

SCOTTISH STATUTORY INSTRUMENTS

2015 No. 249

TOWN AND COUNTRY PLANNING

**The Town and Country Planning (Miscellaneous
Amendments) (Scotland) Regulations 2015**

<i>Made</i>	- - - -	<i>4th June 2015</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th June 2015</i>
<i>Coming into force</i>	- -	<i>14th September 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 ^{M1} and sections 32, 40, 43A(10), 75A, 75E, 267, 275 and 275A of the Town and Country Planning (Scotland) Act 1997 ^{M2} and all other powers enabling them to do so.

Marginal Citations

- M1** 1972 c.68. Section 2(2) was amended by the [Scotland Act 1998 \(c.46\)](#), [Schedule 8](#), paragraph 15(3), the [Legislative and Regulatory Reform Act 2006 \(c.51\)](#), [section 27](#), and Part 1 of the Schedule to the [European Union \(Amendment\) Act 2008 \(c.7\)](#). The functions conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the [Scotland Act 1998 \(c.46\)](#).
- M2** 1997 c.8. Sections 8, 43A, 75B, 75F and 275A were inserted by sections 7, 17, 23, 24 and 52 of the [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#) (“the 2006 Act”). Sections 43, 267 and 275 were amended by sections 16, 19(5) and (6) and 54(16) respectively of the 2006 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the [Scotland Act 1998 \(c.46\)](#).

Citation and commencement **S**

1. These Regulations may be cited as the Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2015 and come into force on 14th September 2015.

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

2.—(1) The Conservation (Natural Habitats, &c.) Regulations 1994 ^{M3} are amended in accordance with paragraph (2).

(2) In regulation 10(1)(d) (meaning of European site) after “to” insert, “ Article 4(1) or (2) of Council Directive [1979/409/EEC](#) on the conservation of wild birds ^{M4} or ”.

Marginal Citations

M3 [S.I. 1994/2716](#) to which there are amendments which are not relevant to these Regulations.

M4 OJ L 103, 25.4.1979, p.1.

Amendment of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 S

3.—(1) The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 ^{M5} are amended in accordance with paragraph (2).

(2) In regulation 7 (determination of application)—

- (a) in paragraph (1), for “Subject to paragraph (3), the” substitute “ The ”; and
- (b) omit paragraph (3).

Marginal Citations

M5 [S.S.I. 2010/432](#).

Amendment of the Town and Country Planning (Modification and Discharge of Good Neighbour Agreement) (Scotland) Regulations 2010 S

4.—(1) The Town and Country Planning (Modification and Discharge of Good Neighbour Agreement) (Scotland) Regulations 2010 ^{M6} are amended in accordance with paragraph (2).

(2) In regulation 7 (determination of application)—

- (a) in paragraph (1), for “Subject to paragraph (3), the” substitute “ The ”; and
- (b) omit paragraph (3).

Marginal Citations

M6 [S.S.I. 2010/433](#).

Amendment of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 S

- 5.—^{F1}(1)
- ^{F1}(2)
- ^{F1}(3)
- ^{F1}(4)
- ^{F1}(5)
- ^{F1}(6)
- ^{F1}(7)
- ^{F1}(8)

F1(9)

F1(10)

(11) The provisions of regulation 44(1A)(a) and (c) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 (inserted by paragraph (7)(a)) do not apply in respect of—

- (a) an application for planning permission; or
- (b) an application for multi-stage consent (as defined in regulation 2(1) of those Regulations),

made before 14th September 2015.

Textual Amendments

F1 Reg. 5(1)-(10) revoked (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/102\)](#), regs. 1, 60(9), **sch. 6** (with regs. 2(10), 38, 39, 40, 60(7))

Amendment of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 **S**

6.—(1) The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 ^{M7} are amended in accordance with paragraph (2).

(2) In regulation 2(4) (application) omit “of the Act” and at the end insert “ or 242A (urgent Crown development) of the Act ”.

Marginal Citations

M7 [S.S.I. 2013/155](#).

Amendment of the Town and Country Planning (Appeals) (Scotland) Regulations 2013 **S**

7.—(1) Subject to paragraphs (6) and (7), the Town and Country Planning (Appeals) (Scotland) Regulations 2013 ^{M8} are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation)—

- (a) after the definition of “application” insert—

““application for multi-stage consent” has the same meaning as in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 ”,^{M9}

- (b) in the definition of “EIA development” for “has” substitute “ and “environmental statement” have ”; and

- (c) for the definition of “validation date” substitute—

““validation date”—

- (a) in the case of an application for planning permission for EIA development or an application for multi-stage consent for EIA development, means the latest of—

- (i) the date on which the application is taken to have been made in terms of regulation 14 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013;

- (ii) the date on which an environmental statement is submitted in respect of the application; or
 - (iii) 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^{M10}, the date on which that direction was issued; and
- (b) in any other case, means the later of—
- (i) the date on which the application is taken to have been made in terms of regulation 14 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013; or
 - (ii) 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, the date on which that direction was issued.”.
- (3) In regulation 3 (notice of appeal)—
- (a) omit “and” following paragraph (2)(a); and
 - (b) after paragraph (2)(a) insert—
 - “(aa) in the case of an application for multi-stage consent for EIA development, the period of four months after the validation date; and”.
- (4) In Schedule 2 (inquiry session rules) in rule 4(1)(b) for “hearing” substitute “ inquiry ”.
- (5) In Schedule 4 (closed evidence)—
- (a) in paragraph 5, for “is restricted” substitute “ are restricted ”; and
 - (b) in paragraph 12(1), in the definition of “appointed representative”, after “(who is also a specified person)” insert “ appointed ”.
- (6) The provisions of regulation 3 of the Town and Country Planning (Appeals) (Scotland) Regulations 2013 continue to have effect as they did immediately before 14th September 2015 in respect of an application for multi-stage consent (as defined in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011) made before that date.
- (7) Paragraphs (a)(iii) and (b)(ii) of the definition of “validation date” (as inserted by paragraph (2)(c)) do not apply in respect of an application made before 14th September 2015.

Marginal Citations

M8 S.S.I. 2013/156.

M9 S.S.I. 2011/139.

M10 S.S.I. 2003/1.

Amendment of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 S

8.—(1) Subject to paragraphs (4) and (5), the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013^{M11} are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2 (interpretation)—

- (a) after the definition of “Act” insert—

- ““application for multi-stage consent” has the same meaning as in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011;” and
- (b) in the definition of “EIA development” for “has” substitute “ and “environmental statement” have ”; and
- (c) for the definition of “validation date” substitute—
- ““validation date”—
- (a) in the case of an application for planning permission for EIA development or an application for multi-stage consent for EIA development, means the latest of—
- (i) the date on which the application is taken to have been made in terms of regulation 14 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013;
- (ii) the date on which an environmental statement is submitted in respect of the application; or
- (iii) 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, the date on which that direction was issued; and
- (b) in any other case, means the later of—
- (i) the date on which the application is taken to have been made in terms of regulation 14 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013; or
- (ii) 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, the date on which that direction was issued.”.
- (3) In regulation 8(2) (review on failure to determine the application)—
- (a) omit “and” following sub-paragraph (a); and
- (b) after sub-paragraph (a) insert—
- “(aa) in the case of an application for multi-stage consent for EIA development, the period of four months after the validation date; and”.
- (4) The provisions of regulation 8 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 continue to have effect as they did immediately before 14th September 2015 in respect of an application for multi-stage consent (as defined in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011) made before that date.
- (5) Paragraphs (a)(iii) and (b)(ii) of the definition of “validation date” (as inserted by paragraph (2)(c)) do not apply in respect of an application made before 14th September 2015.

Marginal Citations

M11 [S.S.I. 2013/157](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to—

- (a) the Conservation (Natural Habitats, &c.) Regulations 1994;
- (b) the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010,
- (c) the Town and Country Planning (Modification and Discharge of Good Neighbour Agreement) (Scotland) Regulations 2010,
- (d) the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011,
- (e) the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013,
- (f) the Town and Country Planning (Appeals) (Scotland) Regulations 2013, and
- (g) the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

The changes come into force on 14th September 2015.

Regulation 2 amends the definition of “European site” in the Conservation (Natural Habitats, &c.) Regulations 1994.

Regulation 3 amends the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 to remove regulation 7(3). Regulation 4 makes the equivalent change to the Town and Country Planning (Modification and Discharge of Good Neighbour Agreement) (Scotland) Regulations 2010.

Regulation 5 makes various changes to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 (“the 2011 Regulations”). Paragraph (2) updates various definitions and introduces a new definition of “environmental impact assessment”. Paragraph (3) introduces a new regulation 3A which sets out the meaning of environmental impact assessment and sets out expressly in the substituted regulation 3 that such an assessment is to be carried out before any grant of planning permission for EIA development. Paragraph (4) makes equivalent changes in relation to the process of consideration of applications for multi-stage consent in respect of EIA Development. Paragraph (6) makes consequential changes. Paragraphs (5) and (8) to (10) update legislative references. Paragraph (7) makes changes to the regulation 44 of the 2011 Regulations to ensure that it applies to applications which are before the planning authority for determination including those applications subject to local review under section 43A of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”).

Regulation 6 makes it clear that the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 do not apply to applications made to the Scottish Ministers under section 242A of the 1997 Act.

Regulation 7 amends the Town and Country Planning (Appeals) (Scotland) Regulations 2013.

The modifications clarify the provisions relating to time periods and in particular extend the period before which an appeal under section 47(2) of the 1997 Act can be made in respect of an application for multi-stage consent relating to EIA development to 4 months. Regulation 8 makes equivalent amendments to the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2015.