
STATUTORY INSTRUMENTS

2008 No. 1371

TOWN AND COUNTRY PLANNING, ENGLAND

**The Town and Country Planning (Local Development)
(England) (Amendment) Regulations 2008**

<i>Made</i>	- - - -	<i>19th May 2008</i>
<i>Laid before Parliament</i>		<i>2nd June 2008</i>
<i>Coming into force</i>	- -	<i>27th June 2008</i>

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by sections 14(3), 15(2)(g), (3), (6A)(b), (6B), (7)(c), (8B)(b), (8C), 17(1)(a), 20(3), 24(3), 36 and 122(3) of the Planning and Compulsory Purchase Act 2004⁽¹⁾, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Local Development) (England) (Amendment) Regulations 2008 and shall come into force on 27th June 2008.

(2) In these Regulations “the 2004 Regulations” means the Town and Country Planning (Local Development) (England) Regulations 2004⁽²⁾.

Amendment of the 2004 Regulations

2.—(1) The 2004 Regulations are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “adopted proposals map” insert the following definition—

““area action plan” means a document of the description referred to in regulation 6(4);”;

(b) after the definition of “person appointed” insert the following definition—

““police authority” means—

(a) any police authority established under section 3 of the Police Act 1996⁽³⁾;

(1) 2004 c.5. As to powers to prescribe, see section 122(1). The Planning and Compulsory Purchase Act 2004 is amended by the Greater London Authority Act 2007 (c.24). Of relevance to these Regulations are the amendments that section 30 of the 2007 Act makes to section 15 of the 2004 Act.

(2) S.I. 2004/2204.

(3) 1996 c.16.

- (b) the Metropolitan Police Authority(4);”;
- (c) in the definition of “relevant authority” after paragraph (c) insert the following paragraph—
 - “(d) a police authority;”;
- (d) in the definition of “specific consultation bodies”—
 - (i) for “the Countryside Agency” substitute “the Coal Authority”(5),
 - (ii) for “English Nature” substitute “Natural England”(6),
 - (iii) for “the Strategic Rail Authority” substitute “the Secretary of State for Transport”(7),
 - (iv) omit paragraph (a)(vi), and
 - (v) for “a Strategic Health Authority” substitute “a Primary Care Trust”(8).
- (3) In regulation 5(1)(a) (survey of area: county councils) for “authority” substitute “area”.
- (4) In regulation 6(1)(b) (documents to be specified in local development schemes as local development documents) for “is to be amended” to the end substitute “would be amended if the DPD submitted to the Secretary of State under section 20(1) were adopted”.
- (5) In regulation 8(c) (additional matters to be specified in local development schemes and revisions of such schemes) after “with” insert “section 20(1)” and omit sub-paragraphs (i) and (ii).
- (6) In regulation 9(a) (other requirements for the preparation of local development schemes) after “adopted” insert “or approved”.
- (7) For regulation 10 (submission of local development schemes to the Secretary of State) and regulation 11 (bringing local development schemes and revisions of such schemes into effect) substitute the following regulations—

“Submission of local development schemes to the Secretary of State and the Mayor of London

- 10.—**(1) The time prescribed for the purposes of section 15(3)(b) and (d) is not later than 14 days after the local development scheme, or the revision of such a scheme, has been prepared.
- (2) Where the local planning authority are a London borough council, they must—
 - (a) at the time they submit a local development scheme or any revision of such a scheme to the Secretary of State under section 15(3)(b), submit that scheme or revision to the Mayor of London; and
 - (b) at the time they submit a local development scheme or any revision of such a scheme to the Mayor of London under section 15(3)(d), submit that scheme or revision to the Secretary of State.
- (3) A local development scheme, or any revision to such a scheme, shall be submitted to the Secretary of State, or to the Mayor of London, by—
 - (a) sending it to him electronically; and

(4) The Metropolitan Police Authority is established under section 5B of the Police Act 1996. Section 5B was inserted into the Police Act 1996 by section 310(1) of the Greater London Authority Act 1999 (c.29).

(5) Under section 1 of the Natural Environment and Rural Communities Act 2006 (c.16), the Countryside Agency was dissolved. The Coal Authority was established under section 1 of the Coal Industry Act 1994 (c.21).

(6) Under section 1 of the Natural Environment and Rural Communities Act 2006, English Nature was dissolved and Natural England established.

(7) See Part 1 of the Railways Act 2005 (c.14) which provides, amongst other things, for the winding up of the Strategic Railway Authority and the transfer of its functions to the Secretary of State and others.

(8) See section 18 of the National Health Service Act 2006 (c.41).

- (b) sending to him two copies of it in paper form.

Bringing local development schemes and revision of such schemes into effect

11.—(1) For the purposes of bringing a local development scheme or any revision of such a scheme into effect—

- (a) the requirements of one of paragraphs (2) to (5) shall be met; and
- (b) the local planning authority—
 - (i) shall resolve that the scheme or revision shall have effect, and
 - (ii) shall specify in that resolution the date from which the scheme or revision shall have effect.

(2) The requirements of this paragraph are that, before the end of the relevant period—

- (a) the local planning authority have received notice from the Secretary of State that he does not intend to give them a direction under section 15(4); and
- (b) if the local planning authority are a London borough council, they have also received notice from the Mayor of London that he does not intend to give them a direction under section 15(4).

(3) The requirements of this paragraph are that the relevant period has ended and the local planning authority have not received—

- (a) a direction under section 15(4) from either the Secretary of State or the Mayor of London;
- (b) notice from the Secretary of State that he requires more time to consider the scheme or revision; or
- (c) if they are a London borough council, notice from the Mayor of London that he requires more time to consider the scheme or revision.

(4) The requirements of this paragraph are that the local planning authority have received a direction under section 15(4) and—

- (a) if the direction was given by the Secretary of State—
 - (i) the local planning authority have complied with it (as varied by any further direction), or
 - (ii) they have received a direction from the Secretary of State revoking it; or
- (b) if the direction was given by the Mayor of London, at least three weeks have elapsed starting on the day the Mayor of London gave the direction and the local planning authority have—
 - (i) complied with it (as varied by any further direction),
 - (ii) received a direction under section 15(6B)(a) to disregard it, or
 - (iii) received a direction from the Mayor of London revoking it.

(5) The requirements of this paragraph are that—

- (a) the local planning authority have received—
 - (i) notice from the Secretary of State that he requires more time to consider the scheme or revision, or
 - (ii) notice from the Mayor of London that he requires more time to consider the scheme or revision; and

- (b) if the local planning authority received notice of the type referred to in sub-paragraph(a)(i), they subsequently receive notice from the Secretary of State that he does not intend to give them a direction under section 15(4);
- (c) if the local planning authority received notice of the type referred to in sub-paragraph(a)(ii), they subsequently receive notice from the Mayor of London that he does not intend to give them a direction under section 15(4);
- (d) if neither sub-paragraph (b) or (c) applies, the requirements of paragraph (4) are satisfied.

(6) In this regulation “relevant period” means the period of four weeks starting on the day on which the authority submit the scheme or revision to the Secretary of State under section 15(3) (b).

Directions

11A.—(1) A copy of a direction given by the Mayor of London under section 15(4) or (8) shall be sent to the Secretary of State by—

- (a) sending it to him electronically; and
- (b) sending to him two copies of it in paper form.

(2) The time prescribed for the purposes of section 15(6B), (8B)(b) and (8C) is three weeks starting on the day the Mayor of London gives the direction in question.”.

(8) In regulation 14 (form and content of local development documents: specific)—

- (a) for sub-paragraphs (a) and (b) of paragraph (2) substitute the following sub-paragraphs—
 - “(a) comply with the requirements in paragraph (1)(a) to (c);
 - (b) be drawn to a larger scale than the map of the local planning authority’s area referred to in paragraph (1); and”;
- (b) in paragraph (3)(a) for “referred to in paragraph (2)” substitute “of the local planning authority’s area referred to in paragraph (1)”.

(9) In regulation 16(2) (application and interpretation of Part 5) for the definition of “adoption statement” substitute the following definition—

““adoption statement” means a statement specifying—

- (a) the date on which an SPD was adopted,
- (b) that any person with sufficient interest in the decision to adopt the SPD may apply to the High Court for permission to apply for judicial review of that decision, and
- (c) that any such application must be made promptly and in any event not later than 3 months after the date on which the SPD was adopted;”.

(10) For regulation 24 (application and interpretation of Part 6) to regulation 33 (representations on a site allocation representation) substitute the following regulations—

“Application and interpretation of Part 6

24.—(1) Regulations 27, 28, and 30 to 39 apply to a local planning authority’s statement of community involvement as they apply to a DPD; and accordingly, unless otherwise indicated, any reference in any of those regulations to a DPD includes a reference to a statement of community involvement.

(2) In this Part—

“adoption statement” means—

- (a) in relation to a DPD, a statement specifying—
 - (i) the date on which the DPD was adopted,
 - (ii) that any person aggrieved by the DPD may make an application to the High Court under section 113, and
 - (iii) the grounds on which, and the time within which, such an application may be made; and
- (b) in relation to a statement of community involvement, a statement specifying—
 - (i) the date on which the statement of community involvement was adopted,
 - (ii) that any person with sufficient interest in the decision to adopt the statement of community involvement may apply to the High Court for permission to apply for judicial review of that decision, and
 - (iii) that any such application must be made promptly and in any event not later than 3 months after the date on which the statement was adopted;

“decision statement” means—

- (a) a statement that the Secretary of State has decided to approve, approve subject to modifications, or reject the DPD or part of it (as the case may be),
- (b) where the Secretary of State decides to approve or approve subject to modifications the DPD or part of it, a statement—
 - (i) of the date on which it was approved,
 - (ii) that an application to the High Court may be made under section 113 by any person aggrieved by the DPD, and
 - (iii) of the grounds on which, and the time within which, such an application may be made;

“proposed submission documents” means—

- (a) in relation to a DPD, the following documents—
 - (i) the DPD which the local planning authority propose to submit to the Secretary of State,
 - (ii) if the adoption of the DPD would result in changes to the adopted proposals map, a map showing those changes,
 - (iii) the sustainability appraisal report of the DPD,
 - (iv) a statement setting out—
 - (aa) which bodies and persons were invited to make representations under regulation 25,
 - (bb) how those bodies and persons were invited to make such representations,
 - (cc) a summary of the main issues raised by those representations, and
 - (dd) how those main issues have been addressed in the DPD, and
 - (v) such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the DPD; and
- (b) in relation to a statement of community involvement, the following documents—
 - (i) the statement of community involvement which the local planning authority propose to submit to the Secretary of State,
 - (ii) a statement setting out—

- (aa) which bodies and persons were invited to make representations under regulation 26,
 - (bb) how those bodies and persons were invited to make such representations,
 - (cc) a summary of the main issues raised by those representations, and
 - (dd) how those main issues have been addressed in the statement of community involvement, and
- (iii) such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the statement of community involvement;
- “statement of the representations procedure” means a statement specifying—
- (a) the title of the DPD or statement of community involvement (as the case may be) which the local planning authority propose to submit to the Secretary of State;
 - (b) the subject-matter of, and the area covered by, that document;
 - (c) the period within which representations about that document must be made in accordance with regulation 28(2);
 - (d) the address to which, and the name of the person (if any) to whom, representations about that document must be made in accordance with regulation 28(2);
 - (e) that representations may be made in writing or by way of electronic communications; and
 - (f) that representations may be accompanied by a request to be notified at a specified address of any of the following—
 - (i) that the DPD or the statement of community involvement (as the case may be) has been submitted for independent examination under section 20,
 - (ii) the publication of the recommendations of any person appointed to carry out an independent examination of the DPD or statement of community involvement (as the case may be), and
 - (iii) the adoption of the DPD or the statement of community involvement (as the case may be).

Public participation in the preparation of a development plan document

- 25.—**(1) A local planning authority must—
- (a) notify each of the bodies specified in paragraph (2) of the subject of a DPD which they propose to prepare; and
 - (b) invite each of those bodies to make representations to them about what a DPD with that subject ought to contain.
- (2) The bodies referred to in paragraph (1) are—
- (a) such of the specific consultation bodies as the local planning authority consider may have an interest in the subject of the proposed DPD; and
 - (b) such of the general consultation bodies as the local planning authority consider appropriate.
- (3) If a local planning authority propose to prepare a DPD, they must also consider whether it is appropriate to invite representations from persons who are resident or carrying on business in their area.

(4) If a local planning authority decide that it is appropriate to invite representations under paragraph (3) they must make arrangements for the purposes of inviting representation from such persons of the descriptions in paragraph (3) as they think appropriate.

(5) In preparing the DPD, the local planning authority must take into account any representations made to them in response to invitations under paragraph (1) or (4).

Public participation in the preparation of a statement of community involvement

26.—(1) Before preparing a statement of community involvement, a local planning authority must—

- (a) notify each of the bodies and persons specified in paragraph (2) of their intention to do so; and
- (b) invite each of those bodies and persons to make representations about what the contents of the statement might be.

(2) The bodies and persons referred to in paragraph (1) are—

- (a) the Secretary of State for Transport;
- (b) each relevant authority any part of whose area is in or adjoins the area of the local planning authority;
- (c) such of the general consultation bodies as the local planning authority consider appropriate;
- (d) if the local planning authority's area is in a region other than Greater London, the regional planning body for that region; and
- (e) if the local planning authority's area is in Greater London, the Mayor of London.

(3) Before preparing a statement of community involvement, a local planning authority must also consider whether it is appropriate to invite representations from persons who are resident or carrying on business in their area.

(4) If a local planning authority decide that it is appropriate to invite representations under paragraph (3), they must make such arrangements for the purposes of inviting representations from such persons of the descriptions in paragraph (3) as they think appropriate.

(5) In preparing the statement of community involvement, the local planning authority must take into account any representations made to them in response to invitations under paragraph (1) or (4).

Publication of a development plan document

27. Before submitting a DPD to the Secretary of State under section 20, the local planning authority must—

- (a) make a copy of each of the proposed submission documents and a statement of the representations procedure available for inspection during normal office hours—
 - (i) at their principal office, and
 - (ii) at such other places within their area as they consider appropriate;
- (b) publish on their website—
 - (i) the proposed submission documents,
 - (ii) a statement of the representations procedure, and
 - (iii) a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected;

- (c) send to each of the specific consultation bodies invited to make representations under regulation 25(1) or 26(1) for the purposes of the DPD—
 - (i) a copy of each of the proposed submission documents, and
 - (ii) a statement of the representations procedure;
- (d) send to each of the general consultation bodies invited to make representations under regulation 25(1) or regulation 26(1) for the purposes of the DPD—
 - (i) a statement of the representations procedure, and
 - (ii) a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected; and
- (e) give by local advertisement notice which sets out—
 - (i) a statement of the representations procedure, and
 - (ii) a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected.

Representations relating to a development plan document

28.—(1) Any person may make representations about a DPD which a local planning authority propose to submit to the Secretary of State.

- (2) Any such representations must be—
 - (a) made within the period which the local planning authority specify for the purposes of this paragraph; and
 - (b) sent to the address, and if the local planning authority think it appropriate to specify a person, the person, which the local planning authority specify for the purposes of this paragraph.

(3) The period which the local planning authority specify for the purposes of paragraph (2) must be a period of not less than six weeks starting on the day on which notice given pursuant to regulation 27(e) is first published.

(4) Nothing in this regulation applies to representations taken to have been made as mentioned in section 24(6) or (7) (non-conformity opinions of RPBs and the Mayor of London).

Conformity with regional strategy

29.—(1) A local planning authority must make a request under section 24(2)(a) or (4)(a) on the same day that they comply with regulation 27(a).

(2) The period prescribed for the purposes of section 24(3) is 6 weeks starting on the day the request is made under section 24(2)(a).

(3) If a request is made under section 24(4)(a), the Mayor must send his opinion as to the general conformity of the DPD with the spatial development strategy to the Secretary of State and the local planning authority within the period of 6 weeks starting on the day the request is made.

Submission of documents and information to the Secretary of State

- 30.**—(1) The documents prescribed for the purposes of section 20(3) are—
 - (a) except in the case of a statement of community involvement, the sustainability appraisal report for the DPD;

- (b) except in the case of a statement of community involvement, a submission proposals map if the adoption of the DPD would result in changes to the adopted proposals map;
 - (c) if the local planning authority have an adopted statement of community involvement, that statement;
 - (d) a statement setting out—
 - (i) which bodies and persons the local planning authority invited to make representations under regulation 25 or regulation 26,
 - (ii) how those bodies and persons were invited to make representations under either of those regulations,
 - (iii) a summary of the main issues raised by the representations made pursuant to either of those regulations, and
 - (iv) how any representations made pursuant to either of those regulations have been taken into account;
 - (e) a statement setting out—
 - (i) if representations were made in accordance with regulation 28(2), the number of representations made and a summary of the main issues raised in those representations, or
 - (ii) that no such representations were made;
 - (f) copies of any representations made in accordance with regulation 28(2); and
 - (g) such supporting documents as in the opinion of the authority are relevant to the preparation of the DPD.
- (2) Of the documents and statements mentioned or referred to in paragraph (1)—
- (a) a copy of each must be sent in paper form,
 - (b) a copy of those mentioned or referred to in paragraph (1)(a) to (e) and, if practicable, of those referred to in paragraph (1)(f) and (g), must be sent electronically.
- (3) As soon as reasonably practicable after a local planning authority submit a DPD to the Secretary of State they must—
- (a) make available during normal office hours at the places at which the proposed submission documents were made available under regulation 27(a), a copy of the DPD and of each of the documents referred to in paragraph (1)(a) to (g).
 - (b) publish on their website—
 - (i) the DPD and the documents referred to in paragraph (1)(a), (b), (d), and (e),
 - (ii) any of the documents referred to in paragraph (1)(f) and (g) which it is practicable to so publish, and
 - (iii) a statement of the fact that a copy of the DPD and of each of the documents referred to in paragraph (1)(a) to (g) are available for inspection and of the places and times at which they can be inspected;
 - (c) send to each of the specific consultation bodies invited to make representations under regulation 25(1) or 26(1) (as the case may be)—
 - (i) a copy of the DPD and each of the documents referred to in paragraph (1)(a) to (e),
 - (ii) a copy of such of the documents referred to in paragraph (1)(g) as they consider are relevant to that body, and

- (iii) a statement of the fact that a copy of the DPD and each of the documents referred to in paragraph (1)(a) to (g) are available for inspection and of the places and times at which they can be inspected;
- (d) send to each of the general consultation bodies invited to make representations under regulation 25(1) or 26(1), notification that copies of the documents referred to in paragraph (1)(a) to (g) are available for inspection and of the places and times at which they can be inspected;
- (e) give notice by local advertisement of—
 - (i) the title of the DPD,
 - (ii) the subject matter of, and the area covered by, the DPD,
 - (iii) the fact that a copy of the DPD and of each of the documents referred to in paragraph (1)(a) to (g) are available for inspection and of the places and times at which they can be inspected; and
- (f) give notice to those persons who requested to be notified of the submission of the DPD to the Secretary of State that it has been so submitted.

Consideration of representations by appointed person

31. Before the person appointed to carry out the examination complies with section 20(7) he must consider any representations made in accordance with regulation 28(2).”.

- (11) In regulation 34(2)(b) (independent examination) for “regulation 29(1) or 33(1)” substitute “regulation 28(2)”.
- (12) In regulation 35(2)(a) (publication of the recommendations of the person appointed)—
 - (a) for “pre-submission proposals” substitute “proposed submission”; and
 - (b) for “regulation 26(a)” substitute “regulation 27(a)”.
- (13) In regulation 36(a) (adoption of a development plan document)—
 - (a) for “pre-submission proposals” substitute “proposed submission”; and
 - (b) for “regulation 26(a)” substitute “regulation 27(a)”.
- (14) For regulation 37 (withdrawal of a development plan document) substitute the following regulation—

“Withdrawal of a development plan document

37.—(1) Where a local planning authority withdraw a DPD under section 22(1) before it is submitted to the Secretary of State under section 20(1), they must as soon as reasonably practicable after it is withdrawn—

- (a) publish a statement of that fact on their website;
- (b) give notice of that fact by local advertisement;
- (c) notify any body to which a copy of the proposed submission documents were provided under regulation 27(c); and
- (d) remove from their website and from the places at which they were made available, any copies, documents, matters and statements made available or published under regulation 27(a) or (b).

(2) Where a local planning authority withdraw a DPD under section 22(1) after it has been submitted to the Secretary of State under section 20(1), they must as soon as reasonably practicable after it is withdrawn—

- (a) do each of the things specified in paragraphs (a) to (d) of paragraph (1); and
 - (b) remove from their website and from the places at which they were made available, any copies, documents, representations, matters and statements made available or published under regulation 30(3)(a), (3)(b) or 34(2)(a).”.
- (15) In regulation 38(2)(a) (direction not to adopt a development plan document)—
- (a) for “pre-submission proposals” substitute “proposed submission”; and
 - (b) for “regulation 26(a)” substitute “regulation 27(a)”.
- (16) In regulation 39 (direction to modify a development plan document), for paragraph (a) substitute the following paragraph—
- “(a) make the direction available for inspection during normal office hours—
- (i) at their principal office, and
 - (ii) at such other places within their area as they consider appropriate;”.
- (17) For regulation 40 (section 21(4) directions (call-in): supplementary) substitute the following regulation—

“Section 21(4) directions (call-in): supplementary

40.—(1) Where the Secretary of State gives a direction under section 21(4), this regulation, regulation 29(2) and (3) and regulations 41 to 44A apply, and regulations 31 and 34 apply as if for “regulation 28(2)” there were substituted “regulation 28(2) or regulation 40(4)”.

(2) If the direction is given before the local planning authority submit to the Secretary of State the DPD to which the direction relates, the local planning authority must—

- (a) if they have not complied with regulation 27, publish the direction and make it available for inspection—
 - (i) when they comply with paragraph (3)(a) of this regulation, and
 - (ii) in accordance with paragraphs (a) and (b) of regulation 27;
 - (b) if the direction is given after the authority have complied with regulation 27—
 - (i) make the direction available for inspection during normal office hours at the places at which the proposed submission documents were made available under regulation 27(a), and
 - (ii) publish the direction on their website;
 - (c) unless they have already complied with section 19(5) in relation to the DPD, do so;
 - (d) unless they have made a request under section 24(2)(a) or (4)(a) in relation to the DPD—
 - (i) if their area is in a region other than Greater London, make a request under section 24(2)(a) in relation to the DPD,
 - (ii) if they are a London borough council, make a request under section 24(4)(a) in relation to the DPD; and
 - (e) subject to paragraph (5), take the steps mentioned in paragraph (3) as if they were preparing the DPD.
- (3) The local planning authority must—
- (a) comply with paragraphs (a) to (e) of regulation 27, for this purpose treating the following provisions of regulation 24(2) as modified as mentioned in sub-paragraphs (i) to (v) below—

- (i) in the first definition of “proposed submission documents” and in the definition of “statement of the representations procedure”, omit “which the local planning authority propose to submit to the Secretary of State”,
 - (ii) in paragraph (a)(ii) of the first definition of “proposed submission documents”, for “if the adoption of the DPD” substitute “if the adoption or approval of any part of the DPD”,
 - (iii) in paragraph (c) of the definition of “statement of the representations procedure”, for “regulation 28(2)” substitute “regulation 40(4)”,
 - (iv) in paragraph (d) of that definition, for “regulation 28(2)” substitute “regulation 40(4)”,
 - (v) in paragraph (f) of that definition, omit sub-paragraph (i), and in sub-paragraph (iii), for “the adoption of the DPD or the statement of community involvement (as the case may be)” substitute “the Secretary of State’s decision under section 21(9)(a) in relation to the DPD”; and
- (b) as soon as reasonably practicable after the period specified for the purposes of paragraph (4) has expired—
- (i) send to the Secretary of State the documents mentioned in regulation 30(1)(a) and (c) to (g), for this purpose treating references to regulation 28(2) as including references to paragraph (4) of this regulation,
 - (ii) if the adoption or approval of any part of the DPD would result in changes to the adopted proposals map, send to the Secretary of State a map showing those changes, and
 - (iii) comply with regulation 30(3)(a) to (e), for this purpose treating references to paragraph (1)(b) of regulation 30 as references to paragraph (3)(b)(ii) of this regulation and references to sub-paragraph (e) or (f) of regulation 30(1) as references to those sub-paragraphs as modified by paragraph (3)(b)(i) of this regulation.
- (4) Any person may make representations about a DPD made available under regulation 27 or that regulation as modified by paragraph (3)(a) but any such representations must—
- (a) be made within the period which the local planning authority specify for the purposes of regulation 28(2) or this paragraph (as the case may be); and
 - (b) be sent to the address and, if the local planning authority think it appropriate to specify a person, the person, which the local planning authority specify for the purposes of regulation 28(2) or this paragraph (as the case may be).
- (5) Nothing in paragraph (2)(e) requires a local planning authority to take any step mentioned in paragraph (3) if an equivalent step has been taken under regulation 27, 28 or 30 before receipt of the direction.
- (6) Of the documents and statements which a local planning authority are required to send to the Secretary of State under paragraph (3)(b)—
- (a) a copy of each must be sent in paper form;
 - (b) a copy of those mentioned in regulation 30(1)(a), (c) and (d), regulation 30(1)(e) (as modified by paragraph (3)(b) of this regulation), and paragraph (3)(b)(ii) of this regulation must be sent electronically; and
 - (c) if practicable, a copy of the others must be sent electronically.”.
- (18) In regulation 41 (changes proposed by Secretary of State to a development plan document on call-in)—

- (a) in paragraph (1) after “section 20” insert “or 21(5)(b)”; and
- (b) in paragraph (2)(a)—
 - (i) for “pre-submission proposals” substitute “proposed submission”, and
 - (ii) for “regulation 26(a)” substitute “regulation 27(a)”.
- (19) In regulation 43 (publication of recommendations of person appointed after call-in)—
 - (a) in paragraph (a)—
 - (i) for “pre-submission proposals” substitute “proposed submission”, and
 - (ii) for “regulation 26(a), and” substitute “regulation 27(a)”;
 - (b) in paragraph (b) for “website.” substitute “website; and”; and
 - (c) after paragraph (b) add the following paragraph—
 - “(c) give notice to those persons who requested to be notified of the publication of the recommendations of the person appointed that they have been so published.”.
- (20) In regulation 44(a) (publicity following a decision by the Secretary of State under section 21(9)(a))—
 - (a) for “pre-submission proposals” substitute “proposed submission”; and
 - (b) for “regulation 26(a)” substitute “regulation 27(a)”.
- (21) After regulation 44 insert the following regulation—

“Removal of documents after rejection of a development plan document

- 44A.**—(1) This regulation applies where—
- (a) the Secretary of State rejects a DPD under section 21(9)(a); or
 - (b) the Secretary of State rejects part of a DPD under section 21(9)(a) and the local planning authority decide not to proceed with the remainder.
- (2) The local planning authority must, as soon as reasonably practicable after the end of the period specified in paragraph (3), remove from their website and from the places at which they were made available any copies, documents, matters and statements made available or published under regulation 27(a) or (b), 30(3)(a), (3)(b) or 34(2)(a).
- (3) The period mentioned in paragraph (2) is—
- (a) in the circumstances mentioned in paragraph (1)(a), three months after the date of the Secretary of State’s rejection of the DPD; or
 - (b) in the circumstances mentioned in paragraph (1)(b), three months after the date of the local planning authority’s decision.”.
- (22) For regulation 45 (Secretary of State’s default power) substitute the following regulations—

“Secretary of State’s default power

- 45.**—(1) Where the Secretary of State prepares a DPD under section 27 he must—
- (a) comply with section 19(2) as if—
 - (i) the duty imposed on the local planning authority were imposed on the Secretary of State,
 - (ii) references in paragraphs (b) to (h) to the local planning authority (in whatever terms) were references to the local planning authority in question, and

- (iii) paragraph (j) referred to the matters specified in regulation 15(1), treating references to the local planning authority as references to the local planning authority in question;
 - (b) comply, to the extent (if any) that he thinks appropriate, with section 19(3) as if the reference to the authority were a reference to the Secretary of State and the reference to their statement of community of involvement were a reference to the statement of community involvement of the local planning authority in question;
 - (c) comply with section 19(5) as if the reference to the local planning authority were a reference to the Secretary of State and as if the reference to each document were to the DPD;
 - (d) take the steps mentioned in paragraph (2);
 - (e) if the area of the local planning authority in question is in Greater London, request the Mayor of London for his opinion as to the general conformity of the DPD with the spatial development strategy; and
 - (f) if the area of the local planning authority in question is in a region other than Greater London, request the RPB (if any) for that region for its opinion as to the general conformity of the DPD with the RSS for the region.
- (2) The Secretary of State must—
- (a) comply with regulation 25 as if—
 - (i) references to a local planning authority (in whatever terms) were references to the Secretary of State,
 - (ii) in paragraph (3), for “their area” there were substituted “the area of the local planning authority in question”,
 - (iii) in the definitions of “general consultation bodies” and “specific consultation bodies” in regulation 2(1) the references to a local planning authority’s area (in whatever terms) were references to the area of the local planning authority in question, and
 - (iv) in regulation 2(1), there were inserted the following definition—
 - ““the area of the local planning authority in question”, as regards a local planning authority in relation to which the Secretary of State is taking action under section 27, means that authority’s area;””;
 - (b) comply with regulation 27 as if—
 - (i) the reference to submitting a DPD to the Secretary of State under section 20 were a reference to holding an independent examination of the DPD under section 27(2) and the reference to the local planning authority were a reference to the Secretary of State,
 - (ii) the obligation in paragraph (a) were to make available for inspection the things in question, during normal office hours, at such places as the Secretary of State considers appropriate,
 - (iii) in the definition of “by local advertisement” in regulation 2(1), the reference to the local planning authority were a reference to the local planning authority in question,
 - (iv) in the first definition of “proposed submission documents”, and in the definition of “statement of the representations procedure”, in regulation 24(2), for “which the local planning authority propose to submit to the Secretary of State” there were substituted “in respect of which the Secretary of State proposes to hold an independent examination”,

- (v) in paragraph (a)(ii) of the first definition of “proposed submission documents” in regulation 24(2), for “adoption” there were substituted “approval”,
 - (vi) the report mentioned in paragraph (a)(iii) of that definition were the report prepared by the Secretary of State under paragraph (1)(c) of this regulation,
 - (vii) the reference to the local planning authority in paragraph (a)(v) of that definition were a reference to the Secretary of State,
 - (viii) in paragraph (c) of the definition of “statement of the representations procedure” in regulation 24(2), the reference to regulation 28(2) were a reference to paragraph (3) of this regulation,
 - (ix) in paragraph (d) of that definition, the reference to regulation 28(2) were a reference to paragraph (3) of this regulation, and
 - (x) in paragraph (f) of that definition, sub-paragraph (i) were omitted and the reference to the adoption of the DPD were a reference to the Secretary of State’s decision under section 27(4)(b) whether or not to approve the DPD;
- (c) before he holds an independent examination of the DPD under section 27(2), comply with regulation 30(3)(a) to (e) as if—
- (i) the document mentioned in regulation 30(1)(a) were the report prepared by the Secretary of State under paragraph (1)(c) of this regulation,
 - (ii) for regulation 30(1)(b) there were substituted “(b) if the approval of the DPD would result in changes to the adopted proposals map, a map showing those changes;”,
 - (iii) in regulation 30(1)(c), the reference to the local planning authority were a reference to the local planning authority in question,
 - (iv) in regulation 30(1)(d), the reference to the local planning authority were a reference to the Secretary of State,
 - (v) in regulation 30(1)(e) and (f), the reference to section 28(2) were a reference to paragraph (3) of this regulation,
 - (vi) in regulation 30(1)(g), the reference to the authority were a reference to the Secretary of State, and
 - (vii) in the definition of “by local advertisement” in regulation 2(1), the reference to the local planning authority were a reference to the local planning authority in question; and
- (d) if a person requests the opportunity to appear and be heard by the person carrying out the independent examination under section 27(2), comply with regulation 34(2) as if—
- (i) the reference to the local planning authority were a reference to the Secretary of State,
 - (ii) the reference to regulation 28(2) were a reference to paragraph (3) of this regulation, and
 - (iii) in the definition of “by local advertisement” in regulation 2(1), the reference to the local planning authority were a reference to the local planning authority in question.
- (3) Any person may make representations about a DPD made available under regulation 27 as modified by paragraph (2)(b) but any such representations must—
- (a) be made within the period which the Secretary of State specifies for the purposes of this paragraph; and

- (b) be sent to the address and, if the Secretary of State thinks it appropriate to specify a person, the person, which he specifies for the purposes of this paragraph.
- (4) Where the Secretary of State holds an independent examination under section 27(2) regulation 31 shall apply as if the reference to regulation 28(2) were a reference to paragraph (3) of this regulation.
- (5) Regulations 41, 42 and 44 shall apply where the Secretary of State holds an independent examination under section 27(2) as if—
 - (a) references to the local planning authority were references to the Secretary of State;
 - (b) in the definition of “by local advertisement” in regulation 2(1), the reference to the local planning authority were a reference to the local planning authority in question;
 - (c) the reference in regulation 41(1) to section 20 or 21(5)(b) were a reference to section 27(2);
 - (d) the reference in regulation 41(3)(c) to the Secretary of State’s decision under section 21(9)(a) were a reference to the Secretary of State’s decision under section 27(4)(b) whether or not to approve the DPD;
 - (e) the reference in regulation 42(2) to complying with section 21(9)(a) were a reference to deciding whether to approve the DPD under section 27(4)(b); and
 - (f) the duties imposed by regulation 44 applied as soon as reasonably practicable after the Secretary of State decides whether or not to approve the DPD under section 27(4)(b), the reference in that regulation to section 21(9)(b) were a reference to section 27(5) and the reference to the Secretary of State’s decision under section 21(9)(a) were a reference to the Secretary of State’s decision under section 27(4)(b) whether or not to approve the DPD.
- (6) This regulation applies to the revision of a DPD by the Secretary of State as it applies to the preparation of a DPD by the Secretary of State.
- (7) In this regulation “the local planning authority in question” means the local planning authority in relation to which the Secretary of State is taking action under section 27.

Provision supplementary to regulation 45

- 45A.**—(1) The Secretary of State must make a request under regulation 45(1)(e) or (f) before he holds an independent examination under section 27(2) in relation to the DPD or the revision.
- (2) Where the Secretary of State makes such a request, the RPB or the Mayor of London (as the case may be) must send its opinion to the Secretary of State within the period of six weeks starting on the day the request is made.
 - (3) The period which the Secretary of State specifies for the purpose of regulation 45(3) must be a period of not less than six weeks starting on the day on which notice given pursuant to paragraph (e) of regulation 27 is first published.
 - (4) The Secretary of State must comply with section 27(3)—
 - (a) at the same time as he complies with regulation 41; or
 - (b) if he does not propose to depart from the recommendations of the person appointed to carry out an examination of the DPD, as soon as reasonably practicable after he decides whether or not to approve the DPD or revision under section 27(4)(b).
 - (5) When the Secretary of State complies with regulation 27(3) he must—

- (a) make the recommendation and the reasons of the person appointed to carry out the examination available for inspection during normal office hours at such places as he thinks appropriate;
- (b) publish the recommendations and reasons on his website; and
- (c) give notice to those persons who requested to be notified of the publication of the recommendations of the person appointed that they have been so published.”.

Transitional provision

3.—(1) The amendments made by regulation 2(2) shall not apply in relation to a supplementary planning document adopted before 1st September 2008.

(2) The amendments made by regulation 2(2), (10) to (13) and (15) shall not apply in relation to a development plan document or statement of community involvement submitted to the Secretary of State under section 20(1) of the Planning and Compulsory Purchase Act 2004(9) before 1st September 2008.

(3) If a development plan document or statement of community involvement is submitted to the Secretary of State under section 20(1) of the Planning and Compulsory Purchase Act 2004 before 1st September 2008 and is withdrawn, regulation 37(2) of the 2004 Regulations (as originally made) shall apply in relation to that document or statement.

(4) Paragraph (5) applies if a local planning authority—

- (a) comply with regulation 25 of the 2004 Regulations (as originally made) in relation to a development plan document or statement of community involvement before 27th June 2008;
- (b) comply with regulation 26 of the 2004 Regulations (as originally made) in relation to that document or statement before 1st September 2008; and
- (c) submit that document or statement to the Secretary of State under section 20(1) of the Planning and Compulsory Purchase Act 2004 on or after 1st September 2008.

(5) The local planning authority shall be treated as having complied—

- (a) in the case of a development plan document, with regulation 25 as substituted by these Regulations; and
- (b) in the case of a statement of community involvement, with regulation 26 as substituted by these Regulations.

(6) Where paragraph (5) applies—

- (a) the local planning authority must consider any representations made in accordance with paragraph (2) of regulation 27 of the 2004 Regulations (as originally made) before they comply with regulation 27 as substituted by these Regulations;
- (b) the references in regulations 27 and 30 of the 2004 Regulations (as amended) to specific consultation bodies or general consultation bodies invited to make representations under regulation 25(1) or regulation 26(1) shall be treated as references to specific consultation bodies or general consultation bodies consulted under regulation 25 of the 2004 Regulations as originally made;
- (c) the references in regulation 30(1)(d) of the 2004 Regulations (as amended) to bodies and persons invited, and representations made, under regulation 25 or 26 shall be treated as references to bodies and persons invited, and representations made, under regulation 25 of the 2004 Regulations as originally made;

(9) 2004 c.5.

- (d) regulation 37(1)(c) of the 2004 Regulations (as substituted by these Regulations) shall be treated as if it referred only to a body to whom notification was given under regulation 26(c) of the 2004 Regulations as originally made; and
 - (e) regulation 37(1)(d) of the 2004 Regulations (as substituted by these Regulations) shall have effect as if it also referred to anything made available or published under regulation 26(a) and (b) of the 2004 Regulations as originally made.
- (7) For the purposes of regulations 25 and 26 as substituted by these Regulations, it is immaterial that any step required by either of those regulations was taken before the commencement of these Regulations.
- (8) In this regulation—
- (a) “supplementary planning document” has the same meaning as in the 2004 Regulations⁽¹⁰⁾; and
 - (b) a reference to a supplementary planning document, development plan document or statement of community involvement includes a reference to a revision of such a document or statement.

Signed by the authority of the Secretary of State
for Communities and Local Government

Caroline Flint
Minister of State
Department for Communities and Local
Government

19th May 2008

⁽¹⁰⁾ See the definition in regulation 2(1) of the 2004 Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Local Development) (England) Regulations 2004 (“the 2004 Regulations”) which make provision in connection with the system of local development planning established by Part 2 of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”). Since the 2004 Regulations apply in relation to England only, the amendments made by these Regulations similarly only apply in relation to England.

Regulation 2(2) amends the definition of “relevant authority” in regulation 2(1) of the 2004 Regulations to include police authorities. The definition of “specific consultation bodies” in regulation 2(1) of the 2004 Regulations is amended to refer to the Secretary of State for Transport (instead of the Highways Agency and the Strategic Rail Authority) and to Primary Care Trusts (instead of Strategic Health Authorities). In addition, the Coal Authority becomes a “specific consultation body” as does Natural England (which took over functions of English Nature and the Countryside Agency).

Regulation 2(6) makes a minor amendment which has the effect that local development schemes must specify that an adopted proposals map will be amended when a development plan document is approved.

Regulation 2(7) substitutes new regulations 10, 11 and 11A for regulations 10 and 11. The new regulations relate to the procedure connected with the preparation and revision of local development schemes. In particular, they deal with the timing of the submission of local development schemes to the Secretary of State and the Mayor of London and make changes to the circumstances under which such schemes can be brought into effect, taking account of the Mayor’s direction-making powers under section 15(4) of the 2004 Act. New regulation 11A provides for how copies of directions made under section 15(4) or (8) of the 2004 Act should be sent to the Secretary of State and prescribes the time within which the Secretary of State may exercise powers of direction under sections 15(6B), (8B)(b) and (8C) of that Act.

Regulation 2(9) makes a minor amendment to the definition of “adoption statement” for the purposes of Part 5 of the 2004 Regulations which relates to supplementary planning documents.

Regulation 2(10) substitutes new regulations 24 to 31 for regulations 24 to 33. The regulations relate to development plan documents and statements of community involvement. In particular, new duties are provided relating to public participation in the preparation of development plan documents and statements of community involvement (see new regulations 25 and 26). The time at which representations may be made in relation to these documents and statements is changed with the result that such representations must be made before the documents and statements are submitted to the Secretary of State under section 20(1) of the 2004 Act. The procedures in regulations 32 and 33 of the 2004 Regulations relating to consultation on site allocation representations are removed. A minor amendment is made to the definition of “adoption statement” in regulation 24(2).

The Regulations contain consequential and minor amendments to the 2004 Regulations (see regulation 2(3) to (5), (8) and (11) to (22)). In particular, regulation 2(17), (21) and (22) elaborates on the procedures to be followed where a direction is made under section 21(4) of the 2004 Act or where the Secretary of State exercises the default powers in section 27 of that Act.

Regulation 3 contains transitional provisions.

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

An impact assessment has been prepared in relation to these Regulations and copies placed in the libraries of both Houses of Parliament. A copy is available from Planning Delivery and Performance, 1/G9, Eland House, Bressenden Place, London SW1E 5DU.