

Local Development Planning Regulations & Guidance Consultation

Part B

Proposals for Development Planning Regulations

PART B – Proposals for Development Planning Regulations

Development Planning Regulations

1. Primary legislation provides the framework for Local Development Plans (LDPs) and includes detail on many of the procedures to be followed in preparing plans. It also gives the Scottish Ministers powers to prepare secondary legislation - regulations - concerning a range of matters.
2. Current regulations relating to development planning include:
 - The Town and Country Planning (Development Planning) (Scotland) Regulations 2008.
 - The Planning etc. (Scotland) Act 2006 (Development Planning) (Saving, Transitional and Consequential Provisions) Order 2008.
 - The Town and Country Planning (Grounds for declining to follow recommendations) (Scotland) Regulations 2009.
3. New regulations will be prepared for the implementation of the new LDP system. Given the amount of change, we have worked to the principle that regulations are kept to the minimum necessary with much of the detail of Scottish Ministers' expectations for implementation being set out in guidance. This will provide flexibility and resilience, with the opportunity for guidance to be updated to reflect lessons learnt once the new system is in operation.
4. This paper sets out the proposals for new Development Planning regulations. It is structured to reflect the provisions within the Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act, 2019. An [amended version of the relevant 1997 Act](#) provisions is available online.
5. A summary of proposed changes is provided at Annex A and Draft Development Planning Regulations are provided at Annex B.

PART B – Proposals for Development Planning Regulations

Provisions for Regulations under the Town and Country Planning (Scotland) Act 1997, as amended by the 2019 Act.

Section 15 - Form and content of local development plans

6. Section 15(1) of the Act sets out that an LDP is to contain (a) a spatial strategy, (b) *other matters as may be prescribed*, and (c) any other matter the planning authority consider it appropriate to include. This provision in the Act is not new and there are currently no regulations prescribing other matters. The 2019 Act amends section 15 to include specific matters to be included, namely statements of the planning authority's policies and proposals as to the provision of water refill stations (15(2B)) and public conveniences (15(2A)) and targets for meeting housing needs (15(1A)). There is a substantial list of matters at section 15(5) which the planning authority must take into account for its spatial strategy. Whilst these are not necessarily matters that must be included, there is the provision to include them where the planning authority consider it appropriate. We consider these requirements to be comprehensive and **do not propose to prescribe any further matters in regulations.**
7. Section 15(3) of the Act sets out that where the LDP contains policies or proposals for the development of land owned by the planning authority, a schedule of land ownership is to be appended to the plan. The Act provides for the form of the schedule to be prescribed in regulations. This provision in the Act is not new. The 2008 Regulations provide detail on this in regulation 9 and schedule 1. We consider the existing regulations and schedule to be appropriate and **propose to maintain it unchanged in replacement regulations, see Annex B, Regulation 7 and Schedule 1.**
8. Section 15(4)(a) of the Act sets out that an LDP is, for the purpose of explaining or illustrating proposals in the plan, to contain or be accompanied by such maps, diagrams, illustrations and descriptive matter *as may be prescribed*. This provision in the Act is not new. The 2008 Regulations prescribe at regulation 8 that a 'Proposals Map' be included that describes the policies and proposals of the plan and that it be sufficiently detailed for the location of proposals for development and the use of land be identified. We expect new style LDPs to be more map based, rather than focusing on written policy content. However, we do not consider it necessary to specify further what maps are to be contained beyond the Proposals Map. This will enable planning authorities to tailor the mapped content of plans as appropriate to their local area. We consider the existing regulation to be appropriate and **propose to maintain it unchanged in replacement regulations, see Annex B, Regulation 6.**

Question 4

Do you agree with the proposals for regulations relating to the form and content of LDPs?

Yes / No / No View

Please explain why you agree or disagree.

PART B – Proposals for Development Planning Regulations

Section 16 - Preparation and monitoring of local development plans: general

9. Section 16(2) of the Act sets out matters which are to be taken into account and had regard to when preparing LDPs, including the National Planning Framework, local outcomes improvement plans and any registered local place plans. Additionally, matters to which the planning authority are to have regard include such information and considerations *as may be prescribed* (16(2)(b)). This provision in the Act is not new. The 2008 Regulations prescribe at regulation 10 a wide range of information and considerations including resources, adjoining plans, and strategies relating to transport and housing.
10. The requirements in the existing regulations need to be amended to reflect a number of changes. The 2008 Regulations were amended by the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015. Whilst already in place, it is appropriate to consolidate the requirements in the replacement regulations. Changes are also required to amend references from Strategic Development Plans (SDPs) to Regional Spatial Strategies, to provide correct references to English planning documents (relevant where an LDP adjoins land in England), and to ensure accurate references to primary legislation. **We therefore intend to make these necessary amendments, see Annex B, Regulation 8.**

Question 5

Do you agree with the proposals for regulations relating to the preparation and monitoring of LDPs?

Yes / No / No View

Please explain why you agree or disagree

11. Since commencement of the 2008 Regulations a number of issues have become increasingly prominent, particularly with regard to climate change, community planning and health. The Scottish Parliament also highlighted a range of priorities for LDPs to address during its scrutiny of the Planning (Scotland) Act 2019. **We therefore invite views on whether the information and considerations listed at Regulation 8 should change and/or be added to.**

Question 6

Do you have views on additional information and considerations to have regard to when preparing and monitoring LDPs?

Yes / No / No View

Please explain your views.

PART B – Proposals for Development Planning Regulations

Section 16B - Evidence report for preparation of local development plan

12. Section 16B(2) of the Act sets out those whose views the planning authority are to seek and have regard to in preparing an Evidence Report. It includes key agencies, children and young people, the public at large, and *such other persons as may be prescribed*. The Evidence Report is a new, early stage of plan preparation, therefore this provision is new. The Evidence Report and Gate Check Subgroup considered that regulations should specify the stakeholders with whom consultation should take place as a minimum.
13. Evidence Reports are expected to be wide ranging in scope and therefore of relevance to a wide range of groups and individuals with interests in the area and the issues covered. Reference is already provided to the 'public at large' which will require views of the general public to be sought and taken into account. Statutory requirements in primary legislation for Development Plan Schemes mean they must include a Participation Statement, and that they include information on whom the planning authority will consult in preparing the plan. The 2019 Act strengthened this to require that in preparing the Development Plan Scheme, the planning authority seek the views of the public at large as to the content of the Participation Statement. We expect this will include seeking views on who should be engaged at different stages, and on the best approach to involving people. We therefore consider it would be more flexible to address this matter in guidance, enabling planning authorities to tailor their approach to their local situation and **we do not propose to prescribe any other persons in regulations.**
14. Section 16B(3) of the Act states what the Evidence Report is to set out. It covers the planning authority's view on the list of matters in section 15(5), which are to be taken account of in the LDP spatial strategy, as well as matters relating to housing needs of older people and disabled people, 'Gypsies and Travellers' accommodation needs, and the preparation of Local Place Plans. It also provides that *other such matters may be prescribed*. Whilst the list at 15(5) is not exhaustive it is extensive and further detail of how these and other land use matters should be addressed will be covered in guidance. **We do not propose to set out in regulations other matters for the Evidence Report to include.**
15. The Evidence Report and Gate Check Subgroup indicated the need for regulations to set out the minimum data requirements for the Evidence Report. They consider this should make it easier to move beyond the gate-check stage. We have concerns that this has potential to result in a 'tick-box' approach to the early plan preparation stage instead of improving the quality of plans. We consider the relevant evidence for different aspects of land use can be addressed in guidance, which will provide flexibility for authorities on the appropriate evidence for their area and for the appointed person to make a judgement of the sufficiency of that evidence based on the views of stakeholders. We also believe this approach will allow for this new part of the process to evolve and for lessons from practice to inform improvements. **We therefore do not propose to include minimum evidence requirements in regulations.**

PART B – Proposals for Development Planning Regulations

16. Section 16B(13) of the Act provides for Scottish Ministers to make regulations relating to the assessment of the Evidence Report, the ‘gate-check stage’, including costs, procedures and what is to be assessed. 16B(13)(b) relating to procedure states that this includes making provision that the procedure is to be at the discretion of the appointed person. New regulations would be required and we consider that it would be appropriate for these to be consistent with the equivalent regulations for the examination of the LDP, which are in Part 4 of the 2008 Regulations. We would expect the regulations for the assessment of the Evidence Report to include provisions equivalent to; Notification of the appointed person (regulation 19); Further representation or information (regulation 22); and Expenses of assessment (regulation 23). Part 4 of the 2008 Regulations also sets out the information and material to be submitted to the appointed person (section 20), including the environmental report and the participation statement. It will not be possible for the Evidence Report to contain all the detail of relevant background data and information itself but any documents referred to in the Evidence Report should be provided electronically to the appointed person. **We therefore propose to address these matters in regulations, see Annex B, Regulations 3, 4 and 5.**
17. Part 4 of the 2008 Regulations (section 20(2)(b)) also includes reference to a schedule that sets out the format in which the summary of unresolved issues is to be submitted (commonly known as a Schedule 4). This guarantees consistency across all authorities. As noted above, primary legislation has an extensive list of what the Evidence Report is to set out. We therefore consider it would be more appropriate to address the format for doing this in guidance, setting out the expectation that a consistent approach be taken across all authorities but enabling this new part of the process to evolve and for lessons from practice to inform improvements. **We therefore do not propose to prescribe the format of the Evidence Report in regulations.**
18. Section 16B(14) of the Act provides the meanings of terms referred to in section 16. It refers that ‘Gypsies and Travellers’ has the meaning specified in regulations made by the Scottish Ministers. The [supplementary delegated powers memorandum](#), prepared during the passage of the Planning Bill, indicated that there is no definition of Gypsies and Travellers in Scots law, and there had been no consultation with the community on a definition. It was therefore considered appropriate that a definition be provided in regulations, enabling engagement with the community on the definition to take place. **We propose to hold a separate consultation on this matter. This will enable the targeted involvement of the Gypsies and Travellers community and explanation of the specific matters associated with this requirement.**

Question 7

Do you agree with the proposals for regulations relating to the Evidence Report?

Yes / No / No View

Please explain why you agree or disagree

PART B – Proposals for Development Planning Regulations

Section 16D – Play sufficiency assessment

19. Section 16D of the Act introduces requirements relating to the assessment of play opportunities for children. A [separate consultation](#) on this is taking place alongside this LDP consultation.

Section 18 – Preparation and publication of proposed local development plan

20. After the planning authority have been notified under section 16B(9) that the Evidence Report contains sufficient information to enable the planning authority to prepare an LDP, the planning authority are to prepare and publish a Proposed LDP. Section 18(1) of the Act sets out actions a planning authority are to take relating to preparation and publication of the LDP. Section 18(1)(a) requires the preparation of a proposed LDP and for it to be published *in such manner as is prescribed*. The 2008 Regulations prescribe the way in which the Main Issues Report (MIR) is to be published (regulation 12) and these are also applied to the Proposed Plan. The MIR stage of plan preparation has now been removed. However, we propose that the manner of publication of the Proposed Plan remains as it was previously. This includes publishing a notice in a local newspaper circulating in the area and on the internet, sending notice to identified stakeholders, making a copy available for inspection at the planning authority offices and libraries, and publishing it on the internet.
21. Whilst we have seen increased digital access over time, and particularly in the last 18 months, local newspapers have remained a normal route to raise awareness. Social media notices are increasingly used in the publication of LDPs and supplement the minimum requirement of internet publication. However, there are groups in society who use the internet less, including older people and disabled people. Whilst we propose the substance of the requirements be largely maintained, there is a need to make amendments to reference the correct parts of the primary legislation (section 18(1)) and to remove references to SDPs and MIRs. **We therefore propose to make these necessary amendments, see Annex B, Regulation 9.**
22. Section 18(1)(d) of the Act requires a planning authority to consult key agencies and *such persons who may be prescribed* on the Proposed Plan. This provision in the Act is not new. The 2008 Regulations (regulation 13) require that a planning authority consult Scottish Ministers. Proposed Plans will be of interest for a wide range of stakeholders and local authorities will have a good understanding of those relevant to their area. Statutory requirements in primary legislation for Development Plan Schemes mean they must include a Participation Statement, and that they include information on whom the planning authority will consult in preparing the plan. The 2019 Act strengthened this to require that in preparing the Development Plan Scheme, the planning authority seek the views of the public at large as to the content of the Participation Statement. We expect this will include seeking views on who should be engaged at different stages, and on the best approach to involving people. **We therefore do not propose to prescribe in regulations, any further persons to be consulted on the Proposed Plan, see Annex B, Regulation 10, but expect to say more in guidance.**

PART B – Proposals for Development Planning Regulations

23. Section 18(1)(e) of the Act provides for arrangements regarding notification of the Proposed Plan to be set out in regulations. This provision in the Act is not new. The 2008 Regulations (regulation 14) requires notice to be given to the owner, lessee or occupiers of sites and neighbouring land that may be significantly affected by development proposals. We consider the existing regulations to be appropriate and **propose to maintain current requirements unchanged in replacement regulations, see Annex B Regulation 11.**

Question 8

Do you agree with the proposals for regulations relating to the preparation and publication of the LDP?

Yes / No / No View

Please explain why you agree or disagree.

Section 19 – Examination of proposed Local Development Plan

24. Section 19(5) of the Act provides for Scottish Ministers to make regulations relating to the examination of the plan, including costs, procedures and what is to be assessed. This provision in the Act is not new. The 2008 Regulations set out requirements relating to examination at Part 4. Paragraph 15 above notes that we consider it appropriate for regulations relating to the costs, procedures and assessment at examination, to be consistent with the equivalent ones for Evidence Reports. We consider that no changes are necessary to regulations relating to ‘Notification of appointment of appointed person’ (regulation 19) and ‘Further representations of information’ (regulation 22), **see Annex B, Regulations 14 and 17.** Regulations relating to the ‘Application and interpretation of Part 4’ (regulation 18), ‘Scope of the examination’ (regulation 21) and ‘Expenses of examination’ (regulation 23) should be replaced to reflect there will not be SDPs in future. Regulations relating to the ‘Summary of unresolved issues’ (regulation 20) should remove reference to SDPs, correctly reference the Delivery Programme, remove reference to the Monitoring Statement and add reference to the Evidence Report. **We therefore propose to make these necessary amendments, see Annex B, Regulations 13, 15, 16 and 18.**
25. Section 19(5A) of the Act provides for publication of the Proposed Plan and any modifications to be *in the prescribed manner* when a plan is to be examined. This provision is new but equates to section 18(4) of the Town and Country Planning (Scotland) Act, 1997, as amended by the Planning etc. (Scotland) Act, 2006 when planning authorities submit the plan for examination. The 2008 Regulations set out these requirements at regulation 16 and we consider it appropriate to continue to publish the plan submitted for examination in the same manner as previous. **We therefore propose to maintain the requirements unchanged in replacement regulations, see Annex B, Regulation 12.**
26. Section 19(10)(a)(i) of the 2019 Act requires planning authorities to make such modifications as the appointed person recommends and only allows for them to

PART B – Proposals for Development Planning Regulations

be declined in circumstances *as may be prescribed*. These circumstances are set out in the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009. Regulation 2 of the 2009 Regulations, makes reference to SDPs, applying where the modification would make the LDP inconsistent with the SDP. Whilst we do not intend to alter the grounds for declining to follow recommendations, this regulation should be amended to reflect the removal of SDPs. These regulations were prepared under affirmative Parliamentary procedures but the proposed change is consequential to the changes to primary legislation and can therefore be achieved using consequential powers. **We therefore propose to amend the regulations to reflect the removal of SDPs.**

Question 9

Do you agree with the proposals for regulations relating to the examination of the LDP?

Yes / No / No View

Please explain why you agree or disagree.

Section 20A – Publication of and publicity for local development plan

27. Section 20A(1)(b) of the Act requires that as soon as reasonably practicable after the local development plan is constituted, the planning authority are to publish the plan. Sections 20(1A)(a) and (b) provide that a recommended-modifications statement and a report of modifications be published *in the prescribed manner*. The former relates to when a modification proposed by an appointed person is not made and the later relates to when the constituted plan is different to the Proposed Plan as a result of modifications. These provisions in the Act are new. The manner in which the regulations propose for the documents to be published however, mirrors the requirements of the 2008 Regulations for publication of the proposed local development plan following examination (regulation 17). This includes publishing in a local newspaper a statement that the planning authority have adopted the plan either without making a modification as recommended, or have made modifications to it, and how the relevant documents may be inspected. Publication is also to include making copies available for inspection at an office of the planning authority and publishing the documents on the internet. **We therefore propose to address these matters in regulations, see Annex B, Regulations 19 and 20.**

Section 20AA – Amendment of local development plan

28. The 2019 Act introduces provisions for the amendment of LDPs. The introduction to this consultation (Part A) explains that we will consider this in regulations and guidance once the new development planning system is in place.

PART B – Proposals for Development Planning Regulations

Question 10

Are there matters you wish to highlight relating to amendment of the LDP which may have bearing on the proposals for regulations being consulted on in this document?

Yes / No / No View

Please explain your view.

Section 20B – Development Plan Schemes

29. Section 20B(7) of the Act provides for regulations to be made relating to the form and content, and procedures for preparing and adopting Development Plan Schemes (DPS). This provision in the Act is not new. Part 5 of the 2008 Regulations (regulation 24), requires timetabling information for different stages of plan preparation to be included in the DPS. The regulations require to be amended to replace references to MIRs with Evidence Reports and to remove reference to SDPs and Strategic Development Planning Authorities (SDPA). The regulations do not currently require timetabling for when the LDP is expected to be adopted, or the tracking of any changes to the original timescales and for an explanation to be provided for any changes. Although the review period for plans will be 10 years we do not expect plans to take this long to prepare. We wish to see plan preparation to proceed in a timely manner and for any delay to be justified. **We therefore propose to make the necessary amendments and address the additional matters in the regulations, see Annex B, Regulation 21.**

Question 11

Do you agree with the proposals for regulations relating to Development Plan Schemes?

Yes / No / No View

Please explain why you agree or disagree.

Section 21 – Delivery Programmes

30. Section 21(3) of the Act identifies those from whom planning authorities are to seek the views and have regard to in preparing a Delivery Programme. This includes key agencies and *such persons as may be prescribed*. This provision in the Act is not new. The 2008 Regulations (regulation 25) set out others whose views are to be sought including Scottish Ministers and any person who the authority proposed to specify by name. We consider that those already specified in legislation are appropriate, however there is a need to replace the references to refer to Delivery Programmes instead of Action Programmes, as they were formerly known, and to remove references to SDPA. **We therefore propose to make these necessary amendments, See Annex B, Regulation 22.**

PART B – Proposals for Development Planning Regulations

31. Section 21(7) of the Act provides for regulations to prescribe requirements relating to the form, content and procedures of a Delivery Programme. This provision in the Act is not new. The 2008 Regulations (regulation 26) require the content of the Action Programme to set out: a list of actions required to deliver each of the policies and proposals of the plan; the name of the person to carry out the action; and the timescale for the conclusion of each action. We consider that it is appropriate to maintain these requirements for Delivery Programmes however references to Action Programmes should be replaced with Delivery Programme. **We therefore propose to make these necessary amendments, see Annex B, Regulation 23.**

Question 12

Do you agree with the proposals for regulations relating to Delivery Programmes?

Yes / No / No View

Please explain why you agree or disagree.

Section 23D – Meaning of “key agency”

32. Section 23D of the Act provides for the meaning of key agency to be provided in regulations, given the numerous references to the term in the Act. The provision in the Act is not new and the 2008 Regulations set out the meaning at regulation 28. Various bodies are referred to including Scottish Natural Heritage and Highlands and Islands Enterprise. Scottish Natural Heritage have changed name to become NatureScot. South of Scotland Enterprise was launched in April 2020 and has similar status to Highlands and Islands Enterprise. Historic Environment Scotland was formed in 2015 after the previous government agency, Historic Scotland, was dissolved. **We therefore propose to address these matters in regulations, see Annex B, Regulation 24.**

Question 13

Do you agree with the proposals for regulations relating to the meaning of ‘key agency’?

Yes / No / No View

Please explain why you agree or disagree.

Transitional Provisions

33. Regulations are needed to address the arrangements for transitioning between the current and future LDP systems. We have previously provided [transitional guidance](#) on intentions for transitional arrangements.
34. The guidance sets out that where a planning authority has published its proposed LDP before June 2022, they will be able to proceed to adoption under the existing provisions and procedures in the 1997 Act (introduced by the 2006

PART B – Proposals for Development Planning Regulations

Act). Emerging LDPs which have not reached the stage of a published proposed plan before June 2022 will be subject to all the new process introduced by the 2019 Act.

35. The guidance also covers supplementary guidance, and indicates that a period of 24 months after the coming into force of the development plan regulations will be allowed for the adoption of supplementary guidance associated with LDPs adopted under the 2006 Act. It proposes that after that point, no further supplementary guidance will be allowed to come forward for adoption as we transition to the new system. **We propose to give effect to the above arrangements regarding LDPs and supplementary guidance in separate regulations making saving and transitional provisions.**
36. For LDPs and supplementary guidance that proceed to adoption under the provisions and procedures introduced by the 2006 Act, the existing regulations will need to be continued. **We therefore propose to enable this through the replacement regulations, see Annex B, Regulation 25.**

Question 14

Do you agree with the proposals for regulations relating to transitional provisions?

Yes / No / No View

Please explain why you agree or disagree.

PART B – Proposals for Development Planning Regulations

Part B: Annex A - Summary of Changes

Development Planning Regulations

New Regulations relating to the Evidence Report

- To require the Scottish Ministers to notify the planning authority when a person has been appointed to assess the Evidence Report and their name.
- To provide that the appointed person is able to request further representations or further information be provided in connection with the assessment of the Evidence Report.
- To require that the general costs of assessing the Evidence Report incurred by the Scottish Ministers or appointed person are to be met by the planning authority.
- To require the planning authority to provide to the appointed person, electronic copies of any documents referred to in the Evidence Report.

A separate consultation will follow to inform the meaning of Gypsies and Travellers in relation to the requirements for the Evidence Report.

Amend Regulations on the Information and Considerations for LDPs (previously regulation 10)

- Consolidate with requirements of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015.
- Remove references to SDPs and add references to Spatial Strategies.
- Replace references to English planning documents.
- Amend to ensure accurate references to primary legislation.

Views are also sought on whether information and considerations should be changed or added to in light of increasingly prominent issues in planning, for example climate change, community planning and health.

Amend Regulations on the Publication of Proposed Local Development Plan (previously regulation 12)

- Amend to remove references to SDPs and MIRs.
- Amend to ensure accurate references to primary legislation.

Amend Regulations on Examinations (previously regulations 18, 20, 21 and 23)

- Remove references to SDPs and to the Monitoring Statement, replace references to the Delivery Programme and add references to the Evidence Report.

PART B – Proposals for Development Planning Regulations

Amend Regulations on the Development Plan Scheme (previously regulation 24)

- Add references to Evidence Reports and remove references to MIR, SDPs and SDPAs.
- Add requirements to specify the date (the proposed month) for the adoption / constitution of the LDP and to identify any changes to the timetable of plan preparation from that given in the previous Development Plan Scheme.

Amend Regulations on the Delivery Programme (previously regulations 25 and 26)

- Add reference to Delivery Programme and remove reference to Action Programmes and SDPAs.

Amend Regulations on Key Agencies (previously regulation 28)

- Reference to Scottish Natural Heritage is replaced to note they are known as NatureScot, and Historic Environment Scotland and South of Scotland Enterprise are added to the list.

Amend Regulations on Transitional Provisions (previously regulation 30)

- Amend to ensure provisions of the 2008 Development Planning Regulations continue to have effect for LDPs and supplementary guidance that proceed to adoption under the provisions and procedures introduced by the 2006 Act.

Saving and Transitional Regulations

New regulations to reflect the [Transitional Guidance](#) previously published.

Grounds for Declining to Follow Recommendations Regulations

Amend to remove reference to SDPs.

PART B – Proposals for Development Planning Regulations

Part B: Annex B - Draft Regulations

SCOTTISH STATUTORY INSTRUMENTS

2022 No.

TOWN AND COUNTRY PLANNING

The Town and Country Planning (Development Planning) (Scotland) Regulations 2022

Made - - - - 2022

Laid before the Scottish Parliament 2022

Coming into force 2022

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 15(3) and (4)(a), 16(2)(b), 16B(13), 18(1)(a) and (e), 19(5), 20B(7), 21(7), 23A(1), 23D and 275 of the Town and Country Planning (Scotland) Act 1997(1) and all other powers enabling them to do so.

PART 1

Introductory

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Development Planning) (Scotland) Regulations 2022 and come into force on [2022].

(2) In these Regulations—

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

“the 2005 Act” means the Environmental Assessment (Scotland) Act 2005(2),

“community council” means a community council established in accordance with the provisions of Part IV of the Local Government (Scotland) Act 1973(3),

“Directive” means Directive 96/82/EC of the European Council on the control of major accident hazards involving dangerous substances as it had effect immediately before IP completion day (4),

(1) 1997 c.8. The enabling powers contained in Part 2 of the Act were inserted by section 2 of the Planning etc. (Scotland) Act 2006 (asp 17). Section 275 was relevantly amended by section 54(16) of that Act. The functions of the Secretary of State under the Town and Country Planning (Scotland) Act 1997 transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) 2005 asp 15.

(3) 1973 c.65. Part IV was relevantly amended by section 180(2) and Schedule 14 to the Local Government etc. (Scotland) Act 1994 (c.39).

(4) O.J. No. L 10, 14.1.1997, p.13. The Directive was amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council of 29th September 2003 (O.J. No. L 284, 31.10.2003) and Directive 2003/105/EC of the European Parliament and of the Council of 16th December 2003 (O.J. No. L 345, 31.12.2003 p.97).

PART B – Proposals for Development Planning Regulations

“environmental report” means the environmental report prepared in connection with a proposed plan in accordance with the 2005 Act,

“key agency” means a body specified as a key agency in regulation 24,

“local development plan area” means the area of land to which a proposed local development plan relates,

“local housing strategy” means a strategy (and any modified strategy) prepared and submitted to the Scottish Ministers in accordance with section 89 of the Housing (Scotland) Act 2001⁽⁵⁾,

“National Park” and “National Park authority” have the same meaning as in the National Parks (Scotland) Act 2000⁽⁶⁾,

“national waste management plan” has the same meaning as in the National Waste Management Plan for Scotland Regulations 2007⁽⁷⁾,

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

“regional transport strategy” means a transport strategy approved by the Scottish Ministers under section 6 of the Transport (Scotland) Act 2005⁽⁸⁾,

“river basin management plan” means a river basin management plan approved by the Scottish Ministers under section 13(1) of the Water Environment and Water Services Act 2003⁽⁹⁾.

(3) Expressions which are used in regulation 8(2) and which are also used in the Directive have the same meaning as in the Directive.

(4) Any requirement that a form must 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.

PART 2

Evidence Reports

Interpretation of Part 2

2. In this Part–

“appointed person” means a person appointed by the Scottish Ministers under section 16B(8) of the Act to assess an evidence report,

“authority” means the planning authority preparing the evidence report,

“evidence report” means an evidence report prepared by virtue of section 16B of the Act.

Notification of appointment of appointed person – assessment of evidence report

3. The Scottish Ministers must as soon as practicable after appointing a person to assess an evidence report under section 16B(8) of the Act notify the authority that such an appointment has been made and of the name of the appointed person.

Procedure in relation to assessment of evidence report

4.—(1) Subject to paragraphs (2) to (4), the procedure to be followed in an assessment of an evidence report under section 16B(8) of the Act is at the discretion of the appointed person.

(2) The authority must, to the extent that they have not already done so, send a copy of any document referred to in the evidence report to the appointed person within 14 days of receiving notification under regulation 3.

(5) 2001 asp 10.

(6) 2000 asp 10.

(7) S.S.I. 2007/251.

(8) 2005 asp 12.

(9) 2003 asp 3.

PART B – Proposals for Development Planning Regulations

(3) Where the appointed person determines that representations should be made or information should be provided by any person in connection with the assessment of the evidence report the appointed person may by notice request that person to make such representations or to provide such information.

(4) The appointed person may make a request under paragraph (3) at any stage of the of the assessment of the evidence report.

Expenses of assessment under section 16B(8) of the Act

5. The general administrative costs, staff costs (including any remuneration due to the appointed person) and overheads (including the costs of provision of a venue) incurred by the Scottish Ministers or the appointed person in relation to an assessment under section 16B(8) of the Act are to be met by the planning authority.

PART 3

Local Development Plans

Maps to be included in local development plan

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

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

Schedule of land ownership

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

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

Information and considerations

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

- (a) the resources available or likely to be available for the carrying out of the policies and proposals set out in the local development plan,
- (b) any local development plan prepared for a different purpose for the local development plan area,
- (c) any local development plan prepared for an area adjoining the local development plan area,
- (d) any regional spatial strategy prepared for the local development plan area or an area adjoining the local development plan area,
- (e) any regional transport strategy relating to the local development plan area,
- (f) any local transport strategy relating to the local development plan area,
- (g) any river basin management plan relating to the local development plan area,
- (h) any local housing strategy relating to the local development plan area,
- (i) the national waste management plan, and
- (j) where the local development plan area adjoins land in England, any local plan published in respect of that land.

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

PART B – Proposals for Development Planning Regulations

- (a) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment,
- (b) the need in the long term—
 - (i) to maintain appropriate safety distances between establishments covered by the Directive and residential areas, buildings and areas of public use, recreational areas and, as far as possible, major transport routes,
 - (ii) to protect areas of particular natural sensitivity or interest in the vicinity of establishments, where appropriate through appropriate safety distances or other relevant measures,
 - (iii) in the case of existing establishments, to take additional technical measures in accordance with regulation 5 of the Control of Major Accident Hazards Regulations 2015¹⁰ so as not to increase the risks to human health and the environment.

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

(4) In this regulation “local transport strategy” has the same meaning as in section 82(1) of the Transport (Scotland) Act 2001¹¹.

Publication of proposed local development plan

9.—(1) The manner of publication prescribed for the purposes of section 18(1)(a) of the Act is as set out in paragraph (2).

(2) Publication is to be by—

- (a) publishing in a local newspaper circulating in the area and on the internet a notice containing the following information—
 - (i) a statement that the proposed local development plan has been prepared and where and at what times it may be inspected,
 - (ii) a brief description of the content and purpose of the proposed local development plan,
 - (iii) details of how further information may be obtained regarding the proposed local development plan, including that it is to be published on the internet under paragraph (d),
 - (iv) a statement that any person wishing to do so may make representations on the content of the proposed local development plan, and
 - (v) information as to how and to whom any representations should be made and the date by which they should be made,
- (b) sending a notice containing that information to—
 - (i) the key agencies,
 - (ii) a planning authority for the land which adjoins the local development plan area, and
 - (iii) any community council any part of whose area is within the local development plan area,
- (c) making a copy of the proposed local development plan available for inspection at an office of the planning authority and in every public library in the local development plan area, and
- (d) publishing the proposed local development plan on the internet.

Consultation on proposed local development plan

10. The planning authority must with regard to a proposed local development plan, consult the Scottish Ministers.

¹⁰ S.S.I. 2015/181
¹¹ 2001 asp 2.

PART B – Proposals for Development Planning Regulations

Notification of publication of proposed local development plan

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

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

- (a) in the form set out in Schedule 2 (and completed in accordance with the instructions therein),
- (b) accompanied by a map showing the location of the site in question, and
- (c) sent to the premises situated on the site or neighbouring land, as the case may be, addressed to “the Owner, Lessee or Occupier”.

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

12.—(1) The manner of publication prescribed for the purposes of section 19(5A) of the Act (examination of a proposed local development plan) is as set out in paragraph (2).

(2) Publication is to be by—

- (a) publishing in a local newspaper circulating in the area a notice containing the following information—
 - (i) a statement that a proposed local development plan has been submitted to the Scottish Ministers, and
 - (ii) the date of submission of the proposed plan and details of how and at what times it and any modification report may be inspected,
- (b) making a copy of the proposed local development plan and any modifications report available for inspection at an office of the planning authority and in every public library in the local development plan area, and
- (c) publishing the proposed local development plan and any modifications report on the internet.

(3) In this regulation “modification report” means a report required to be published in accordance with section 19(5A)(b) of the Act.

PART 4

Examinations

Application and interpretation of Part 4

13.—(1) Part 4 of these Regulations applies to an examination under section 19(3) or (4) of the Act.

(2) In this Part—

“appointed person” means a person appointed by the Scottish Ministers under section 19(3) of the Act to examine a proposed local development plan,

“authority” means the planning authority which submitted the proposed local development plan,

“plan area” means in relation to proposed local development plan, the area to which the proposed plan relates,

“unresolved representations” means in respect of a proposed local development plan, representations mentioned in section 19(2) of the Act.

PART B – Proposals for Development Planning Regulations

Notification of appointment of appointed person - examination

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

Summary of unresolved issues

15.—(1) The authority must, to the extent that they have not already done so, send to the appointed person within 14 days of receiving notification under regulation 14—

- (a) a summary of unresolved issues prepared in accordance with paragraph (2),
- (b) copies of the unresolved representations,
- (c) the environmental report prepared in connection with the proposed plan and copies of opinions expressed in response to the invitations referred to in section 16(1) and (2)(a)(iii) of the 2005 Act,
- (d) the proposed delivery programme prepared for the proposed plan in accordance with section 21 of the Act,
- (e) a copy of the authority's participation statement current at the time when the proposed plan was published under section 18(1)(a) of the Act.

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

- (a) specify the number of and list all unresolved representations (including the name of the person who made the representation),
- (b) include, in the form set out in Schedule 3—
 - (i) a summary of each of the various issues raised in the unresolved representations, and
 - (ii) a statement of the reasons why the planning authority did not modify the proposed plan in response to the issues raised in the representations, and
- (c) be arranged, so far as practicable, so that such summaries of issues appear in the same order as those parts of the proposed plan to which the issues relate are set out in the plan.

(3) When advertising or giving notice of the examination under section 19(6) of the Act, the authority, are to include—

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

Scope of the examination

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

Further representations or information - examination

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

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

Expenses of examination

18. The general administrative costs, staff costs (including any remuneration due to the appointed person) and overheads (including the costs of provision of a venue for the examination) incurred by the Scottish

PART B – Proposals for Development Planning Regulations

Ministers or the appointed person in relation to an examination held under section 19(3) or (4) of the Act are to be met by the authority.

PART 5

Publication of recommended-modifications statement and report on modification

Publication of recommended-modifications statement

19.—(1) The manner of publication prescribed for the purposes of section 20A(1A)(a) of the Act is as set out in paragraph (2).

(2) Publication is to be by—

- (a) publishing in a local newspaper circulating in the area a notice containing the following information—
 - (i) a statement that the planning authority has adopted the local development plan without making a modification to it as recommended in the report prepared following the examination of the proposed local development plan, and
 - (ii) how the recommended-modification statement explaining why the modification was not made may be inspected,
- (b) making copies of the recommended-modification statement available for inspection at an office of the planning authority and in every public library in the local development plan area; and
- (c) publishing the recommended-modification statement on the internet.

Publication of report on modification

20.—(1) The manner of publication prescribed for the purposes of section 20A(1A)(b) of the Act is as set out in paragraph (2).

(2) Publication is to be by—

- (a) publishing in a local newspaper circulating in the area a notice containing the following information—
 - (i) a statement that the planning authority has adopted the local development plan having made modifications to it, and
 - (ii) how the report on modifications setting out the modification and the reasons for making them may be inspected,
- (b) making copies of the report on modifications available for inspection at an office of the planning authority and in every public library in the local development plan area; and
- (c) publishing the report on modifications on the internet.

PART 6

General

Development plan schemes

21.—(1) In addition to those matters specified by [section 20B of] the Act, a development plan scheme must—

- (a) state the timetable (specifying the proposed month) for—
 - (i) publication by the planning authority of its evidence report,
 - (ii) publication by the planning authority of its proposed local development plan,

PART B – Proposals for Development Planning Regulations

- (iii) submission by the planning authority of its proposed local development plan to the Scottish Ministers,
 - (b) indicate the anticipated timetable for constitution of the local development plan including the month in which the planning authority expects to adopt the proposed local development plan.
- (2) If the timetable included in the development plan scheme differ from the timetable included in the development plan scheme last prepared by the planning authority, the development plan scheme must—
- (a) identify the changes to the timetable,
 - (b) set out the reasons for the changes to the timetable.

Consultation for delivery programmes

22. The following persons are prescribed for the purposes of section 21(3)(b) of the Act as a person whose views the planning authority in question is to seek and have regard to when compiling a delivery programme:—

- (a) the Scottish Ministers,
- (b) any person whom that authority proposes to specify by name in the delivery programme.

Form and content of delivery programmes

23. A delivery programme is to set out the following matters—

- (a) a list of actions required to deliver each of the policies and proposals contained in the local development plan,
- (b) the name of the person who is to carry out each such action,
- (c) the timescale for the conclusion of each such action.

Key Agencies

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

(2) The bodies are—

- (a) Scottish Natural Heritage (NatureScot),
- (b) the Scottish Environment Protection Agency,
- (c) Scottish Water,
- (d) Scottish Enterprise,
- (e) Highlands and Islands Enterprise,
- (f) South of Scotland Enterprise,
- (g) a regional Transport Partnership,
- (h) the Crofters Commission,
- (i) a Health Board.
- (j) [Historic Environment Scotland]

(3) The limitations are—

- (a) Scottish Enterprise is specified as a key agency only where the local development plan in question relates to an area within which or in relation to which the functions of that body are exercisable under or by virtue of the Enterprise and New Towns (Scotland) Act 1990⁽¹²⁾;
- (b) Highlands and Islands Enterprise is specified as a key agency only where the local development plan in question relates to an area within which or in relation to which the functions of that body

(12) 1990 c.35.

PART B – Proposals for Development Planning Regulations

are exercisable under or by virtue of section 21(1) of the Enterprise and New Towns (Scotland) Act 1990;

- (c) South of Scotland Enterprise is specified as a key agency only where the local development plan in question relates to an area within which or in relation to which the functions of that body are exercisable under or by virtue of the South of Scotland Enterprise Act 2019¹³
- (d) a regional Transport Partnership is specified as a key agency only where the local development plan in question relates to the region for which that body is constituted as the Transport Partnership by virtue of an order under section 1(1) of the Transport (Scotland) Act 2005¹⁴;
- (e) the Crofters Commission is specified as a key agency only where the local development plan in question relates to the crofting counties (within the meaning of the Crofters (Scotland) Act 1993¹⁵); and
- (f) a Health Board is specified as a key agency only where the local development plan in question relates to the area of that Health Board.

(4) In paragraphs (2) and (3), ‘Health Board’ means a board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978¹⁶.

Revocation and saving provisions

25.—(1) Subject to this regulation, the 2008 Regulations are revoked.

(2) This regulation applies to a proposed local development plan published under section 18(1) of the 1997 Act before the relevant date and supplementary guidance issued in relation to that plan.

(3) Where this regulation applies to a proposed local development plan or supplementary guidance the provisions of the 2008 Regulations continue to apply for the purposes of that plan and supplementary guidance as they did immediately before the relevant date.

(4) In this regulation—

“the 2008 Regulations” means the Town and Country Planning (Development Planning) (Scotland) Regulations 2008,

“relevant date” means [date on which this regulation comes into force].

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
2022

(b) 2019 asp 9.

¹⁴ 2005 asp 12.

¹⁵ 1993 c.44.

¹⁶ 1978 c.29. Section 2(1)(a) was amended by paragraph 2(2) of Schedule 2 to the Smoking, Health & Social Care (Scotland) Act 2005 (asp 13).

PART B – Proposals for Development Planning Regulations

SCHEDULE 1

Regulation 7

Form of schedule of land ownership

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

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

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

PART B – Proposals for Development Planning Regulations

SCHEDULE 2

Regulation 11(2)

Form of Notice

Notification of publication of proposed local development plan

Proposal for development at *[insert location]*.

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

Description of the proposal

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

Summary of the background to the proposal

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

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

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

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

PART B – Proposals for Development Planning Regulations

SCHEDULE 3

Regulation 15(2)(b)

Summary of Unresolved Issues

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

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

PART B – Proposals for Development Planning Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the preparation of local development plans under Part 2 of the Town and Country (Scotland) Act 1997 (“the Act”). A local development plan is prepared by a planning authority or by two or more planning authorities jointly under section 16(5) of the Act. Before preparing a proposed local development plan the planning authority must prepare an evidence report. Part 2 of the Regulations relates to assessment of an evidence report under section 16B(8) of the Act. Part 3 relates to the preparation and publication of local development plans, Part 4 makes provision in relation to the examination of both such plans and Part 5 makes provision for the publication of recommended-modifications statements and reports on modification and Part 6 makes general and transitional provisions.



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