



# Planning etc. (Scotland) Act 2006

## 2006 asp 17

### PART 2

#### DEVELOPMENT PLANS

#### **2 Development plans**

For Part 2 of the principal Act substitute—

#### “PART 2

#### DEVELOPMENT PLANS

#### *Sustainable development*

#### **3E Sustainable development**

- (1) This section applies to a planning authority in the exercise of any function under this Part.
- (2) The planning authority must exercise the function with the objective of contributing to sustainable development.
- (3) The Scottish Ministers may issue guidance to a planning authority for the purposes of this section and that authority must have regard to any guidance so issued.

#### *Strategic development planning*

#### **4 Strategic development planning authorities**

- (1) The Scottish Ministers may by order designate a group of planning authorities as authorities which are jointly—
  - (a) to prepare a plan (to be known as a “strategic development plan”)—
    - (i) whenever required to do so by the Scottish Ministers, and

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- (ii) (subject to sub-paragraph (i) and to section 10(8)) whenever the group think it appropriate to do so,  
for an area (to be known as a “strategic development plan area”) to be determined under section 5(3), and
- (b) to keep under review the plan so prepared.
- (2) No part of the strategic development plan area is to be outwith the districts of the designated group.
- (3) The Scottish Ministers may direct—
- (a) that an employee of a constituent authority of the designated group is to be assigned to manage the process of preparing and reviewing the strategic development plan, and
- (b) that other employees of the constituent authorities are to be assigned to assist in that process.
- (4) The Scottish Ministers are not to issue a direction to an authority under subsection (3) within the period of 3 months beginning with the day on which the order under subsection (1) designating the authority as a constituent authority of the designated group was made.
- (5) A group of planning authorities acting jointly by virtue of subsection (1) may be referred to as a “strategic development planning authority”; and an employee assigned as is mentioned in paragraph (a) of subsection (3) may be referred to as a “strategic development plan manager”.
- (6) For any strategic development plan area there is at no time to be more than one strategic development plan.
- (7) The Scottish Ministers may, for the purposes of this section, issue guidance to the constituent authorities of the designated group; and those authorities must have regard to any guidance so issued.
- (8) The Scottish Ministers may request a planning authority to provide them with information regarding arrangements for the assignment of any employee of that authority to manage, or assist in, the process of preparing and reviewing a strategic development plan and the authority must provide such information within 14 days of receipt of the request.
- (9) In carrying out their duty under paragraph (b) of subsection (1), a strategic development planning authority are in particular to monitor—
- (a) changes in the characteristics referred to in section 7(4)(a), and
- (b) the impact of the policies and proposals contained within the strategic development plan.
- (10) A strategic development plan authority are—
- (a) from time to time, and
- (b) in any event whenever they publish a main issues report by virtue of that paragraph,
- to publish a statement as to the carrying out by them of their duty under that paragraph.

- (11) In subsection (10), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).

### **5 Strategic development plan area**

- (1) Within 3 months after designation under section 4(1), the strategic development planning authority are to submit to the Scottish Ministers—
- (a) a plan showing the boundary which the authority propose as the boundary of the strategic development plan area, and
  - (b) a statement in justification of that proposal,
- with the request that a determination be made under subsection (3).
- (2) If the individual planning authorities which the strategic development planning authority comprises are not unanimous as to the boundary to be proposed, any of those individual planning authorities may, in conjunction with the submission under subsection (1), submit an alternative plan and statement under that subsection.
- (3) The Scottish Ministers may determine that the boundary of the strategic development plan area is—
- (a) a boundary proposed in a submission under subsection (1),
  - (b) any such boundary with such modifications as they think fit, or
  - (c) such other boundary as they think fit.
- (4) If before making a determination under subsection (3) the Scottish Ministers consider they require further information from the strategic development planning authority or from a planning authority of the designated group, they may request the authority in question to provide them with that information.
- (5) The Scottish Ministers are to give notice to the strategic development planning authority of any determination under subsection (3); and where the determination is under paragraph (b) or (c) of that subsection the notice is to include a statement as to their reasons for making the determination.
- (6) Subject to section 6, a determination under subsection (3) is final and conclusive.

### **6 Re-determination of boundary of strategic development plan area**

- (1) Where at any time a strategic development planning authority conclude (whether or not by virtue of a requirement under section 4(1)(a)(i)) that, because of a material change in circumstances, the boundary of their strategic development plan area is no longer appropriate, they are, within three months after so concluding, to submit to the Scottish Ministers—
- (a) a plan showing a boundary which they propose in place of the determined boundary, and
  - (b) a statement in justification of that proposal.
- (2) Subsections (2) to (6) of section 5 apply in respect of a submission under subsection (1) of this section as they apply in respect of a submission under subsection (1) of that section.

## **7 Form and content of strategic development plan**

- (1) A strategic development plan is a plan in which is set out—
  - (a) a vision statement, being a broad statement of the strategic development planning authority's views as to how the development of the strategic development plan area could and should occur and as to the matters (including the matters mentioned in subsection (4)) which might be expected to affect that development,
  - (b) a spatial strategy, being a broadly based statement of proposals as to the development and use of land within the strategic development plan area,
  - (c) an analysis of the relationship of the vision statement and spatial strategy to general proposals for the development and other use of land in districts which are contiguous to any part of the strategic development plan area, being general proposals which may be expected to affect that area,
  - (d) such other matters as may be prescribed, and
  - (e) any other matter which the strategic development planning authority consider it appropriate to include.
- (2) A strategic development plan is, for the purpose of explaining or illustrating the proposals in the plan, to contain or be accompanied by—
  - (a) such maps, diagrams, illustrations and descriptive matter as may be prescribed, and
  - (b) such other maps, diagrams, illustrations and descriptive matter (if any) as the strategic development planning authority think appropriate.
- (3) Diagrams, illustrations and descriptive matter which, by virtue of subsection (2), are contained in or accompany a strategic development plan are to be treated as forming part of that plan.
- (4) The matters referred to in subsection (1)(a) are—
  - (a) the principal physical, economic, social and environmental characteristics of the strategic development plan area,
  - (b) the principal purposes for which land is used in that area,
  - (c) the size, composition and distribution of the population of that area,
  - (d) the infrastructure of that area (including communications, transport and drainage systems and systems for the supply of water and energy),
  - (e) how that infrastructure is used, and
  - (f) any change which the strategic development planning authority think may occur in relation to any of the matters mentioned in paragraphs (a) to (e).

## **8 Preparation of strategic development plan etc.: general**

- (1) In preparing a strategic development plan or a main issues report the strategic development planning authority—
  - (a) are to take into account the National Planning Framework,
  - (b) are to have regard to such information and considerations as may be prescribed, and

- (c) may have regard to such other information and considerations as appear to them to be relevant.
- (2) The Scottish Ministers may, in making a requirement under section 4(1)(a)(i), direct that preparation of the strategic development plan is to be completed by a date specified in the requirement.

### **9 Main issues report for preparation of strategic development plan**

- (1) With a view to facilitating and informing their work in preparing a strategic development plan, a strategic development planning authority are to compile a report (a “main issues report”).
- (2) A main issues report compiled under this section is a report in which are set out—
- (a) general proposals by the authority for development in the strategic development plan area and in particular proposals as regards where the development should be carried out (and where it should not), and
  - (b) general proposals which constitute a reasonable alternative (or reasonable alternatives) to those mentioned in paragraph (a).
- (3) The report is also—
- (a) to include information sufficient to secure—
    - (i) that what is proposed can readily be understood by those persons who may be expected to desire an opportunity of making representations to the authority with respect to the report, and
    - (ii) that such representations can be meaningful, and
  - (b) to draw attention to any differences between the proposals for development mentioned in paragraphs (a) and (b) of subsection (2) and the spatial strategy set out in the authority’s strategic development plan (if any such plan is for the time being current).
- (4) In compiling the report the strategic development planning authority are to seek the views of, and have regard to any views expressed by—
- (a) the key agencies,
  - (b) each planning authority the district of which is contiguous with the strategic development plan area, and
  - (c) such persons as may be prescribed.
- (5) It is the duty of a key agency to co-operate with the strategic development planning authority in the compilation of the authority’s main issues report.
- (6) The strategic development planning authority are to publish their main issues report in such manner as may be prescribed; and without prejudice to the generality of this subsection the regulations in question must so far as practicable secure—
- (a) that the persons mentioned in subsection (3) are made aware that they are entitled to make such representations as are mentioned in that subsection, and
  - (b) that those persons are given an adequate opportunity to do so.

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- (7) Subsection (6) is without prejudice to the right of any person whatsoever to make representations to the authority as respects the report.
- (8) Publication under that subsection is to include specification of a date by which any representations under this section must be made.
- (9) On the report being published under that subsection, the authority are to send a copy of it to the Scottish Ministers.
- (10) In subsection (6), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).

### **10 Preparation and publication of proposed strategic development plan**

- (1) After the date specified by virtue of subsection (8) of section 9, the strategic development planning authority are—
  - (a) having regard to such representations as timeously may have been made to them as respects their main issues report, to prepare, and to publish in such manner as was prescribed under subsection (6) of that section, a proposed strategic development plan,
  - (b) to send a copy of that document to—
    - (i) each key agency, and
    - (ii) each planning authority the district of which is contiguous with the strategic development plan area,
  - (c) to notify any person who timeously has made representations under section 9 of where a copy of that document is available for inspection (and at what reasonable times), and
  - (d) to consult, with regard to that document, the key agencies and such persons as may be prescribed.
- (2) Publication under subsection (1)(a) is to include specification of a date (being a date not less than 6 weeks after the date of publication) by which any representations with respect to the proposed strategic development plan must be made to the authority.
- (3) After the date specified by virtue of subsection (2), the strategic development planning authority—
  - (a) may modify the proposed strategic development plan so as to take account of—
    - (i) any representations timeously made to them as respects that proposed plan (or of any matters arising out of representations so made),
    - (ii) any matters arising in consultation under subsection (1)(d), and
    - (iii) any minor drafting or technical matters, and
  - (b) are to submit it (whether or not modified) to the Scottish Ministers together with—
    - (i) a note of such representations as were timeously made to the authority and of whether those representations are taken account of in the plan (and if so to what extent),

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- (ii) a report as to the extent to which the authority's actions with regard to consultation and the involvement of the public at large have conformed with (or have gone beyond the requirements of) their current participation statement, and
  - (iii) a copy of their proposed action programme for the plan.
- (4) But if the authority consider that modifications are requisite and are such as would change the underlying aims or strategy of the proposed plan (in subsection (5) referred to as the "original plan") they are not to modify it (or submit it unmodified to the Scottish Ministers) but are to prepare and publish under subsection (1) a new proposed strategic development plan.
  - (5) In its application to any such new plan subsection (1) is to be construed as if references to representations made timeously as respects the main issues report (and to any person timeously making representations) included references to representations so made as respects the original plan (and to any person so making representations with respect to the original plan).
  - (6) Where a proposed strategic development plan is modified under subsection (3), the modified plan is to be published in such manner as was prescribed under section 9(6).
  - (7) On submitting a proposed strategic development plan under subsection (3)(b), the strategic development planning authority are to advertise, in such manner as may be prescribed, that they have done so.
  - (8) Where there is a current strategic development plan, a proposed strategic development plan must be submitted under subsection (3)(b) within 4 years after the date on which that current plan was approved under section 13(1).
  - (9) It is the duty of a key agency to co-operate with the strategic development planning authority in the preparation of the authority's proposed strategic development plan.

## **11 Alternative proposals**

- (1) If the individual planning authorities which a strategic development planning authority comprises are unable to agree on the content of the proposed strategic development plan to be submitted under section 10(3)(b), then the proposed plan so submitted may include alternative proposals in respect of particular matters.
- (2) Alternative proposals so submitted are to be accompanied by a statement of the reasoning behind them.

## **12 Examination of proposed strategic development plan**

- (1) On receiving a proposed strategic development plan by virtue of paragraph (b) of section 10(3), the Scottish Ministers are, if—
  - (a) representations timeously made were not taken account of (or not fully taken account of) in modifications under paragraph (a) of that section and have not been withdrawn,
  - (b) by virtue of section 11(1) the proposed plan includes alternative proposals, or

- (c) they consider it appropriate that such a direction be made, to direct that a person appointed by them examine under this subsection the proposed plan.
- (2) But where an appointment is made by virtue of subsection (1), the appointed person is firstly to examine under this subsection the extent to which the strategic development planning authority's actions with regard to consultation and the involvement of the public at large as respects the proposed plan have conformed with (or have been beyond the requirements of) the participation statement of the authority which was current when the proposed plan was published under section 10(1)(a).
- (3) The Scottish Ministers may make regulations as to—
- (a) meeting general administrative costs, staff costs and overheads incurred in relation to an examination under subsection (1) or (2),
  - (b) procedures to be followed at such an examination, and
  - (c) what is to be assessed in such an examination and matters by reference to which the assessment is to be made;
- but the form the examination is to take (as for example whether it should be in public or as to whether persons who have made representations and other persons are to be heard or are to present written submissions) is to be at the discretion of the person appointed.
- (4) When they make a direction under subsection (1) the Scottish Ministers are—
- (a) to advertise its making in a local newspaper within the strategic development plan area,
  - (b) to serve notice of its making on the strategic development planning authority, and
  - (c) if it is made by virtue of paragraph (a) of subsection (1), to serve notice of its making on each of the persons making the representations in question.
- (5) On receiving notice under subsection (4)(b) as respects a direction, the strategic development planning authority are to advertise, in the public libraries within the strategic development plan area, the making of that direction.
- (6) No such examination as is mentioned in subsection (1) is to be commenced—
- (a) within 4 weeks after the direction is made, and
  - (b) where a report is submitted under subsection (1)(b) of section 12A, before a direction is given under subsection (3)(b) of that section.
- (7) On completing his examination under subsection (1) the appointed person is to—
- (a) prepare a report—
    - (i) setting out, and giving reasons for, his conclusions and recommendations (which may include recommendations for amendments to the proposed strategic development plan), and
    - (ii) as to the matters considered by him under subsection (2),
  - (b) submit it to the Scottish Ministers,
  - (c) send a copy of it to the strategic development planning authority,
  - (d) publish it, and



- (e) serve on the persons mentioned in subsection (4)(c) notice of its submission and publication (including the means of publication).
- (8) In subsection (7)(d), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).

### **12A Further provision as regards examination under section 12(2)**

- (1) If, having conducted an examination under subsection (2) of section 12, the appointed person is not satisfied with the actings mentioned in that subsection he is to—
  - (a) prepare a report setting out his reasons for not being satisfied and recommending that the strategic development planning authority take such further steps with regard to—
    - (i) consultation, or
    - (ii) involving the public at large,as are specified in the report,
  - (b) submit it to the Scottish Ministers, and
  - (c) send a copy of it to the authority.
- (2) The authority may, within 4 weeks after receiving that copy, make representations to the Scottish Ministers as regards the report.
- (3) The Scottish Ministers, provided that 4 weeks have elapsed since they received the report, may—
  - (a) direct the authority to take such further steps with regard to—
    - (i) consultation, or
    - (ii) involving the public at large,as are specified in the direction, or
  - (b) direct the appointed person to proceed to an examination under subsection (1) of section 12.
- (4) In giving a direction under paragraph (a) of subsection (3) the Scottish Ministers are to have regard to the appointed person’s recommendations under paragraph (a) of subsection (1) and to any representations made under subsection (2).
- (5) Where such a direction is given—
  - (a) the appointed person is not to proceed to an examination under subsection (1) of section 12, and
  - (b) after the further steps specified in the direction have been taken the authority—
    - (i) may modify the proposed strategic development plan so as to take account of any representations made to them in consequence of their taking those steps (and of any minor drafting or technical matters), and
    - (ii) are to submit it (whether or not modified) to the Scottish Ministers together with a note of any representations so made and of whether those representations are taken account of in the plan (and if so to what extent) and a report as to the extent

to which the authority's actings with regard to consultation and involving the public at large have conformed with (or have gone beyond the requirements of) the specification of further steps.

- (6) But if the authority consider that modifications are requisite and are such as would change the underlying aims or strategy of the proposed plan they are not to modify it (or submit it unmodified to the Scottish Ministers) but are to prepare and publish under section 10(1) a new proposed strategic development plan.
- (7) Where a proposed strategic development plan is modified under subsection (5)(b)(i), the modified plan is to be published in such manner as was prescribed under section 9(6).
- (8) On submitting a proposed strategic development plan under subsection (5)(b)(ii), the strategic development planning authority are to advertise, in such manner as may be prescribed, that they have done so.
- (9) Sections 11 and 12, this section and section 13 apply in relation to a proposed strategic development plan so submitted as they apply in relation to such a plan submitted under section 10(3)(b).
- (10) Except that for the purposes of the application provided for in subsection (9), section 12 is to be construed as if—
  - (a) in subsection (1)(a), for the words “paragraph (a) of that section” there were substituted “section 12A(5)(b)(i)”, and
  - (b) in subsection (2), for the words “the participation statement of the authority which was current when the proposed plan was published under section 10(1)(a)” there were substituted “the further steps specified in the direction under section 12A(3)(a)”.

### **13 Proposed strategic development plan: approval or rejection**

- (1) The Scottish Ministers may, after receiving—
  - (a) a proposed strategic development plan by virtue of paragraph (b) of section 10(3), and
  - (b) (if they make a direction under subsection (1) of section 12), a report prepared under subsection (7)(a) of that section,
 either approve the proposed plan (in whole or in part and with or without modifications) or reject it.
- (2) If so approved, the proposed plan is constituted (as so approved) as the strategic development plan.
- (3) Subsection (1) is subject to the following subsections.
- (4) Where the Scottish Ministers—
  - (a) modify a proposed strategic development plan which has been examined under section 12, they are, in approving the plan, to set out in the instrument by which approval is given the modifications and the reasons for making them,

- (b) in considering a proposed strategic development plan which has not been so examined, from the intention of modifying it under subsection (1), they are—
  - (i) to publish in such manner as they think fit the modifications they intend to make and the reasons for making them, and
  - (ii) to consult with regard to the modifications the key agencies, the strategic development planning authority and such other persons (if any) as they consider appropriate.
- (5) Publication under subsection (4)(b)(i) is to include specification of a date (being a date not less than 6 weeks after the date of publication) by which any representations with respect to the intended modifications must be made to the Scottish Ministers.
- (6) Where a date is so specified, approval under subsection (1) is not to be given before that date.
- (7) The reference in subsection (1) to “modifications” is, where there has been publication under subsection (4)(b)(i), to be construed as a reference to—
  - (a) the intended modifications so published, or
  - (b) such modifications as the Scottish Ministers, having regard to any representations timeously made by virtue of subsection (5) and to any matters arising in consultation under subsection (4)(b)(ii), think fit.
- (8) The Scottish Ministers are to notify the strategic development planning authority of any representations made by virtue of subsection (5).

#### **14 Publication of and publicity for strategic development plan**

- (1) As soon as is reasonably practicable after the strategic development plan is constituted as mentioned in section 13(2), the strategic development planning authority are to—
  - (a) send two copies of it to the Scottish Ministers,
  - (b) publish it,
  - (c) place a copy of it in each public library in the strategic development plan area,
  - (d) both—
    - (i) notify each person who made representations under section 10 or 13 or by virtue of section 12A, and
    - (ii) advertise, in a local newspaper,that the strategic development plan has been published (including the means of publication) and is available for inspection in those libraries.
- (2) In subsection (1)(b), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).

### *Local development plans*

#### **15 Form and content of local development plans**

- (1) A local development plan is a plan in which is set out, for land in the part of the district to which it relates—
  - (a) a spatial strategy, being a detailed statement of the planning authority's policies and proposals as to the development and use of the land,
  - (b) such other matters as may be prescribed, and
  - (c) any other matter which the planning authority consider it appropriate to include.
- (2) Where the land is not within a strategic development plan area, a local development plan is also to set out a vision statement, that is to say a broad statement of the planning authority's views as to how the development of the land could and should occur and as to the matters (including the matters mentioned in subsection (5)) which might be expected to affect that development.
- (3) Where a local development plan contains policies or proposals for, or views as to, the occurrence of development on land owned by the planning authority, there is to be appended to the plan a schedule, in such form as may be prescribed, which identifies the land, states that it is so owned and refers to the policies, proposals or views in question.
- (4) A local development plan is, for the purpose of explaining or illustrating the proposals in the plan, to contain or be accompanied by—
  - (a) such maps, diagrams, illustrations and descriptive matter as may be prescribed, and
  - (b) such other diagrams, illustrations and descriptive matter (if any) as the planning authority think appropriate.
- (5) The matters referred to in subsection (2) are—
  - (a) the principal physical, economic, social and environmental characteristics of the district,
  - (b) the principal purposes for which the land is used,
  - (c) the size, composition and distribution of the population of the district,
  - (d) the infrastructure of the district (including communications, transport and drainage systems and systems for the supply of water and energy),
  - (e) how that infrastructure is used, and
  - (f) any change which the planning authority think may occur in relation to any of the matters mentioned in paragraphs (a) to (e).

#### **16 Preparation and monitoring of local development plans: general**

- (1) A planning authority are—
  - (a) as soon as practicable after the coming into force of section 2 of the Planning etc. (Scotland) Act 2006 (asp 17) and thereafter—
    - (i) whenever required to do so by the Scottish Ministers, or

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- (ii) subject to sub-paragraph (i), at intervals of no more than five years,
    - to prepare local development plans for all parts of their district, and
  - (b) to keep under review the plans so prepared.
- (2) In preparing a local development plan the planning authority—
  - (a) are to take into account the National Planning Framework,
  - (b) are to have regard to such information and considerations as may be prescribed, and
  - (c) may have regard to such other information and considerations as appear to them to be relevant.
- (3) Different local development plans may be prepared for different purposes for the same part of any district.
- (4) Parts of districts for which local development plans are prepared for some purpose need not have the same boundaries as parts for which they are prepared for another purpose.
- (5) Two (or more) planning authorities may prepare a joint local development plan extending to parts of each (or all) of their districts.
- (6) Where the land to which a local development plan (or joint local development plan) relates is within a strategic development plan area—
  - (a) the planning authority are in preparing the local development plan, or
  - (b) the planning authorities are in preparing the joint local development plan,to ensure that the plan prepared is consistent with the strategic development plan.
- (7) Where a planning authority fail to comply with subsection (1)(a), the Scottish Ministers may direct them to prepare a report as to the reasons for such failure and to submit that report to the Scottish Ministers.
- (8) In carrying out their duty under paragraph (b) of subsection (1), a planning authority are in particular to monitor—
  - (a) changes in the characteristics referred to in section 15(5)(a), and
  - (b) the impact of the policies and proposals contained within the local development plans.
- (9) A planning authority are—
  - (a) from time to time, and
  - (b) in any event whenever they publish a main issues report by virtue of that paragraph,to publish a statement as to the carrying out by them of their duty under that paragraph.
- (10) In subsection (9), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).

### **17 Main issues report for preparation of local development plan**

- (1) With a view to facilitating and informing their work in preparing a local development plan, a planning authority are to compile a report (a “main issues report”).
- (2) A main issues report compiled under this section is a report in which are set out—
  - (a) general proposals by the authority for development in their district and in particular proposals as regards where the development should be carried out (and where it should not), and
  - (b) general proposals which constitute a reasonable alternative (or reasonable alternatives) to those mentioned in paragraph (a).
- (3) The report is also—
  - (a) to include information sufficient to secure—
    - (i) that what is proposed can readily be understood by those persons who may be expected to desire an opportunity of making representations to the authority with respect to the report, and
    - (ii) that such representations can be meaningful, and
  - (b) to draw attention to any differences between the proposals for development mentioned in paragraphs (a) and (b) of subsection (2) and the spatial strategy set out in the authority’s local development plan (if any such plan is for the time being current).
- (4) In compiling the report the planning authority are to seek the views of, and have regard to any views expressed by—
  - (a) the key agencies, and
  - (b) such persons as may be prescribed.
- (5) It is the duty of a key agency to co-operate with the planning authority in the compilation of the authority’s main issues report.
- (6) The planning authority are to publish their main issues report in such manner as may be prescribed; and without prejudice to the generality of this subsection the regulations in question must so far as practicable secure—
  - (a) that the persons mentioned in subsection (3) are made aware that they are entitled to make such representations as are mentioned in that subsection, and
  - (b) that those persons are given an adequate opportunity to do so.
- (7) Subsection (6) is without prejudice to the right of any person whatsoever to make representations to the authority as respects the report.
- (8) Publication under that subsection is to include specification of a date by which any representations under this section must be made.
- (9) On the report being published under that subsection, the authority are to send a copy of it to the Scottish Ministers.

- (10) In subsection (6), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).

### **18 Preparation and publication of proposed local development plan**

- (1) After the date specified by virtue of subsection (8) of section 17, the planning authority are—
- (a) having regard to such representations as timeously may have been made to them as respects their main issues report, to prepare, and to publish in such manner as was prescribed under subsection (6) of that section, a proposed local development plan,
  - (b) to send a copy of that proposed plan to each key agency,
  - (c) to notify any person who timeously has made representations under section 17 that the proposed plan has been published and of where a copy of it is available for inspection (and at what reasonable times),
  - (d) to consult, with regard to the proposed plan, the key agencies and such persons as may be prescribed, and
  - (e) in such circumstances as may be prescribed, to give notice—
    - (i) in such form,
    - (ii) of such matter, and
    - (iii) to such persons,as may be specified in the regulations in question.
- (2) Publication under subsection (1)(a) is to include specification of a date (being a date not less than 6 weeks after the date of publication) by which any representations with respect to the proposed local development plan must be made to the authority.
- (3) After the date specified by virtue of subsection (2), the planning authority may modify the proposed local development plan so as to take account of—
- (a) any representations timeously made to them as respects that proposed plan (or of any matters arising out of representations so made),
  - (b) any matters arising in consultation under subsection (1)(d), and
  - (c) any minor drafting or technical matters.
- (4) Where the authority decide to make no modifications under subsection (3), or any modifications under that subsection are not of a kind prescribed for the purposes of subsection (5) (or mentioned in subsection (8)), the authority—
- (a) are to submit the proposed local development plan to the Scottish Ministers together with—
    - (i) a report as to the extent to which the authority’s actions with regard to consultation and the involvement of the public at large have conformed with (or have gone beyond the requirements of) the authority’s current participation statement, and
    - (ii) a copy of their proposed action programme for the plan,
  - (b) are to publish the plan in such manner as may be prescribed, and
  - (c) if no request is to be made under section 19(1) are, in so publishing it, to advertise their intention to adopt it.

- (5) Where the authority make under subsection (3) modifications of a prescribed kind, the authority are—
- (a) to publish in such manner as was prescribed under section 17(6) the proposed local development plan as modified, and
  - (b) to give notice—
    - (i) in such form,
    - (ii) of such matter, and
    - (iii) to such persons,
 as may be specified in the regulations in question.
- (6) Publication under subsection (5)(a) is to include specification of a date (being a date not less than 6 weeks after the date of publication) by which any representations with respect to the proposed local development plan must be made to the authority and, after that date, the authority may further modify the proposed plan so as to take account of—
- (a) any representations timeously made to them as respects that proposed plan (or of any matters arising out of representations so made), and
  - (b) any minor drafting or technical matters.
- (7) Subsections (4) and (5) apply in respect of modifications under subsection (6) as they apply in respect of modifications under subsection (3).
- (8) But if the authority consider that modifications are requisite and are such as would change the underlying aims or strategy of the proposed plan (in subsection (9) referred to as the “original plan”) they are not to modify it (or submit it or publish it unmodified) but are to prepare and publish under subsection (1) a new proposed local development plan.
- (9) In its application to any such new plan subsection (1) is to be construed as if references to representations made timeously as respects the main issues report (and to any person timeously making representations) included references to representations so made as respects the original plan (and to any person so making representations with respect to the original plan).
- (10) It is the duty of a key agency to co-operate with the planning authority in the preparation of the authority’s proposed local development plan.

### **19 Examination of proposed local development plan**

- (1) On submitting a proposed local development plan under paragraph (a) of section 18(4), a planning authority are, if the circumstances are as mentioned in subsection (2), to request the Scottish Ministers to make an appointment under subsection (3).
- (2) The circumstances are that representations timeously made were not taken account of (or not fully taken account of) in modifications under subsection (3) or (6) of section 18 and have not been withdrawn.
- (3) If, when a proposed development plan is submitted to the Scottish Ministers under paragraph (a) of section 18(4)—
  - (a) a request is made under subsection (1), or
  - (b) no such request is made but it appears to them that the circumstances are as mentioned in subsection (2),



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they are to appoint a person to examine under this subsection the proposed plan.

- (4) But where an appointment is made under subsection (3), the appointed person is firstly to examine under this subsection the extent to which the planning authority's actings with regard to consultation and the involvement of the public at large as respects the proposed plan have conformed with (or have been beyond the requirements of) the participation statement of the authority which was current when the proposed plan was published under section 18(1)(a).
- (5) The Scottish Ministers may make regulations as to—
- (a) meeting general administrative costs, staff costs and overheads incurred in relation to an examination under subsection (3) or (4),
  - (b) procedures to be followed at such an examination, and
  - (c) what is to be assessed in such an examination and matters by reference to which the assessment is to be made;
- but the form the examination is to take (as for example whether it should be in public or as to whether persons who have made representations, and other persons, are to be heard or are to present written submissions) is to be at the discretion of the appointed person.
- (6) When a person is appointed under subsection (3), the planning authority are—
- (a) to advertise the forthcoming examination of the proposed plan in a local newspaper and in the public libraries within the part of the authority's district to which the proposed plan relates, and
  - (b) to serve notice of that examination on each of the persons who have made the representations mentioned in subsection (2).
- (7) No such examination as is mentioned in subsection (3) is to be commenced—
- (a) within 4 weeks after the appointment is made, and
  - (b) where a report is submitted under subsection (1)(b) of section 19A, before a direction is given under subsection (3)(b) of that section.
- (8) On completing his examination under subsection (3) the appointed person is to—
- (a) prepare a report—
    - (i) setting out, and giving reasons for, his conclusions and recommendations (which may include recommendations for amendments to the proposed local development plan), and
    - (ii) as to the matters considered by him under subsection (4),
  - (b) submit it to the planning authority,
  - (c) publish it, and
  - (d) serve on the persons mentioned in paragraph (b) of subsection (6), and on any person who made representations by virtue of section 19A, notice of the report's submission and publication (including the means of publication).
- (9) In subsection (8)(c), “publish” includes, without prejudice to that expression's generality, publish by electronic means (as for example by means of the internet).
- (10) The planning authority are, on receiving a report submitted under subsection (8) (b)—

- (a) to make—
    - (i) (except in so far as they decline to do so, on such grounds as may be prescribed for the purposes of this sub-paragraph) such modifications, if any, to the proposed local development plan as the appointed person recommends, and
    - (ii) such other modifications to it, if any, as appear to them to be requisite having regard to the report,
  - (b) to publish the modifications made, together with the proposed plan as modified (or, if no modifications are made, to publish the proposed plan) in such manner as may be prescribed,
  - (c) in so publishing the proposed plan (whether or not modified), to advertise their intention to adopt it, and
  - (d) to notify each person who made representations under section 18 that the proposed plan has been published and of where a copy of it is available for inspection (and at what reasonable times).
- (11) But the authority may, before complying with subsection (10), secure the carrying out of an environmental assessment (within the meaning of the Environmental Assessment (Scotland) Act 2005 (asp 15)) in relation to the proposed plan as so modified; and if they do so then paragraph (a) of that subsection is to be construed as subject to the qualification that any modification made must, in the opinion of the authority, be acceptable having regard to that assessment.
- (12) The planning authority are, within 3 months after receiving a report submitted under subsection (8)(b), to send to the Scottish Ministers a copy of each of the following—
- (a) the modifications, if any, made under sub-paragraph (i) of subsection (10)(a),
  - (b) where a modification recommended by the appointed person is not made, a statement setting out the recommendation and explaining (by reference to the grounds prescribed for the purposes of that sub-paragraph) why it is not made,
  - (c) the proposed plan (whether or not modified),
  - (d) the report,
  - (e) any environmental assessment carried out by virtue of subsection (11), and
  - (f) the advertisement mentioned in subsection (10)(c).

#### **19A Further provision as regards examination under section 19(4)**

- (1) If, having conducted an examination under subsection (4) of section 19, the appointed person is not satisfied with the actings mentioned in that subsection he is to—
- (a) prepare a report setting out his reasons for not being satisfied and recommending that the authority take such further steps with regard to—
    - (i) consultation, or
    - (ii) involving the public at large,
 as are specified in the report,

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- (b) submit it to the Scottish Ministers, and
  - (c) send a copy of it to the planning authority.
- (2) The authority may, within 4 weeks after receiving that copy, make representations to the Scottish Ministers as regards the report.
- (3) The Scottish Ministers, provided that 4 weeks have elapsed since they received the report, may—
  - (a) direct the authority to take such further steps with regard to—
    - (i) consultation, or
    - (ii) involving the public at large,as are specified in the direction, or
  - (b) direct the appointed person to proceed to an examination under subsection (3) of section 19.
- (4) In giving a direction under paragraph (a) of subsection (3) the Scottish Ministers are to have regard to the appointed person's recommendations under paragraph (a) of subsection (1) and to any representations made under subsection (2).
- (5) Where such a direction is given—
  - (a) the appointed person is not to proceed to an examination under subsection (3) of section 19, and
  - (b) after the further steps specified in the direction have been taken the authority—
    - (i) may modify the proposed local development plan so as to take account of any representations made to them in consequence of their taking those steps (and of any minor drafting or technical matters), and
    - (ii) are to submit it (whether or not modified) to the Scottish Ministers together with a note of any representations so made and of whether those representations are taken account of in the plan (and if so to what extent) and a report as to the extent to which the authority's actions with regard to consultation and involving the public at large have conformed with (or have gone beyond the requirements of) the specification of further steps.
- (6) But if the authority consider that modifications are requisite and are such as would change the underlying aims or strategy of the proposed plan they are not to modify it (or submit it unmodified to the Scottish Ministers) but are to prepare and publish under section 18(1) a new proposed local development plan.
- (7) Where a proposed local development plan is modified under subsection (5)(b)(i), the modified plan is to be published in such manner as is prescribed under section 18(4)(b).
- (8) On submitting a proposed local development plan under subsection (5)(b)(ii), the planning authority are to advertise, in such manner as may be prescribed, that they have done so.
- (9) Section 19 and this section apply in relation to a proposed local development plan so submitted as they apply in relation to such a plan submitted under section 18(4)(a).

- (10) Except that for the purposes of the application provided for in subsection (9), section 19 is to be construed as if—
- (a) in subsection (2), for the words “subsection (3) or (6) of section 18” there were substituted “section 19A(5)(b)(i)”, and
  - (b) in subsection (4), for the words “the participation statement of the authority which was current when the proposed plan was published under section 18(1)(a)” there were substituted “the further steps specified in the direction under section 19A(3)(a)”.

## **20 Constitution of local development plan**

- (1) On being adopted by the planning authority the proposed local development plan is constituted as the local development plan.
- (2) But subsection (1) is subject to any direction made under subsection (7) and does not apply if such adoption is in contravention of subsection (3) or (6) (the reference to subsection (3) including a reference to subsection (3) as applying by virtue of a direction made under subsection (4)).
- (3) A proposed local development plan is not to be so adopted before a period of 28 days has elapsed after the planning authority’s intention to adopt it is advertised under section 18(4)(c) or 19(10)(c).
- (4) The Scottish Ministers may, as regards a particular proposed local development plan submitted to them, direct that subsection (3) is to apply as if, for the period mentioned in the subsection there were substituted such longer period as is specified in the direction.
- (5) At any time during the period mentioned in subsection (3), or as the case may be specified in a direction under subsection (4), the Scottish Ministers may, if it appears to them that the proposed plan is unsatisfactory, direct the authority to consider modifying it in such respects as are indicated in the direction.
- (6) A planning authority given a direction under subsection (5) are not to adopt the proposed plan unless—
  - (a) they satisfy the Scottish Ministers that they have made the modifications necessary to conform with the direction, or
  - (b) the Scottish Ministers withdraw the direction.
- (7) At any time before a proposed local development plan submitted to the Scottish Ministers has been adopted by the planning authority, the Scottish Ministers may direct that the proposed plan is to be constituted not on being so adopted but if and when approved by the Scottish Ministers.

## **20A Publication of and publicity for local development plan**

- (1) As soon as is reasonably practicable after the local development plan is constituted as mentioned in section 20(1), the planning authority are to—
  - (a) send two copies of it to the Scottish Ministers,
  - (b) publish it,
  - (c) place a copy of it in each public library in the part of the district to which it relates,

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- (d) both—
  - (i) notify each person who made representations under section 18 or by virtue of section 19A, and
  - (ii) advertise, in a local newspaper,that the local development plan has been published (including the means of publication) and is available for inspection in those libraries.
- (2) In subsection (1)(b), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).

### *Development plan schemes and action programmes*

#### **20B Development plan schemes**

- (1) A development plan scheme is to be prepared by each strategic development planning authority and by each planning authority.
- (2) The authority in question is to prepare the scheme—
  - (a) whenever required to do so by the Scottish Ministers, and
  - (b) (subject to paragraph (a)) whenever the authority think it appropriate to do so but in any event within 1 year after last preparing such a plan.
- (3) A development plan scheme is a document setting out the authority’s programme for preparing and reviewing their strategic development plan or as the case may be their local development plans.
- (4) Without prejudice to the generality of subsection (3), “programme” in that subsection includes, having regard to the provisions of this Part—
  - (a) proposed timetabling,
  - (b) details of what is likely to be involved at each stage of preparation or review, and
  - (c) an account (in this Part referred to as an authority’s “participation statement”) of when consultation is likely to take place and with whom and of its likely form and of the steps to be taken to involve the public at large in the stages of preparation or review.
- (5) As soon as is reasonably practicable after a development plan scheme has been adopted, the authority which prepared it are to—
  - (a) send two copies of it to the Scottish Ministers,
  - (b) publish it, and
  - (c) place a copy of it in each public library in the strategic development plan area or the area of the planning authority, as the case may be.
- (6) In subsection (5)(b), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).
- (7) Regulations may make provision as to—
  - (a) the form and content of, and
  - (b) the procedures for preparing and adopting,a development plan scheme.

## 21 Action programmes

- (1) A strategic development planning authority who prepare a strategic development plan are to prepare an action programme for the plan.
- (2) A planning authority who prepare a local development plan are to prepare an action programme for the plan.
- (3) In preparing the action programme the authority in question are to seek the views of, and have regard to any views expressed by—
  - (a) the key agencies, and
  - (b) such persons as may be prescribed.
- (4) When an authority publish a proposed—
  - (a) strategic development plan under section 10(1)(a), or
  - (b) local development plan under section 18(1)(a),they are to publish a proposed action programme for the plan.
- (5) It is the duty of a key agency to co-operate with the authority in question in the preparation of the authority's action programme or proposed action programme.
- (6) An action programme is a document setting out how the authority in question propose to implement the plan to which it relates.
- (7) Regulations may make provision as to—
  - (a) the form and content of, and
  - (b) the procedures for preparing and adopting,an action programme.
- (8) The authority are to adopt and publish the action programme within 3 months after the date on which the plan to which it relates is constituted.
- (9) The authority must keep the action programme under review and must update and re-publish it—
  - (a) whenever required to do so by the Scottish Ministers, and
  - (b) (subject to paragraph (a)) whenever they think it appropriate to do so but in any event within 2 years after last publishing (or re-publishing) it.
- (10) When they publish, or re-publish, an action programme, the authority are to—
  - (a) send two copies of it to the Scottish Ministers, and
  - (b) place a copy of it in each public library—
    - (i) in the case of a strategic development planning authority, in the strategic development plan area, and
    - (ii) in the case of a planning authority, in the part of the authority's district to which the local development plan in question relates,and such publication, or re-publication, is to include by electronic means (as for example by means of the internet).

### *Supplementary guidance*

#### **22 Supplementary guidance**

- (1) A strategic development planning authority may, under this subsection, adopt and issue guidance in connection with a strategic development plan and a planning authority may, under this subsection, adopt and issue guidance in connection with a local development plan (such guidance being, in either case, referred to in this Part as “supplementary guidance”).
- (2) Regulations may make provision as to—
  - (a) procedures for, and as to consultation which must precede, the adoption of, and
  - (b) the matters which may be dealt with in, supplementary guidance.
- (3) Subject to any such regulations, the authority proposing to adopt and issue supplementary guidance are to take such steps as will in their opinion secure—
  - (a) that adequate publicity of the proposal is given in their district or as the case may be in their strategic development plan area,
  - (b) that persons who may be expected to wish to make representations to the authority about the proposal are made aware that they are entitled to do so, and
  - (c) that such persons are given an adequate opportunity of making such representations.
- (4) Such publicity as is given under subsection (3)(a) is to include intimation of a date by which any such representations require to be received by the authority.
- (5) The authority are, before adopting and issuing the supplementary guidance, to consider any such representations timeously made to them.
- (6) A copy of the proposed supplementary guidance must be submitted to the Scottish Ministers and a period of at least 28 days must then elapse before the supplementary guidance is adopted and issued.
- (7) The Scottish Ministers may, as regards a particular submission to them under subsection (6), direct that the subsection is to apply as if, for the period mentioned in it, there were substituted such longer period as is specified in the direction.
- (8) At any time before the supplementary guidance is adopted the Scottish Ministers may by notice require the authority to make such modifications to it as are specified in the notice or may direct the authority not to adopt and issue it.
- (9) Guidance may be adopted and issued other than under subsection (1)—
  - (a) by a strategic development planning authority, in connection with a strategic development plan, or
  - (b) by a planning authority, in connection with a local development plan, provided that the matters dealt with in that guidance are not matters for the time being specified, in regulations under subsection (2)(b), as matters which may be dealt with in supplementary guidance.

### *Supplementary provisions*

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

- (1) Where subsection (2) applies—
  - (a) neither the Scottish Ministers nor a strategic development planning authority need consider representations with respect to—
    - (i) a main issues report compiled under section 9, or
    - (ii) a proposed strategic development plan, and
  - (b) neither the Scottish Ministers nor a planning authority need consider representations with respect to—
    - (i) a main issues report compiled under section 17, or
    - (ii) a proposed local development plan.
- (2) This subsection applies where it appears to the Scottish Ministers or the authority, as the case may be, that those representations are in substance representations 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 Roads (Scotland) Act 1984 (c. 54) (trunk road orders, special road schemes and orders for other public roads), or
  - (b) an order under section 1 of the New Towns (Scotland) Act 1968 (c. 16) (designation of sites of new towns).

#### **23A Regulations under this Part**

- (1) Regulations under this Part may extend throughout Scotland or to specified areas only and may make different provision for different cases.
- (2) Subject to the previous provisions of this Part and to any such regulations, the Scottish Ministers may give directions to any planning authority or strategic development planning authority, or to planning authorities or strategic development planning authorities generally for—
  - (a) formulating the procedure for the carrying out of functions under this Part, or
  - (b) requiring them to give the Scottish Ministers such information as the Scottish Ministers may require for carrying out functions under this Part.

#### **23B Default powers of the Scottish Ministers**

- (1) This section applies where—
  - (a) under any of the previous sections of this Part, any strategic development plan or local development plan requires to be prepared, any main issues report requires to be compiled or any proposed strategic development plan or proposed local development plan requires to be submitted to the Scottish Ministers, or steps are required to be taken for the adoption of a proposed local development plan, and



- (b) the Scottish Ministers are satisfied that the authority in question—
  - (i) are not, within a reasonable period, doing what is required, or
  - (ii) have not met a time limit specified in any of those provisions for doing what is required (or some part of what is required).
- (2) Where this section applies, the Scottish Ministers may—
  - (a) direct the authority in question (the “defaulting authority”) to carry out that authority’s functions in relation to the matter and may specify in the direction the factors to be taken into account or objectives to be achieved by that authority in so doing, or
  - (b) prepare a strategic development plan or local development plan.
- (3) Where this section applies and the defaulting authority is a strategic development planning authority, the Scottish Ministers may authorise one of the planning authorities which the defaulting authority comprises to do what is required on behalf of the defaulting authority.
- (4) The previous sections of this Part apply, so far as applicable and with any necessary modifications, in relation to the doing of anything—
  - (a) under subsection (2)(b) by the Scottish Ministers, or
  - (b) by virtue of subsection (3) by an individual planning authority,as they apply in relation to the doing of anything by the defaulting authority.
- (5) The defaulting authority—
  - (a) must on demand repay to the Scottish Ministers so much of any expenses incurred by the Scottish Ministers in connection with the doing of anything which should have been done by the defaulting authority as the Scottish Ministers certify to have been incurred in the performance of the defaulting authority’s functions, and
  - (b) must repay to a planning authority who by virtue of subsection (3) do anything which should have been done by the defaulting authority, any expenses certified by the Scottish Ministers to have been reasonably incurred by the planning authority in connection with the doing of that thing.

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

As soon as practicable after an order has been made under paragraph 5 of Schedule 32 to the Local Government, Planning and Land Act 1980 (c. 65) (designation of enterprise zone scheme) or a notification has been given under paragraph 11 of that Schedule (modification of such a scheme)—

- (a) a strategic development planning authority for a strategic development plan area in which the enterprise zone is wholly or partly situated are, in the light of the provisions of the scheme or modified scheme, to review the strategic development plan for that area, and
- (b) a planning authority for a district in which the enterprise zone is wholly or partly situated are, in that light, to review any local development plan which relates to land situated both in the district and in the zone.

**23D Meaning of “key agency”**

Any reference in a provision of this Part to a “key agency” is to a body which the Scottish Ministers specify as such for the purposes of that provision by regulations.

**24 Meaning of “development plan”**

- (1) For the purposes of this Act, any other enactment relating to town and country planning and the Land Compensation (Scotland) Act 1963 (c. 51), the development plan for any strategic development plan area is to be taken as consisting—
  - (a) of the provisions of the strategic development plan for the time being in force for the area, together with—
    - (i) the Scottish Ministers' notice of approval of that plan, and
    - (ii) any supplementary guidance issued in connection with that plan, and
  - (b) of the provisions of any local development plan for the time being applicable to the area, together with—
    - (i) the planning authority's resolution of adoption of, or as the case may be the Scottish Ministers' notice of approval of, that plan, and
    - (ii) any supplementary guidance issued in connection with that plan.
- (2) For the purposes mentioned in subsection (1), the development plan for any other area (whether the whole or part of the district of a planning authority) is to be taken as consisting as mentioned in paragraph (b) of that subsection.
- (3) A reference in subsection (1)(b) to provisions of a plan, to a notice of approval or to a resolution of adoption is, in relation to an area forming part of the district to which they are, or as the case may be it is, applicable, to be construed as a reference to so much of the provisions, notice or resolution as is applicable to the area.
- (4) A reference in subsection (1) to a notice of approval is, in relation to any plan made by the Scottish Ministers under section 23B, to be construed as a reference to a notice of the making of the plan.
- (5) This section has effect subject to Schedule 1 (old development plans).

*General***25 Status of development plan**

- (1) Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise—
  - (a) to be made in accordance with that plan, and
  - (b) if the development in question is a national development, to be made in accordance with any statement under section 3A(5) which—

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- (i) relates to that national development,
  - (ii) is expressed as applying for the purposes of development management, and
  - (iii) is to the effect that the development in question (or a development such as the development in question) could and should occur.
- (2) For the purposes of paragraph (b) of subsection (1)—
- (a) statements in the National Planning Framework which do not fall within sub-paragraphs (i) and (ii) of the paragraph are to be treated as “material considerations” (but this paragraph is without prejudice to the generality of that expression), and
  - (b) in the event of any incompatibility between the National Planning Framework and the development plan, whichever of them is the later in date is to prevail.
- (3) For the purposes of subsection (2)(b)—
- (a) the date of the National Planning Framework is the latest date on which it was published under section 3A(6) or (8),
  - (b) the date of a strategic development plan is the date on which it was published under section 14(1) (the date of any supplementary guidance issued being disregarded), and
  - (c) the date of a local development plan is the date on which it was constituted under section 20 (the date of any supplementary guidance issued being disregarded).”.