphs (2)(a) to (d) apply but notice has already been published with respect to the application under paragraph (1) the planning authority are not required to publish a further notice.

[F26(6) Where any of paragraph (2)(a) to (d) apply the planning authority need not publish a notice if they must publish a notice by virtue of paragraph (2)(e).

(7) Where paragraph (2)(e) applies paragraph (4) does not apply.]

- F24** Words in reg. 20(1) 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. 3(2)(a)**
- F25** Reg. 20(2)(e) 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. 3(2)(b)**
- F26** Reg. 20(6)(7) 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. 3(2)(c)**

**[<sup>F27</sup>20A.—**(1) A notice published by virtue of regulation 20(1) and (2)(e) must be published with the following modifications—

- (a) for “Written comments may be made to” substitute “ Written comments or questions may be submitted to ”;
- (b) after “[Note 7]” insert—  
“[Note 8]  
An application may be granted (either unconditionally or subject to conditions) or refused.”;
- (c) after Note 7 insert—  
“Note 8 – If the proposal is a project, or part of a project, that is subject to a national or transboundary environmental impact assessment or to [<sup>F28</sup>a requirement to provide information by virtue of regulation 20 of the 2015 Regulations, state that fact ”]]

- F27** Reg. 20A 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. 3(3)**
- F28** Words in reg. 20A(1)(c) 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, **3(2)** (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)

## List of applications

**21.—**(1) The list of applications to be kept in accordance with section 36A of the Act (lists of applications) is to be kept in two sections.

- (2) The first section must—
- (a) in relation to applications for planning permission made to the planning authority, include the information specified in paragraph (4);
- (b) in relation to applications referred to in regulation 12(1) made to the planning authority, include the information specified in paragraph (4) and also a description of the matter in respect of which the application is made; and
- (c) in relation to applications made to the Scottish Ministers in respect of development in the district of the planning authority which have been notified to the planning authority—
- (i) include the information specified in paragraph (4);
- (ii) identify those applications as having been made to the Scottish Ministers under section 242A of the Act; and
- (iii) include a statement that representations may be made to the Scottish Ministers and where any such representations should be sent.



(3) The second section must, in relation to proposal of application notices received by the planning authority, include the information specified in paragraph (4)(a), (b) and (d) and—

- (a) details as to how the prospective applicant may be contacted;
- (b) the earliest date on which an application for planning permission in respect of the development may be submitted to the planning authority; and
- (c) where the planning authority give notice to the prospective applicant under section 35B(7) of the Act, specify any additional persons to whom a proposal of application notice is to be given and any additional consultation to be undertaken as regards the proposed development.

(4) The information is—

- (a) the reference number given to the application by the planning authority, or as the case may be, the Scottish Ministers;
- (b) the site location;
- (c) the name of the applicant and, where an agent is acting for the applicant, the name and address of that agent;
- (d) a description of the proposed development to which the application relates; and
- (e) the date of expiry of the period mentioned in section 34(4)(a) of the Act (period within which application may not be determined).

(5) The list of applications is also to contain a statement as to how further information in respect of an application may be obtained from the planning authority.

### **Publication of list of applications**

**22.** The planning authority are to publish the list of applications kept in accordance with section 36A of the Act by means of the internet on their website and are to make the list of applications available for inspection at their principal office and at public libraries in their district.

### **Provision of information to community councils and within public libraries**

**23.—(1)** The planning authority must send to every community council in their district at weekly intervals a list of—

- (a) all applications made to the authority during the previous week made under any of regulations 9 to 12; and
- (b) all applications made to the Scottish Ministers in respect of land within the district of the planning authority which were notified to the planning authority during the previous week,

containing the information set out in regulation 21(4) and a statement as to how further information in respect of an application may be obtained from the planning authority.

(2) The planning authority are to make the list sent to community councils under paragraph (1) available for inspection at their principal office and at public libraries in their district.

### **Further information**

**24.** A planning authority may require from the applicant further particulars, documents, materials or evidence which they consider that they require to enable them to deal with the application and, in respect of an application made under regulations 9 to 12, may do so in addition to the particulars, documents, materials or evidence which are to be included in or accompany an application in accordance with regulation 9, 10, 11 or 12, as the case may be.

### Consultation by the planning authority

**25.**—(1) Before determining an application for planning permission the planning authority must consult in accordance with this regulation and Schedule 5 and any direction given under regulation 30.

(2) Where under this regulation and Schedule 5, a planning authority are required to consult with any authority, person or body as to any application, the planning authority—

- (a) must give not less than 14 days' notice to such authority, person or body that such application is to be taken into consideration; and
- (b) must not determine the application until after the expiration of that period.

(3) Where—

- (a) any authority, person or body with which a planning authority are required to consult under this regulation and Schedule 5 (except under paragraph 3 or 4 of Schedule 5) consider that consultation with them is not required in respect of any case or class of case or in respect of development within any area; and
- (b) so inform the planning authority in writing,

the planning authority are not required to consult the authority, person or body in respect of any development coming within the case or class of case or within the area or areas specified.

### Time periods for decision

**26.**—(1) Where a planning authority has received—

- (a) an application made under any of regulations 9 to 12;
- (b) an application for their determination that their approval is required as a condition of planning permission granted by a development order and the planning authority has determined that their approval is required; or
- (c) an application for any other approval, consent or agreement required by a condition imposed on a grant of planning permission,

the period within which the authority must give notice to an applicant of their decision or determination or referral of the application to the Scottish Ministers is the period mentioned in paragraph (2).

(2) The period is—

- (a) in the case of an application for planning permission for development within the category of national developments or major developments, four months after the validation date; and
- (b) in any other case, two months after the validation date.

(3) Paragraph (1)—

- (a) does not apply where—
  - (i) the applicant and the planning authority agree an extended period for the purposes of section 47(2) of the Act (appeals against failure to take planning decision); or
  - (ii) the applicant and the appointed officer agree an extended period for the purposes of section 43A(8)(c) of the Act <sup>M15</sup> (review where a failure to take planning decision).
- (b) is subject to—
  - (i) paragraph (4);
  - (ii) section 34(4) of the Act; and
  - (iii) sections 60(3) and 65(3) of the Listed Buildings Act <sup>M16</sup>.

(4) An application made under any of regulations 9 to 12 is not to be determined until the date, or the latest date, of the expiry of the period allowed for the making of representations in respect of that application specified in notice—

- (a) given in accordance with regulation 18 or 19; or
- (b) published in accordance with regulation 20.

#### Marginal Citations

**M15** Section 43A was inserted by section 17 of the Planning etc. (Scotland) Act 2006 and is amended by [S.S.I. 2013/24](#) and [2013/26](#).

**M16** [1997 c.9](#).

#### Pre-determination hearings

**27.**—(1) Before determining an application for planning permission for a development within the classes of development specified in paragraph (2), the planning authority are to give to the applicant and to persons who submit representations to the planning authority in respect of that application in accordance with these Regulations an opportunity of appearing before and being heard by a committee of the authority.

(2) The classes of development prescribed for the purposes of section 38A(1) of the Act (pre-determination hearings) are developments within the categories of—

- (a) national developments; and
- (b) major developments which are significantly contrary to the development plan.

#### Decision notice

**28.**—(1) The planning authority must as regards an application mentioned in paragraph (2) within the period mentioned in regulation 26(2)—

- (a) give to the applicant (or where an agent is acting for the applicant, that agent) notice (“a decision notice”) of their decision on the application; and
- (b) inform every authority, person or body who made written representations in respect of the application (and provided an address) of their decision on the application and where a copy of the decision notice is available for inspection.

(2) The applications are—

- (a) for planning permission; and
- (b) for an approval, consent or agreement required by a condition imposed on a grant of planning permission.

(3) A decision notice must, in addition to the matters required by section 43(1A)(a) of the Act (directions etc. as to method of dealing with applications)—

- (a) in the case of an application made under regulation 9, 10 or 11 include—
  - (i) a description of the proposed development (including identification of the plans and drawings showing the proposed development) for which planning permission has been granted, or as the case may be, refused;
  - (ii) a description of the location of the proposed development including, where applicable, a postal address;
  - (iii) the reference number of the application;

- (iv) a description of any variation made to the application in accordance with section 32A of the Act (variation of application);
- <sup>F29</sup>(v) . . . . .
- (vi) if any obligation is to be entered into under section 75 of the Act (planning obligations) in connection with the application a statement as to where the terms of such obligation or a summary of such terms may be inspected; and
- (b) in the case of an application under regulation 12 include—
  - (i) a description of the matter in respect of which approval, consent or agreement has been granted, or as the case may be, refused;
  - (ii) the reference number of the application; and
  - (iii) the reference number of the application for the planning permission in respect of which the condition in question was imposed.
- (4) Where an application is refused or is granted subject to conditions the decision notice must—
  - (a) in a case where the application is determined by an appointed officer, be accompanied by—
    - (i) notification in terms of Form 1 set out in Schedule 6; and
    - (ii) a statement explaining how the applicant may obtain information on how to require a review of the case by the planning authority under section 43A(8) of the Act; or
  - (b) in other cases, be accompanied by—
    - (i) notification in terms of Form 2 set out in Schedule 6; and
    - (ii) a statement explaining how the applicant may obtain information on how to appeal to the Scottish Ministers under section 47 of the Act.
- (5) Where representations in respect of the application are made by three or more persons in the same document, it is sufficient for the purposes of paragraph (1)(b) that the planning authority notify—
  - (a) only the person who sent that document to the planning authority, where it is possible for the planning authority to identify that person; or
  - (b) where it is not possible to do so, only the first named person on the document for whom an address is provided.

**F29** [Reg. 28\(3\)\(a\)\(v\)](#) omitted (1.12.2022) by virtue of [The Town and Country Planning \(Miscellaneous Amendment\) \(Scotland\) Regulations 2022 \(S.S.I. 2022/286\)](#), regs. 1(1), **2(2)** (with reg. 4)

**Schemes of delegation**

**29.**—(1) Where an application is determined by an appointed officer, references to the planning authority in the provisions specified in paragraph (2) are to be treated as references to that appointed officer.

- (2) The provisions are—
  - (a) regulations 24 to 26;
  - (b) regulation 28;
  - (c) regulation 30 to 35;
  - (d) regulation 39;
  - (e) paragraphs 3 and 4 of Schedule 2; and
  - (f) Schedule 5.

## PART 5

### Directions

#### Directions requiring consultation

**30.** The Scottish Ministers may by a direction given under this regulation require a planning authority to consult with such authorities, persons or bodies as are specified in the direction before granting or refusing an application for planning permission in any case or class of case specified in the direction.

#### Directions requiring information

**31.** The Scottish Ministers may by a direction given under this regulation require a planning authority to give to the Scottish Ministers and to such other persons as may be prescribed in the direction such information as may be so prescribed with respect to applications for planning permission made to the authority, including information as to the manner in which any such application has been dealt with.

#### Directions restricting the grant of planning permission

**32.** The Scottish Ministers may by a direction given under this regulation restrict the grant of planning permission by a planning authority, either indefinitely or during such period as may be specified in the direction, in respect of any development or any class of development, as may be so specified.

#### Directions requiring consideration of condition

**33.** The Scottish Ministers may by a direction given under this regulation require a planning authority, in respect of any such development, or in respect of development of any such class, as may be specified in the direction—

- (a) to consider, where the planning authority are minded to grant planning permission, imposing a condition specified in, or of a nature indicated in, the directions; and
- (b) (unless the direction is withdrawn) not to grant planning permission without first satisfying the Scottish Ministers that such consideration has been given and that such a condition either will be imposed or need not be imposed.

#### Provisions supplementary to regulations 30 to 33

**34.** A planning authority must give effect to any direction given under regulation 30, 31, 32 or 33.

#### Notice of reference of applications to the Scottish Ministers

**35.** On referring any application to the Scottish Ministers following a direction under section 46 of the Act (call-in of applications by Scottish Ministers), a planning authority are to serve on the applicant notice—

- (a) of the terms of the direction;
- (b) of any reasons given by the Scottish Ministers for requiring the application to be referred to them;
- (c) that the application has been referred to the Scottish Ministers; and
- (d) that the decision of the Scottish Ministers on the application will be final.

## PART 6

### Particular cases

#### Application relating to marine fish farming

**36.**—(1) The provisions of these Regulations (other than regulations 10, 18 and 41) apply to an application for planning permission relating to marine fish farm development subject to the following modifications.

(2) Regulation 7(2)(b) applies as if the reference to “the locality in which the proposed development is situated” were a reference to “the district of the planning authority for the marine planning zone in which the marine fish farm development is proposed”;

(3) Regulation 9 applies as if—

(a) for paragraph 2(b) there were substituted—

“(b) a description of the location of the development;”;

(b) for paragraph 3(a) there were substituted—

“(a) a plan sufficient to identify the location of the development;”;

(c) paragraph 3(c) were omitted.

(4) Regulation 13 applies as if for paragraphs (1) and (2) there were substituted—

“(1) Subject to paragraph (3), an application for planning permission for marine fish farm development belonging to the category of major developments must be accompanied by a design statement.

(2) Subject to paragraph (3), an application for planning permission for marine fish farm development belonging to the category of local developments where that development is situated within—

(a) a World Heritage Site;

(b) a National Scenic Area; or

(c) the site of a scheduled monument,

must be accompanied by a design statement other than where the development in question comprises the alteration or extension of an existing marine fish farm.”.

(5) Regulation 20 applies as if—

(a) for paragraph (1) there were substituted—

“(1) The planning authority must publish a notice in the form set out in Schedule 4 in a newspaper circulating in the district of that planning authority.”; and

(b) paragraphs (2) to (5) were omitted.

(6) Schedule 2 applies as if for paragraph 2(c) there were substituted—

“(c) a description of the location of the development;”.

(7) Paragraph 6 of Schedule 5 applies as if for “within whose area the development is to take place” there were substituted, “whose area is adjacent to the marine planning zone in which the marine fish farm development is proposed”.

(8) Where an application for planning permission relates in part to marine fish farm development and in part to other development, the modifications specified in this regulation apply only for the purposes of that application to the extent that it relates to marine fish farm development.

## Cairngorms National Park

**37.**—(1) For the purposes of regulation 26(2) the validation date in a case where the Cairngorms National Park Authority has issued a direction in exercise of its powers under article 7(3) of the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003 <sup>M17</sup> is to be taken as the date on which that direction was issued.

(2) Where an application is made under any of regulations 9 to 12 in respect of development situated in the area of that Authority, the planning authority must within the period of five days beginning with the validation date, give notice of the application to that Authority.

(3) Where it appears to the planning authority that development is likely to affect land in the area of that Authority the planning authority must before determining an application for planning permission consult with that Authority.

### Marginal Citations

M17 [S.S.I. 2003/1](#).

## Applications – national security

**38.** The validity of an application made under any of regulations 9 to 12 is not affected by failure to disclose information as to—

- (a) national security; and
- (b) the measures taken or to be taken to ensure the security of any premises or property,

where the application is accompanied by a written statement from the applicant that, in the opinion of the applicant, the information relates to the matters mentioned in (a) or (b) above, and that public disclosure of that information would be contrary to the national interest.

## Development which does not accord with the development plan

**39.** A planning authority may grant planning permission for development which does not accord with the provisions of the development plan provided that if any notice is required to be published in accordance with regulation 20 that notice has been so published.

# PART 7

## Notification and display

### Notification of initiation of development

**40.** The notice to be given in accordance with section 27A(1) of the Act <sup>M18</sup> (notification of initiation of development) by a person intending to carry out development must—

- (a) include the full name and address of the person intending to carry out the development;
- (b) state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;
- (c) where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and
- (d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development.

#### Marginal Citations

**M18** Section 27A was inserted by section 6(1) of the [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#).

#### Display notices

**41.**—(1) The prescribed classes of development for the purposes of section 27C(1)<sup>M19</sup> of the Act (display of notice while development is carried out) are—

- (a) development belonging to the categories of national developments and major developments; and
  - (b) development of a class specified in Schedule 3.
- (2) A notice displayed in accordance with section 27C(1) of the Act—
- (a) is to be in the form set out in the Schedule 7 and completed in accordance with the notes to that Schedule; and
  - (b) must be—
    - (i) displayed in a prominent place at or in the vicinity of the site of the development;
    - (ii) readily visible to the public; and
    - (iii) printed on durable material.

#### Marginal Citations

**M19** Section 27C was inserted by section 6(1) of the [Planning etc. \(Scotland\) Act 2006](#).

## PART 8

### Certificates of lawful use or development

#### Application for certificate of lawful use or development

**42.** An application for a certificate under section 150(1) or 151(1) of the Act must be in writing and must, in addition to specifying the land and describing the use, operations or other matter in question in accordance with those sections, include the following information—

- (a) the paragraph of section 150(1) or, as the case may be, section 151(1) of the Act, under which the application is made;
- (b) in the case of an application under section 150(1) of the Act, the date on which the use, operations or other matter began or, in the case of operations carried out without planning permission, the date on which the operations were substantially completed;
- (c) in the case of an application under section 150(1)(a) of the Act, the name of any use class specified in an order under section 26(2)(f) of the Act which the applicant considers applicable to the existing use;
- (d) in the case of an application under section 150(1)(c) of the Act, sufficient details of the relevant planning permission to enable it to be identified;
- (e) in the case of an application under section 151(1)(a) of the Act, the use of the land at the date of the application (or, when the land is not in use at that date, the purpose for which it was last used) and the name of any use class specified in an order under section 26(2)(f) of the Act which the applicant considers applicable to the proposed use;



- (f) the applicant's reasons, if any, for regarding the use, operations or other matter described in the application as lawful; and
- (g) such other information as the applicant considers to be relevant to the application.

#### **Documentation accompanying applications**

**43.**—(1) An application to which regulation 42 applies must be accompanied by—

- (a) a plan identifying the land to which the application relates;
- (b) such evidence verifying the information included in the application as the applicant can provide; and
- (c) a statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application.

(2) Where such an application specifies two or more uses, operations or other matters, the plan which accompanies the application is to indicate to which part of the land each such use, operation or matter relates.

#### **Procedure on receipt of application**

**44.**—(1) When a planning authority receive an application to which regulation 42 applies and any fee required to be paid in respect of the application, they must, as soon as reasonably practicable, send to the applicant an acknowledgement of the application.

(2) Where, after sending an acknowledgement as required by paragraph (1), the planning authority consider that the application is invalid by reason of the failure to comply with regulations 42 and 43 or any other statutory requirement, they must, as soon as practicable, notify the applicant that the application is invalid.

(3) The planning authority may by notice in writing require the applicant to provide such further information as may be specified to enable them to deal with the application.

(4) The planning authority must give the applicant written notice of their decision within a period of 2 months beginning with the date of receipt by the authority of—

- (a) the application; or
- (b) if later, any fee required to be paid in respect of the application.

(5) Where an application is refused in whole or in part (including a case in which the authority modify the description of the use, operations or other matter in the application or substitute an alternative description for that description), the notice of decision must be in writing and must—

- (a) state the authority's reasons for their decision; and
- (b) include a statement to the effect that the applicant may appeal to the Scottish Ministers under section 154 of the Act (appeals).

(6) A certificate under section 150 or 151 of the Act is to be in the form set out in Schedule 8.

(7) Regulation 31 applies to applications for a certificate to which regulation 42 applies as it applies to applications for planning permission.

#### **Applications for certificate of lawful use or development - national security**

**45.** The validity of an application for a certificate of lawful use or development is not affected by failure to disclose information as to—

- (a) national security; and
- (b) the measures taken or to be taken to ensure the security of any premises or property,

where the application is accompanied by a written statement from the applicant that, in the opinion of the applicant, the information relates to the matters mentioned in (a) or (b) above, and that public disclosure of that information would be contrary to the national interest.

### **Revocations of certificate of lawful use or development**

**46.**—(1) Where a planning authority propose to revoke a certificate issued under section 150 or 151 of the Act in accordance with section 152(7) of the Act (certificates under sections 150 and 151: supplementary provisions), they must, before they revoke the certificate, give notice of that proposal to—

- (a) the owner of the land affected;
- (b) the occupier of the land affected;
- (c) any other person who will in their opinion be affected by the revocation; and
- (d) in the case of a certificate issued by the Scottish Ministers under section 154 of the Act, the Scottish Ministers.

(2) A notice issued under paragraph (1) is to invite the person on whom the notice is served to make representations on the proposal to the authority within 14 days of service of the notice and the authority must not revoke the certificate until all such periods allowed for making representations have expired.

(3) An authority must give written notice of any revocation under section 152(7) of the Act to every person on whom notice of the proposed revocation was served under paragraph (1).

## **PART 9**

### **General**

#### **Electronic communications**

**47.**—(1) Where the criteria in paragraph (2) are met, any document required or authorised to be sent by these Regulations may be sent by electronic communications and any requirement in these Regulations that any document is to be in writing is fulfilled.

(2) The criteria are—

- (a) the recipient consents, or is deemed to have agreed under paragraph (3), to receive it electronically; and
- (b) that document transmitted by the electronic communication is—
  - (i) capable of being accessed by the recipient;
  - (ii) legible in all material respects; and
  - (iii) sufficiently permanent to be used for subsequent reference.

(3) Any person sending a document using electronic communications is to be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the application which are capable of being carried out electronically; and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(4) Deemed agreement under paragraph (3) subsists until that person gives notice to revoke the agreement.

(5) Notice of withdrawal of consent to the use of electronic communications or of revocation of agreement under paragraph (4) takes effect on a date specified by the person in the notice, but not less than seven days after the date on which the notice is given.

(6) In this regulation—

“address” includes any number or address used for the purpose of such communications or storage;

“document” includes any notice, consent, decision, representation, statement, list, report, form, plan, certificate or other information or communication; and

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000 <sup>M20</sup> (general interpretation);

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and

“sent” includes served, submitted or given and cognate expressions are to be construed accordingly.

#### Marginal Citations

**M20** 2000 c.7. Section 15 was amended by paragraph 158 of Schedule 17 to the [Communications Act 2003](#) (c.21).

### Service of notices

**48.** Section 271 of the Act (services of notices) applies to notices or other documents required or authorised to be served or given under these Regulations on the owners or occupiers of land as it applies to notices or other documents required or authorised to be served or given under the Act.

## PART 10

### Transitional provisions, revocations and savings

#### Transitional provisions

**49.—**(1) The provisions specified in paragraph (2) apply with the modifications specified in paragraph (3) to—

- (a) applications for planning permission;
- (b) applications for approval, consent or agreement required by a condition imposed on a grant of planning permission; and
- (c) applications for approval of reserved matters in connection with the grant of outline planning permission,

made before 3rd August 2009 but in respect of which no notice of the decision of the planning authority was given to the applicant before 3rd August 2009.

(2) The provisions are—

- (a) regulation 16;
- (b) regulations 26 to 28; and
- (c) Schedule 2.

- (3) In regulation 26—
- (a) in paragraph (2)(a) and (b) for “validation date” substitute “ the date of receipt of the application ”; and
  - (b) omit paragraph (4).
- (4) The following provisions of these Regulations apply only in relation to applications for planning permission made on or after the date on which these Regulations come into force—
- (a) regulation 9(3)(c) and (h);
  - (b) regulation 10(3)(b) and (f);
  - (c) regulation 20(3); and
  - (d) paragraph 9(a) of Schedule 5.
- (5) Regulation 11 applies only to applications for planning permission made on or after 2nd February 2013 and regulation 11 of the 2008 Regulations has effect as it did immediately before that date in relation to an application for planning permission made before that date.
- (6) References in regulations 26 and 28 and in Schedule 2 to applications made under regulations 9 to 12 of these Regulations are in the case of an application mentioned in paragraph (1) to be treated for the purposes of the application of those provisions as references to an application made under articles 3, 4, 5 or 6, as the case may be, of the 1992 Order.
- (7) For the purposes of the interpretation of these Regulations in relation to their application to an application made under any of regulations 9 to 12 of the 2008 Regulations before 30th June 2013 “neighbouring land” is to have the meaning given in the 2008 Regulations as they had effect immediately before that date.
- (8) For the purposes of the interpretation of regulation 13(3)(b)(ii) in relation to an application for planning permission made before 30th June 2013 “householder development” it to be taken to mean development which consists of—
- (a) the development of an existing dwellinghouse; or
  - (b) development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such.
- (9) Paragraph 5(5) of Schedule 5 applies only in relation to applications for planning permission made on or after 1st August 2012 and for the purposes of the interpretation of that paragraph in relation to an application for planning permission made on or after that date but before 30th June 2013 “householder development” it to be taken to mean development which consists of—
- (a) the alteration or extension of an existing building; or
  - (b) development within the curtilage of a dwellinghouse for a purpose incidental to the enjoyment of the dwellinghouse.
- (10) In this Part—
- “the 1992 Order” means Town and Country Planning (General Development Procedure) (Scotland) Order 1992 <sup>M21</sup>;
- “the 2008 Regulations” mean the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 <sup>M22</sup>; and
- “reserved matters” and “outline planning permission” have the same meaning as in section 59 of the Act as it applied immediately before section 21 of the Planning etc. (Scotland) Act 2006 (planning permission in principle) came into force.

#### Marginal Citations

- M21** S.I. 1992/224 as amended by S.I. 1992/2083, S.I. 1994/2585, S.I. 1994/3293, S.I. 1996/467, S.I. 1997/749, S.S.I. 2000/179, S.S.I. 2001/245, S.S.I. 2003/1, S.I. 2003/2155, S.S.I. 2004/332, S.S.I. 2007/177 and S.S.I. 2007/268.
- M22** S.S.I. 2008/432 as amended by S.S.I. 2009/220, 2010/60, 2010/460, 2011/138, 2011/139, 2011/377, 2012/165 and 2012/325.

#### Applications for approval of reserved matters made on or after 3rd August 2009

**50.** An application for approval of reserved matters made on or after 3rd August 2009 in respect of the grant of outline planning permission before that date is to be treated for the purposes of these Regulations as an application for approval required by a condition imposed on the grant of planning permission in principle.

#### Revocations and savings

**51.—(1)** Subject to paragraphs (2) to (4) and regulation 49, the provisions specified in column 1 of the Table in Schedule 9 are revoked to the extent specified in Column 3 of that Table.

(2) The provisions of regulation 47(2) to (4A) of the 2008 Regulations shall continue to have effect as they did immediately before 30th June 2013 in respect of any application for planning permission, for approval of reserved matters, for an approval under a development order, or for a certificate of lawful use or development made before 3rd August 2009.

(3) Parts 1 and 2 and Schedules 2 and 4 to the 1992 Order shall continue to apply as they did immediately before 3rd August 2009 for the purposes of paragraph 7(5) of Schedule 9 and paragraph 6(3) of Schedule 10 to the Act.

(4) Any directions in force immediately before the coming into force of these Regulations by virtue of the Town and Country Planning (General Development) (Scotland) Orders 1950 to 1970<sup>M23</sup>, the Town and Country Planning (General Development) (Scotland) Order 1975<sup>M24</sup>, the Town and Country Planning (General Development) (Scotland) Order 1981<sup>M25</sup>, the 1992 Order<sup>M26</sup> and the 2008 Regulations continue in force and have effect as if given under the corresponding provisions of these Regulations.

#### Marginal Citations

- M23** S.I. 1950/942, S.I. 1958/1653, S.I. 1959/1361, S.I. 1960/1722, S.I. 1963/1767, S.I. 1964/1791 and S.I. 1970/600.
- M24** S.I. 1975/679.
- M25** S.I. 1981/830 as amended by S.I. 1983/1620, S.I. 1984/237, S.I. 1985/2007, S.I. 1986/1356, S.I. 1988/977 and 1249, S.I. 1989/148, S.I. 1990/508 and S.I. 1991/147.
- M26** S.I. 1992/224.

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*DEREK MACKAY*  
Authorised to sign by the Scottish Ministers

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.