



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART II

#### DEVELOPMENT PLANS

##### Modifications etc. (not altering text)

**C1** Pt. II (ss. 4-25): power to apply conferred (8.9.2001) by 2000 asp 10, s. 10(1)(b) (with s. 32); S.S.I. 2000/312, art. 2

#### *Surveys*

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

- (1) It shall be the duty of the planning authority to keep under review the matters which may be expected to affect the development of their district or the planning of its development.
- (2) A planning authority may, if they think fit, institute a survey, examining the matters referred to in subsection (1), of the whole or any part of their district, and references in subsection (3) to the district of a planning authority shall be construed as including any part of that district which is the subject of a survey under this subsection.
- (3) Without prejudice to the generality of subsections (1) and (2), the matters to be kept under review and examined under those subsections shall include—
  - (a) the principal physical and economic characteristics of the district of the authority (including the principal purposes for which land is used) and, so far as they may be expected to affect that district, of any neighbouring districts;
  - (b) the size, composition and distribution of the population of that district (whether resident or otherwise);

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- (c) without prejudice to paragraph (a), the communications, transport system and traffic of that district and, so far as they may be expected to affect that district, of any neighbouring districts;
  - (d) any considerations not mentioned in paragraphs (a), (b) or (c) which may be expected to affect any matters so mentioned;
  - (e) such other matters as may be prescribed;
  - (f) any changes already projected in any of the matters mentioned in any of the previous paragraphs and the effect which those changes are likely to have on the development of that district or the planning of such development.
- (4) A planning authority shall, for the purpose of discharging their functions under this section of keeping under review and examining any matters relating to the district of another planning authority, consult that other authority about those matters.

## 5 Designation of structure plan areas.

- (1) The Secretary of State may by order designate areas (“structure plan areas”) in respect of which planning authorities are to prepare structure plans.
- (2) The district of every planning authority in Scotland shall be included in a structure plan area.
- (3) A structure plan area may extend to the district of more than one planning authority, and may extend to only part of the district of a planning authority.
- (4) Where a structure plan area extends to the district of more than one planning authority, the planning authorities concerned shall jointly carry out the functions conferred upon them under sections 4 and 6 to 9 in accordance with such arrangements as they may agree for that purpose under sections 56 (discharge of functions by local authorities), 57 (appointment of committees) and 58 (expenses of joint committees) of the <sup>M1</sup>Local Government (Scotland) Act 1973.

### Marginal Citations

M1 1973 c. 65.

## *Structure plans*

## 6 Structure plans: continuity of old and preparation of new plans.

- (1) Each structure plan approved by the Secretary of State under the 1972 Act with respect to the district of a planning authority which is in operation immediately before the commencement of this Act shall continue in force after its commencement (subject to any alterations then in operation and to the following provisions of this Part).
- (2) Where, as a result of the making of an order under section 5, the area in respect of which a planning authority are obliged (whether acting alone or jointly with another authority or authorities) to prepare a structure plan is different from the area in respect of which a structure plan is for the time being in force, they shall prepare and submit to the Secretary of State for his approval a structure plan for their district complying with the provisions of section 7(1), together with a copy of the report of any survey which they have carried out under section 4(2).

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- (3) The Secretary of State may direct a planning authority to carry out their duty under subsection (2) within a specified period from the direction, and any planning authority to whom such a direction is made shall comply with it.
- (4) Where a structure plan area extends to the district of more than one planning authority, and the authorities concerned are unable to agree on a joint structure plan for that area, then, without prejudice to the Secretary of State's powers under section 22 of this Act and section 62B (power of Secretary of State to establish joint boards) of the <sup>M2</sup>Local Government (Scotland) Act 1973, each authority concerned may include in the plan submitted to the Secretary of State alternative proposals in respect of particular matters.
- (5) Where authorities submit alternative proposals under subsection (4), such proposals shall be accompanied by a statement of the reasoning behind the proposals.
- (6) The planning authority shall send with the structure plan submitted by them under this section a report of the results of their review of the relevant matters under section 4 together with any other information on which the proposals are based.
- (7) A copy report submitted under subsection (2) shall include an estimate of any changes likely to occur, during such period as the planning authority consider appropriate, in the matters mentioned in section 4(3).
- (8) Before submitting a structure plan under this section, the planning authority shall consult any other planning authority who are likely to be affected by the plan.

#### **Marginal Citations**

**M2** 1973 c. 65.

## **7 Form and content of structure plans.**

- (1) The structure plan for any district shall be a written statement—
  - (a) formulating the planning authority's policy and general proposals in respect of the development and other use of land in that district (including measures for the conservation of the natural beauty and amenity of the land, the improvement of the physical environment and the management of traffic),
  - (b) stating the relationship of those proposals to general proposals for the development and other use of land in neighbouring districts which may be expected to affect that district, and
  - (c) containing such other matters as may be prescribed.
- (2) In formulating their policy and general proposals under subsection (1)(a), the planning authority shall secure that the policy and proposals are justified by the results of the survey under section 4(1) of the 1972 Act, any fresh survey under section 4(2) of that Act or any survey instituted by them under section 4 of this Act and by any other information which they may obtain and shall have regard—
  - (a) to current policies with respect to the economic planning and development of the region as a whole, and
  - (b) to the resources likely to be available for the carrying out of the proposals of the structure plan.

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- (3) A structure plan for any district shall contain or be accompanied by such diagrams, illustrations and descriptive matter as the planning authority think appropriate for the purpose of explaining or illustrating the proposals in the plan, or as may be prescribed, and any such diagrams, illustrations and descriptive matter shall be treated as forming part of the plan.

## **8 Publicity in connection with structure plans.**

- (1) When preparing a structure plan for their district and before finally determining its content for submission to the Secretary of State, the planning authority shall take such steps as will in their opinion secure—
- (a) that adequate publicity is given in their district to the report of the survey under section 4 of this Act and to the matters which they propose to include in the plan,
  - (b) that persons who may be expected to desire an opportunity of making representations to the authority with respect to those matters are made aware that they are entitled to an opportunity of doing so, and
  - (c) that such persons are given an adequate opportunity of making such representations.
- (2) The authority shall consider any representations made to them within the prescribed period.
- (3) Where authorities submit alternative proposals in relation to particular matters to the Secretary of State under section 6(4), their duty under subsection (1) is to secure that adequate publicity is given in each of their districts to all the matters which either or any of them propose to include in the plan.
- (4) Not later than the submission of a structure plan to the Secretary of State, the planning authority shall make copies of the plan as submitted to the Secretary of State available for inspection at their office and at such other places as may be prescribed.
- (5) Each copy of the plan shall be accompanied by a statement of the time within which objections to the plan may be made to the Secretary of State.
- (6) A structure plan submitted by the planning authority to the Secretary of State for his approval shall be accompanied by a statement containing such particulars, if any, as may be prescribed—
- (a) of the steps which the authority have taken to comply with subsection (1), and
  - (b) of the authority's consultations with, and consideration of the views of, other persons with respect to those matters.
- (7) If after considering the statement submitted with, and the matters included in, the structure plan and any other information provided by the planning authority, the Secretary of State is satisfied that the purposes of paragraphs (a) to (c) of subsection (1) have been adequately achieved by the steps taken by the authority in compliance with that subsection, he shall proceed to consider whether to approve the plan.
- (8) If the Secretary of State is not satisfied as mentioned in subsection (7), he shall return the plan to the authority and direct them—
- (a) to take such further action as he may specify in order better to achieve those purposes, and

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- (b) after doing so, to resubmit the plan with such modifications, if any, as they then consider appropriate and, if so required by the direction, to do so within a specified period.
- (9) Where the Secretary of State returns the plan to the planning authority under subsection (8), he shall—
  - (a) inform the authority of his reasons for doing so, and
  - (b) if any person has made an objection to the plan to him, also inform that person that he has returned the plan.
- (10) A planning authority who are given directions by the Secretary of State under subsection (8) shall immediately withdraw the copies of the plans made available for inspection as required by subsection (4).
- (11) Subsections (4) to (10) shall apply, with the necessary modifications, in relation to a structure plan resubmitted to the Secretary of State in accordance with directions given by him under subsection (8) as they apply in relation to the plan as originally submitted.

## **9 Alteration and replacement of structure plans.**

- (1) A planning authority—
  - (a) may at any time submit to the Secretary of State proposals for such alterations to or repeal and replacement of the structure plan for their district as appear to them to be expedient, and
  - (b) shall, if so directed by the Secretary of State, submit to him within a period specified in the direction proposals for such alterations to or repeal and replacement of the plan as the Secretary of State may direct.
- (2) Such proposals may relate to the whole or to part of the district to which the plan relates.
- (3) The planning authority shall send with the proposals submitted by them under this section a report of the results of their review of the relevant matters under section 4 together with any other information on which the proposals are based, and subsections (4) and (5) of section 8 shall apply, with any necessary modifications, in relation to the proposals as they apply in relation to a structure plan.
- (4) Before a planning authority submit proposals under this section they shall—
  - (a) consult every other planning authority who are likely to be affected by the proposals,
  - (b) give such publicity (if any) to, and undertake such other consultation (if any) about, the proposals as they think fit, and
  - (c) consider any representations timeously made to them about the proposals.
- (5) The planning authority shall send with any proposals submitted by them under this section a statement of the steps they have taken to comply with subsection (4) and, if they have not publicised or have not consulted under that subsection, the statement shall explain the absence of such publicity or as the case may be consultation.
- (6) If the Secretary of State is not satisfied with the steps taken by the planning authority to comply with subsection (4), or as the case may be if he is not satisfied with the terms of any explanation provided by them under subsection (5), he may return the proposals to the authority, and may direct them—

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- (a) to take such steps or further steps as he may specify, and
  - (b) after they have done so, to resubmit the proposals with such modification, if any, as they consider appropriate.
- (7) Where, under subsection (6), the Secretary of State returns proposals, he shall—
- (a) inform the authority of his reasons for doing so, and
  - (b) if any person has made to him an objection to the proposals, inform that person that he has returned the proposals.
- (8) A planning authority who are given directions under subsection (6) shall immediately withdraw the copies which have, under section 8(4) (as applied by subsection (3)) been made available for inspection.
- (9) Section 8(4) and (5) and subsections (4) to (8) of this section shall apply, in relation to proposals resubmitted in accordance with directions given under subsection (6), as they apply in relation to proposals submitted under subsection (1).

**10 Approval or rejection of structure plans and proposals for alteration or replacement.**

- (1) The Secretary of State may, after considering a relevant proposal, either approve it (in whole or in part and with or without modifications or reservations) or reject it.
- (2) In this section, “relevant proposal” means—
- (a) a structure plan (including any alternative proposals included in the plan by virtue of section 6(4)), or
  - (b) a proposal for the alteration or repeal and replacement of a structure plan, submitted (or resubmitted) to the Secretary of State.
- (3) In considering a relevant proposal the Secretary of State may take into account any matters which he thinks are relevant, whether or not they were taken into account in the proposal as submitted to him.
- (4) Where on considering a relevant proposal the Secretary of State does not determine then to reject it, he shall, before determining whether or not to approve it—
- (a) consider any objections to the proposal, so far as they are made in accordance with regulations, and
  - (b) if, but only if, it appears to him that an examination in public should be held of any matter affecting his consideration of the proposal, cause a person or persons, appointed by him for the purpose, to hold such an examination.
- (5) The Secretary of State may make regulations with respect to the procedure to be followed at any examination under subsection (4).
- (6) The Secretary of State need not secure to any planning authority or other person a right to be heard at any such examination and, subject to subsection (7), only such bodies and persons as he may before or during the course of the examination invite to do so may take part in it.
- (7) The person or persons holding the examination may before or during the course of the examination invite additional bodies or persons to take part in it if it appears to him or them desirable to do so.

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- (8) An examination under subsection (4)(b) shall constitute a statutory inquiry for the purposes of section 1(1)(c) of the <sup>M3</sup>Tribunals and Inquiries Act 1992, but shall not constitute such an inquiry for any other purpose of that Act.
- (9) On considering a relevant proposal the Secretary of State may consult, or consider the views of, any planning authority or other person, but shall not be under any obligation to do so.
- (10) On exercising his powers under subsection (1) in relation to a relevant proposal, the Secretary of State shall give such statement as he considers appropriate of the reasons governing his decision.

#### Marginal Citations

M3 1992 c. 53.

### *Local plans*

## 11 Preparation of local plans.

- (1) Every planning authority shall prepare local plans for all parts of their district, and two or more planning authorities may prepare a joint local plan extending to parts of each of their districts.
- (2) It shall be the duty of the planning authority—
  - (a) for the purpose of preparing a local plan, to institute a survey of their district or any part of it, in so far as not already done, taking into account the matters which the authority think necessary for the formulation of their proposals, and
  - (b) to keep those matters under review during and after the preparation of the local plan.
- (3) A local plan shall consist of—
  - (a) a written statement formulating in such detail as the planning authority think appropriate the authority's proposals for the development and other use of land in that part of their district or for any description of development or other use of such land including in either case such measures as the planning authority think fit for the conservation of the natural beauty and amenity of the land, the improvement of the physical environment and the management of traffic,
  - (b) a map showing those proposals, and
  - (c) such diagrams, illustrations and descriptive matter as the planning authority think appropriate to explain or illustrate those proposals, or as may be prescribed,and shall contain such matters as may be prescribed.
- (4) Different local plans may be prepared for different purposes for the same part of any district.
- (5) In formulating their proposals in a local plan the planning authority—
  - (a) shall have regard to any information and any other considerations which appear to them to be relevant or which may be prescribed, and

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(b) shall secure that the local plan conforms generally to the structure plan, as it stands for the time being, whether or not it has been approved by the Secretary of State.

(6) Where an area is indicated as an action area in a structure plan which has been approved by the Secretary of State, the planning authority shall (if they have not already done so), as soon as practicable after the approval of the plan, prepare a local plan for that area.

## 12 Publicity and consultation.

(1) Subject to subsection (6), a planning authority who propose to prepare, alter, repeal or replace a local plan shall take such steps as will in their opinion secure—

- (a) that adequate publicity is given in their district to any relevant matter arising out of a survey of the district or part of the district carried out under section 4 or 11 and to the proposals,
- (b) that persons who may be expected to wish to make representations to the authority about the proposals are made aware that they are entitled to do so, and
- (c) that such persons are given an adequate opportunity of making such representations.

(2) The planning authority shall consider any representations made to them within the prescribed period.

(3) Having prepared the local plan or, as the case may be, the proposals for alteration, repeal or replacement, the planning authority shall before adopting the plan or proposals or submitting it or them for approval under section 18—

- (a) make copies available for inspection at their office and at such other places as appear to them to be appropriate, and
- (b) send a copy to the Secretary of State.

(4) Each copy made available for inspection under subsection (3) shall be accompanied by a statement of the time within which objections may be made to the authority.

(5) The copy of the plan or proposals sent to the Secretary of State, or made available for inspection, under subsection (3) shall be accompanied by a statement containing such particulars, if any, as may be prescribed—

- (a) of the steps which the authority have taken to comply with subsection (1), and
- (b) of the authority's consultations with, and their consideration of the views of, other persons.

(6) If the planning authority propose to alter a local plan and do not consider it appropriate to take the steps referred to in subsection (1), they may instead include, with the copies of those proposals made available for inspection under subsection (3) and with the copy sent to the Secretary of State, a statement of their reasons for not doing so.

## 13 Alteration of local plans.

(1) A planning authority shall keep under review any local plan adopted by them, or approved by the Secretary of State, and may at any time make proposals for the alteration, repeal or replacement of that plan.



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- (2) In complying with subsection (1) the planning authority—
  - (a) shall have regard to any information and any other considerations which appear to them to be relevant or which may be prescribed, and
  - (b) shall secure that any proposals conform generally to the structure plan as it stands for the time being, whether or not it has been approved by the Secretary of State.
- (3) Any such proposals may include proposals for the repeal of two or more local plans and their replacement with one local plan.
- (4) Where a local plan has been approved by the Secretary of State the planning authority shall not make such proposals in relation to that plan without his consent.

#### **14 Power of Secretary of State to direct making of local plan etc.**

- (1) Subject to the provisions of this section the Secretary of State may direct a planning authority to prepare—
  - (a) a local plan for their district or part of it;
  - (b) proposals for the alteration, repeal or replacement of a local plan adopted by them or approved by him.
- (2) The Secretary of State may so direct only before he approves the structure plan for the district in question.
- (3) A direction under subsection (1) shall specify the nature of the plan or, as the case may be, the proposals required.
- (4) Before giving such a direction, the Secretary of State shall consult the planning authority about it.
- (5) The planning authority shall comply with the direction as soon as practicable and shall take steps for the adoption of the local plan or, as the case may be, the alteration, repeal or replacement of it.

#### **15 Objections: local inquiry or other hearing.**

- (1) The planning authority may cause a local inquiry or other hearing to be held for the purpose of considering objections to a local plan or to proposals for the alteration, repeal or replacement of a local plan prepared by them.
- (2) If an objector so requires, the planning authority shall cause such a local inquiry or other hearing to be held in the case of objections made in accordance with regulations.
- (3) A local inquiry or other hearing under this section shall be held by a person appointed by the Secretary of State or, in such cases as may be prescribed, by the authority themselves.
- (4) Regulations may—
  - (a) make provision with respect to the appointment and qualifications for appointment of persons to hold a local inquiry or other hearing;
  - (b) include provision enabling the Secretary of State to direct a planning authority to appoint a particular person, or one of a specified list or class of persons;
  - (c) make provision with respect to the allowances of the person appointed.

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- (5) Subsections (4) to (8) of section 265 apply to an inquiry held under this section.
- (6) The <sup>M4</sup>Tribunals and Inquiries Act 1992 shall apply to a local inquiry or other hearing held under this section as it applies to a statutory inquiry held by the Secretary of State, but as if in section 10(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State were a reference to a decision taken by a local authority.

#### Marginal Citations

M4 1992 c. 53.

### 16 Costs of local inquiry or other hearing.

- (1) The planning authority shall—
- (a) where a person appointed under or by virtue of section 15 to hold a local inquiry or other hearing is in the public service of the Crown, pay the Secretary of State, and
  - (b) in any other case, pay the person so appointed, a sum, determined in accordance with regulations under subsection (2), in respect of the performance by the person so appointed of his functions in relation to the inquiry or hearing (whether or not it takes place).
- (2) Regulations may make provision with respect to the determination of the sum referred to in subsection (1) and may in particular prescribe, in relation to any class of person appointed under or by virtue of section 15, a standard daily amount applicable in respect of each day on which a person of that class is engaged in holding, or in work connected with, the inquiry or hearing.
- (3) Without prejudice to the generality of subsection (2), the Secretary of State may, in prescribing by virtue of that subsection a standard daily amount for any class of person—
- (a) where the persons of that class are in the public service of the Crown, have regard to the general staff costs and overheads of his department, and
  - (b) in any other case, have regard to the general administrative costs incurred by persons of that class in connection with the performance by them of their functions in relation to such inquiries and hearings.

#### Modifications etc. (not altering text)

C2 S. 16 amended (27.5.1997) by 1997 c. 11, ss. 5, 6(2), Sch. 3 para. 14

### 17 Adoption of proposals.

- (1) After the expiry of the period for making objections to a local plan or, as the case may be, proposals for the alteration, repeal or replacement of a local plan or, if such objections were duly made within that period, after considering the objections so made, the planning authority may, subject to this section and to section 18, by resolution adopt the plan or the proposals.

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- (2) The planning authority may adopt the plan or the proposals as originally prepared or as modified so as to take account of—
  - (a) any such objections as are mentioned in subsection (1) whether or not they have been the subject of a local inquiry or other hearing,
  - (b) any matters arising out of such objections, or
  - (c) any minor drafting or technical matters.
- (3) Where the Secretary of State has, under section 10, approved a structure plan for any area the planning authority shall not adopt any plan or proposals which do not conform to that structure plan.
- (4) After copies of the plan or proposals have been sent to the Secretary of State and before the plan or proposals have been adopted by the planning authority, the Secretary of State may, if it appears to him that the plan or proposals are unsatisfactory, and without prejudice to his power to make a direction under section 18(1), direct the authority to consider modifying the plan or proposals in such respects as are indicated in the direction.
- (5) A planning authority to whom such a direction is given shall not adopt the plan or proposals unless they satisfy the Secretary of State that they have made the modifications necessary to conform with the direction or the direction is withdrawn.

## **18 Calling in of plan or proposals for approval by Secretary of State.**

- (1) After a copy of a local plan or of proposals for the alteration, repeal or replacement of a local plan has been sent to the Secretary of State and before the plan or proposals have been adopted by the planning authority, the Secretary of State may direct that the plan or proposals shall be submitted to him for his approval.
- (2) If the Secretary of State gives a direction under subsection (1)—
  - (a) the authority shall submit the plan or proposals to him,
  - (b) the authority shall not hold a local inquiry or other hearing in respect of the plan or proposals under section 15, and
  - (c) the plan or proposals shall not have effect unless approved by the Secretary of State.

## **19 Approval of plan or proposals by Secretary of State.**

- (1) The Secretary of State may, after considering a plan or proposals submitted to him under section 18, either approve (in whole or in part and with or without modifications or reservations) or reject the plan or proposals.
- (2) In considering the plan or proposals the Secretary of State may take into account any matters he thinks are relevant, whether or not they were taken into account in the plan or proposals as submitted to him.
- (3) Where on considering the plan or proposals the Secretary of State does not determine then to reject it or them, he shall before determining whether or not to approve it or them—
  - (a) consider any objections to the plan or proposals so far as made in accordance with regulations,

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- (b) give any person who made such an objection and has not withdrawn it an opportunity of appearing before and being heard by a person appointed by him for the purpose, and
  - (c) if a local inquiry or other hearing is held, also give such an opportunity to the planning authority and such other persons as he thinks fit,
- but if a local inquiry or other hearing into the objections has already been held by the authority he need not cause any other inquiry or hearing to be held.
- (4) In considering the plan or proposals the Secretary of State may consult or consider the views of any planning authority or any other person; but he need not do so, or give an opportunity for the making of representations or objections, or cause a local inquiry or other hearing to be held, unless required to do so by subsection (3).

### *Supplementary provisions*

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

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

- (a) an order or scheme under section 5, 7, 9 or 12 of the <sup>M5</sup>Roads (Scotland) Act 1984 (trunk road orders, special road schemes and orders for other public roads);
- (b) an order under section 1 of the <sup>M6</sup>New Towns Act 1946 or section 1 of the <sup>M7</sup>New Towns (Scotland) Act 1968 (designation of sites of new towns).

#### **Marginal Citations**

**M5** 1984 c. 54.

**M6** 1946 c. 68.

**M7** 1968 c. 16.

## **21 Power of Secretary of State to make regulations as to structure and local plans.**

- (1) Without prejudice to the previous provisions of this Part, the Secretary of State may make regulations with respect to—
- (a) the form and content of structure and local plans, and
  - (b) the procedure to be followed in connection with their preparation, submission, withdrawal, approval, adoption, making, alteration, modification, repeal and replacement.
- (2) In particular any such regulations may—
- (a) provide for the publicity to be given to the report of any survey carried out by a planning authority under section 4;
  - (b) provide for the notice to be given of, or the publicity to be given to—
    - (i) matters included or proposed to be included in any such plan,

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- (ii) the approval, adoption or making of any such plan or any alteration, modification, repeal or replacement of it, or
    - (iii) any other prescribed procedural step,
  - and for publicity to be given to the procedure to be followed as mentioned in subsection (1)(b);
  - (c) make provision with respect to the making and consideration of representations with respect to matters to be included in, or objections to, any such plan or proposals for its alteration, modification, repeal or replacement;
  - (d) without prejudice to paragraph (b), provide for notice to be given to particular persons of the approval, adoption, alteration or modification of any plan, if they have objected to the plan and have notified the planning authority of their wish to receive notice, subject (if the regulations so provide) to the payment of a reasonable charge for receiving it;
  - (e) require or authorise a planning authority to consult, or consider the views of, other persons before taking any prescribed procedural step;
  - (f) require a planning authority, in such cases as may be prescribed or in such particular cases as the Secretary of State may direct, to provide persons on request by them with copies of any plan or document which has been made public for the purpose mentioned in section 8(1)(a) or 12(1)(a) or has been made available for inspection under section 8(4) or 12(3), subject (if the regulations so provide) to the payment of a reasonable charge;
  - (g) provide for the publication and inspection of any structure plan or local plan which has been approved, adopted or made, or any document approved, adopted or made altering, repealing or replacing any such plan, and for copies of any such plan or document to be made available on sale.
- (3) Such regulations may extend throughout Scotland or to specified areas only and may make different provisions for different cases.
- (4) Subject to the previous provisions of this Part and to any such regulations, the Secretary of State may give directions to any planning authority, or to planning authorities generally—
- (a) for formulating the procedure for the carrying out of their functions under this Part;
  - (b) for requiring them to give him such information as he may require for carrying out any of his functions under this Part.
- (5) Subject to section 237, a structure plan or local plan or any alteration, repeal or replacement thereof shall become operative on a date appointed for the purpose in the relevant notice of approval, resolution of adoption or notice of the making, alteration, repeal or replacement of the plan.

## **22 Default powers of Secretary of State.**

- (1) Where, by virtue of any of the previous provisions of this Part, any structure or local plan is, or proposals for the alteration, repeal or replacement of such a plan are, required to be prepared or submitted to the Secretary of State, or steps are required to be taken for the adoption of any such plan or proposals, then—
- (a) if at any time the Secretary of State is satisfied that the planning authority are not taking the steps necessary to enable them to submit or adopt such a plan or proposals within a reasonable period, or

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- (b) in a case where a period is specified for the submission or adoption of any such plan or proposals, if no such plan or proposals have been submitted or adopted within that period,

the Secretary of State may direct the planning authority to carry out their functions in relation to the matters mentioned in this subsection and may specify in the direction the factors to be taken into account or objectives to be achieved by the planning authority in so doing, or the Secretary of State may carry out a survey in accordance with the provisions of section 4 or prepare and make a structure plan or local plan or, as the case may be, alter, repeal or replace it, as he thinks fit.

- (2) Where under subsection (1) the Secretary of State has power to do anything which should have been done by a planning authority (“the defaulting authority”), he may, if he thinks fit, authorise any other planning authority who appear to him to have an interest in the proper planning of the district of the defaulting authority to do it.
- (3) Where under subsection (1) the Secretary of State has power to do anything which should have been done by a planning authority acting jointly with another planning authority or authorities, he may, if he thinks fit, authorise one of those authorities to do that thing on behalf of both or all of them.
- (4) The previous provisions of this Part shall, so far as applicable, apply with any necessary modifications in relation to the doing of anything under this section by the Secretary of State or an authority other than the defaulting authority and the thing so done.
- (5) The defaulting authority—
- (a) shall on demand repay to the Secretary of State so much of any expenses incurred by him in connection with the doing of anything which should have been done by them as he certifies to have been incurred in the performance of their functions, and
- (b) shall repay to any other authority who do under this section anything which should have been done by the defaulting authority, any expenses certified by the Secretary of State to have been reasonably incurred by that other authority in connection with the doing of that thing.

## **23 Reviews of plans in enterprise zones.**

- (1) As soon as practicable after an order has been made under paragraph 5 of Schedule 32 to the <sup>M8</sup>Local Government, Planning and Land Act 1980 (designation of enterprise zone scheme) or a notification has been given under paragraph 11 of that Schedule (modification of such a scheme), any planning authority for an area in which the enterprise zone is wholly or partly situated shall review—
- (a) any structure plan for their area or for part of it which relates to the whole or part of the zone in the light of the provisions of the scheme or modified scheme, and
- (b) any local plan which relates to any land situated in the zone.
- (2) A planning authority shall—
- (a) submit to the Secretary of State proposals for any alterations to a structure plan which they consider necessary to take account of the scheme or the modified scheme, and
- (b) make proposals for any alterations to such a local plan as is mentioned in subsection (1)(b) which they consider necessary to take account of the scheme

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or modified scheme, or for the repeal or replacement of any of those plans whose repeal or replacement they consider necessary for that purpose.

**Marginal Citations**

**M8** 1980 c. 65.

**24 Meaning of “development plan”.**

- (1) For the purposes of this Act, any other enactment relating to town and country planning and the <sup>M9</sup>Land Compensation (Scotland) Act 1963, the development plan for any area (whether the whole or part of the district of a planning authority) shall be taken as consisting of—
- (a) the provisions of the structure plan for the time being in force for that district or the relevant part of that district, together with the Secretary of State’s notice of approval of the plan,
  - (b) any alterations to that plan, together with the Secretary of State’s notices of approval of them,
  - (c) any provisions of a local plan for the time being applicable to the area, together with a copy of the authority’s resolution of adoption or, as the case may be, the Secretary of State’s notice of approval of the local plan, and
  - (d) any alterations to that local plan, together with a copy of the authority’s resolutions of adoption or, as the case may be, the Secretary of State’s notices of approval of them.
- (2) References in subsection (1) to the provisions of any plan, notices of approval, alterations and resolutions of adoption shall, in relation to an area forming part of the district to which they are applicable, be respectively construed as references to so much of those provisions, notices, alterations and resolutions as is applicable to the area.
- (3) References in subsections (1) and (2) to notices of approval shall in relation to any plan or alteration made by the Secretary of State under section 22 be construed as references to notices of the making of the plan or alteration.
- (4) This section has effect subject to Schedule 1 (old development plans).
- (5) For the avoidance of doubt it is provided that, notwithstanding—
- (a) any changes made to local government areas by the <sup>M10</sup>Local Government etc. (Scotland) Act 1994, and
  - (b) any alterations to structure plan areas made by orders under section 5,
- the structure plans and local plans made prior to the coming into force of the provisions mentioned in paragraphs (a) and (b) shall remain in force until replaced by new plans made under or by virtue of those provisions.
- (6) Any reference in the <sup>M11</sup>Land Compensation (Scotland) Act 1963 to an area defined in a current development plan as an area of comprehensive development shall be construed as a reference to an action area for which a local plan is in force or, as the case may be, to a comprehensive development area.

**Marginal Citations**

**M9** 1963 c. 51.

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**M10** 1994 c. 39.

**M11** 1963 c. 51.

### *General*

## **25 Status of development plans.**

Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.



**Status:**

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**Changes to legislation:**

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