
Status: This version of this Instrument contains provisions that are prospective.
Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Town and Country Planning (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCOTTISH STATUTORY INSTRUMENTS

2009 No. 343

TOWN AND COUNTRY PLANNING

The Town and Country Planning (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2009

Made - - - - 7th October 2009
Laid before the Scottish Parliament - - - - 8th October 2009
Coming into force - - 16th November 2009

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 19(5), 40, and 275 of the Town and Country Planning (Scotland) Act 1997⁽¹⁾, section 2(2) of the European Communities Act 1972⁽²⁾ and all other powers enabling them to do so.

PROSPECTIVE

Citation and commencement

1. These Regulations may be cited as the Town and Country Planning (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2009 and come into force on 16th November 2009.

Commencement Information

II Reg. 1 in force at 16.11.2009, see [reg. 1](#)

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

2.—(1) The Conservation (Natural Habitats, &c.) Regulations 1994⁽³⁾ are amended in accordance with paragraph (2).

(2) In regulation 85A(1) (interpretation) in sub-paragraph (c) of the definition of “plan making authority” for “23A” substitute “23B”.

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- (1) 1997 c.8. Section 19(5) was 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 were transferred to the Scottish Ministers by virtue of section 53 of the [Scotland Act 1998](#) ([c.46](#)).
- (2) 1972 c.68. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the [Scotland Act 1998](#) ([c.46](#)).
- (3) [S.I. 1994/2716](#) as relevantly amended by [S.I. 2007/1843](#) and [S.S.I. 2007/80](#) and [2009/427](#).

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Commencement Information

I2 Reg. 2 in force at 16.11.2009, see [reg. 1](#)

Amendment of the Environmental Impact Assessment (Scotland) Regulations 1999

3.—(1) Subject to paragraph (6), the Environmental Impact Assessment (Scotland) Regulations 1999⁽⁴⁾ are amended in accordance with paragraphs (2) to (5).

- (2) Omit regulation 2A(4)(b) (use of electronic communications).
- (3) In regulation 19 (further information and evidence relating to environmental statements)—
 - (a) in paragraph (2) omit—
 - (i) “or” at the end of paragraph (a);
 - (ii) paragraph (b); and
 - (iii) “or appeal procedure as the case may be”; and
 - (b) in paragraph (2A) omit “or for the purposes of an appeal under section 130 of the Act” and “or appeal procedure as the case may be”.
- (4) Omit regulations 29 to 39 (unauthorised development).
- (5) In regulation 43 (application to the Court of Session), omit “or 29”.

(6) Regulations 2A(4)(b), 19(2) and (2A), 29 to 39 and 43 continue to have effect in relation to an appeal made under section 130 (appeal against enforcement notice) of the Town and Country Planning (Scotland) Act 1997 in respect of which notice of appeal was given to the Scottish Ministers under section 130(2) before 3rd August 2009 as they had effect immediately before the date on which these Regulations come into force.

Commencement Information

I3 Reg. 3 in force at 16.11.2009, see [reg. 1](#)

Amendment of The Town and Country Planning (Development Planning) (Scotland) Regulations 2008

4.—(1) The Town and Country Planning (Development Planning) (Scotland) Regulations 2008⁽⁵⁾ are amended in accordance with paragraph (2).

- (2) In regulation 30(3) (transitional provisions – local plans)—
 - (a) in paragraph (a)(ii) after “local plan” insert “or, as the case may be, a proposal to alter, repeal or replace a local plan”; and
 - (b) in paragraph (b) for the definition of “unresolved representations” set out in that paragraph substitute—

““unresolved representations” means any objections to a local plan or a proposal to alter, repeal or replace a local plan, as the case may be, timeously made to the planning authority (and not subsequently withdrawn) following the local plan or proposal being made available for inspection under section 12(3)(a) of the Act (as that section applied immediately before the relevant date).””.

(4) S.S.I. 1999/1 as relevantly amended by S.S.I. 2004/332 and 2006/614.

(5) S.S.I. 2008/426 as amended by S.S.I. 2009/220.

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Commencement Information

I4 Reg. 4 in force at 16.11.2009, see [reg. 1](#)

St Andrew's House,
Edinburgh
7th October 2009

STEWART STEVENSON
Authorised to sign by the Scottish Ministers

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PROSPECTIVE

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make minor amendments to the Conservation (Natural Habitats, &c.) Regulations 1994 (“the 1994 Regulations”), the Environmental Impact Assessment (Scotland) Regulations 1999 (“the 1999 Regulations”) and the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 (“the 2008 Regulations”).

Regulation 2 amends the 1994 Regulations to correct an erroneous reference to a statutory provision.

Regulation 3 amends the 1999 Regulations to remove Chapter 9 and related provisions, subject to saving provisions in respect of appeals made under section 130 of the 1997 Act before 3rd August 2009. These provisions are no longer required following the repeal of sections 130(1)(a) and 133(1)(a) to (c) of the Town and Country Planning (Scotland) Act 1997 by the Schedule to the Planning etc. (Scotland) Act 2006.

Regulation 4 amends the transitional provisions in the 2008 Regulations as they apply to examinations of a local plan or proposals to alter, repeal or replace a local plan.

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Changes and effects yet to be applied to :

- reg. 1 coming into force by [S.S.I. 2009/343 reg. 1](#)
- reg. 2 coming into force by [S.S.I. 2009/343 reg. 1](#)
- reg. 3 coming into force by [S.S.I. 2009/343 reg. 1](#)
- reg. 4 coming into force by [S.S.I. 2009/343 reg. 1](#)
- reg. 4 revoked by [S.S.I. 2023/101 sch. 4](#)