SCOTTISH STATUTORY INSTRUMENTS

2024 No. 250

TOWN AND COUNTRY PLANNING

The Town and Country Planning (Amendment of Local Development Plan) (Scotland) Regulations 2024

Made - - - -	*19th September 2024*
Laid before the Scottish Parliament	*23rd September 2024*
Coming into force - -	*5th December 2024*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 20AA(4)(b) and (5) and 275 of the Town and Country Planning (Scotland) Act 1997(**a**), section 59 of the Planning (Scotland) Act 2019(**b**) and all other powers enabling them to do so.

PART 1

Introductory

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Amendment of Local Development Plan) (Scotland) Regulations 2024 and come into force on 5 December 2024.

(2) In these Regulations—

"the 2023 Regulations" means the Town and Country Planning (Development Planning) (Scotland) Regulations 2023(**c**),

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

"local development plan area" means the area of land to which the local development plan to be amended relates,

"the period for representations" has the meaning given in regulation 4(3).

(**a**) 1997 c. 8. Section 20AA is inserted by section 12 of the Planning (Scotland) Act 2019 (asp 13). Section 275 was relevantly amended by section 54(16) of the Planning etc. (Scotland) Act 2006 (asp 17). Section 277 contains a definition of prescribed relevant to the exercise of the statutory powers under which these Regulations are made.
(**b**) 2019 asp 13.
(**c**) S.S.I. 2023/101.

PART 2

Information and considerations

2.—(1) The information and considerations specified in paragraph (2) are for the purposes of section 20AA(4)(b) of the Act information and considerations to which the planning authority are to have regard to in preparing an amendment to a local development plan.

(2) The information and considerations are—

(a) any regional spatial strategy prepared under section 4ZA(**a**) 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(**b**) 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(**c**) 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(**d**) so as not to increase the risks to human health and the environment,

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(**a**) Section 4ZA is inserted by section 5 of the Planning (Scotland) Act 2019 (asp 13).
(**b**) 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.
(**c**) Section 3G is inserted by section 3 of the Planning (Scotland) Act 2019.
(**d**) S.I. 2015/483 to which there are amendments which are not directly relevant to these Regulations.

(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.

(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(**a**), and expressions which are used in paragraph (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(**b**),

"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(**c**),

"local transport strategy" has the same meaning as in section 82(1) of the Transport (Scotland) Act 2001(**d**),

"major accident hazard pipeline" has the same meaning as in the Pipelines Safety Regulations 1996(**e**),

"national marine plan" and "regional marine plan" have the same meaning as in the Marine (Scotland) Act 2010(**f**),

"national waste management plan" has the same meaning as in the National Waste Management Plan for Scotland Regulations 2007(**g**),

"regional transport strategy" means a transport strategy approved by the Scottish Ministers under section 6 of the Transport (Scotland) Act 2005(**h**),

"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(**i**).

Effective community engagement: guidance

3.—(1) Section 16C (effective community engagement: guidance) of the Act applies to proposed amendments to a local development plan as it applies to a local development plan subject to the modifications specified in paragraph (2).

(2) The modifications are—

(a) the reference in section 16C(1) to the local development plan is to be treated as a reference to proposed amendments to the local development plan,

(b) the reference in section 16C(2)(a) to preparing a local development plan is to be treated as a reference to preparing proposed amendments to a local development plan,

(c) the reference in section 16C(2)(b) to the preparation of a local development plan is to be treated as a reference to the preparation of proposed amendments to a local development plan.

(**a**) OJ L 197, 24.7.2012. p. 1.
(**b**) 2009 asp 6 to which there are amendments which are not directly relevant to these Regulations.
(**c**) 2001 asp 10 as amended by section 10 of the Housing (Scotland) Act 2006 (asp 1).
(**d**) 2001 asp 2 to which there are amendments which are not directly relevant to these Regulations.
(**e**) S.I. 1996/825 to which there are amendments which are not relevant to these Regulations.
(**f**) 2010 asp 5 to which there are amendments which are not directly relevant to these Regulations.
(**g**) S.S.I. 2007/251 as relevantly amended by S.S.I. 2011/226 and S.S.I. 2020/314.
(**h**) 2005 asp 12 to which there are amendments which are not directly relevant to these Regulations.
(**i**) 2003 asp to which there are amendments which are not directly relevant to these Regulations.

Consultation on proposed amendments to the local development plan

4.—(1) If a planning authority proposes to amend a local development plan, the planning authority must consult with regard to the proposed amendments by—

(a) publishing on the internet and making available for inspection at an office of the planning authority and in every public library in the local development plan area—

(i) a document setting out the proposed amendments,

(ii) a document setting out the purpose of the proposed amendments and the planning authority's reasons, and evidence, for proposing the amendments,

(b) publishing in a local newspaper circulating in the area and on the internet a notice containing the information specified in paragraph (2),

(c) sending a notice containing that information to—

(i) the Scottish Ministers,

(ii) the key agencies,

(iii) a planning authority for the land which adjoins the local development plan area,

(iv) every community council any part of whose area is within the local development plan area.

(2) The information is—

(a) a statement that it is proposed to amend the local development plan and how the proposed amendments may be inspected,

(b) a brief description of the purpose of the proposed amendments,

(c) details of how further information may be obtained regarding the proposed amendments, including that a document setting out the proposed amendments, and the planning authority's reasons for proposing them, is to be published on the internet under paragraph (1)(a),

(d) a statement that any person wishing to do so may make representations on the proposed amendments before the end of the period for representations, and

(e) information as to how and to whom any representations should be made including information stating when the period for representations expires.

(3) In this regulation—

"community council" means a community council established in accordance with Part IV of the Local Government (Scotland) Act 1973(**a**),

"key agencies" means the bodies listed in regulation 25(2) of the Town and Country Planning (Development Planning) (Scotland) Regulations 2023(**b**)

"the period for representations" means a period of at least 6 weeks beginning, in the case of a notice published under paragraph (1)(b), with the date on which that notice is first published, and, in the case of a notice sent under paragraph (1)(c), the date on which that notice is sent.

Notification of publication of proposed amendments

5.—(1) Where a proposed amendment to the 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—

(a) give a brief description of the proposed development,

(**a**) 1973 c. 65. There are amendments to Part IV which are not directly relevant to these Regulations.
(**b**) S.S.I. 2023/101.

(b) be accompanied by a map showing the location of the site,

(c) contain the information specified in regulation 4(2),

(d) be 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 the site.

Modification of proposed amendments and submission to the Scottish Ministers

6.—(1) After the expiry of the period for representations the planning authority may modify the proposed amendments to the local development plan so as to take account of—

(a) any representations timeously made to them as respects the proposed amendments (or of any matters arising out of representations so made),

(b) any matters arising in consultation under regulation 4, and

(c) any minor drafting or technical matters.

(2) The planning authority are to have regard to representations made within the period for representations in modifying the proposed amendments to the local development plan.

(3) If a planning authority intends to proceed to amend the local development plan, the planning authority must—

(a) submit to the Scottish Ministers—

(i) the proposed amendments, and

(ii) if modifications have been made to the proposed amendments, a modifications report,

(b) publish the proposed amendments and any modifications report on the internet,

(c) publish in a local newspaper circulating in the area and on the internet a notice containing the following information—

(i) a statement that proposed amendments to the local development plan have been submitted to the Scottish Ministers, and

(ii) the date of submission of the proposed amendments and details of how and at what times the proposed amendments and any modifications report may be inspected,

(d) make a copy of the proposed amendments 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.

(4) In this regulation, "modifications report" means a report setting out modifications made under paragraph (1) to the proposed amendments published under regulation 4 and the reasons for making the modifications.

PART 3

Examinations

Examination of amendments

7.—(1) Section 19(**a**) (examination of a proposed local development plan) of the Act applies to the proposed amendments to a local development plan as it applies to a local development plan subject to the modifications specified in paragraph (2).

(2) The modifications are—

(**a**) Section 19(5A) is inserted by section 7(9) of the Planning (Scotland) Act 2019 (asp 13).

(a) in subsections (1) and (3) references (however expressed) to submission of a proposed local development plan under section 18(4)(a) of the Act are to be treated as references to the submission of the proposed amendments under regulation 6(3)(a)(i),

(b) in subsection (2) the reference to modifications under section 18(3) of the Act is to be treated as a reference to modifications under regulation 6,

(c) in subsection (3) the reference to the proposed development plan and to the proposed plan are to be treated as references to the proposed amendments,

(d) subsections (4), (5A), (7)(b), (8)(a)(ii), (8A)(b) and (8B) are omitted,

(e) in subsection (6)(a) the reference to the examination of the proposed plan is to be treated as a reference to the examination of the proposed amendments,

(f) in subsections (8A)(a), (10)(a)(i) and (11) the references to the proposed local development plan and to the proposed plan are to be treated as references to the proposed amendments,

(g) in subsection (10)(a)(i) the reference to the prescribed grounds on which a planning authority may decline to make modifications to proposed amendments to a local development plan as recommended in a report submitted to them under section 19(8)(b), as that section is applied by this regulation, is to be treated as a reference to the grounds set out in paragraph (3),

(h) in subsection (11) the reference to the proposed plan is to be treated as a reference to the final proposed amendments.

(3) The grounds are—

(a) the modification, if made, would have the effect that the proposed local development plan would not be consistent with–

(i) the National Planning Framework, or

(ii) any plan adopted as a National Park Plan under section 12(7)(a) of the National Parks (Scotland) Act 2000(**a**) for land in the local development plan area,

(b) that modification of the proposed amendments would not be compatible with the requirements of Part IVA of the Conservation (Natural Habitats, &c.) Regulations 1994(**b**),

(c) the recommendation in respect of the modification is based on conclusions that could not reasonably have been reached based on the evidence considered in the course of the examination under section 19(3) of the Act (as that section is applied by this regulation).

Examinations: procedure

8.—(1) Part 4 and schedule 3 of the 2023 Regulations apply to an examination of proposed amendments under section 19(3) of the Act (as applied by regulation 7) as they apply to an examination of a proposed local development plan under section 19 of the Act subject to the modifications specified in paragraph (2).

(2) The modifications are—

(a) references to the provisions of section 19 of the Act are to be treated as references to those provisions as applied by regulation 7,

(b) references to a proposed local development plan and to the proposed plan are to be treated as references to the proposed amendments,

(c) regulation 16(1)(d) and (e) are omitted,

(d) in regulation 16(2) for paragraph (c) substitute—

(**a**) 2000 asp 10.
(**b**) S.I. 1994/2716.

"(c) be arranged, so far as practicable, so that the summaries of the issues appear in the same order as the parts of the local development plan to which the proposed amendments relate,".

PART 4

Adoption of amendments

Adoption of amendments

9.—(1) The amendments to a local development plan take effect on their adoption by the planning authority and on the amendments being adopted the local development plan is constituted as being the local development plan as amended by the adopted amendments.

(2) The planning authority may not adopt the amendments—

(a) where the Scottish Ministers have appointed a person under section 19(3) of the Act, as applied by regulation 7, to examine the proposed amendments, until the planning authority has received a report in relation to the proposed amendments under section 19(8)(b), as applied by regulation 7,

(b) where no such appointment has been made, before the end of the period that—

(i) begins on the day that the proposed amendments are submitted to the Scottish Ministers under regulation 6(3)(a), and

(ii) ends at the end of the day that falls 28 days later.

(3) As soon as practicable after amendments are adopted the planning authority is to publish—

(a) a document setting out the adopted amendments, and

(b) the local development plan as amended by the adopted amendments.

(4) For the purposes of section 24(3) of the Act where a provision of a local development plan is amended under section 20AA of the Act, the date of that provision is the date on which the amendment of the provision takes effect.

Publication of amendment of local development plan

10.—(1) Section 20A (publication of and publicity for local development plan) of the Act applies to the amendment of a local development plan as it applies to a local development plan subject to the modifications specified in paragraph (2).

(2) The modifications are—

(a) references to the constitution of the local development plan (however expressed) are to be treated as a references to the constitution of the local development plan as amended under regulation 9,

(b) references to the local development plan (however expressed) are to be treated as references to the local development plan as amended,

(c) in subsection (1A)(a) the requirement to publish in the prescribed manner is to be treated as a requirement to publish in accordance with paragraph (3),

(d) in subsection (1A)(b) the requirement to publish in the prescribed manner is to be treated as a requirement to publish in accordance with (4),

(e) in subsection (1C) the circumstance referred to for the purposes of section 20A(1A)(b) is to be treated as the circumstance that the adopted amendments differ from the proposed amendments published under regulation 4 as a result of modifications made under regulation 6 or section 19(10) of the Act, as that section is applied by regulation 7,

(f) subsection (1D) is omitted,

(g) in subsection (1E)—

(i) in paragraph (a)(ii) the reference to the prescribed grounds is to be treated as a reference to the grounds mentioned in regulation 7(3),

(ii) in paragraph (b)(i) the refence to subsection (1C) it to be treated as a reference to that subsection as applied with modifications by this regulation.

(3) The manner of publication referred to in paragraph (2)(c) 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 amendments to the local development plan without making a modification to it as recommended in the report prepared following the examination of the proposed amendments to 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.

(4) The manner of publication referred to in paragraph (2)(d) 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 amendments to the local development plan having made modifications to the proposed amendments, and

(ii) how the report on modifications setting out the modifications 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.

Amendment of the Town and Country Planning (Development Planning) (Scotland) Regulations 2023

11.—(1) The 2023 Regulations(**a**) are amended in accordance with paragraph (2).

(2) In regulation 25(1) (key agencies) for "4ZA(3)(b)(iii)" substitute "4ZA(3)(b)(ii)".

IVAN MCKEE
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
19th September 2024

(**a**) S.S.I. 2023/101.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about amendment of local development plans under section 20AA of the Town and Country Planning (Scotland) Act 1997 ("the Act").

Regulation 2 sets out the information and considerations to which a planning authority must have regard in preparing an amendment to a local development plan.

Regulation 3 applies section 16C of the Act, with modifications, to the preparation of amendments so as to provide that the Scottish Ministers may issue guidance about undertaking effective community engagement in relation to proposed amendments to a local development plan.

Regulation 4 sets out the consultation requirements in connection with proposed amendments to a local development plan. In addition to public consultation the planning authority must consult the Scottish Ministers, the key agencies, community councils for the local development plan area and the planning authority for the land adjoining the area. Regulation 5 requires notification of amendments to be given to owners of premises situated on a site, or on neighbouring land, if an amendment includes a proposal for development relating to the site which, if implemented, would be likely to have a significant effect on the use or amenity of that site or of the neighbouring land.

Regulation 6 provides for modification of the proposed amendments and submission of the proposed amendments to the Scottish Ministers along with, where modifications have been made, a modifications report setting out the changes and the reasons for making them.

Part 3 makes provision in relation to the examination of proposed amendments as submitted to the Scottish Ministers. Regulations 7 and 8 apply, with modifications, the provisions for examinations contained in section 19 of the Act and in the Town and Country Planning (Development Planning) (Scotland) Regulations 2023 to examinations held in respect of the proposed amendments.

Regulation 9 makes provision about when the amendments take effect and how adopted amendments are to be published along with the local development plan as amended. Regulation 10 applies section 20A of the Act with modifications to provide for publication of the local development plan as amended and information about modifications made or which were recommended by the examination report but not made.

Regulation 11 corrects a cross-reference in regulation 25 of the Town and Country Planning (Development Planning) (Scotland) Regulations 2023.

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Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

£8.14

http://www.legislation.gov.uk/id/ssi/2024/250

ISBN 978-0-11-106089-6

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