
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 101

The Town and Country Planning (Development Planning) (Scotland) Regulations 2023

PART 1

Introductory

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Development Planning) (Scotland) Regulations 2023 and come into force on 19 May 2023.

(2) In these Regulations—

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

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

(3) 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.

Preparation of evidence report

4. For the purposes of section 16B of the Act “Gypsies and Travellers” means persons, whatever their race or origin, who are—

(a) of or from a nomadic cultural tradition including—

- (i) members of Gypsy, Romany and Traveller ethnic groups including Roma Gypsies, Scottish Gypsy Travellers and Irish Travellers,
 - (ii) persons who have ceased to travel temporarily or permanently,
- (b) members of an organised group of Travelling Showpeople or circus people (whether or not travelling together as such).

Procedure in relation to assessment of evidence report

5.—(1) Subject to paragraphs (2) and (3), 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, within 14 days of receiving notification under regulation 3 send to, or otherwise (for example by means of the internet) make available to, the appointed person a copy of any document referred to in the evidence report.

(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 assessment of the evidence report.

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

6. 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 authority.

PART 3

Local Development Plans

Maps to be included in local development plan

7.—(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

8.—(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

9.—(1) The information and considerations specified in paragraph (2) are for the purposes of section 16(2)(b) of the Act information and considerations to which the planning authority are to have regard to in preparing a local development plan.

- (2) The information and considerations are—
- (a) any regional spatial strategy prepared under section 4ZA(1) of the Act for the local development plan area or an area adjoining the local development plan area,
 - (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) where the local development plan area adjoins land in England, any document which forms part of the development plan(2) for the area in which that land is situated,
 - (e) the following plans and strategies, insofar as relating to the local development plan area—
 - (i) the national waste management plan,
 - (ii) the national marine plan,
 - (iii) any regional marine plan,
 - (iv) any river basin management plan,
 - (v) any flood risk management plan,
 - (vi) any local flood risk management plan,
 - (vii) any regional transport strategy,
 - (viii) any local transport strategy,
 - (ix) any local housing strategy,
 - (x) any open space strategy published under section 3G(3) of the Act.
 - (f) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment,
 - (g) the need in the long term—
 - (i) to maintain appropriate safety distances between residential areas, buildings and areas of public use, recreational areas and, as far as possible, major transport routes and—
 - (aa) establishments covered by the Directive,
 - (bb) major accident hazard pipelines,
 - (ii) to protect areas of particular natural sensitivity or interest in the vicinity of establishments or major accident hazard pipelines, 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 2015(4) so as not to increase the risks to human health and the environment.
 - (h) the resources available or likely to be available for the carrying out of the policies and proposals set out in the local development plan.

(1) Section 4ZA is inserted by section 5 of the Planning (Scotland) Act 2019 (asp 13).

(2) Section 38 of the Planning and Compulsory Purchase Act 2004 (c. 5) sets out the meaning of “development plan” for an area of land in England.

(3) Section 3G is inserted by section 3 of the Planning (Scotland) Act 2019.

(4) S.I. 2015/483 to which there are amendments which are not directly relevant to these regulations.

(3) In this regulation—

“Directive” means [Directive 2012/18/EU](#) of the European Parliament and of the Council on the control of major accident hazards involving dangerous substances, amending and subsequently repealing Council [Directive 96/82/EC](#), as it had effect immediately before IP completion day⁽⁵⁾, and expressions which are used in regulation 9(2)(f) and (g) and which are also used in the Directive have the same meaning as in the Directive,

“flood risk management plan” means a flood risk management plan approved by the Scottish Ministers under section 32 of the Flood Risk Management (Scotland) Act 2009⁽⁶⁾,

“local flood risk management plan” means a local flood risk management plan finalised in accordance with section 36 of the Flood Risk Management (Scotland) Act 2009,

“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⁽⁷⁾,

“local transport strategy” has the same meaning as in section 82(1) of the Transport (Scotland) Act 2001⁽⁸⁾,

“major accident hazard pipeline” has the same meaning as in the Pipelines Safety Regulations 1996⁽⁹⁾,

“national marine plan” and “regional marine plan” have the same meaning as in the Marine (Scotland) Act 2010⁽¹⁰⁾,

“national waste management plan” has the same meaning as in the National Waste Management Plan for Scotland Regulations 2007⁽¹¹⁾,

“regional transport strategy” means a transport strategy approved by the Scottish Ministers under section 6 of the Transport (Scotland) Act 2005⁽¹²⁾,

“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 (Scotland) Act 2003⁽¹³⁾.

Publication of proposed local development plan

10.—(1) The manner of publication 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),

(5) OJ L 197, 24.7.2012. p. 1.

(6) 2009 asp 6 to which there are amendments which are not directly relevant to these regulations.

(7) 2001 asp 10 as amended by section 10 of the Housing (Scotland) Act 2006 (asp 1).

(8) 2001 asp 2 to which there are amendments which are not directly relevant to these regulations.

(9) S.I. 1996/825 to which there are amendments which are not relevant to these regulations.

(10) 2010 asp 5 to which there are amendments which are not directly relevant to these regulations.

(11) S.S.I. 2007/251 as relevantly amended by S.S.I. 2011/226 and S.S.I. 2020/314.

(12) 2005 asp 12 to which there are amendments which are not directly relevant to these regulations.

(13) 2003 asp to which there are amendments which are not directly relevant to these regulations.

- (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⁽¹⁴⁾,
- (b) sending a notice containing that information to—
- (i) the key agencies,
 - (ii) the Scottish Ministers,
 - (iii) a planning authority for the land which adjoins the local development plan area, and
 - (iv) 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.
- (3) In this regulation—
- “community council” means a community council established in accordance with Part IV of the Local Government (Scotland) Act 1973⁽¹⁵⁾,
- “key agencies” means the bodies specified as a key agency by regulation 25.

Consultation on proposed local development plan

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

Notification of publication of proposed local development plan

12.—(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, 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”.

(3) In this regulation, “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 for development.

⁽¹⁴⁾ Section 18(2) of the Town and Country Planning (Scotland) Act 1997 as amended by section 7(8)(e) of the Planning (Scotland) Act 2019 (asp 13) requires publication under section 18(1)(a) to include specification of a date (being a date not less than 12 weeks after the date of publication) by which any representations with respect to the proposed local development plan must be made to the planning authority.

⁽¹⁵⁾ 1973 c. 65. There are amendments to Part IV which are not directly relevant to these Regulations.

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

13.—(1) The manner of publication for the purposes of section 19(5A)(16) 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 modifications 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 “modifications 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

14.—(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,

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

Notification of appointment of appointed person - examination

15. 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

16.—(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 15—

- (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 in accordance with the Environmental Assessment (Scotland) Act 2005(17) and copies of opinions expressed in response to the invitations referred to in section 16(1) and (2)(a)(iii) of that 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 provided, 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

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

Further representations or information - examination

18.—(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 request such further representations or information and is to do so by giving notice (a “procedure notice”) to that effect to—

- (a) the planning authority,
 - (b) any other person from whom the appointed person wishes to receive further representations or information.
- (2) The appointed person may make a request under paragraph (1) at any stage of the examination.
- (3) The procedure notice to be given under paragraph (1) is to—
- (a) set out the matters on which such further representations or information is requested,
 - (b) specify the date by which such further representations or information are to be sent to the appointed person, and
 - (c) state the name and address of any person to whom the procedure notice is given.

(4) Any further representations made or information provided in response to the procedure notice (the “procedure notice response”) are to be sent to the appointed person on or before the date specified for that purpose in the procedure notice and a copy of any procedure notice response is to be sent on or before that date to any other person to whom the procedure notice was given.

(5) Within a period of 14 days from receipt of a copy of the procedure notice response, any person to whom the procedure notice was given—

- (a) may send comments to the appointed person in reply to the procedure notice response, and
- (b) must, when doing so, send a copy of such comments to any other person to whom the procedure notice was given.

(6) In this regulation—

“procedure notice” has the meaning given in paragraph (1),

“procedure notice response” has the meaning given in paragraph (4).

Expenses of examination

19. 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 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

20.—(1) The manner of publication for the purposes of section 20A(1A)(a)(**18**) 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

21.—(1) The manner of publication 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

22.—(1) In addition to those matters specified by section 20B of the Act, a development plan scheme is to indicate the anticipated timetable for constitution of the local development plan and must specify the quarter in which the planning authority expects to—

- (a) publish its evidence report and its proposed local development plan,
- (b) submit its proposed local development plan to the Scottish Ministers,
- (c) adopt the proposed local development plan.

(2) If the timetable included in the development plan scheme differs 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.

(3) In this regulation—

- (a) references to a “quarter” are to a quarter of the financial year (April- March) and means a period of three months ending at the end of June (“quarter 1”), at the end of September (“quarter 2”), at the end of December (“quarter 3”) or at the end of March (“quarter 4”), and
- (b) a requirement to specify the quarter is a requirement to specify the numbered quarter (as numbered in paragraph (a)) and year in which in which an action is expected to be done.

Proposed delivery programmes - publication and consultation

23.—(1) Publication of a proposed delivery programme under section 21(4) of the Act 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 delivery programme 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 delivery programme,
 - (iii) details of how further information may be obtained regarding the proposed delivery programme, including that it is to be published on the internet under paragraph (c),

- (iv) a statement that any person wishing to do so may make representations on the content of the proposed delivery programme, and
 - (v) information as to how and to whom any representations should be made and the date by which they should be made,
 - (b) making a copy of the proposed delivery programme 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 delivery programme on the internet.
- (2) The Scottish Ministers are, for the purposes of section 21(3)(b) of the Act, a person whose views the planning authority is to seek and have regard to when preparing a delivery programme.

Form and content of delivery programmes

- 24.** 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 and an explanation as to how those actions are to be taken,
 - (b) the timescale for the conclusion of each such action,
 - (c) the expected sequencing of, and timescales for, delivery of housing on sites allocated by the local development plan.

Key Agencies

25.—(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 3AB(4)(b)(ii), 3CB, 4ZA(3)(b)(iii), 16B(2)(a), 18(1)(b) and (d) and (10) and 21(3)(a) and (5) of the Act(**19**).

- (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 Crofting 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 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(**20**),
 - (b) Highlands and Islands Enterprise is specified as a key agency only where the local development plan relates to an area within which or in relation to which the functions of

(19) Sections 3AB and 3CB are inserted by section 2(11) and (13) of the Planning (Scotland) Act 2019 (“the 2019 Act”). Section 4ZA is to be inserted by section 5 of the 2019 Act. Section 16B is inserted by section 7(6) of the 2019 Act.

(20) 1990 c. 35.

that body 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 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 2019(21),
- (d) a regional Transport Partnership is specified as a key agency only where the local development plan 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 2005(22),
- (e) the Crofting Commission is specified as a key agency only where the local development plan relates to the crofting counties (within the meaning of the Crofters (Scotland) Act 1993(23)) or an area which is designated under section 3A(1)(b) of that Act to constitute the land as a croft, and
- (f) a Health Board is specified as a key agency only where the local development plan 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 1978(24).

Revocations

26.—(1) Subject to regulation 27, the Town and Country Planning (Development Planning) (Scotland) Regulations 2008(25) are revoked.

(2) The provisions specified in column 1 of the table in schedule 4 are revoked to the extent specified in column 3 of that table.

Transitional and saving provisions

27.—(1) This regulation applies to—

- (a) a local development plan in respect of which notice of the proposed local development plan is published in a local newspaper in accordance with regulation 12(2)(a) of the 2008 Regulations before 12 February 2023,
- (b) supplementary guidance in connection with a local development plan.

(2) Where this regulation applies in relation to a local development plan or supplementary guidance the provisions of the 2008 Regulations continue to apply for the purposes of that plan or that supplementary guidance, as the case may be, as they did immediately before 19 May 2023.

(3) In this regulation—

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

(21) 2019 asp 9.

(22) 2005 asp 12.

(23) 1993 c. 44. In terms of section 61(1) of the Crofters Act 1993 the “crofting counties” means the former counties of Argyll, Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland and Zetland. Areas designated under section 3A(1)(b) by S.S.I. 2010/29 are—(a) that part of the local government area of Highland that is outwith the crofting counties, (b) the local government area of Moray, (c) in the local government area of Argyll and Bute, the parishes of Kingarth, North Bute and Rothesay, and (d) in the local government area of North Ayrshire, the islands of Arran (including Holy Island and Pladda), Great Cumbrae and Little Cumbrae. Section 3A was inserted by section 6 of the Crofting Reform etc. Act 2007 (asp 7).

(24) 1978 c. 29. Section 2(1)(a) was relevantly amended by paragraph 2(2) of Schedule 2 to the Smoking, Health & Social Care (Scotland) Act 2005 (asp 13).

(25) S.S.I. 2008/426 as amended by S.S.I. 2009/220, S.S.I. 2009/343, S.S.I. 2011/138, S.S.I. 2015/181, S.S.I. 2015/237, S.S.I. 2019/80.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“supplementary guidance” has the same meaning as in section 22 of the Act as that section had effect on 11 February 2023⁽²⁶⁾.

St Andrew’s House,
Edinburgh
22nd March 2023

TOM ARTHUR
Authorised to sign by the Scottish Ministers

⁽²⁶⁾ Section 22 was repealed by section 9 of the Planning (Scotland) Act 2019 on 12 February 2023 subject to saving and transitional provisions contained in [S.S.I. 2023/10](#).