

Circular 18/1995: Planning and compensation act 1991 simplified planning zones

This Circular cancels Circular 16/1987

The Chief Executive
Regional and Islands Councils

The Chief Executive
District Councils (except in Highlands, Borders and Dumfries and Galloway Regions)

Our Ref: PGD/11/4/13

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Introduction

1. Simplified Planning Zones (SPZs) were designed to aid urban regeneration by deregulating the planning process in specific areas. An SPZ scheme grants planning permission for the types of development it specifies within the zone without the need for any individual planning permission.

2. Section 21A of the Town and Country Planning (Scotland) Act 1972 (the 1972 Act) obliges planning authorities to consider the making of such schemes. Section 21 A to 21 E, and Schedule 6A of the 1972 Act made provision with regard to these schemes and the SPZ (Scotland) Regulations 1987 (the 1987 Regulations) established the more detailed procedural requirements. Despite the availability of these powers, only four such schemes had been adopted in Scotland by end-1994. Overly complicated adoption procedures have been indicated as a key disincentive. In view of this, Section 59 and Schedule 11 of the Planning and Compensation Act 1991 (the 1991 Act) made provision for streamlining the procedures. The relevant provisions are now being implemented, through the Simplified Planning Zone (Scotland) Regulations 1995 (the 1995 Regulations), which replace the 1987 Regulations.

The 1995 modifications

3. The new procedures continue to provide for consultation on a proposed scheme, notification, consideration of objections, modification of proposals, and for the involvement of the Secretary of State. The main change in the procedure comes in the consideration of objections; there will no longer be a statutory requirement to have a public local inquiry to consider objections. A planning authority will be able to consider any objections themselves or appoint a person to consider the objections for them, if they consider a full public local inquiry would not be appropriate.

4. In streamlining the adoption procedures, the Secretary of State has removed the obstacle which has been cited as the main disincentive for the use of SPZs. In line with Section 21 A of the 1972 Act planning authorities should now consider whether SPZ schemes can be used to deregulate the planning system within their area and keep this matter under review.

5. Annex 1 of this Circular offers detailed guidance on the possible uses and advantages of Simplified Planning Zones Schemes; and Annex II outlines the detailed procedures required for adopting or altering such SPZ Schemes.

General Benefits of SPZs

6. For the developer or landowner, SPZs offer savings in time, money and effort. They avoid the delay while planning applications are considered for successive stages of a large development. They provide certainty on what is permitted without the need to make a specific planning application and pay the associated fee, and flexibility to make changes in a project within the framework of the scheme where these are necessary to respond to market demands. They also enhance land values as an additional incentive for inward investment.

7. For planning authorities, SPZs can be a useful promotional tool, since incoming investors have the certainty of being able to start construction work without delay. They also allow authorities to promote their own solutions for sites where an owner seems unwilling to bring forward an application for development. In addition, they offer administrative savings, even allowing for compliance monitoring.

8. They do not mean the abandonment of acceptable standards of development or care for the amenity of the built environment. Through appropriate criteria, conditions or limitations, such matters will still be safeguarded while offering flexibility to developers in terms of the detail.

Enquiries

9. Enquiries about the content of this Circular should be addressed to Ms Jane Aitken (0131-244 4243). Further copies and a list of current planning circulars may be obtained from Room 6/84, New St Andrew's House, Edinburgh, EH1 3TG (0131-244 4082).

Annex I: uses of SPZ schemes

Promotion of particular areas

1. Like enterprise zones, which usually incorporate a simplified planning system, SPZs are particularly useful as part of an overall promotional programme to generate private sector interest in the zone concerned or more widely in the authority's area as a whole. In considering the possibilities for SPZ schemes planning authorities will wish to bear in mind the wider effects for their areas of designating particular parts as SPZs. The promotional value of an SPZ can be enhanced by providing and highlighting other facilities in the zone. These may include the availability of specific sites, the possibility of financial assistance (eg from any relevant Government grants), arrangements for the prompt handling of Building Standards Regulations applications and any remaining requirements for consents (eg for alterations to listed buildings), and co-ordinated advice on infrastructure services. Material on all these aspects can usefully be appended to the SPZ scheme.

Initiative in making SPZ schemes

2. Under Section 21A(4) planning authorities are required to consider and keep under review the creation of SPZ schemes in their areas. Planning authorities normally make (or alter) such schemes, but anyone can ask an authority to do so. If, in such circumstances, the authority refuses or fails to make a decision within 3 months, the applicant can require the request to be referred to the Secretary of State, who may direct the authority to make (or alter) the scheme. The Secretary of State expects authorities to respond constructively to any proposals put to them by developers or landowners as well as actively devising their own proposals. Should an authority, after careful consideration, not feel able to respond positively to a request for an SPZ scheme, they should provide the applicant with a full explanation.

3. SPZs will normally be most appropriate in older urban areas where there is a particular need to promote regeneration and to encourage economic activity and employment. Old industrial sites and sites in single ownership may be particularly suitable. However, there may also be other areas where carefully thought out SPZ schemes could be of benefit, where design flexibility is to be encouraged within an overall framework of control. One example might be an extensive tourist operation where, within a large site, frequent investment in new attractions is needed.

4. Where sites suitable for SPZ treatment straddle planning authority boundaries, it is open to the authorities concerned to prepare a scheme jointly.

Relationship to development plans

5. Where structure or local plan proposals provide for an SPZ scheme, this should be supported by reasoned justification. The plan should also take account of any existing SPZ schemes in the area. Similarly the authority should highlight such links in the SPZ written statement. Where SPZ proposals depart from the development plan in such a way as to prejudice its implementation significantly, and objections have been lodged, a public local inquiry will be appropriate (see Part II, paragraph 3.18).

6. While there are separate procedures for the preparation of development plans and SPZs, it may be helpful to process an SPZ scheme simultaneously with a development plan, particularly if the latter is making new provision for development (eg a new business park). This will ensure unambiguous land-use policies. Wherever SPZ schemes are adopted they must be consistent with the wider social, economic and environmental considerations of the development plan.

Selection of areas

Geographical features

7. There are no restrictions on the size of SPZs. The schemes are perhaps most useful if used strategically. However, they can equally encompass large individual sites, or a series of separate sites with similar characteristics.

8. In most cases, areas selected for SPZs are likely to provide concentrated opportunities for development or redevelopment. In others, potential development

sites may be more dispersed. Where a series of separate sites is involved there are likely to be administrative advantages in making a single SPZ scheme, rather than several individual SPZ schemes.

Land ownership

9. SPZs may include land in Local Authority or Crown ownership. In the case of Crown land, the Crown, like the owners of other land in the area of a proposed scheme, must be consulted. Where a substantial area of land within the proposed scheme is in the ownership of the local authority the Secretary of State's view is that a public local inquiry would be appropriate (see paragraph 3.19, Annex II).

Heritage designations

10. Regulation 65 of the Conservation (Natural Habitats, etc) Regulations 1994 nullifies any grant of planning permission for development in an SPZ which would be likely to have a significant effect on a European site and which is not directly connected with or necessary to the management of the site. It is for planning authorities to judge, in conjunction with SNH, whether such impact could arise in their scheme. It is unlikely that SPZ schemes within or adjacent to a European site, are likely to prove acceptable. Further guidance is contained in Circular 6/95.

11. SPZs cannot include land in National Scenic Areas (NSAs), Sites of Special Scientific Interest, approved green belts, conservation areas, or any other area excluded by an order made by the Secretary of State. Other land of significant conservation, landscape, recreational and agricultural value should be avoided. Such areas include prime quality agricultural land, open space, preferred coastal conservation area and other locally important areas of conservation interest. Authorities should not designate areas likely to have an adverse impact on the adjacent built heritage (unless potential harm can be avoided through use of exclusions, conditions or limitations); land containing hazardous installations; and land that would sterilise important mineral resources. They should also consider any land-use constraints imposed by unstable or contaminated land.

Extent of permission to be given

12. The planning permission attached to an SPZ scheme can vary considerably in scope. SPZs could grant permission for a wide range of major developments or one predominant use. Or they might permit a wide range of minor developments including changes of use, extensions and infill development. Depending on the nature of the area designated as an SPZ, and the types of development permitted, authorities will wish to consider what degree of detailed control needs to be maintained during the period of the SPZ in order to deal with bad neighbour development and the possibility of poor quality schemes. They will also wish to ensure that the terms of permission conferred by the SPZ are observed. In the interests of clarity, permissions or exclusions should as far as possible be specified in terms of the descriptions used in the Town and Country Planning (Use Classes) (Scotland) Order 1989. (For more detailed guidance on exclusions, conditions, etc see paragraphs 21-28 below).

Specific or general permissions

13. There are 2 basic approaches to SPZ schemes:

a. A specific scheme gives a permission which specifically itemises the types of development permitted and the limits imposed. By omission, any other type of development is excluded from the scheme and would be subject to the normal requirements of planning legislation. This type of scheme, which is the most common model, is more definite and precise about the types of development which benefit. It is easier to prepare and operate and may better serve to encourage the types of development which the authority consider most needed. To date, the most frequent permitted users have been business uses, general industrial uses, and storage or distribution (Use Classes 4, 5 and 11).

b. A general scheme gives a general or wide permission covering almost all types of development but listing the exceptions. This type of scheme needs to be as clear about the kinds of development that are not given permission by the scheme as about those that are. Where a wide range of development is being permitted by a scheme it will probably be more convenient to list the exceptions to a general permission than to list the individual types of development permitted.

Possible uses of SPZs

14. Both the size and character of SPZ schemes can be varied to suit different objectives and prevailing local circumstances. The following examples illustrate the versatility of SPZs and how they can be used in conjunction with other measures as part of a wider marketing strategy:

a. Large old industrial areas or estates

Many towns and cities have such areas. In some cases they were purpose-built industrial estates or large establishments in single ownership. Some of the buildings are now obsolete and need to be replaced, while others can be refitted and reused. Some plots of land may be vacant. A range of financial assistance may be available from Local Enterprise Companies (LECs) to help bring land and buildings in these areas back into beneficial use. The form and, in some cases, the availability of such assistance depends upon a number of factors, including the location and the nature of the project concerned. LECs also have powers to undertake land reclamation and environmental improvements, usually in support of economic development. There are additional benefits from declaring areas to be industrial and/or commercial improvement areas in districts which have been designated under the Inner Urban Areas Act 1978 (as amended). Designation as an SPZ (with permission granted for a wide range of extensions, change of use, and redevelopment) could reinforce the effectiveness of such LEC and other regeneration initiatives.

b. New employment areas

The term 'employment area' is used to cover an area suitable for mixed industrial warehousing, commercial and retailing development. Typically, this may be a large disused site where the surroundings impose few, if any, constraints. The SPZ scheme could grant permission for a wide range of developments or give a general permission with a small number of exclusions.

c. New residential areas

In the case of areas intended for sizeable new residential developments an SPZ scheme could lay down broad objectives and essential design criteria allowing maximum freedom for developers to innovate. The exact mix of dwelling types, layout and landscaping features, details of elevation and choice of materials can be left to developers. They can then respond more quickly to changing client preferences. Such schemes may need to be supported by clearly drafted conditions and exceptions to safeguard the quality of the initial project.

d. Large single ownership sites

Single ownership is likely to help progress an SPZ scheme rapidly. Large sites in single ownership, in both private and public sectors, can be found in most towns and cities. Some may never have been developed, but are retained as reserve sites, eg for future educational purposes. Others - perhaps close to the town centre - will have been in beneficial use, but are now redundant or underused. The reuse of such sites can play an important part in reducing the pressure for peripheral expansion, as well as improving the local environment and economy. Often these areas may be suitable for one predominant use - such as housing with local shops and community amenities or large tourist complexes. Or they may be appropriate for mixed commercial development - perhaps light industry and offices, depending on the surrounding area.

e. Redevelopment sites

Large vacant or underused sites represent a considerable land resource, some of which may offer development potential. The successful disposal and subsequent development of these sites for beneficial uses often depends on positive marketing. The planning status of sites is an important aspect of their promotion. A SPZ scheme can offer, from the outset, a clear and reliable statement of what development would be appropriate, coupled with the permission to develop. This can greatly enhance any other form of publicity to stimulate interest in the sites.

f. Land requiring provision of services

Sometimes it is advantageous to encourage the timely and orderly development of land in association with the provision of roads and services - such as water supply and sewerage facilities. It can be particularly important to regulate, by phasing, the location and timing of development of large areas where the private and public elements need to proceed in tandem. The likely timing of adequate road and service provision may determine when it is sensible to make an SPZ scheme. It may be possible to encourage joint working between private and public sector in the provision of services. SPZ schemes set up by the local authority could provide a better form of co-ordination than separate responses to individual planning applications. In some cases, conditions may be appropriate to regulate the timing of development in relation to infrastructure provision. In all cases, it is important to consult the infrastructure providers when SPZ schemes are being prepared. Such consultations should take place against the background of, or in parallel with, those held during preparation of the relevant development plans, which provide an important means of co-ordinating infrastructure provision in the development proposals.

The use of exclusions

15. SPZ schemes themselves do not require environmental assessment (EA) under the Environmental Assessment (Scotland) Regulations 1988. Consequently, the SPZ Regulations 1995 prescribe that an SPZ cannot include development which would require an EA. Additionally, the Town and Country Planning (Simplified Planning Zones) (Scotland) Order 1995 provides that no SPZ scheme shall have effect to grant planning permission for development requiring EA. Development which falls within any of the descriptions included in Schedule 1 to the 1988 Regulations will always require EA; and, therefore, such projects must be excluded from SPZ schemes. Development of a type listed in Schedule 2 to the 1988 Regulations will require EA only if the particular project is likely to have significant effects on the environment by virtue of such factors as its nature, size or location. Planning authorities should ensure that such developments are also excluded from any SPZ scheme.

16. In the case of a specific SPZ scheme (see paragraph 19a above) it may be possible for an authority to define the permission in the scheme in sufficient detail to exclude any development which would require EA under Schedules 1 or 2. In all other cases it will be necessary to include a provision which makes it clear that any development requiring EA under Schedules 1 or 2 of the EA Regulation, will not be permitted by the scheme. In a case where a developer is unclear if a particular development might require EA but would otherwise be included in the scheme an opinion can be sought from the local authority as to whether EA is required. There is room for appeal to the Secretary of State if the developer disagrees with the planning authority's decision or if the planning authority take longer than four weeks to respond. Where it is concluded that EA is required for a development, the development will also require planning permission in the usual way.

17. SPZ schemes should not be used to permit the construction of buildings, or use of buildings or land, for Special Industrial Uses as listed in Use Classes 7 to 10 (inclusive) of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1989 as amended, or for any activity which may give rise to the presence of a controlled quantity of a hazardous substance (as specified in the Planning (Hazardous Substances) Regulations 1992 on any site in the scheme area or for the laying or constructing of a notifiable pipeline.

18. It may also be necessary to exclude such developments as:

- i. Aerodromes/heliports;
- ii. Caravan sites;
- iii. Funfairs;
- iv. Scrapyards;
- v. Slaughterhouses.

This list is illustrative rather than exhaustive. There may be occasions where an SPZ might reasonably permit some of these suggested exclusions. It will depend on the other uses permitted by the scheme, the location of the SPZ and the character of the surrounding areas.

The use of conditions and limitations

19. In the interests of the amenity of surrounding areas and of the developments in the scheme itself, it may be necessary for conditions and limitations to be attached to the development permitted by an SPZ scheme. These should be kept to the minimum and should be enforceable. The fewer the restrictions attached to SPZ schemes, the more flexibility there will be as to how projects proceed and what form they take. The greater the degree of freedom given by a SPZ scheme the easier it will be for the developers and landowners to respond to client preferences and market conditions.

20. In general, SPZ schemes should not be concerned with detailed aspects of development. They should, however, ensure that any essential health and safety standards are specified where such matters are not already covered by other statutory provisions. Such matters as pollution emissions, contaminated land, unstable land, access for disabled people, vehicular access, parking, highway construction, crime prevention and design may need to be included insofar as planning control is appropriate. Particular attention should be paid to the risk of flooding and to safeguarding water quality and water resources.

21. SPZ schemes may also need to set down the basic criteria for development to ensure that a satisfactory form and scale of development is achieved. This could be achieved by specifying, for example, the maximum height or density range of buildings, floor space limits and parking standards. Landscaping and open space requirements should also be considered.

22. Wherever possible SPZ schemes should be drafted so as to enable developers to comply with any conditions specified without recourse to planning applications. Where the specific approval of the planning authority is necessary, the SPZ scheme should make clear exactly what criteria will apply. Planning authorities should make special arrangements to deal expeditiously with such applications in SPZ areas (eg by the delegation of decisions where appropriate).

The use of sub-zones

23. It may be necessary to include special sub-zones in which the planning regime of the SPZ scheme is further tailored to take account of local factors. Examples include: health and safety sub-zones around hazardous installations or unstable and contaminated land in or near the SPZ; sensitive boundary sub-zones (for example, where the SPZ adjoins a residential area, conservation area, SSSI, nature conservation area or other environmentally important area); safeguarding areas for strategic public services and major roads; and landscaping sub-zones on and around important archaeological sites or areas. Where archaeological remains lie within the area of a proposed SPZ it may be necessary to tailor the scheme to ensure their continued protection. The planning authority will therefore need to carry out a site assessment or evaluation, and consult archaeological interests, in formulating proposals for an SPZ.

24. Sub-zones may exclude most of the development permitted by the SPZ scheme, in particular residential development in a scheme where this type of development is

otherwise allowed. In addition, sub-zones may need to add to the conditions of the scheme. For example, a more limited height restriction, details of screening to be submitted for approval or detailed constructional standards. Sub-zones might be useful for unstable land and the preservation of important archaeological remains, for example.

25. Sub-zones could be used to restore normal planning control to selected parts of the SPZ, say, where noise was an important factor. Or it may be necessary only to add selected exclusions to the SPZ scheme to safeguard adjacent property interests or the line of future road schemes.

Relationship of SPZs to other controls

26. An SPZ scheme grants planning permission only for the development which it specifies and on the basis it sets out. SPZ schemes cannot grant listed building consent, scheduled monument consent, hazardous substances consent, consent for the display of advertisements, or consent for the stopping up or diversion of a right of way. These requirements will continue to apply in the normal way within an SPZ. Similarly, SPZ schemes cannot grant any necessary licences or give Building Regulations approval needed. The planning authority's consent will continue to be required for cutting down, lopping or topping a tree protected by a Tree Preservation Order.

27. The planning controls over demolition of certain buildings, which came into force in February 1995, will not apply where demolition is required as part of the redevelopment authorised by the scheme.

Enforcement

28. The enforcement of planning control in SPZs, and in areas in which SPZs have expired, is the same as elsewhere under the powers given to planning authorities. Guidance on use of these powers is given in SOEnD Circular 8/92 and 36/92.

Annex II: guidance on SPZ procedures

1 Introduction

1.1 Part 2 of this Circular provides guidance on the preparation, adoption, and alteration of SPZ schemes in Scotland. Primary legislation is contained in Section 21 A to E and Schedule 6A of the Town and Country Planning (Scotland) Act 1972 (the 1972 Act), as amended by Schedule 11 to the Planning and Compensation Act 1991 (the 1991 Act). The Town and Country Planning (Simplified Planning Zones) Regulations 1995 (SI No) (the 1995 Regulations) and the Town and Country Planning (Simplified Planning Zones) (Scotland) Order 1995 (SI No) (the 1995 Order) supplement the provisions. This guidance pulls together the statutory provisions from the different sources to form an overview of SPZ procedures; references to the Act and Regulations are identified in the margin.* This document is not a statement of law and planning authorities should consult the Act and the Regulations for the legal requirements.

*In these marginal references, P denotes a paragraph of Schedule 6A to the 1972 Act as amended, R one of the Regulations, and S denotes a section of the 1972 Act.

2. Format for SPZ schemes

2.1 An SPZ scheme consists of a map and a written statement, and such diagrams, illustrations and descriptive matter as the planning authority think appropriate for explaining or illustrating the provisions of the scheme. An SPZ scheme written statement must specify:

- a. the development or classes of development permitted by the scheme;
- b. the land in relation to which permission is granted;
- c. any conditions, limitations or exceptions subject to which it is granted;

The Secretary of State has not prescribed any additional requirements by regulation.

P.1

3. Procedures for SPZ schemes

Preparation of SPZ schemes and alterations

3.1 Planning authorities are required to consider in which part or parts of their area it is desirable to create SPZs and to keep that question under review. Where they decide that it would be desirable to make an SPZ scheme, they must prepare one. S.21A(4)

3.2 A planning authority can decide at any time to make an SPZ scheme or alter a scheme adopted by them or, with the consent of the Secretary of State, to alter a scheme approved by him. An authority who decide to make or alter a scheme are required to notify the Secretary of State of their decision as soon as practicable and certainly by the date that they begin the consultation on the scheme or alterations.

P.2

3.3 The procedures for altering SPZ schemes are the same as those for preparing a new scheme.

Requests to make or alter SPZ schemes and the power of the Secretary of State to direct the making or alteration of schemes

3.4 If anyone requests an authority to make or alter a SPZ scheme and they refuse to do so, or do not decide to do so within 3 months, he may require them to refer the matter to the Secretary of State. However, this does not apply:

- a. if a SPZ scheme for the whole or part of the area covered by the request has been adopted or approved within the preceding 12 months; or
- b. if, in the case of a request to alter a scheme, it was adopted or approved within the preceding 12 months.

P.3

3.5 Where a request is referred to the Secretary of State he must send the planning authority any representations made by the applicant which they have not already received and ask them to make any representations they want to make within 28 days. After considering any written representations from the applicant or the planning authority and carrying out any other consultations he thinks fit, the Secretary of State may direct that the planning authority makes the SPZ. He must notify the applicant and the planning authority of his decision and his reasons for it.

P.3

3.6 Depending on the nature of the request made by the applicant, an SPZ direction will direct the planning authority either to make an SPZ scheme or to alter an existing scheme as the Secretary of State considers appropriate, and will require them to take the necessary steps to adopt the scheme or alteration. A direction may extend to the whole or a part of the land specified in the request to the planning authority; or to such land together with other land. It may direct that land shall be added to or excluded from an existing SPZ.

P.4

Steps to be taken before depositing proposals

3.7 Before determining the content of their proposals, a planning authority must consult the Secretary of State and the local roads authority as to the effect any proposals they may make will have on existing or future roads.

P.5

3.8 The 1995 Regulations also require the authority to consult the bodies listed in Article 15 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 (as amended) as appropriate for development proposed in the scheme. They must consult Community Councils whose areas fall within the area of the scheme. They must take all reasonable steps to consult the owners of land within the area of the scheme. And they must consult any New Town Development Corporation whose area falls within the scheme. Otherwise the extent and length of pre-deposit publicity and consultation is left to planning authorities' judgement, having regard to the particular circumstances.

R.3(1)

3.9 When the authority consult the bodies prescribed they must also notify the Secretary of State that they intend to make or alter an SPZ scheme and the nature of the scheme or alterations.

R.3(3)

3.10 The authority must consider any representations made to them by the prescribed consultees.

R.3(2)

3.11 It is obviously sensible to resolve any points of difficulty at an early stage of preparing a scheme so as to minimise objections once the scheme is on deposit. Thus it is important that publicity is adequate and that people have sufficient opportunity to comment on proposals. In addition to those prescribed, planning authorities are advised to consult local people living or owners of land in the area of the proposed SPZ. They must take steps to consult owners of land within the proposed site. Where it seems appropriate, occupiers of land in the proposed SPZ scheme, occupiers of land adjoining the proposed SPZ and the owners of mineral rights in the area of the proposed SPZ itself may also be consulted. The other bodies whom it would be appropriate to consult will vary according to the characteristics of the area concerned. For example, where an SPZ is likely to affect the interests of the tourist industry the views of the Scottish Tourist Board should be sought. Generally, planning authorities are advised to consult conservation and amenity groups (including for archaeological interests) and businesses and developers with an interest in the proposed SPZ or areas outside it which could be affected by development within. Adequate consultation with infrastructure authorities is particularly important.

3.12 Some specific bodies with whom consultation is advised (over and above any required by the Regulations) are:

Scottish Natural Heritage: where development is likely to affect Natural Heritage Areas, Sites of Special Scientific Interest, NSAs and other areas of landscape significance;

Historic Scotland: where development is likely to affect the site or setting of a Grade A or B listed building or the demolition of any listed building or affect the character or appearance of an adjoining conservation area;

Scottish River Purification Boards: where development is likely to lead to increased industrial discharge into a river or estuary, development in areas at risk from flooding or having a high water table. (This function will be taken over by the Scottish Environment Protection Agency in April 1996 after which consultations should be directed to them);

HM Industrial Pollution Inspectorate where development is likely to involve pollution control matters regulated by HMIPI. These include processes designated under Part I of the Environmental Protection Act 1990 and processes covered by the Alkali, etc Works Act 1906, and sites where radioactive material is kept or used or where radioactive waste is accumulated or disposed of. (This function will be taken over by the Scottish Environment Protection Agency in April 1996 after which consultations should be directed to them).

The Waste Regulation Authority where development could be contaminated by a landfill site. (This function will be taken over by the Scottish Environmental Protection Agency in April 1996 after which consultation should be directed to them).

Railtrack and Scotrail: where development is near an operational railway line.

Civil Aviation Authority: where development is near an airport.

Procedures once proposals are prepared

3.13 When a planning authority have prepared a scheme they must send a copy to the Secretary of State, and, where appropriate, the local roads authority, and make copies available for inspection. Notice must be given in the Edinburgh Gazette and, for 2 successive weeks, in a local newspaper. It must also be given to those consulted at the pre-deposit stage and any other individuals and organisations whom the planning authority think should be notified.

P.6

R.4

3.14 Additionally, authorities must put up site notices on or near the land proposed to be included in the scheme for a period of not less than 6 weeks. It is for authorities to decide where best to post site notices and how many to post. But it is recommended that site notices are posted in areas where it has been difficult to contact the landowners.

R.4

3.15 The notice must be made in Form 1 which is prescribed by the Regulations. In the notice, the authority must invite objections and representations to be made to them in writing within 6 weeks.

3.16 The notice also states the authority's intention to adopt the proposed scheme (or alterations) if no objections (or representations to be treated as objections) are received in the 6 week period.

Withdrawal of proposals

3.17 Where proposals are withdrawn, notice must be given in the Edinburgh Gazette, a local newspaper, to anyone who has made and not withdrawn an objection or representation, and to anyone else that the authority consider should be notified. The notice must be made in Form 2 which is prescribed by the Regulations.

R.6

Dealing with objections

3.18 All objections and representations made in accordance with the Regulations and not withdrawn must be considered.

R.5

3.19 The authority can decide to consider the objections themselves or they may arrange for a public local inquiry (or other hearing) to be held for the purpose of considering such objections. In the Secretary of State's view, circumstances in which a public local inquiry will be appropriate include: where a scheme constitutes a

departure which would significantly prejudice the implementation of the development plan; raises strategic planning issues; is the subject of substantial local controversy; covers a substantial area of land in the authority's ownership; or involves planning issues of more than local importance. Where an inquiry is held the authority must give at least 6 weeks' notice. Alternatively, the authority may require the objections to be considered by a person appointed by the Secretary of State without an inquiry or other hearing. In either case, The Scottish Office Inquiry Reporters' Unit require 6 months notice of the need to provide a Reporter. The Secretary of State has the power to direct the authority to hold an inquiry or to have objections considered by a Reporter without an inquiry. The Secretary of State may use his powers to direct an inquiry if any of the circumstances outlined above obtain.

P.7(1)(a)

R.7(2)

P.7(1)(b)

P.7(2)

3.20 Where the authority resolve to consider objections without an inquiry (even if with the assistance of a Reporter) they must notify the fact to those who have made objections and representations in accordance with the Regulations.

R.7(1)

3.21 Whichever course the authority choose they must prepare and make available for inspection a reasoned statement of their decisions and (where appropriate) a copy of the report of the person holding the inquiry or considering the objections for them.

R.8

R.9(1)

Modifying proposals

3.22 Where the authority propose modifications to take account of objections or other material considerations they must list them with reasons, make copies of the list available for inspection, advertise the fact in Form 4 prescribed by the Regulations, notify those who have previously made objections and representations and anyone else whom the authority consider should be notified, and give 6 weeks for objections. The notice includes a statement that the authority intends to adopt the modified scheme if there are no objections in the 6 week period. The procedures for the consideration of objections to proposed modifications are the same as those at paragraph 3.18-3.21 above.

R8(2)

R.11

Adoption

3.23 The authority may adopt their proposals for making or altering a SPZ scheme either as originally put on deposit or in a modified form, provided that: they have considered objections made in accordance with the Regulations and (where appropriate) the views of the person holding any public inquiry or considering the objections in writing; and the scheme has not been called-in by the Secretary of State.

R8(1)

R.12

If there have been no objections to the scheme as originally put on deposit, no further notice is necessary before adoption. If objections have been considered but no modifications are to be made then Form 3 in the Regulations giving Notice of Intention to Adopt must be used.

R.10

3.24 When the authority adopt an SPZ scheme or alterations they must advertise the fact using Form 5 prescribed by the Regulations, notify those who have asked to be notified, make the scheme or alterations available for inspection for at least 6 weeks, and send copies to the Secretary of State.

R.13

R.16

Secretary of State's power to direct modifications

3.25 After copies of the proposed SPZ scheme or alterations have been sent to the Secretary of State he may, if it appears to him that the proposals in the scheme are unsatisfactory, direct the authority to consider modifying them. Where such a direction is given the authority must not adopt the scheme unless they have made the modifications necessary to conform with the direction or the direction has been withdrawn.

P.8(3)

P.8(4)

Secretary of State's call-in power: approval by Secretary of State

3.26 After copies of the proposed SPZ scheme have been sent to the Secretary of State and before it has been adopted, the Secretary of State may direct that the scheme be submitted to him for approval. Where he does so the authority must take no further steps towards the adoption of the scheme; in particular they must not hold or proceed with a local inquiry or other hearing or consider objections after receiving the direction.

P.9

3.27 When an SPZ scheme has been called in by the Secretary of State, he may, after considering the scheme, either approve it in whole or in part and with or without modifications, or reject it. Where he decides not to reject the scheme, the Secretary of State is obliged to take account of any duly made objections not already considered by the authority or by someone appointed for the purpose. He may also take into account any matters which he feels are relevant whether or not they have been taken into account in the SPZ scheme as called in. In considering the proposals he may, in addition, carry out what consultations he thinks fit. He may arrange for a local inquiry to consider objections or appoint someone to do so.

P.10

3.28 Where the Secretary of State is minded to approve the proposals with modifications he will notify the authority of the modifications he proposes to make and the authority must make them available for inspection and give notice of them in Form 6 prescribed by the Regulations by local advertisement and to individuals and organisations (on the same basis as if the authority had proposed the modifications themselves), with 6 weeks for objections.

R.14(1)

3.29 The Secretary of State will consider any objections. Where the Secretary of State approves the proposals he will require the authority to give appropriate publicity, broadly as in paragraph 3.24 above but the notice will be given in Form 7 as prescribed by the Regulations.

R.14(4)

Copies of SPZ documents

3.30 An authority must on request, and on payment of a reasonable charge, provide a copy of the scheme (and of any other document made available for inspection). Printed copies of the scheme (incorporating any alterations adopted) should be made available for inspection alongside the planning registers as soon as practicable and remain available until the scheme is (further) altered, replaced or comes to an end.

R.19

R.18

Exclusion of development requiring environmental assessment or likely to have significant effect on a European site

3.31 A development which is likely to have a significant effect on a European site cannot be granted planning permission by an SPZ scheme by virtue of Regulation 65 of the Conservation (Natural Habitats Etc) Regulations 1994. A planning authority shall therefore not include in a scheme any development which will have a significant

effect on a European site unless it is directly connected with or necessary for the management of the site (see paragraph 16 of Part I).

R.20

3.32 The Town and Country (Simplified Planning Zones) (Scotland) Order 1995 prescribes that no SPZ scheme has effect to grant planning permission for development which requires Environmental Assessment (EA). Therefore, no scheme can include for development in the zone any development which would require EA being within any description in Schedule 1. to the Environmental Assessment (Scotland) Regulations 1988 or those described in Schedule 2 where the development is likely to have significant effect on the environment because of eg size or location.

R.20

3.33 It will be difficult for an SPZ scheme to distinguish between Schedule 2 development which require EA by virtue of nature, size and location, and those that will not. If a developer is unsure if a particular development might require EA, an opinion may be sought from the planning authority. The request must be accompanied by a plan to identify the land and a brief description of the nature and purpose of the proposed development and its possible effect on the environment. The planning authority must acknowledge the request, consult as they consider appropriate and give an opinion within 4 weeks as to whether EA is required. The decision must include who was consulted in coming to the decision. Where insufficient information has been provided, the planning authority may request further information from the applicant as necessary. The authority will distribute copies of their opinion as they consider necessary and hold copies for inspection. If the planning authority decide that the development requires EA and therefore is excluded from the SPZ scheme and the developer disagrees or the authority fails to take a decision within 4 weeks, request can be made to the Secretary of State for his decision.

R.21

R.22

4. Duration of SPZ schemes and permissions

4.1 SPZ schemes take effect on the date of their adoption or approval and last for a period of 10 years from that date. At the end of that period a scheme (including any alterations made to it meanwhile) and the planning permission it grants cease to have effect except in relation to development already begun. There is nothing to prevent planning authorities from designating a new SPZ covering the same area of land at that stage.

S.21C

4.2 The adoption or approval of alterations providing for the exclusion of land from the SPZ the withdrawal of planning permission, or the imposition of new or more

stringent conditions, limitations or restrictions has effect from the end of the period of 12 months beginning with the date of adoption or approval of the alterations. Other alterations come into force on the date of adoption or approval.

S.21D

4.3 The provisions of Section 41 of the 1972 Act apply to planning permission granted under an SPZ scheme where a development has been begun but has not been completed by the time the SPZ expires. After that date the local planning authority may serve a completion notice stating that the planning permission under the scheme will cease to have effect after a further specified period of not less than 12 months. The provisions of Section 40 of the Act apply in determining when development in an SPZ shall be taken to have begun; that is the earliest date on which any 'specified operation' (as defined in Section 40) comprised in the development begins to be carried out.

S.21C(3)

S.21C(4)

5. Transitional provisions

5.1 If proposals for making or altering an SPZ scheme are put on deposit before 30 August 1995 the planning authority shall proceed to adoption on the basis of the old law, (ie the 1972 Act before its amendment by the 1991 Act and the Town and Country Planning (Simplified Planning Zones) Regulations 1987 (SI No 1532)). Any subsequent alterations to the scheme will be made on the basis of the new law (ie the 1972 Act, as amended by the 1991 Act, and the 1995 Regulations).

R.23

5.2 Where an authority carried out pre-deposit publicity and consultation under the old law before 30 August 1995, they must meet the requirements of the new law on pre-deposit matters before they can put proposals on deposit after that date. However, consultation undertaken before 30 August 1995 for the purposes of the old law shall count for the purposes of similar provisions under the new law.