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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 155**

**TOWN AND COUNTRY PLANNING**

**The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

<i>Made</i>	- - - -	<i>21st May 2013</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>23rd May 2013</i>
<i>Coming into force</i>	- -	<i>30th June 2013</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 27A(1), 27C, 30(1) and (3), 32, 34, 35, 35A, 35B(4) and (5), 35C(2), 36, 36A, 38(2)(b), 38A(1), 43, 43A, 59, 152 and 275 of the Town and Country Planning (Scotland) Act 1997 <sup>F1</sup>, and all other powers enabling them to do so.

**F1** 1997 c.8. The functions of the Secretary of State transferred to the Scottish Ministers by section 53 of the [Scotland Act 1998 \(c.46\)](#). Sections 27A and 27C were inserted by section 6, sections 35A, 35B and 35C by section 11, section 36A by section 13, section 38A by section 14 and section 43A by section 17 of the [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#) (“the 2006 Act”) and sections 32, 34, 36, 43, 59 and 275 were respectively substituted by or amended by sections 7, 10, 12, 16, 21 and 54(16) of the 2006 Act. Section 43A is amended by [S.S.I. 2013/24](#) and [2013/26](#).

**PART 1**

Introductory

**Citation and commencement**

1. These Regulations may be cited as the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and come into force on 30th June 2013.

**Application**

- 2.—(1) Subject to Part 10 and paragraphs (2) to (4), these Regulations apply to—
- (a) applications for planning permission;
  - (b) applications for approval, consent or agreement required by a condition imposed on a grant of planning permission; and

(c) applications for a certificate under sections 150 (certificate of lawfulness of existing use or development) or 151 (certificate of lawfulness of proposed use or development) of the Act, made on or after 3rd August 2009.

(2) If a special development order is made, or has been made before the commencement of these Regulations, in relation to any land, these Regulations apply to that order only to such extent and subject to such modifications as may be specified in the order.

(3) These Regulations apply to an application for planning permission relating to marine fish farm development in accordance with regulation 36.

(4) These Regulations do not apply to applications for planning permission made under section 31A <sup>F2</sup>... (planning permission in respect of the operation of a marine fish farm) [<sup>F3</sup>or 242A (urgent Crown development) of the Act].

**F2** Words in reg. 2(4) omitted (14.9.2015) by virtue of [The Town and Country Planning \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/249\)](#), regs. 1, **6(2)**

**F3** Words in reg. 2(4) inserted (14.9.2015) by [The Town and Country Planning \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/249\)](#), regs. 1, **6(2)**

## Interpretation

### 3.—(1) In these Regulations—

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

“appointed officer” means a person appointed by virtue of a scheme of delegation under section 43A(1) of the Act (local developments: schemes of delegation) by the planning authority to determine the application;

[<sup>F4</sup>“category A listed building” means a listed building specified as being category A in a list of buildings compiled or approved under section 1 of the Listed Buildings Act <sup>F5</sup> (listing of buildings of special architectural or historic interest);]

“cemetery” includes a burial ground or any other place of interment for the dead;

“community council” means a community council established in accordance with the provisions of Part IV of the Local Government (Scotland) Act 1973 <sup>F6</sup>;

“Crown land” has the meaning given in section 242(1) the Act (Crown land: preliminary definitions);

“design statement” and “design and access statement” have the meaning given in regulation 13;

“dwellinghouse” includes a building containing one or more flats, or a flat contained within such a building.”

[<sup>F7</sup>“EIA report” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;]

“environmental statement” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 <sup>F8</sup>[<sup>F9</sup>as those Regulations had effect on 15th May 2017];

“the Fees Regulations” means the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004 <sup>F10</sup>;

“historic garden or designed landscape” means a garden or landscape which is included in the inventory of gardens and designed landscapes compiled and maintained under section 32A of the Ancient Monuments and Archaeological Areas Act 1979 <sup>F11</sup> (inventory of gardens and designed landscapes);

“householder development” means the carrying out of building, engineering or other operations—

- (a) to improve, add to or alter an existing dwellinghouse;
- (b) within the curtilage of a dwellinghouse for a purpose incidental to the enjoyment of that dwellinghouse; and
- (c) to erect or construct a gate, fence or wall or other means of enclosure along a boundary of the curtilage of a dwellinghouse;

“licensed premises” means premises licensed for the sale of alcoholic liquor pursuant to the provisions of the Licensing (Scotland) Act 2005 <sup>F12</sup> or premises authorised by a premises licence under Part 8 of the Gambling Act 2005 <sup>F13</sup> to be used for activities described in section 150 of that Act (nature of licence);

“listed building” means a listed building within the meaning of section 1(4) of the Listed Buildings Act;

“Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;

“marine fish farm development” means the placing or assembly of any equipment in marine waters for the purposes of fish farming (“equipment” and “fish farming” having the same meaning as in section 26(6) of the Act (meaning of development)) and any material change of use of equipment so placed or assembled;

“marine planning zone” has the same meaning as in the Town and Country Planning (Marine Fish Farming) (Scotland) Order 2007 <sup>F14</sup>;

“marine waters” means the waters described in section 26(6)(b) and (c) of the Act;

“minerals application” means an application for planning permission for development consisting of the winning and working of minerals by underground working;

“National Scenic Area” means an area designated by a direction made by the Scottish Ministers under section 263A of the Act <sup>F15</sup> (national scenic areas);

“neighbouring land” means an area or plot of land (other than land forming part of a road) which, or part of which, is conterminous with or within 20 metres of the boundary of the land for which the development is proposed;

“planning permission in principle” means a planning permission granted pursuant to an application made under regulation 10 for the carrying out of building, engineering, mining or other operations in, on, over or under land which is granted subject to a condition (in addition to any other conditions which may be imposed) that the development in question will not begin until certain matters have been approved by the planning authority or, as the case may be, the Scottish Ministers;

“pre-application consultation report” means a written report prepared in accordance with section 35C of the Act;

“road” has the same meaning as in section 151 of the Roads (Scotland) Act 1984 <sup>F16</sup> (interpretation);

“scheduled monument” has the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979 (schedule of monuments);

“validation date” is the date on which an application is taken to have been made in terms of regulation 14;

“World Heritage Site” means land appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage <sup>F17</sup>.

(2) Other than in regulations 12 and 18, references to an approval, consent or agreement required by a condition imposed on a grant of planning permission include an approval required by or under a development order.

(3) References to distance are references to distance measured along a horizontal plane.

(4) Any requirement that a form is to 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.

(5) Any power conferred by these Regulations to give a direction is to be construed as including power to cancel or vary the direction by a subsequent direction.

- F4** Words in reg. 3 substituted (1.10.2015) by [The Town and Country Planning \(Historic Environment Scotland\) Amendment Regulations 2015](#) (S.S.I. 2015/237), regs. 1(1), **5(2)**
- F5** 1997 c.9. Section 1 is amended by paragraph 2 of Schedule 3 to the [Historic Environment Scotland Act 2014](#) (asp 19).
- F6** 1973 c.65.
- F7** Words in reg. 3 inserted (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#) (S.S.I. 2017/102), regs. 1, **57(2)(a)** (with regs. 2(10), 38, 39, 40, 60(7))
- F8** S.S.I. 2011/139.
- F9** Words in reg. 3 inserted (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#) (S.S.I. 2017/102), regs. 1, **57(2)(b)** (with regs. 2(10), 38, 39, 40, 60(7))
- F10** S.S.I. 2004/219 as relevantly amended by S.S.I. 2007/253, S.S.I. 2007/268 and S.S.I. 2013/105.
- F11** 1979 c.46. Section 32A was inserted by section 11 of the [Historic Environment \(Amendment\) \(Scotland\) Act 2011](#) (asp 3).
- F12** 2005 asp 16.
- F13** 2005 c.19.
- F14** S.S.I. 2007/268.
- F15** Section 263A was inserted by section 50 of the [Planning etc. \(Scotland\) Act 2006](#) (asp 17).
- F16** 1984 c.54.
- F17** See command paper 9424.

## PART 2

### Pre-application consultation

#### Pre-application consultation – classes of development

**4.** The classes of development prescribed for the purposes of section 35A(1) of the Act (pre-application consultation: preliminary) are development belonging to the categories of national developments and major developments.

#### <sup>F18</sup>Pre-application consultation – exemptions

**4A.—**(1) The circumstances specified for the purposes of section 35A(1A)(b) of the Act (pre-application consultation: preliminary) in which section 35A(1) of the Act does not apply to an application for planning permission are set out in paragraph (2).

(2) The circumstances are where all of paragraphs (a) to (d) apply—

(a) the application for planning permission relates to proposed development—

- (i) of the same character or description as development (or part of the development) in respect of which an earlier application for planning permission was made (“the earlier application”),
  - (ii) comprised within the description of the development contained in the proposal of application notice given to the planning authority under section 35B(2) of the Act in respect of the earlier application, and
  - (iii) to be situated on or within the same site as the development to which the earlier application related and on no other land except land which is solely for the purpose of providing a different means of access to the site of the proposed development,
- (b) there has been compliance with the requirements of section 35B in respect of the earlier application,
- (c) the planning authority have not exercised their power under section 39 to decline to determine the earlier application, and
- (d) the application for planning permission is made no later than 18 months after the validation date of the earlier application.
- (3) Where the applicant believes that section 35A(1) of the Act does not apply to an application for planning permission by virtue of section 35A(1A)(b) a statement to that effect must accompany the application for planning permission and that statement must identify the earlier application.]

**F18** [Reg. 4A](#) inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), **3**

### Content of pre-application screening notice

**5.—(1)** A notice under section 35A(3) of the Act in addition to the information mentioned in paragraphs (a) to (d) of section 35B(4) of the Act (pre-application consultation: compliance), must also contain a statement as to whether or not the planning authority have adopted a screening opinion or the Scottish Ministers have made a screening direction in respect of the development to which the notice relates.

[<sup>F19</sup>(1A) If the notice under section 35A(3) of the Act relates to a prospective application for planning permission for development of the same character or description as development in respect of which an earlier application for planning permission was made, or part of that development, the notice must contain—

- (a) sufficient information to enable the earlier application to be identified by the planning authority,
- (b) the information contained in the proposal of application notice given to the planning authority under section 35B(2) of the Act in respect of the earlier application, and
- (c) a statement (for the purposes of assessment of the need to comply with section 35B), confirming the date, or latest date, on which the prospective applicant intends to make that application for planning permission.]

(2) In this regulation “screening opinion” and “screening direction” have the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations [<sup>F20</sup>2017].

**F19** [Reg. 5\(1A\)](#) inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), **4**