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Planning (Scotland) Act 2019

2019 asp 13

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 20th June 2019 and received Royal Assent on 25th July 2019

An Act of the Scottish Parliament to make provision about how land is developed and used.

PART 1

DEVELOPMENT PLANNING

Development planning

1 Purpose of planning

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After Part 1 insert—

"**PART 1ZA**

PURPOSE OF PLANNING

3ZA **Purpose of planning**

(1) The purpose of planning is to manage the development and use of land in the long term public interest.

(2) Without limiting the generality of subsection (1), anything which—
  (a) contributes to sustainable development, or
  (b) achieves the national outcomes (within the meaning of Part 1 of the Community Empowerment (Scotland) Act 2015),

is to be considered as being in the long term public interest.

(3) This section applies only to the Scottish Ministers' and planning authorities' exercise of functions under Parts 1A and 2.".

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(3) Sections 3D and 3E are repealed.

Commencement Information

I1 S. 1 in force at 8.11.2019 by S.S.I. 2019/314, **reg. 2**, **sch.**

2 National Planning Framework

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 3A(2) (description of framework), for the words "in" to the end substitute "the Scottish Ministers' policies and proposals for the development and use of land.".

(3) In section 3A(3) (content of framework)—

(a) the word "and" at the end of paragraph (a) is repealed,

(b) after paragraph (b) insert—

"(c) a statement about how the Scottish Ministers consider that development will contribute to each of the outcomes listed in subsection (3A),

(d) targets for the use of land in different areas of Scotland for housing, and

(e) an assessment of the likely impact of each proposed national development's lifecycle greenhouse gas emissions on achieving national greenhouse gas emissions reduction targets (within the meaning given in the Climate Change (Scotland) Act 2009).".

(4) After section 3A(3) insert—

"(3A) The outcomes are—

(a) meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people,

(b) improving the health and wellbeing of people living in Scotland,

(c) increasing the population of rural areas of Scotland,

(d) improving equality and eliminating discrimination,

(e) meeting any targets relating to the reduction of emissions of greenhouse gases, within the meaning of the Climate Change (Scotland) Act 2009, contained in or set by virtue of that Act, and

(f) securing positive effects for biodiversity.".

(5) In section 3A(4) (content of framework), after paragraph (a) insert—

"(aa) contain such maps, diagrams, illustrations and descriptive matter as may be prescribed of rural areas in relation to which there has been a substantial decline in population,".

(6) After section 3A(4) insert—

"(4A) The Scottish Ministers must have due regard to any National Scenic Areas report published by them under section 263B when preparing the framework.".

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(7) In section 3A(5) (statements relating to a "national development"), before paragraph (a) insert—

"(za) must have regard to an infrastructure investment plan published by the Scottish Ministers and include a statement setting out the ways the plan has been taken into account in preparing the framework,".

(8) After section 3A(5) insert—

"(5A) For the avoidance of doubt, this section does not prevent the Scottish Ministers from setting out policies or proposals that relate to the development or use of land outwith the National Planning Framework.

(5B) In this section, "biodiversity" has the same meaning as "biological diversity" in the United Nations Environmental Programme Convention on Biological Diversity of 5 June 1992 as amended from time to time (or in any United Nations Convention replacing that Convention).".

(9) In section 3A, subsections (6) to (9) are repealed.

(10) Section 3A(10) is repealed.

(11) After section 3A insert—

"**3AA Duty to review the National Planning Framework**

(1) The Scottish Ministers are to keep the National Planning Framework under review.

(2) Without limit to subsection (1), the Scottish Ministers are to—

(a) review the framework no later than 23 June 2024 (being 10 years from the date on which the framework was last published before this section came into force), and

(b) thereafter, review the framework at least once in every period of 10 years beginning with the most recent date on which—

(i) a revised framework prepared under subsection (3)(a) was adopted and published under section 3CA, or

(ii) an explanation was published under subsection (3)(b) of this section.

(3) Following such a review, the Scottish Ministers are to—

(a) prepare a revised framework, or

(b) publish an explanation of why they have decided not to revise it.

3AB Revising the framework: participation statement and considerations

(1) This section applies where a revised National Planning Framework is to be prepared following a review under section 3AA.

(2) Before preparing the revised framework, the Scottish Ministers must prepare and publish their participation statement.

(3) In preparing the revised framework, the Scottish Ministers must—

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(a) have regard to relevant policies and strategies, including, in particular—
  (i) any national strategy and action plan for housing prepared by the Scottish Ministers,
  (ii) any infrastructure investment plan prepared by the Scottish Ministers to set out their priorities for the development of public infrastructure,
  (iii) any national transport strategy prepared by the Scottish Ministers,
  (iv) any strategic transport projects review prepared by the Scottish Ministers to set out their priorities for transport investment,
  (v) the land use strategy prepared under section 57 of the Climate Change (Scotland) Act 2009,
  (vi) the programme for adaptation to climate change prepared under section 53 of the Climate Change (Scotland) Act 2009,
  (vii) any national strategy in respect of the improvement of air quality prepared by the Scottish Ministers,
  (viii) any land rights and responsibilities statement prepared under section 1 of the Land Reform (Scotland) Act 2016,
  (ix) any national strategy or action plan for the ownership or use of land prepared by the Scottish Ministers, and
  (x) the national marine plan prepared under section 5 of the Marine (Scotland) Act 2010, and

(b) have regard to the desirability of—
  (i) resettling rural areas that have become depopulated,
  (ii) preserving disused railway infrastructure for the purpose of ensuring its availability for possible future public transport requirements, and
  (iii) preserving peatland.

(4) In this Part, "participation statement" means an account by the Scottish Ministers of—

(a) when consultation as regards the proposed revised framework is likely to take place,

(b) with whom they intend to consult, which must include—
  (i) planning authorities,
  (ii) key agencies (within the meaning of section 23D),
  (iii) the appropriate body under subsection (5), and
  (iv) such persons or bodies who the Scottish Ministers consider have a role in the delivery of the outcomes mentioned in section 3A(3A),

(c) the steps to be taken to involve the public at large in the consultation, and

(d) the likely form of the review.

(5) For the purpose of subsection (4)(b)(iii), the "appropriate body" is—

(a) the advisory body designated by an order under section 24(1) of the Climate Change (Scotland) Act 2009, or

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(b) if no such order has been made, the Committee on Climate Change established under section 32 of the Climate Change Act 2008.

3AC Information to assist preparation of National Planning Framework

(1) For the purposes of assisting the Scottish Ministers in preparing or revising the National Planning Framework, the Scottish Ministers may direct a planning authority, or two or more planning authorities, to provide information about the matters set out in subsection (2) in relation to an area specified in the direction.

(2) The matters are—

(a) the principal physical, cultural, economic, social, built heritage and environmental characteristics of the area,

(b) the principal purposes for which land in the area is used,

(c) the size, composition and distribution of the population of the area,

(d) the housing needs of the population of the area,

(e) the capacity of education services in the area,

(f) the capacity of health services in the area,

(g) the health needs of the population of the area,

(h) the housing needs of older people and disabled people within the area,

(i) the desirability of allocating land for the purposes of resettlement,

(j) the infrastructure of the area (including communications, transport and drainage systems and systems for the supply of water and energy),

(k) how that infrastructure is used,

(l) any change which the planning authority or authorities think may occur in relation to any of the matters mentioned in paragraphs (a) to (k), and

(m) such other matters as are prescribed.

(3) In subsection (2)(j), references to systems for the supply of energy include in particular land available for the development and use of facilities for renewable sources of energy.

(4) Where a direction under this section requires two or more planning authorities to provide information in relation to the same area and the same matter, they are to co-operate with one another.”.

(12) Sections 3B and 3C are repealed.

(13) After section 3C insert—

“**3CA National Planning Framework: procedure**

(1) The Scottish Ministers may not adopt a revised National Planning Framework until a draft of it has been approved by resolution of the Parliament.

(2) The Scottish Ministers may not lay a draft of the revised framework before the Scottish Parliament for approval unless—

(a) they have complied with section 3AB and subsections (3) to (5) of this section, and

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(b) they have laid before the Scottish Parliament an explanatory document in accordance with subsection (6).

(3) The Scottish Ministers must—

(a) consult in accordance with their participation statement,

(b) lay before the Scottish Parliament a copy of the draft of the revised framework,

(c) have regard to any representations about the draft of the revised framework that are made to them within no more than 120 days of the date on which the copy of the draft of the revised framework is laid before the Parliament under paragraph (b).

(4) In calculating any period of no more than 120 days for the purposes of subsection (3)(c), no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.

(5) If, as a result of any consultation required by subsection (3), it appears to the Scottish Ministers that it is appropriate to change the whole or any part of their proposals, they must undertake such further consultation with respect to the changes as they consider appropriate.

(6) The explanatory document referred to in subsection (2)(b) must set out—

(a) the consultation undertaken in accordance with subsections (3) and (5),

(b) a summary of any representations received as a result of the consultation, and

(c) the changes (if any) made to the draft of the revised framework as a result of those representations.

(7) As soon as practicable after the National Planning Framework as revised has been adopted, the Scottish Ministers are to publish it.

Duties to assist in shaping the National Planning Framework

3CB Key agencies to co-operate

It is the duty of a key agency to co-operate with the Scottish Ministers in—

(a) the review of the National Planning Framework,

(b) the preparation of a revised framework, and

(c) the preparation of any amendment to the framework.”.

Commencement Information

I2 S. 2 in force at 8.11.2019 by S.S.I. 2019/314, **reg. 2**, **sch.**

3 Open space strategy

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 3F insert—

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"**3G Open space strategy**

(1) A planning authority is to prepare and publish an open space strategy.

(2) An open space strategy is to set out a strategic framework of the planning authority's policies and proposals as to the development, maintenance and use of green infrastructure in their district, including open spaces and green networks.

(3) An open space strategy must contain—

(a) an audit of existing open space provision,

(b) an assessment of current and future requirements,

(c) any other matter which the planning authority consider appropriate.

(4) In this section—

"green infrastructure" means features of the natural and built environments that provide a range of ecosystem and social benefits,

"green networks" means connected areas of green infrastructure and open space,

"open space" means space within and on the edge of settlements comprising green infrastructure or civic areas such as squares, market places and other paved or hard landscaped areas with a civic function.

(5) The Scottish Ministers may by regulations—

(a) make provision about how planning authorities are to discharge their functions under this section including, in particular—

(i) how they conduct an audit under subsection (3)(a), and

(ii) how they assess current and future requirements for the purposes of subsection (3)(b),

(b) amend subsection (4) by adding a definition or amending or omitting a definition for the time being specified there.

(6) For the purposes of this section a national park authority is not a planning authority.".

Commencement Information

I3 S. 3 in force at 8.11.2019 for specified purposes by S.S.I. 2019/314, **reg. 2**, **sch.**

PROSPECTIVE

4 Housing needs of older people and disabled people: parliamentary report

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 3CC insert—

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"**3CD Duty of Scottish Ministers to report on housing needs of older people and disabled people**

(1) The Scottish Ministers must, as soon as practicable after the end of each 2-year period, lay before the Scottish Parliament a report on how the planning system is operating to help ensure that the housing needs of older people and disabled people are met.

(2) A report under subsection (1) must, in particular, contain information about—

(a) the extent to which the planning system is operating to ensure that new housing that meets the needs of older people and disabled people is constructed,

(b) the extent to which the planning system is operating to ensure that existing housing is adapted to meet the housing needs of older people and disabled people,

(c) the extent to which any other actions taken by the Scottish Ministers in relation to the planning system are ensuring that the housing needs of older people and disabled people are being met, and

(d) such other matters relating to the planning system as appear to the Scottish Ministers to be relevant to meeting the housing needs of older people and disabled people.

(3) In preparing the report, the Scottish Ministers must consult—

(a) older people and disabled people, and their families,

(b) such persons as appear to the Scottish Ministers to be representative of the interests of older people and disabled people, including organisations working for and on behalf of older people and disabled people,

(c) carers,

(d) planning authorities,

(e) a body registered under section 20 (registered social landlords) of the Housing (Scotland) Act 2010,

(f) developers,

(g) such persons as they consider appropriate having functions in relation to—

(i) older people and disabled people, and their families,

(ii) carers,

(iii) housing,

(iv) social work,

(v) health and social care, and

(h) such other persons as the Scottish Ministers consider appropriate.

(4) The Scottish Ministers must, as soon as practicable after the report has been laid before the Scottish Parliament, publish the report in such manner as they consider appropriate.

(5) For the purposes of this section, the "2-year period" means—

(a) the period of 2 years beginning with the day on which section 4 of the Planning (Scotland) Act 2019 comes into force, and

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(b) each subsequent period of 2 years.”.

5 Strategic development: regional spatial strategies

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) Before section 4 insert—

“4ZA **Regional spatial strategies**

(1) A planning authority, or two or more such authorities acting jointly, are to prepare and adopt a regional spatial strategy.

(2) A regional spatial strategy is a long-term spatial strategy in respect of the strategic development of an area (or areas) which must, in particular—
- (a) specify the area (or areas) of the planning authority (or authorities) to which it relates (“the region”), and
- (b) identify, in relation to the region—
  - (i) the need for strategic development,
  - (ii) the outcomes to which the authority (or authorities) consider that strategic development will contribute,
  - (iii) priorities for the delivery of strategic development, and
  - (iv) proposed locations for strategic development, which must be shown in the strategy in the form of a map or diagram.

(3) Before adopting a regional spatial strategy, a planning authority (or authorities) must—
- (a) publish, by such means as they consider appropriate—
  - (i) a draft of the strategy,
  - (ii) a summary of the information taken into account in preparing the draft of the strategy, and
  - (iii) a statement inviting representations in relation to the strategy by a date specified in the statement,
- (b) as soon as practicable after publishing the documents mentioned in paragraph (a), send a copy of them to—
  - (i) the planning authority (other than one involved in producing the report) for any area in which future development is likely to be significantly impacted by the strategic development to which the strategy is to relate,
  - (ii) the key agencies, and
  - (iii) any other person the planning authority (or authorities) producing the strategy consider appropriate, and
- (c) otherwise, consult such persons as they consider are likely to have an interest in the strategy.

(4) As soon as practicable after a strategy under subsection (1) is adopted, the planning authority (or authorities) must—
- (a) publish the strategy by such means as they consider appropriate, and
- (b) submit it to the Scottish Ministers.

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(5) In this section, "strategic development" means development that is likely to have a significant impact on future development within the area of more than one planning authority.

4ZB Duties to have regard to regional spatial strategies

(1) In exercising their functions of preparing, revising or amending the National Planning Framework, the Scottish Ministers must have regard to any adopted regional spatial strategy submitted to them under section 4ZA(4)(b).

(2) In exercising their functions of preparing, revising or amending a local development plan, a planning authority must have regard to their adopted regional spatial strategy (or strategies) submitted to the Scottish Ministers under section 4ZA(4)(b).

4ZC Regional spatial strategies: first strategy, review and revision

(1) A planning authority must adopt a regional spatial strategy under section 4ZA(1) as soon as reasonably practicable after section 5 of the Planning (Scotland) Act 2019 comes into force.

(2) A planning authority—
   (a) are to keep their adopted regional spatial strategy (or strategies) under review, and
   (b) if they consider it appropriate, may at any time prepare and adopt a replacement strategy.

(3) Without limit to the generality of subsection (2), a planning authority (or authorities) must review their adopted regional spatial strategy (or, if more than one, each adopted strategy) at least once in every period of 10 years beginning with the most recent date on which they—
   (a) adopted the strategy, or
   (b) published an explanation under subsection (4)(b).

(4) Following such a review, a planning authority are to—
   (a) prepare and adopt a replacement regional spatial strategy, or
   (b) publish an explanation of why they have decided not to do so.

(5) Section 4ZA(2) to (4) and sections 4ZB and 4ZE apply to a replacement regional spatial strategy as they apply in relation to the strategy being replaced (and references in this Part to a regional spatial strategy include references to such a replacement strategy).

4ZD Directions to prepare or review regional spatial strategies

(1) The Scottish Ministers may direct a planning authority, or two or more such authorities, to—
   (a) prepare and adopt a regional spatial strategy under section 4ZA(1) in relation to a region specified in the direction, or
   (b) review an adopted regional spatial strategy.

Status: *Point in time view as at 08/11/2019. This version of this Act contains provisions that are not valid for this point in time.*
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(2) A direction under subsection (1) may require the planning authority (or authorities) to take into account such matters (if any) as are specified in the direction when preparing or reviewing the strategy.

(3) Where a direction under this section requires two or more planning authorities to prepare and adopt a regional spatial strategy, they are to co-operate with one another.

4ZE Guidance for regional spatial strategies

(1) The Scottish Ministers may issue guidance in relation to the preparation, adoption, review and content of regional spatial strategies.

(2) A planning authority must have regard to any guidance issued under subsection (1) when preparing or adopting a regional spatial strategy.

(3) Before issuing guidance under this section, the Scottish Ministers must consult—
  (a) each planning authority, and
  (b) such other persons as they consider appropriate (if any).

(4) The Scottish Ministers must make guidance issued under subsection (1) publicly available.

(5) The power under subsection (1) to issue guidance includes the power to—
  (a) issue guidance that varies guidance issued under that subsection, and
  (b) revoke guidance issued under that subsection.”.

Commencement Information
I4 S. 5 in force at 8.11.2019 for specified purposes by S.S.I. 2019/314, **reg. 2**, **sch.**

VALID FROM 12/02/2023

6 Removal of requirement to prepare strategic development plans

Sections 4 to 14 of the Town and Country Planning (Scotland) Act 1997 are repealed.

7 Local development plans

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 15 (form and content of local development plans)—
  (a) in subsection (1)(a), after “land” insert “ taking account of the matters mentioned in subsection (5) ”,
  (b) after subsection (1) insert—

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"(1A) The local development plan must also include targets for meeting the housing needs of people living in the part of the district to which it relates.".

(c) subsection (2) (vision statement) is repealed,

(d) after subsection (2) insert—

"(2A) A local development plan is to include a statement of the planning authority's policies and proposals as to the provision of public conveniences.

(2B) A local development plan is to include a statement of the planning authority's policies and proposals as to the provision of water refill locations.",

(e) in subsection (5)—

(i) for "(2)" substitute " (1)(a) ",

(ii) in paragraph (a), after "physical," insert " cultural, ",

(iii) in paragraph (a), after "social" insert " , built heritage ",

(iv) in paragraph (c), after "composition" insert " , health ",

(v) after paragraph (c) insert—

"(ca) the housing needs of the population of the area, including, in particular, the needs of persons undertaking further and higher education, older people and disabled people,

(cb) the availability of land in the district for housing, including for older people and disabled people,

(cc) the desirability of allocating land for the purposes of resettlement,

(cd) the health needs of the population of the district and the likely effects of development and use of land on those health needs,

(ce) the education needs of the population of the district and the likely effects of development and use of land on those education needs,

(cf) the extent to which there are rural areas within the district in relation to which there has been a substantial decline in population,

(cg) the capacity of education services in the district,

(ch) the desirability of maintaining an appropriate number and range of cultural venues and facilities (including in particular, but not limited to, live music venues) in the district,",

(vi) in paragraph (d), for "and systems for the supply of water and energy" substitute " , systems for the supply of water and energy, and health care and education facilities ",

(vii) the "and" immediately following paragraph (e) is repealed,

(viii) in paragraph (f), for "(e)" substitute " (eb) ".

(3) After subsection (5) insert—

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"(5A) In subsection (5)(d), references to systems for the supply of energy include in particular land available for the development and use of facilities for renewable sources of energy.".

(4) In section 16 (preparation and monitoring of local development plans)—

(a) in subsection (1)(a)(ii), for "five" substitute " 10 ",

(b) in subsection (2)(a)—

(i) the words "the National Planning Framework" become sub-paragraph (i),

(ii) after sub-paragraph (i) so formed insert ", and

(ii) any local outcomes improvement plan (within the meaning of section 6 of the Community Empowerment (Scotland) Act 2015) for the part of their district to which the local development plan relates,",

(c) after subsection (2)(a) insert—

"(aa) are to have regard to the desirability of preserving disused railway infrastructure for the purpose of ensuring its availability for possible future public transport requirements,

(ab) are to have regard to the list published under section 16E of persons seeking to acquire land in the authority's area for self-build housing,",

(d) subsections (9) and (10) are repealed.

(5) After section 16 insert—

"**16A Participation of children and young people in local development plan**

(1) A planning authority must make such arrangements as they consider appropriate to promote and facilitate participation by children and young people (meaning for the purpose of this section a person aged 25 or under) in the preparation of the local development plan.

(2) Without prejudice to the generality of subsection (1), planning authorities must first consider discharging their duty under subsection (1) by means of contact with schools, youth councils and youth parliament representatives within their district.

(3) A planning authority must—

(a) publish information about its arrangements under subsection (1), and

(b) keep the information published up to date.".

(6) After section 16A insert—

"**16B Evidence report for preparation of local development plan**

(1) Before preparing a local development plan, a planning authority are to prepare an evidence report.

(2) In preparing the evidence report the planning authority are to seek the views of, and have regard to any views expressed by—

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(a) the key agencies,

(b) children and young people, in particular school pupils, youth councillors and youth parliament representatives,

(c) such other persons as may be prescribed, and

(d) the public at large.

(3) The evidence report is to—

(a) set out the planning authority's view on the matters listed in section 15(5) for land in the part of the authority's district to which the local development plan will relate,

(b) set out—

(i) a summary of the action taken by the planning authority to support and promote the construction and adaptation of housing to meet the housing needs of older people and disabled people in the authority's area,

(ii) an analysis of the extent to which the action has helped to meet those needs,

(c) set out—

(i) a summary of the action taken by the planning authority to meet the accommodation needs of Gypsies and Travellers in the authority's area,

(ii) an analysis of the extent to which the action has helped to meet those needs,

(d) set out—

(i) how the planning authority have invited local communities in their district to prepare local place plans in accordance with schedule 19,

(ii) the assistance provided to local communities to assist them to prepare local place plans,

(e) include such other matters as are prescribed.

(4) The evidence report is also to include a statement on—

(a) the steps taken by the planning authority in preparing the report to seek the views of the public at large, including in particular the views of—

(i) disabled persons,

(ii) Gypsies and Travellers, and

(iii) children and young people,

(b) the steps taken by the planning authority in preparing the report to seek the views of community councils, and

(c) the extent to which the views expressed under paragraphs (a) and (b) have been taken into account in the report.

(5) Before submitting a proposed evidence report under subsection (7), the planning authority must approve the proposed evidence report.

(6) Section 56 of the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities) does not apply to the function of approving a proposed evidence report.

Status: *Point in time view as at 08/11/2019. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Planning (Scotland) Act 2019 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) The planning authority are to submit the evidence report to the Scottish Ministers.

(8) On receiving an evidence report submitted under subsection (7), the Scottish Ministers are to appoint a person to assess whether the report contains sufficient information to enable the planning authority to prepare a local development plan.

(9) If, having completed the assessment, the appointed person is satisfied that the evidence report contains sufficient information to enable the planning authority to prepare a local development plan, the person is to notify the Scottish Ministers and the authority accordingly.

(10) In any other case, the appointed person is to—

(a) prepare a report (an "assessment report") setting out the reasons for not being so satisfied and recommendations for improving the evidence report received under subsection (7),

(b) send a copy of the assessment report to the planning authority and the Scottish Ministers.

(11) On receipt of an assessment report the planning authority are to revise the evidence report submitted under subsection (7) and resubmit it to the Scottish Ministers.

(12) Subsections (8) to (11) apply to an evidence report submitted under subsection (11) as they do to an evidence report submitted under subsection (7).

(13) The Scottish Ministers may make regulations as to—

(a) meeting general administrative costs, staff costs and overheads incurred in relation to an assessment under subsection (8),

(b) the procedure to be followed in such an assessment (including by making provision that the procedure is to be at the discretion of the appointed person), and

(c) what is to be assessed and matters by reference to which the assessment is to be made.

(14) In this section—

"accommodation needs" includes, but is not limited to, needs with respect to the provision of sites on which mobile homes may be stationed,

"children and young people" mean persons aged 25 or under,

"community council" means a community council established by a local authority under Part 4 of the Local Government (Scotland) Act 1973,

"disabled person" means a person who is a disabled person for the purposes of the Equality Act 2010,

"Gypsies and Travellers" has the meaning specified in regulations made by the Scottish Ministers.

(15) Before making regulations under subsection (14) specifying the meaning of "Gypsies and Travellers", the Scottish Ministers must consult such persons as they consider appropriate.

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16C Effective community engagement: guidance

(1) The Scottish Ministers may issue guidance to planning authorities about undertaking effective community engagement in relation to the local development plan.

(2) Guidance under subsection (1) may include in particular guidance on—
- (a) how, in preparing a local development plan, planning authorities are to undertake effective community engagement,
- (b) ways in which planning authorities should consult communities and encourage them to contribute to the preparation of a local development plan,
- (c) any other matters relevant to the functions of planning authorities in relation to community engagement in local development plans.

(3) Before issuing guidance under this section, the Scottish Ministers must consult such persons as they consider appropriate.

(4) The Scottish Ministers must publish in such manner as they consider appropriate any guidance issued under this section.

(5) A planning authority must have regard to any guidance issued to them under this section.

(6) The Scottish Ministers may vary or revoke guidance issued under this section.

16D Play sufficiency assessment

(1) A planning authority must assess the sufficiency of play opportunities in its area for children in preparing an evidence report.

(2) The Scottish Ministers must by regulations make provisions about—
- (a) the form and content of the assessment,
- (b) such persons who must be consulted in relation to the assessment,
- (c) publication of the assessment.”.

(7) Section 17 (main issues report for preparation of local development plan) is repealed.

(8) In section 18 (preparation and publication of proposed local development plan)—
- (a) in subsection (1), for “the date specified by virtue of subsection (8) of section 17” substitute “ being notified under section 16B(9) ”,
- (b) for paragraph (a) of subsection (1) substitute—
  - “(a) having regard to the evidence report in relation to which notification under that section was received, to prepare and publish in such manner as is prescribed a proposed local development plan,
  - (aa) to publish the evidence report at the same time and in the same manner as the proposed local development plan,”,
- (c) in subsection (1)(b), after “plan” insert “ and the evidence report ”,
- (d) after subsection (1) insert—

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"(1A) Without prejudice to the generality of subsection (1)(d), a planning authority for a district all or part of which falls within the boundary identified by the Central Scotland Green Network Partnership are (for so long as such a body is included in the National Planning Framework as a national development) to consult the Network on the proposed local development plan.

(1B) Before publishing a proposed local development plan under subsection (1), the planning authority must approve the plan.

(1C) Section 56 of the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities) does not apply to the function of approving a proposed local development plan.",

(e) in subsection (2), for "6" substitute " 12 ",

(f) in subsection (4), the words from "Where" to "(8))," are repealed,

(g) in subsection (4)(a)—

(i) the word "and" immediately preceding sub-paragraph (ii) is repealed,

(ii) at the end of sub-paragraph (ii) insert "and

(iii) if modifications have been made to the proposed plan under subsection (3), a report setting out—

(A) the modifications made, and

(B) the reasons for making them.",

(h) paragraphs (b) and (c) of subsection (4) are repealed,

(i) subsections (5) to (9) are repealed.

(9) In section 19 (examination of proposed local development plan)—

(a) after subsection (5) insert—

"(5A) When a request is made under subsection (1), or an appointment is made under subsection (3) without a request having been made, the planning authority must publish in the prescribed manner—

(a) the proposed plan, and

(b) if modifications were made to the proposed plan under section 18(3) or 19A(5)(b)(i), a report setting out—

(i) the modifications made, and

(ii) the reasons for making them.",

(b) in subsection (8), in the opening words, after "subsection (3)" insert, " , unless section 19ZA applies, ",

(c) in subsection (8)(a)(i), the words from "(which" to "plan)" are repealed,

(d) after subsection (8), insert—

"(8A) Recommendations under subsection (8)(a)(i) may include—

(a) recommendations that the planning authority make modifications to the proposed local development plan,

(b) in a case where the appointed person considers that a change required is not suitable to be dealt with by such modification, a recommendation that, if adopted, the planning authority should amend the local development plan

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under section 20AA in relation to such matters as may be specified in the report.

(8B) Where a report prepared under subsection (8)(a) includes a recommendation of the type described in subsection (8A)(b), the appointed person must send a copy of the report to the Scottish Ministers.”,

(e) in subsection (9), for “subsection” substitute “ subsections (5A) and ”,

(f) in subsection (10), paragraphs (b) to (d) are repealed,

(g) subsection (12) is repealed.

(10) After section 19 insert—

“**19ZA Examination under section 19(3): further provision**

(1) This section applies where—

(a) a person appointed under subsection (3) of section 19 is conducting an examination of a proposed local development plan under that subsection, and

(b) the person is not satisfied that the amount of land allocated for housing in the proposed local development plan is sufficient to meet the targets it includes in relation to the housing needs of people living in the part of the district to which it relates (see section 15(1A)).

(2) The appointed person may, instead of preparing a report under section 19(8), issue a notice to the planning authority requiring it to prepare another proposed local development plan under section 18(1).

(3) A notice under subsection (2) must include—

(a) a statement that the proposed local development plan is unsatisfactory due to its failure to address the identified housing needs,

(b) the appointed person's reasons for coming to that conclusion.

(4) The appointed person must—

(a) send a copy of a notice issued under subsection (2) to the Scottish Ministers,

(b) publish it, and

(c) notify the persons mentioned in paragraph (b) of section 19(6), and any person who made representations by virtue of section 19A that a notice has been given under subsection (2) (and its effect).

(5) A planning authority that receive a notice under subsection (2)—

(a) may not take any further action in respect of the unsatisfactory proposed local development plan, and

(b) must prepare another proposed local development plan in accordance with section 18.

(6) The planning authority may use the evidence report prepared and assessed in respect of the unsatisfactory proposed local development plan for the purpose of subsection (5)(b).

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(7) In subsection (4)(b), "publish" includes, without prejudice to that expression's generality, publish by electronic means (as for example by means of the internet).".

(11) In section 19A (further provision as regards examination under section 19(4))—

(a) subsections (7) and (8) are repealed,

(b) in subsection (9), for "so submitted" substitute " submitted under subsection (5)(b)(ii) ".

(12) In section 20 (constitution of local development plan), for subsections (2) to (7) substitute—

"(1A) A proposed local development plan may not be adopted before the end of the period that—

(a) begins on the day it is submitted to the Scottish Ministers under section 18(4)(a) or (as the case may be) 19A(5)(b)(ii), and

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

(1B) Where—

(a) a request is made under section 19(1) when a proposed local development plan is submitted to the Scottish Ministers, or

(b) no such request is made but, within the 28 day period described in subsection (1A), the Ministers appoint a person under section 19(3),

the proposed local development plan may not be adopted until the planning authority have received a report in relation to the plan submitted under section 19(8)(b).".

(13) In section 20A (publication of and publicity for local development plan)—

(a) after subsection (1) insert—

"(1A) In addition to taking the steps required by subsection (1), as soon as reasonably practicable after the local development plan is constituted the planning authority must—

(a) in the circumstances described by subsection (1B), publish in the prescribed manner a recommended-modification statement, and

(b) in the circumstance described by subsection (1C), publish in the prescribed manner a report on modifications (but this requirement is qualified by subsection (1D)).

(1B) The circumstances referred to in subsection (1A)(a) are—

(a) a person appointed under section 19(3) recommended a modification to a proposed version of the plan, and

(b) the modification was not made.

(1C) The circumstance referred to in subsection (1A)(b) is that the constituted plan differs from the proposed plan published under section 18(1)(a) as a result of modifications made under section 18(3), 19(10) or 19A(5)(b)(i).

(1D) In a case where a report in relation to a proposed version of the plan has been published as required by section 19(5A)—

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(a) if no modifications were subsequently made, a report on modifications need not be published,

(b) if modifications were subsequently made, the report on modifications need only set out those modifications.

(1E) In this section—

(a) "recommended-modification statement" means a statement that—

(i) sets out the modification mentioned in subsection (1B), and

(ii) explains, by reference to the grounds prescribed for the purposes of section 19(10)(a)(i), why the modification was not made,

(b) "report on modifications" means a report that sets out—

(i) the modifications mentioned in subsection (1C), and

(ii) the reasons for making them.",

(b) in subsection (2), for "subsection (1)(b)" substitute " this section ".

(14) In section 20B (development plan schemes), after subsection (4) insert—

"(4A) In preparing the development plan scheme the planning authority are to seek the views of, and have regard to any views expressed by the public at large as to the content of the participation statement.".

Commencement Information

I5 S. 7 in force at 8.11.2019 for specified purposes by S.S.I. 2019/314, **reg. 2**, **sch.**

VALID FROM 19/05/2023

8 List of persons seeking land for self-build housing

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 16D insert—

"**16E Publication of list of persons seeking land for self-build housing**

(1) A planning authority are to prepare and maintain a list of persons who have registered interest with the authority with the intention of acquiring land in the authority's area for self-build housing.

(2) A planning authority are to publish the list in such manner as the authority consider appropriate (as for example by means of the internet).

(3) For the purpose of subsection (1), self-build housing is where an individual commissions or (whether acting alone or with other individuals) is personally involved in the design and construction of a dwelling that is intended to be the individual's main residence once it is built.".

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VALID FROM 12/02/2023

9 Supplementary guidance

Section 22 of the Town and Country Planning (Scotland) Act 1997 and the italic heading immediately preceding it are repealed.

10 Key agencies

In section 23D of the Town and Country Planning (Scotland) Act 1997 (meaning of "key agency")—

(a) after "of" where it first occurs insert " Part 1A or ",

(b) for "a body" substitute " a person (other than an individual) or an officeholder ".

Commencement Information

I6 S. 10 in force at 8.11.2019 by S.S.I. 2019/314, **reg. 2**, **sch.**

11 Delivery programmes

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 21 (action programmes)—

(a) in subsection (2), for "an action" substitute " a delivery ",

(b) in subsection (3), for "the action" substitute " a delivery ",

(c) in subsection (4), for "action" substitute " delivery ",

(d) after subsection (4) insert—

"(4A) It is the duty of the head of the planning authority's paid service (designated under section 4 of the Local Government and Housing Act 1989) to prepare the proposed delivery programme.

(4B) The planning authority must approve the proposed delivery programme before it is published.

(4C) Section 56 of the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities) does not apply to the function of approving a proposed delivery programme.",

(e) in subsection (5), for "action" in both places it occurs substitute " delivery ",

(f) in subsection (6), for "An action" substitute " A delivery ",

(g) in subsection (7), for "an action" substitute " a delivery ",

(h) in subsection (8), for "action" substitute " delivery ",

(i) in subsection (9), for "action" substitute " delivery ",

(j) in subsection (10), for "an action" substitute " a delivery ".

(3) The section title of section 21 becomes " **Delivery programmes** ".

(4) The italic heading immediately preceding section 20B becomes " *Development plan schemes and delivery programmes* ".

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Commencement Information

I7 S. 11 in force at 8.11.2019 for specified purposes by S.S.I. 2019/314, **reg. 2**, **sch.**

VALID FROM 01/04/2024

12 Amendment of National Planning Framework and local development plans

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 3CB insert—

"**3CC Amendment of National Planning Framework**

(1) The Scottish Ministers may at any time amend the National Planning Framework.

(2) Section 3AC applies to amending the National Planning Framework as it applies to preparing or revising it.

(3) The Scottish Ministers must by regulations set out the circumstances in which they consider that an amendment would result in a significant change to the policies and proposals for the development and use of land of the most recent National Planning Framework such that would require that the National Planning Framework should be reviewed and revised under sections 3AA to 3CA.

(4) The Scottish Ministers may by regulations make further provision about amendments under subsection (1).

(5) Regulations under subsection (4) may in particular make provision—

(a) about the procedures to be followed,

(b) about the consultation to be undertaken on proposed amendments,

(c) about when the amendments take effect,

(d) about the publication of the amended framework,

(e) about the laying of the amended framework before the Scottish Parliament.".

(3) After section 20A insert—

"**20AA Amendment of local development plan**

(1) A planning authority may at any time amend a local development plan constituted for their district.

(2) The Scottish Ministers may direct a planning authority to exercise their power under subsection (1) in relation to matters specified in the direction.

(3) A direction under subsection (2) must set out the Scottish Ministers' reasons for requiring an amendment to the local development plan.

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(4) In preparing an amendment to a local development plan, a planning authority—

(a) are to take into account—

(i) the National Planning Framework,

(ii) any local outcomes improvement plan (within the meaning of section 6 of the Community Empowerment (Scotland) Act 2015) for the part of their district to which the local development plan relates,

(b) are to have regard to such information and considerations as are prescribed, and

(c) may have regard to such other information and considerations as appear to them to be relevant.

(5) The Scottish Ministers may by regulations make further provision about amendments under subsection (1).

(6) Regulations under subsection (5) may in particular make provision—

(a) about the procedures to be followed,

(b) about the consultation to be undertaken on proposed amendments,

(c) about when the amendments take effect,

(d) about the publication of the amended plan.

(7) Regulations under subsection (5) may provide that sections 16A to 20A apply to an amendment to a local development plan as they apply to a local development plan subject to such modifications as are specified in the regulations.”.

VALID FROM 23/12/2022

13 Development plan

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 24 (meaning of “development plan”), for subsections (1) to (4) substitute—

“(1) For the purposes of this Act, any other enactment relating to town and country planning and the Land Compensation (Scotland) Act 1963, the development plan for an area is to be taken as consisting of the provisions of—

(a) the National Planning Framework,

(b) any strategic development plan for the time being applicable to the area, together with—

(i) the Scottish Ministers' notice of approval of that plan, and

(ii) any supplementary guidance issued in connection with that plan, and

(c) any local development plan for the time being applicable to the area.

(2) A reference in subsection (1) to provisions of a framework or plan is to be construed as a reference to so much of the provisions as are applicable to the area.

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(3) In the event of any incompatibility between a provision of the National Planning Framework and a provision of a local development plan, whichever of them is the later in date is to prevail.

(4) For the purposes of subsection (3)—

(a) the date of the National Planning Framework is the latest date on which it was published under **[**[F1]section 3CA(7)**]**,

(b) the date of a local development plan is the date on which it was constituted under section 20.”.

(3) In section 25 (status of development plan)—

(a) for paragraphs (a) and (b) of subsection (1), substitute “ , to be made in accordance with that plan. ”,

(b) subsections (2) and (3) are repealed.

(4) In section 237(1) (validity of development plans etc.), before paragraph (a) insert—

“(za) the National Planning Framework and any revised framework or amendment to it, whether before or after the framework, revised framework or amended framework is published,”.

(5) In section 238 (proceedings for questioning validity of development plans etc.)—

(a) before subsection (1) insert—

“(A1) If any person aggrieved by the National Planning Framework desires to question the validity of the framework on the ground—

(a) that it is not within the powers conferred by Part 1A, or

(b) that any requirement of that Part or of any regulations made under that Part has not been complied with,

the person may make an application to the Court of Session under this section.”,

(b) in subsection (5), before paragraph (a) insert—

“(za) in the case of an application in respect of the National Planning Framework—

(i) the date of its publication under **[**[F2]section 3CA(7)**]**, or

(ii) where the grounds of the application arise from an amendment to the National Planning Framework, the date on which the amendment took effect,”,

(c) in subsection (5)(aa)—

(i) the words “the date of its publication under section 20A(1)(b)” become sub-paragraph (i), and

(ii) after sub-paragraph (i) so formed insert “, or

(ii) where the grounds of the application arise from an amendment to the local development plan, the date on which the amendment took effect,”.

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Textual Amendments

F1 Words in s. 13(2) substituted (18.12.2019) by The Planning (Scotland) Act 2019 (Ancillary Provision) Regulations 2019 (S.S.I. 2019/424), regs. 1, **2(3)(a)**

F2 Words in s. 13(5)(b) substituted (18.12.2019) by The Planning (Scotland) Act 2019 (Ancillary Provision) Regulations 2019 (S.S.I. 2019/424), regs. 1, **2(3)(b)**

Local place plans

14 Local place plans

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 15 insert—

"**15A Preparation of local development plan: invitation to prepare local place plans**

Before preparing a local development plan, a planning authority are to publish, in such manner as they consider appropriate—

(a) an invitation to local communities in their district to prepare local place plans in accordance with schedule 19,

(b) information on—

(i) the manner in which and date by which such local place plans are to be prepared in order to be taken into account in the preparation of the local development plan,

(ii) the assistance available for local communities to prepare local place plans.".

(3) After section 15A insert—

"**15B Review of local place plans**

(1) The Scottish Ministers must, as soon as practicable after the end of the 7 year period—

(a) carry out a review of local place plans,

(b) set out the conclusions of the review in a report,

(c) publish the report, and

(d) lay it before the Scottish Parliament.

(2) The report must, in particular, set out—

(a) the number of local place plans that have been submitted and the name of the community body that submitted the local place plan,

(b) the number of local place plans registered,

(c) a summary of the participation of people who engaged in preparing and submitting local place plans, either through a community body or through consultation,

(d) the support given to community bodies to prepare and submit a local place plan,

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(e) an assessment of how the registered local place plans have influenced planning authorities'—

(i) preparation of local development plans for their district,

(ii) determination of applications for planning permission,

(f) an assessment of—

(i) the impact and effectiveness of local place plans across Scotland,

(ii) whether further support to community bodies should be provided to prepare and submit local place plans.

(3) The Scottish Ministers may, by notice, require a planning authority to provide it with such information as is specified or described in the notice and which they require for the purpose of subsection (1).

(4) In subsection (1), "the 7 year period" means the period of 7 years beginning with the day on which the Bill for the Planning (Scotland) Act 2019 receives Royal Assent.".

(4) In section 16 (preparation and monitoring of local development plans), in subsection (2)(a), after sub-paragraph (ii), insert—

"(iii) any registered local place plan (see schedule 19) that is for the part of their district to which the local development plan relates,".

(5) If there is no sub-paragraph (ii) of section 16(2)(a) of the Town and Country Planning (Scotland) Act 1997 on the day that subsection (4) comes into force, subsection (4) applies as though for the words "sub-paragraph (ii)" there were substituted " sub-paragraph (i) ".

(6) In section 20AA (amendment of local development plan), after subsection (4)(a)(ii), insert—

"(iii) any registered local place plan (see schedule 19) that is for the part of their district to which the local development plan relates,".

(7) After schedule 18 insert—

"SCHEDULE 19

(introduced by section 15A)

LOCAL PLACE PLANS

Preparation of local place plans

1 (1) A community body may prepare a local place plan.

(2) A local place plan is a proposal as to the development or use of land.

(3) It may also identify land and buildings that the community body considers to be of particular significance to the local area.

(4) In preparing a local place plan, a community body must—

(a) have regard to—

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(i) the local development plan for the land, or any part of the land, to which the local place plan relates,

(ii) the National Planning Framework,

(iii) such other matters (if any) as are prescribed,

(b) set out reasons for considering that the local development plan should be amended, and

(c) comply with any prescribed requirements as to—

(i) the form and content of the plan, and

(ii) steps which must be taken before preparing the plan.

Submission of local place plans

2 (1) A community body must comply with any prescribed requirements as to—

(a) steps which must be taken before submitting a local place plan,

(b) how the views of councillors for the area to which the local place plan relates are to be taken into account in the preparation of the local place plan, and

(c) information which must be submitted alongside a local place plan.

(2) Having complied with any requirements under sub-paragraph (1), a community body may submit a local place plan to the planning authority for the district to which the plan relates.

Register of local place plans

3 (1) Every planning authority must keep a register of local place plans.

(2) When a valid local place plan relating to their district is submitted to them by a community body, a planning authority must—

(a) include it in their register, and

(b) inform the community body that submitted the plan that it has been registered.

(3) If a planning authority decide not to register a local place plan on the basis that it is not valid, the authority must give their reasons for reaching that view to the community body that submitted the plan.

(4) A local place plan is valid, for the purpose of this paragraph, if the requirements under paragraphs 1(4) and 2(1) have been complied with in relation to it.

(5) The Scottish Ministers may by regulations make provision about—

(a) the manner in which a register must be—

(i) kept, and

(ii) made available to the public,

(b) the information about a local place plan that must be included in a register,

(c) when a planning authority may, or must, remove a local place plan from their register, causing it to cease to be a registered local place plan.

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Map of local place plans

4 Every planning authority must make publicly available, in the manner prescribed, a map of their district that shows the land to which the local place plans in their register of local place plans relate.

Meaning of "community body"

5 In this schedule, "community body" means—

(a) a community-controlled body within the definition given in section 19 of the Community Empowerment (Scotland) Act 2015, or

(b) a community council established in accordance with Part 4 of the Local Government (Scotland) Act 1973.".

Commencement Information

I8 S. 14 in force at 8.11.2019 for specified purposes by S.S.I. 2019/314, reg. 2, **sch.**

VALID FROM 01/04/2024

PART 2

MASTERPLAN CONSENT AREAS

15 Masterplan consent area schemes

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 54 insert—

"Masterplan consent areas

54A Making and alteration of schemes

Schedule 5A—

(a) makes provision about the making and alteration of masterplan consent area schemes (including the right to request that a scheme be made or altered), and

(b) confers powers on the Scottish Ministers in connection with such schemes.

54B Scheme grants planning permission, etc.

(1) A masterplan consent area scheme acts as a grant of authorisation for carrying out, within the area to which the scheme relates, development that—

(a) is either—

(i) specified in the scheme, or

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(ii) of a description specified in the scheme, and

(b) is begun before the end of the day on which the scheme ceases to have effect.

(2) Authorisation granted by a scheme is subject to—

(a) any conditions, limitations and exceptions specified in the scheme, and

(b) any regulations made under paragraph 19 of schedule 5A (read with paragraph 20 of that schedule).

(3) In this section, "authorisation" means—

(a) planning permission, and

(b) if the scheme so provides—

(i) consent to the construction of a new road or an extension of an existing road for the purposes of section 21(1) of the Roads (Scotland) Act 1984

(ii) authorisation for works in relation to a listed building for the purposes of section 6 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and

(iii) authorisation for works in relation to a building in a conservation area for the purposes of section 66(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and section 6 of that Act as applied by any regulations under section 66(3) of that Act.

54C Content of schemes: self-build housing

(1) A masterplan consent area scheme may, under section 54B(1)(a), specify—

(a) development in the form of self-build housing, or

(b) a description of development which includes self-build housing.

(2) For the purpose of subsection (1), self-build housing is where an individual commissions or (whether acting alone or with other individuals) is personally involved in the design and construction of a dwelling that is intended to be the individual's main residence once it is built.

(3) Nothing in this section is to be construed as limiting the development or a description of development that may be specified under section 54B(1)(a).

54D Effect of altering scheme

(1) Alterations to a scheme have effect from the day they are made.

(2) Subsection (3) applies where—

(a) development for which authorisation is granted by a scheme has begun, and

(b) the scheme is subsequently altered.

(3) The authorisation that the scheme grants for the development is unaffected by the alteration, unless the scheme (as altered) provides otherwise.

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(4) But the scheme may not provide that the alteration affects the authorisation for the development if the effect would be to remove authorisation for anything that was authorised by the scheme when the development began.

54E Further provision about effect of scheme

(1) The right to carry out development in accordance with authorisation granted by a scheme is unaffected by any limitations or restrictions imposed in relation to any other grant of permission, consent or authorisation.

(2) Nothing in a scheme affects the right of any person to—
- (a) do anything that is not development, or
- (b) carry out development for which—
  - (i) no permission, consent or authorisation which may be granted by a scheme is required, or
  - (ii) any such permission, consent or authorisation that is required is granted otherwise than under the scheme.

54F Interpretation of provisions about schemes

(1) This section makes provision about the interpretation of sections 54B to 54E.

(2) References to a scheme are to a masterplan consent area scheme.

(3) References to the authorisation granted by a scheme are to be construed in accordance with section 54B(3).

(4) References to development include any activity mentioned in section 54B(3)(b) (whether or not it otherwise falls to be regarded as development for the purposes of this Act).”.

(3) After schedule 5 insert—

“SCHEDULE 5A

(introduced by section 54A)

MASTERPLAN CONSENT AREAS

PART 1

CONTENT OF SCHEMES

General

1 (1) A scheme is to consist of—
- (a) a map,
- (b) a written statement, and
- (c) such diagrams, illustrations and other descriptive matter as the relevant planning authority think appropriate for explaining or illustrating the scheme's provisions.

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(2) A scheme must specify—
- (a) the area to which the scheme relates,
- (b) the development, or descriptions of development, for which the scheme grants authorisation,
- (c) the date on which the scheme comes into effect,
- (d) the date on which the scheme ceases to have effect.

(3) The Scottish Ministers may by regulations prescribe further information that must be included in a scheme.

(4) A scheme may not specify as the date on which it ceases to have effect a date that falls more than 10 years after it comes into effect.

(5) In sub-paragraph (1)(c), "the relevant planning authority" means the authority in whose district the area to which the scheme relates lies.

Further provision about conditions, limitations and exceptions

2 (1) A scheme may specify different conditions, limitations or exceptions to the authorisation it confers for different cases.

(2) Obtaining a planning authority's consent for development to begin may be specified as a condition of authorisation being conferred by a scheme.

Places that cannot be included in a scheme

3 (1) A scheme may not include any place which sub-paragraph (4) applies to at the time the scheme is made.

(2) A scheme may not be altered so as to include a place that is, at the time the alteration is made, a place to which sub-paragraph (4) applies.

(3) For the avoidance of doubt, if—
- (a) a place is included in an area to which a scheme relates, and
- (b) that place subsequently becomes a place to which sub-paragraph (4) applies,

the place is not, as a result, excluded from the area to which the scheme relates.

(4) This sub-paragraph applies to—
- (a) any place that is or forms part of—
  - (i) a European site as defined in regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716),
  - (ii) a marine protected area,
  - (iii) a National Scenic Area (see section 263A),
  - (iv) a Ramsar site as defined in section 37A of the Wildlife and Countryside Act 1981,
  - (v) a site of special scientific interest as defined in section 58 of the Nature Conservation (Scotland) Act 2004,

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(vi) a site included in the World Heritage List ("a world heritage site") or an area identified in the World Heritage List as a buffer zone for a world heritage site, or

(b) any place in respect of which either of the following has effect—

(i) a nature conservation order made under Part 2 of the Nature Conservation (Scotland) Act 2004,

(ii) a land management order made under that Part of that Act.

(5) In sub-paragraph (4)—

"marine protected area" means an area designated by an order under section 67 of the Marine (Scotland) Act 2010 as—

(a) a nature conservation area,

(b) a demonstration and research marine protected area, or

(c) a historic marine protected area,

"World Heritage List" means the list kept in accordance with article 11(2) of the Convention concerning the Protection of the World Cultural and Natural Heritage adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation at Paris on 16 November 1972.

(6) The Scottish Ministers may by regulations modify sub-paragraphs (4) and (5).

PART 2

MAKING AND ALTERING OF SCHEMES BY PLANNING AUTHORITIES

Power to make or alter scheme

4 At any time, a planning authority may (in accordance with Part 3)—

(a) make a scheme for a part of their district, or

(b) alter a scheme that relates to an area in their district.

Duty to periodically consider making scheme

5 (1) Each planning authority must, at least once in each 5-year period, consider whether it would be desirable to—

(a) make a scheme for a part or parts of their district,

(b) alter a scheme that relates to an area in their district.

(2) In sub-paragraph (1), the "5-year period" means—

(a) the period of 5 years beginning with the day on which the Bill for the Planning (Scotland) Act 2019 received Royal Assent, and

(b) each subsequent period of 5 years beginning with the day on which the authority last published a statement under sub-paragraph (3).

(3) After each occasion on which an authority consider the matters mentioned in sub-paragraph (1), they must publish a statement setting out—

(a) what they decided, and

(b) the reasons for their decision.

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(4) The Scottish Ministers may by regulations prescribe requirements in respect of the statement mentioned in sub-paragraph (3).

(5) The requirements that may be specified under sub-paragraph (4) include, in particular, requirements as to—
- (a) what information a statement must contain,
- (b) how it is to be published, and
- (c) to whom copies of it are to be sent.

Duty to seek to make or alter scheme when directed to do so

6 (1) The Scottish Ministers may at any time direct a planning authority to—
- (a) make a scheme in such terms as the Scottish Ministers consider appropriate, or
- (b) alter a scheme in such manner as the Scottish Ministers consider appropriate.

(2) It is the duty of a planning authority given a direction under this paragraph to seek to make or (as the case may be) alter a scheme in accordance with the direction.

(3) Sub-paragraph (2) does not relieve a planning authority from having to comply with the requirements for making or altering a scheme set out in Part 3.

PART 3

PROCESS FOR PLANNING AUTHORITY MAKING OR ALTERING SCHEME

CHAPTER 1

PROCESS FOR ALL CASES

Outline of process

7 (1) Before making or altering a scheme, a planning authority must—
- (a) formulate their proposals for the scheme or alteration to be made, having first consulted in accordance with paragraph 8, and
- (b) consult on their proposals in accordance with paragraphs 9 and 10.

(2) Having considered any responses received to the consultation on their proposals (as paragraph 10 requires), the planning authority may (subject to any direction under paragraph 12 or Chapter 1 of Part 4)—
- (a) make the proposed scheme or alteration,
- (b) make a scheme or alteration which, in light of the consideration given to responses received to the consultation and any other matters which appear to the authority to be material, differs from what they proposed, or
- (c) decide not to make any scheme or alteration.

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(3) If the planning authority wish to make an alteration that would have an effect described in sub-paragraph (1)(b) of paragraph 13, they must wait as required by that paragraph before making the alteration.

Consultation on possible proposals

8 (1) Before publicising, in accordance with paragraph 9, proposals for making or altering a scheme, a planning authority must—

(a) comply with any requirements as to consultation prescribed in regulations under this paragraph, and

(b) have regard to any valid representations received from anyone consulted in compliance with those requirements.

(2) The Scottish Ministers are to prescribe by regulations requirements about—

(a) who a planning authority must consult before determining the content of any proposals which may be publicised in accordance with paragraph 9,

(b) how that consultation is to be undertaken, and

(c) how representations to the planning authority must be made by anyone consulted if they are to be treated as valid representations for the purpose of sub-paragraph (1)(b).

(3) Without prejudice to the generality of sub-paragraph (2), regulations made under this paragraph may—

(a) require a planning authority to consult the public (or a portion of the public), or

(b) empower the Scottish Ministers to direct an authority to do so in particular cases.

Publicity for proposals

9 (1) Before making or altering a scheme, a planning authority must—

(a) comply with the requirements for publicising, and inviting representations in relation to, their proposals for making or altering the scheme, and

(b) wait until the period for representations has expired.

(2) The Scottish Ministers are to prescribe by regulations—

(a) the requirements for publicising and inviting representations in relation to proposals for making or altering a scheme, and

(b) the period for representations.

Consideration of representations

10 (1) Where a planning authority have received validly submitted representations in relation to their proposals for making or altering a scheme, they may not make the proposed scheme or alteration (whether in the terms proposed or otherwise) until they have considered the representations.

(2) For the purpose of this paragraph, representations are validly submitted if—

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(a) they are submitted within the period for representations prescribed under paragraph 9(2), and

(b) they comply with any requirements prescribed by the Scottish Ministers in regulations under this sub-paragraph about how representations must be submitted.

CHAPTER 2

FURTHER PROCESS FOR SOME CASES

Requirement to hold hearings

11 (1) The Scottish Ministers may by regulations prescribe circumstances in which, to fulfil the requirement under paragraph 10(1), a planning authority must give a person of a description prescribed in the regulations an opportunity to appear before and be heard by a committee of the authority.

(2) The requirement under paragraph 10(1) for a planning authority to consider representations includes any representations made at a hearing required by regulations under sub-paragraph (1).

(3) Each planning authority is to make such rules as they consider appropriate in relation to—

(a) the procedures in accordance with which any hearing required by regulations under sub-paragraph (1) is arranged and conducted (including, without prejudice to the generality of this sub-paragraph, procedures for ensuring relevance and avoiding repetition),

(b) any other procedures consequent upon such a hearing,

(c) any right of attendance at such a hearing (other than for the purpose of appearing before, and being heard by, a committee).

(4) Any requirement to hold hearings created by regulations under sub-paragraph (1) is subject to paragraph 14(3)(b).

Requirement to notify the Scottish Ministers of certain proposals

12 (1) The Scottish Ministers may direct a planning authority to notify them, as soon as reasonably practicable, of any proposals for making or altering a scheme that the authority have publicised in accordance with paragraph 9.

(2) Where a planning authority are required by a direction under this paragraph to notify the Scottish Ministers of their proposals, the authority may not make the proposed scheme or alteration (whether in the terms proposed or otherwise) until the period provided for in the direction has ended.

(3) A direction under this paragraph may—

(a) be addressed to a particular authority or all authorities,

(b) require that the Scottish Ministers be notified of proposals if—

(i) the proposals are of a description specified in the direction, or

(ii) an event specified in the direction occurs in connection with the proposals,

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(c) provide for the period in the direction to be either—
(i) a specified period of time, or
(ii) an indefinite period that ends only when the Scottish Ministers tell the authority it has ended.

Pause before making certain alterations

13 (1) Sub-paragraph (2) applies where, having completed the consultation process in relation to their proposals for altering a scheme—
(a) a planning authority intend to alter the scheme (whether in the terms proposed or otherwise), and
(b) the intended alteration would have the effect of—
(i) excluding a place from the area to which the scheme relates,
(ii) withdrawing authorisation granted by the scheme, or
(iii) making the authorisation granted by the scheme subject to new or more stringent conditions, limitations or exceptions.

(2) The intended alteration may not be made before the end of the day that falls 12 months after the consultation process was completed.

(3) For the purpose of this paragraph, the consultation process in relation to proposals to alter a scheme is completed—
(a) on the last day of hearings in relation to the proposals required by regulations under paragraph 11(1), or
(b) if no such hearings are required in relation to the proposals, on the last day that representations in relation to the proposals could be validly submitted for the purpose of paragraph 10.

PART 4

SCOTTISH MINISTERS' POWERS TO MAKE AND ALTER SCHEMES AND STOP PROPOSALS

CHAPTER 1

CALLING IN PLANNING AUTHORITIES' PROPOSALS

Power to call in proposals

14 (1) For the purposes of this Chapter, a call-in direction is a direction given to a planning authority by the Scottish Ministers in relation to the authority's proposals for making or altering a scheme.

(2) A call-in direction may be given in relation to an authority's proposals at any time prior to the authority making the proposed scheme or alteration (whether in the terms proposed or otherwise).

(3) Once a planning authority have been given a call-in direction, the authority—
(a) may not make the proposed scheme or alteration (whether in the terms proposed or otherwise), and

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(b) must not begin, or as the case may be proceed with, any hearings in relation to the proposals that would (but for this paragraph) be required by regulations under paragraph 11(1).

Powers after calling in

15 (1) Where a call-in direction has been given in relation to a planning authority's proposals for making or altering a scheme, the Scottish Ministers may—

(a) make the scheme or alteration proposed,

(b) make a scheme or alteration that is different from what the authority proposed, or

(c) decline to make any scheme or alteration.

(2) In considering what to do under sub-paragraph (1), the Scottish Ministers may take matters into account despite their not having been taken into account by the planning authority in formulating their proposals.

(3) The Scottish Ministers may, for the purpose of deciding what to do under sub-paragraph (1), cause a local inquiry or other hearing to be held by a person appointed by them.

(4) If—

(a) the Scottish Ministers decide to alter a scheme under sub-paragraph (1), and

(b) the alteration they intend to make would have one of the effects described in paragraph 13(1)(b),

they may not make the alteration until the end of the day that falls 12 months after the day on which they decided to make the alteration.

CHAPTER 2

MAKING OR ALTERING SCHEME FOLLOWING PARAGRAPH 6 DIRECTION

Power to make or alter scheme

16 (1) The Scottish Ministers may (in accordance with paragraph 17) make, or alter, a scheme if—

(a) they have given a planning authority a direction under paragraph 6, and

(b) they are satisfied that the planning authority are not fulfilling the duty arising from that direction within a reasonable period.

(2) In order to satisfy themselves of the matter mentioned in sub-paragraph (1)(b), the Scottish Ministers must cause a local inquiry or other hearing to be held by a person appointed by them.

Process for making or altering schemes

17 (1) Unless stated otherwise, the enactments mentioned in sub-paragraph (2) apply to the making, or alteration, of a scheme by the Scottish Ministers under paragraph 16—

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(a) as they apply to the making or (as the case may be) alteration of a scheme by a planning authority, but

(b) subject to the modifications set out in sub-paragraphs (3) to (6).

(2) The enactments referred to in sub-paragraph (1) are—

(a) Part 3, and

(b) any regulations made under—

(i) Part 3, or

(ii) paragraph 22.

(3) References to a planning authority are to be read as references to the Scottish Ministers.

(4) References to a planning authority's district are to the district in which the area to which the scheme relates lies (or would lie were the scheme or alteration in question made).

(5) References to a committee of a planning authority are to—

(a) the Scottish Ministers, or

(b) a person appointed by the Scottish Ministers to discharge the function in question on their behalf.

(6) Requirements to—

(a) consult, and

(b) send things to,

the Scottish Ministers do not apply.

Recovery of costs

18 (1) Having incurred costs in complying with an enactment mentioned in paragraph 17(2) in connection with making or altering a scheme under paragraph 16, the Scottish Ministers may require the relevant planning authority to pay them—

(a) an amount equal to the costs they incurred, or

(b) such lesser amount as they consider appropriate.

(2) In sub-paragraph (1) “the relevant planning authority” is the authority in whose district the area to which the scheme relates lies (or would have lain had it been made).

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PART 5

FURTHER POWERS OF SCOTTISH MINISTERS

CHAPTER 1

EXCLUDING KINDS OF DEVELOPMENT FROM SCHEMES

Power to exclude kinds of development

19 (1) The Scottish Ministers may by regulations provide that no scheme grants authorisation in relation to development of a kind described in the regulations.

(2) Regulations under this paragraph may describe a kind of development by reference to its being development of land that is specified, or of a description specified, in the regulations.

(3) Sub-paragraph (2) is not exhaustive of the ways in which kinds of development can be described in regulations under this paragraph.

Effect of exclusion on existing schemes

20 If a scheme has conferred authorisation in relation to development of a kind that regulations under paragraph 19 state cannot be granted authorisation by a scheme—

(a) the scheme ceases to have the effect of granting authorisation for any new development of that kind from the date the regulations prescribe, but

(b) the authorisation granted by the scheme is unaffected by the regulations in relation to development begun before that date.

CHAPTER 2

POWERS IN RELATION TO PROCEDURE, ETC.

Directions about procedure and provision of information

21 (1) The Scottish Ministers may give a planning authority a direction—

(a) about how the authority are to formulate their procedures for carrying out their functions under this schedule,

(b) requiring that the authority provide the Scottish Ministers with information specified in the direction.

(2) A planning authority must comply with any direction given under sub-paragraph (1).

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(3) Information may not be specified under sub-paragraph (1)(b) unless it is information that the Scottish Ministers require for carrying out their functions under this schedule.

Regulations about form, content and procedure

22 (1) The Scottish Ministers may make regulations about—

(a) the form and content of schemes, and

(b) the procedure to be followed in connection with making and altering schemes.

(2) Regulations under this paragraph may in particular—

(a) provide for the publicity to be given to—

(i) matters included, or proposed for inclusion in, a scheme,

(ii) the making or alteration of a scheme,

(iii) any procedural step in relation to the making or alteration of a scheme,

(b) make provision with respect to the making and consideration of representations concerning—

(i) whether a scheme should be made,

(ii) what should be included in a scheme,

(c) require, or authorise, consultation with persons identified in the regulations (by name or description) prior to the taking of steps in the process of making or altering a scheme,

(d) require a planning authority, in circumstances prescribed in the regulations, to give anyone who requests them copies of documents which have been made public,

(e) allow a planning authority to impose a reasonable charge on anyone given a copy of a document in accordance with provision made by virtue of paragraph (d),

(f) provide for the publication and inspection of—

(i) any scheme which has been made, or

(ii) a document setting out alterations that have been, or are to be, made to a scheme,

(g) provide for the sale of copies of—

(i) schemes, and

(ii) any document that sets out alterations that have been, or are to be, made to a scheme.

PART 6

INTERPRETATION

Application of section 54F

23 Section 54F applies to the interpretation of this schedule as it does to sections 54B to 54E.

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Changes to legislation: *Planning (Scotland) Act 2019 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Calculation of periods

24 (1) Where a period is described in this schedule (in whatever terms) as ending after a specified number of months or years—

(a) if the final month has a day corresponding to the day of the month on which the period began, the period ends at the end of that day of the final month,

(b) if the final month is shorter than the month in which the period began and so does not have a corresponding day, the period ends on the last day of the final month.

(2) In sub-paragraph (1), "the final month" means the month arrived at by counting forwards the specified number of calendar months or years from the month in which the period began.

(3) For example, if a period described as ending after 6 months begins on 31 August it ends on 28 February (or 29 February in a leap year).".

16 Bar to creation of new simplified planning zones

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 50 (making of simplified planning zone schemes)—

(a) subsection (1) is repealed,

(b) in subsection (2)—

(i) for the words from the beginning of the subsection to the end of paragraph (a), substitute " A planning authority may at any time decide— ",

(ii) in paragraph (b), after "a" insert " simplified planning zone ",

(c) in subsection (3), the words "making and" are repealed.

(3) The section title of section 50 becomes " **Alteration of simplified planning zone schemes** ".

(4) In schedule 5 (simplified planning zones)—

(a) in paragraph 2—

(i) the words "make or" are repealed,

(ii) in paragraph (b), the words "the scheme or" are repealed,

(b) the italic heading preceding paragraph 2 becomes " *Notification of proposals to alter scheme* ",

(c) in paragraph 3(1), the words "make or" are repealed,

(d) in paragraph 3(2)—

(i) paragraph (a) is repealed,

(ii) in paragraph (b), for "that period", substitute " the 12 months preceding the request ",

(e) the italic heading preceding paragraph 3 becomes " *Power of Secretary of State to direct alteration of scheme* ",

(f) in paragraph 4(1)—

(i) paragraph (a) is repealed,

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(ii) in paragraph (b), for "he considers" substitute " the Scottish Ministers consider ",

(iii) the words ", in either case," are repealed,

(iv) the words "making or, as the case may be," are repealed,

(g) in paragraph 4(2), for "sub-paragraph (1)(a) or (b), substitute " sub-paragraph (1)(b) ",

(h) in paragraph 5(1), the words "make or" are repealed,

(i) in paragraph 5(3)(a), the words "make or" are repealed,

(j) in paragraph 6—

(i) the words "prepared a proposed simplified planning zone scheme, or" are repealed,

(ii) in each place they occur, the words "scheme or" are repealed,

(k) in paragraph 7(1), the words "scheme or" are repealed,

(l) in paragraph 11(1)—

(i) for paragraph (a), substitute—

"(a) a planning authority are directed under paragraph 3 to alter a simplified planning zone scheme in such manner as the Scottish Ministers consider appropriate, and",

(ii) in paragraph (b), the words "making or, as the case may be," are repealed,

(iii) the words "a scheme or, as the case may be," are repealed.

VALID FROM 01/12/2019

PART 3

DEVELOPMENT MANAGEMENT

VALID FROM 18/05/2020

Meaning of "development"

17 Meaning of "development": use of dwellinghouse for short-term holiday lets

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 26A insert—

"**26B Material change of use: short-term lets**

(1) A planning authority may designate all or part of its area as a short-term let control area for the purposes of this section.

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(2) In a short-term let control area, the use of a dwellinghouse for the purpose of providing short-term lets is deemed to involve a material change of use of the dwellinghouse.

(3) For the purposes of this section, the following tenancies do not constitute a short-term let—

(a) a private residential tenancy under section 1 of the Private Housing (Tenancies) (Scotland) Act 2016,

(b) a tenancy of a dwellinghouse (or part of it) where all or part of the dwellinghouse is the only or principal home of the landlord or occupier.

(4) The power under subsection (1) includes the power to vary or cancel a designation.

(5) The Scottish Ministers may by regulations make further provision for the purposes of this section including, in particular, provision about—

(a) the procedure a planning authority must follow in order to make, vary or cancel a designation under subsection (1) (which may include requiring the approval of the Scottish Ministers),

(b) the form of a designation under subsection (1),

(c) what constitutes providing a short-term let for the purposes of this section, and

(d) any circumstances in which, or descriptions of dwellinghouse to which, this section does not apply.

(6) Before making regulations under subsection (5), the Scottish Ministers must consult planning authorities and such other persons as they consider appropriate.”.

Applications

18 Pre-application consultation

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 35A (pre-application consultation: preliminary)—

(a) in subsection (1A)—

(i) the words “to which section 42 applies” become paragraph (a),

(ii) after paragraph (a), insert “, or

(b) in circumstances specified by the Scottish Ministers in regulations under this section.”,

(b) in subsection (3), for “the development is of a class prescribed under subsection (1)” substitute “ compliance with section 35B is required ”,

(c) in subsection (5), after “form” insert “ , and have such content, ”,

(d) in subsection (9), for “the development is not of a class prescribed under subsection (1)” substitute “ compliance with section 35B is not required ”.

(3) In section 35B (pre-application consultation: compliance), in subsection (3), after “weeks” insert “ , but no more than 18 months, ”.

Status: *Point in time view as at 08/11/2019. This version of this Act contains provisions that are not valid for this point in time.*
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(4) In section 35C (pre-application consultation report), in subsection (2), after "form" insert " and include such content ".

PROSPECTIVE

19 Assessment of health effects

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 40 insert—

"**40A Assessment of health effects**

The Scottish Ministers must by regulations make provision about the consideration to be given, before planning permission for a national development or a major development is granted, to the likely health effects of the proposed development.".

20 Regulations about procedure for certain applications

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 42 (determination of applications to develop land without compliance with conditions previously attached), for subsection (3), substitute—

"(3) The Scottish Ministers may by regulations or a development order make special provision as regards the procedure to be followed in connection with such applications.".

PROSPECTIVE

21 Removal of requirement to recover costs before determining certain applications

Section 34(4)(c) of the Town and Country Planning (Scotland) Act 1997 is repealed.

VALID FROM 01/10/2022

22 Declining to determine an application

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 39(1) (declining to determine an application), in each of the following paragraphs, for "two" substitute " 5 "

(a) paragraph (a)(i),
(b) paragraph (b)(i),
(c) paragraph (c)(i),

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(d) paragraph (d)(i),
(e) paragraph (e)(i).

VALID FROM 01/03/2020

Notice by planning authority of certain applications made to them

23 Notice by planning authority of certain applications made to them

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 34 (notice by planning authority of certain applications made to them), after subsection (2), insert—

"(2A) Where an application under subsection (2) is for a major development, a planning authority must give notice of the application to each—
(a) councillor of the local authority,
(b) member of the Scottish Parliament,
(c) member of the House of Commons,
representing the district to which the application relates.".

Assessment of environmental effects

24 Assessment of environmental effects

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 40 (assessment of environmental effects)—
(a) in subsection (1), after "effects" insert " , including effects on biodiversity, ",
(b) after subsection (4) insert—

"(4A) In subsection (1), "effects on biodiversity" includes the net positive effects on biodiversity that would be likely to result from the development.".

VALID FROM 20/12/2019

Conditional grant of planning permission: noise-sensitive developments

25 Conditional grant of planning permission: noise-sensitive developments

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 41 insert—

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"**41A Conditional grant of planning permission: noise-sensitive developments**

(1) A development that is the subject of an application for planning permission is a "noise-sensitive development" if residents or occupiers of the development are likely to be affected by significant noise from existing activity in the vicinity of the development (a "noise source").

(2) Without prejudice to the generality of section 41(1), a planning authority—

(a) must, when considering under section 37 whether to grant planning permission for a noise-sensitive development subject to conditions, take particular account of whether the development includes sufficient measures to mitigate, minimise or manage the effect of noise between the development and any existing cultural venues or facilities (including in particular, but not limited to, live music venues), or dwellings or businesses in the vicinity of the development, and

(b) may not, as a condition of granting planning permission for a noise-sensitive development, impose on a noise source additional costs relating to acoustic design measures to mitigate, minimise or manage the effects of noise.".

Conditional grant of planning permission: provision of toilet facilities within certain large developments

26 Conditional grant of planning permission: provision of toilet facilities within certain large developments

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 41A insert—

"**41B Conditional grant of planning permission: provision of toilet facilities within certain large developments**

(1) Without prejudice to the generality of section 41(1), a planning authority may grant planning permission for a development that falls within subsection (2) only on condition that the development includes at least one toilet facility described in subsection (3).

(2) A development that is the subject of an application for planning permission falls within this subsection if it is for the construction of a building, structure or other erection for use for any of the following purposes—

(a) as a school, college or university,

(b) as a community centre, sports and leisure centre, or similar public building,

(c) as a hospital or other facility for the provision of health services,

(d) as a retail outlet the gross floor space of which is or exceeds 10,000 square metres,

(e) as a cultural centre, such as a museum, concert hall or art gallery,

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(f) as a stadium or large auditorium,

(g) as a major transport terminus or interchange,

(h) as a motorway service facility.

(3) The toilet facility mentioned in subsection (1) is an accessible public facility which—

(a) has sufficient space, being not less than 12 square metres, to allow up to two carers to assist an adult to use the toilet and the equipment mentioned in paragraph (c),

(b) has a centrally-placed toilet with sufficient space, being not less than 1 metre, from the wall on either side for carers to assist an adult to use the toilet,

(c) includes—

(i) a height-adjustable changing bench of a size suitable for an adult,

(ii) a tracking hoist able to cover the full floor area of the facility,

(d) is equipped with—

(i) a non-slip floor surface,

(ii) a screen or curtain,

(iii) a supply of hygienic disposable covering for the changing bench,

(iv) suitable waste disposal facilities,

(v) a shelf suitable for temporary placing of colostomy bags and related equipment.

(4) The Scottish Ministers may by regulations—

(a) amend subsection (2) so as—

(i) to add, amend or remove a purpose, or

(ii) to describe other types of development that fall within subsection (2), (whether or not by reference to the development's use for a particular purpose) and to amend or remove such types,

(b) specify that the requirement in subsection (1) does not apply—

(i) to a particular building, structure or erection,

(ii) to such descriptions of buildings, structures or erections as may be prescribed, or

(iii) in such circumstances as may be prescribed,

(c) amend the description of toilet facility in subsection (3).”.

VALID FROM 01/03/2020

Delegation of development decisions

27 Delegation of development decisions

(1) Subsection (6A) of section 56 (arrangements for discharge of functions by local authorities) of the Local Government (Scotland) Act 1973 is repealed.

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(2) Subsection (2) of section 14 (pre-determination hearings) of the Planning etc. (Scotland) Act 2006 is repealed.

PROSPECTIVE

28 Schemes of delegation

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) For section 43A substitute—

"**43A Schemes of delegation**

(1) A "scheme of delegation" is a scheme prepared by a planning authority by which an application falling within subsection (4) is to be determined by a person appointed by them (an "appointed person").

(2) A planning authority must prepare and keep under review a scheme of delegation and, without limit to that generality, must review it—
   (a) at such intervals as are provided in regulations made under section 43AB, and
   (b) whenever required to do so by the Scottish Ministers.

(3) A planning authority may make changes to their scheme of delegation following a review.

(4) The applications falling within this subsection are—
   (a) an application for planning permission for a development within the category of local developments,
   (b) an application for consent, agreement or approval required by a condition imposed on a grant of planning permission for a development within the category of local developments,
   (c) an application for any approval of the planning authority required under a development order,
   (d) an application for a certificate of lawfulness of existing use or development under section 150,
   (e) an application for a certificate of lawfulness of proposed use or development under section 151,
   (f) an application for advertisement consent required by virtue of regulations made under section 182.

(5) References in subsection (4)(a) to a development do not include references to a development of a class mentioned in section 38A(1).

(6) A planning authority may, if they think fit, decide to determine an application which would otherwise fall to be determined by the appointed person under the scheme of delegation.

(7) Where the planning authority make such a decision they must—
   (a) include in the decision a statement of the reasons as to why it has been made, and

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(b) serve a copy of the decision on the applicant.

(8) A planning authority may not delegate the determination of applications falling within subsection (4) to an officer of the authority otherwise than in accordance with a scheme of delegation prepared under this section.

43AA Schemes of delegation: effect and operation

(1) A determination of an appointed person is to be treated as that of the planning authority (other than for the purposes of section 43AC, section 47 and section 154).

(2) Where an application for planning permission falls to be determined by an appointed person, sections 27A(2), 27B(2), 30(3), 32A, 37(1) to (3), 38, 39, 40, 41(1) and (2), 42, 43(1) to (2), 46, 58, 59 and 60 and Part 1 of schedule 3 apply, with any necessary modifications (including, in the case of that Part, the modification mentioned in subsection (3)), as they apply to an application which falls to be determined by the planning authority.

(3) The modification referred to in subsection (2) is that, in paragraph 1(6) of schedule 3, paragraph (b) is to be read as if there were substituted—

"(b) is to be regarded for the purposes of section 43AC as a condition imposed by a decision of the appointed person, and may accordingly be the subject of a review under section 43AC.".

(4) Where an application for an approval of the planning authority required under a development order falls to be determined by an appointed person, the development order applies, with any necessary modifications, as it applies to an application which falls to be determined by the planning authority.

(5) Where an application for a certificate under section 150 or section 151 falls to be determined by an appointed person, section 150 or, as the case may be, section 151, and section 152 apply, with any necessary modifications, as they apply to an application which falls to be determined by the planning authority.

(6) In this section, "appointed person" is to be construed in accordance with section 43A(1).

43AB Schemes of delegation: further provision and guidance

(1) The Scottish Ministers may by regulations make provision about—

(a) the required form and content of a scheme of delegation, and

(b) the procedures for preparing, adopting, reviewing and changing such a scheme.

(2) Without limiting the generality of subsection (1), the regulations may require the planning authority to—

(a) provide the Scottish Ministers with a draft of a scheme of delegation or any proposed changes,

(b) make such modifications as are specified by the Scottish Ministers before adopting the scheme,

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(c) comply with such directions as are given by the Scottish Ministers in relation to the form, content or procedures for a scheme of delegation.

(3) A planning authority must have regard to any guidance issued by the Scottish Ministers when preparing, adopting, reviewing or changing a scheme of delegation.

43AC Review of decisions of appointed person

(1) Where an appointed person—

(a) refuses an application for planning permission or grants it subject to conditions,

(b) refuses an application for any consent, agreement or approval of the planning authority required by a condition imposed on a grant of planning permission or grants it subject to conditions,

(c) refuses an application for any approval of the planning authority required under a development order or grants it subject to conditions,

(d) refuses an application for a certificate under section 150 or 151 (in whole or in part), or

(e) has not given notice of the appointed person's decision within the relevant period,

the applicant may require the planning authority to review the case.

(2) A requirement to review may not be made by virtue of paragraph (e) of subsection (1) if, within the relevant period, notice has been given to the applicant that—

(a) the power under section 39 to decline to determine the application has been exercised, or

(b) the application has been referred to the Scottish Ministers in accordance with directions given under section 46.

(3) Where a requirement to review is made by virtue of paragraph (e) of subsection (1), the appointed person is, for the purposes of the review, to be deemed to have decided to refuse the application.

(4) On a review, the planning authority may—

(a) in relation to a review of a decision required by virtue of paragraph (d) of subsection (1)—

(i) grant or refuse the applicant a certificate under section 150 or 151 accordingly (in whole or in part),

(ii) modify the certificate granted by the appointed person,

(iii) uphold the determination to refuse the application (or to refuse it in part),

(b) in relation to any other review—

(i) uphold, reverse or vary any part of the determination (whether the review relates to that part of it or not), and

(ii) deal with the application as if it had not been delegated to the appointed person.

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(5) Except as provided under section 239, the decision of a planning authority in a case reviewed by virtue of this section is final.

(6) In this section, "appointed person" is to be construed in accordance with section 43A(1).

(7) For the purposes of this section, the "relevant period" is—
- (a) such period as may be prescribed by regulations or a development order, or
- (b) such other period as may be agreed in writing between the applicant and the planning authority (or the appointed person on their behalf) in respect of the application (whether before or after it is made).

43AD Review of decisions of appointed person: further provision

(1) The Scottish Ministers may by regulations or a development order make provision as to the form and procedures of any review conducted by virtue of section 43AC.

(2) Without limiting the generality of subsection (1), the regulations or order may—
- (a) make different provision for different cases or types of case,
- (b) make different provision for different stages of a case,
- (c) provide that the manner in which the review, or any stage of the review, is to be conducted (as for example whether oral submissions are to be made or written submissions lodged) is to be at the discretion of the planning authority,
- (d) make provision in relation to oral or written submissions and to documents in support of such submissions (and also about the consequences of any failure to make such submissions),
- (e) subject to section 43B, make provision about what matters may be raised in the course of the review,
- (f) make provision in relation to time limits (including a time limit for requiring the review),
- (g) require the planning authority to give notice to the person who has required the review about how the review has been dealt with.

(3) Any notice given by virtue of subsection (2)(g)—
- (a) must include a statement of—
  - (i) the terms in which the planning authority have decided the case, and
  - (ii) the reasons on which the authority based that decision, and
- (b) may include such other information as is prescribed by the regulations or the order.".

(3) In section 47 (right to appeal against planning decisions and failure to take such decisions)—
- (a) in subsection (2), after paragraph (a) insert—
  - "(aa) notice of their decision on a review required by virtue of paragraph (e) of section 43AC(1),",

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(b) after subsection (2) insert—

"(2A) Subsection (2)(a) does not apply where the applicant may require a review under section 43AC(1)(e).".

(4) In section 154 (appeals against refusal or failure to give decision on application for certificates under section 150 and 151)—

(a) in subsection (1)—

(i) the "or" at the end of paragraph (a) is repealed,

(ii) after paragraph (b) insert "or

(c) the planning authority do not give notice to the applicant of their decision on a review required by virtue of paragraph (e) of section 43AC(1) within such period as is prescribed by regulations or a development order or within such extended period as may at any time be agreed in writing by the applicant and the authority,",

(b) after subsection (1) insert—

"(1A) But—

(a) an appeal may not be made under subsection (1)(a) in relation to any such action on the part of the planning authority as is mentioned in section 237(3A),

(b) an appeal may not be made under subsection (1)(b) where the applicant may require a review under section 43AC(1)(e).",

(c) in subsection (3)(b), after "(1)(b)" insert " or (c) ".

Call-in of applications by Scottish Ministers: further provision

29 Call-in of applications by Scottish Ministers: further provision

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 46 insert—

"**46A Call-in of applications by Scottish Ministers: further provision**

(1) The Scottish Ministers must lay before the Scottish Parliament and publish, in such manner as they consider appropriate, a statement setting out the circumstances in which they consider it appropriate to give directions as mentioned in section 46(1).

(2) The Scottish Ministers may from time to time publish a revised or replacement statement under subsection (1).".

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VALID FROM 01/03/2020

Determination of applications: statement to accompany notification

30 Determination of applications: statement to accompany notification

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 37 (determination of applications: general considerations), after subsection (2) insert—

"(2A) The notice of the planning authority's decision on an application must include a statement as to whether the authority consider that the application is for a development that is in accordance with the development plan for the time being applicable to the area to which the application relates together with an explanation of why the authority have reached that view.".

PROSPECTIVE

Agreements relating to period before which an appeal may be made

31 Agreements relating to period before which an appeal may be made

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 47 (right to appeal against planning decisions and failure to take such decisions)—

(a) in subsection (2), in the closing words, for the words from "such" where it first occurs to the end substitute " the relevant period. ",

(b) in subsection (4)(b), for the words from "period" where it first occurs to the end substitute " relevant period ",

(c) after subsection (5) insert—

"(6) For the purposes of subsection (2), the "relevant period" is—

(a) such period as may be prescribed by regulations or a development order, or

(b) such other period as may be agreed in writing between the applicant and the authority in respect of the application (whether before or after it is made).".

VALID FROM 01/10/2022

Duration of planning permission

32 Duration of planning permission

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

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(2) In section 41 (conditional grant of planning permission), in subsection (1), after paragraph (b) insert—

"(c) for identifying (whether by means of a specified time period or otherwise) when the applicant may be required to—

(i) make an application for a consent, agreement or approval, or

(ii) carry out some other action in connection with the permission or development.".

(3) In section 58 (duration of planning permission)—

(a) for subsections (1) to (3) substitute—

"(1) Where a planning permission to which this section applies is granted or deemed to be granted, it must be granted or, as the case may be, is to be deemed to be granted subject to the condition that the development to which it relates must be begun not later than the expiration of—

(a) 3 years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted, or

(b) such other period (whether longer or shorter) as the authority concerned may specify when granting the permission or, as the case may be, in making a direction under section 57.

(2) If planning permission is granted or is deemed to be granted without the condition required by subsection (1), the permission is deemed to be subject to the condition that the development to which it relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted.

(3) If development has not begun at the expiration of the period mentioned in paragraph (a) or (b) of subsection (1) or, as the case may be, subsection (2), the planning permission lapses.",

(b) in subsection (3A)—

(i) in the opening words, for "(2)", substitute " (1)(b) ",

(ii) for paragraph (a) substitute—

"(a) beginning with the date on which the planning permission is granted or deemed to be granted, and",

(c) in subsection (4), paragraphs (c) and (ca) are repealed.

(4) In section 59 (planning permission in principle), for subsections (2) to (8), substitute—

"(2A) Where planning permission in principle is granted, it must be granted subject to the condition that the development to which it relates must be begun not later than the expiration of—

(a) 5 years beginning with the date on which the permission is granted, or

(b) such other period (whether longer or shorter) as the authority concerned may specify when granting the permission.

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Changes to legislation: *Planning (Scotland) Act 2019 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2B) If planning permission in principle is granted without the condition required by subsection (2A), the permission is deemed to be subject to the condition that the development to which it relates must be begun not later than the expiration of 5 years beginning with the date of the grant.

(2C) If development has not begun at the expiration of the period mentioned in paragraph (a) or (b) of subsection (2A) or, as the case may be, subsection (2B), the planning permission in principle lapses.

(2D) A period specified under subsection (2A)(b) is to be a period—

(a) beginning with the date on which the planning permission in principle is granted, and

(b) which the authority concerned consider appropriate having regard to the provisions of the development plan and to any other material considerations.”.

(5) In section 60 (provisions supplementary to sections 58 and 59), for subsection (2) substitute—

“(2A) Where a planning authority grants planning permission, the fact that any of the conditions of the permission are required by the provisions of section 58 or 59 to be imposed, or are deemed by those sections to be imposed, does not prevent the conditions being the subject of a review under section 43AC or an appeal under section 47.”.

33 Completion notices

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 61 (termination of planning permission by reference to time limit: completion notices), after subsection (3) insert—

“(3A) A completion notice must also—

(a) state that a person on whom it is served may lodge an objection,

(b) specify the date on which the notice will take effect if no objection is lodged before that date.

(3B) The date so specified must be a date at least 28 days after the date on which the notice is served.”.

(3) In section 62 (effect of completion notice)—

(a) in subsection (1), for the words from “shall” to the end substitute “takes effect—

(a) on the date specified in it, unless before that date an objection is lodged under section 62A(1),

(b) where an objection is lodged under section 62A(1), only if and when the notice is confirmed by the Scottish Ministers.”,

(b) subsections (2) and (3) are repealed,

(c) in subsection (4)—

(i) for “Secretary of State” substitute “ Scottish Ministers ”,

(ii) for “subsection (2)” substitute “ section 62A(5) ”.

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(4) After section 62, insert—

"**62A Objection to completion notice**

(1) A person on whom a completion notice is served may, prior to the date specified in it, lodge an objection to the notice with the planning authority which served it.

(2) Where an objection is lodged under subsection (1), the planning authority must give notice of the objection to—
  (a) every person who was served with the completion notice, and
  (b) the Scottish Ministers.

(3) Before confirming a completion notice, the Scottish Ministers must allow the following people the opportunity to make representations to a person appointed for the purpose by the Scottish Ministers—
  (a) the person who lodged the objection, and
  (b) the planning authority.

(4) The Scottish Ministers must give notice of their decision as to whether or not to confirm the completion notice to—
  (a) every person who was served with the completion notice, and
  (b) the planning authority.

(5) In confirming a completion notice, the Scottish Ministers may substitute a longer period for that specified in the notice as the period at the expiration of which the planning permission is to cease to have effect.".

(5) In section 182 (regulations controlling display of advertisements), in subsection (3)(a), for "62" substitute " 62A ".

(6) In section 237 (validity of certain decisions), in subsection (3)(c), for "62" substitute " 62A ".

VALID FROM 18/11/2020

Planning obligations

34 Planning obligations: financial agreements

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 75 (planning obligations)—
  (a) in subsection (1), for the words from "an obligation" to the end substitute " a planning obligation. ",
  (b) after subsection (1), insert—

"(1A) For the purpose of this section and sections 75A to 75C, a planning obligation is an obligation which does any of the following—
  (a) restricts or regulates the development or use of land,
  (b) requires the payment—

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(i) of a specified amount or an amount determined in accordance with the relevant instrument, or

(ii) of periodical sums either indefinitely or for such period as is specified in the relevant instrument.”,

(c) in subsection (2), for “subsection (1), the reference in that subsection” substitute “ paragraph (a) of subsection (1A), the reference in that paragraph ”,

(d) in subsection (3)—

(i) after paragraph (a), insert—

“(aa) impose a restriction or requirement either permanently or during such period as is specified in the relevant instrument,”,

(ii) paragraph (b) is repealed,

(e) in subsection (5)(a), for “(2) or (3)(b)” substitute “ (1A)(b) or (2) ”,

(f) after subsection 12, insert—

“(13) In this section and in sections 75A to 75C, “relevant instrument” means the instrument by which a planning obligation is entered into.”.

(3) In section 75C (planning obligations: continuing liability of former owner etc.), in subsection (3), for “(2) or (3)(b)” substitute “ (1A)(b) or (2) ”.

PROSPECTIVE

35 Planning obligations: publication

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 75 (planning obligations), after subsection (4), insert—

“(4A) A planning authority are to publish a relevant instrument in such a manner as they consider sufficient to ensure that it is brought to the attention of residents of the area or district to which the relevant planning obligation relates.”.

(3) In section 75A (modification and discharge of planning obligations), after subsection (5) insert—

“(5A) A planning authority are to publish—

(a) an agreement under subsection (1)(a), and

(b) a notice of a determination under subsection (4),

in such a manner as they consider sufficient to ensure that it is brought to the attention of residents of the area or district to which the relevant planning obligation relates.”.

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PROSPECTIVE

36 Planning obligations: annual report

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 36 (registers of applications etc.), after subsection (4), insert—

"(5) As soon as reasonably practicable after the end of each financial year, a planning authority are to prepare and publish a report detailing—

(a) the number of planning obligations that are—

(i) entered into in that year,

(ii) entered into in a previous year and not yet expired,

(iii) entered into in a previous year and not yet complied with,

(b) the development to which each planning obligation relates, and

(c) the name of the person that has entered into the planning obligation.

(6) In this section a financial year is the period of 12 months beginning with 1 April.".

37 Planning obligations: modification or discharge

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 34 (notice by planning authority of certain applications made to them), in subsection (2)(d), for "agreement" substitute " modification or discharge of a planning obligation ".

(3) In section 43 (directions etc. as to method of dealing with applications), in subsection (4)—

(a) the words "the giving of any agreement under subsection (2) of section 75A or" are repealed,

(b) for "subsection (4) of that section" substitute " section 75A(4) ".

(4) In section 75A (modification and discharge of planning obligations)—

(a) in subsection (1)—

(i) in paragraph (a)—

(A) after "agreement" insert " in writing ",

(B) the words ", by virtue of subsection (2)," are repealed,

(C) for "a person" substitute " the person or persons ",

(ii) in paragraph (b), for "and" substitute " or ",

(b) in subsection (2)—

(i) for the words "their agreement that the obligation" substitute " the obligation to ",

(ii) in paragraph (a), for the words from the start to "be" substitute " be modified as ",

(c) subsection (3) is repealed,

(d) in subsection (4)(c), for "the modifications specified in the application" substitute " modifications ",

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(e) after subsection (4), insert—

"(4A) Where the authority propose to make a determination under subsection (4)—

(a) discharging the planning obligation despite that not being sought in the application, or

(b) modifying the planning obligation in a way that is not sought in the application,

they must obtain the applicant's consent before making the determination.

(4B) Where the authority propose to make a determination under subsection (4) modifying the planning obligation so as to put or increase a burden on any non-applicant, they must obtain that person's consent before making the determination.

(4C) Where an application under subsection (2) relates to more than one planning obligation, the authority may make a separate determination in relation to each planning obligation.",

(f) in subsection (5)—

(i) the words "the applicant" become paragraph (a),

(ii) after paragraph (a), insert ", and

(b) any non-applicant against whom the planning obligation is enforceable,",

(iii) the words "within such period as is prescribed." become the closing words,

(g) in subsection (6), after "where" insert " an agreement under subsection (1)(a) or ",

(h) in subsection (7), after "applies" insert "—

(a) in a case relating to an agreement under subsection (1)(a), the agreement does not take effect until the date on which it is recorded in the Register of Sasines or registered in the Land Register, and

(b) in a case relating to a determination under subsection (4)(b) or (c),",

(i) in subsection (9)—

(i) in paragraph (b), after "publication of" insert " or giving of ",

(ii) after paragraph (b), insert—

"(ba) the giving of notice of proposed determinations to which subsection (4A) applies,",

(iii) in paragraph (c), after "application" insert " or proposed determination ",

(j) in subsection (10), after "(4)" insert " , (4A), (4B), (4C) ".

(5) In section 75B (appeals)—

(a) in subsection (4)(c), for "the modifications specified in the application" substitute " modifications ",

(b) after subsection (4), insert—

"(4A) Where the Scottish Ministers propose to make a determination under subsection (4)—

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(a) discharging the planning obligation despite that not being sought in the application, or

(b) modifying the planning obligation in a way that is not sought in the application,

they must obtain the applicant's consent before making the determination.

(4B) Where the Scottish Ministers propose to make a determination under subsection (4) modifying the planning obligation so as to put or increase a burden on any non-applicant, they must obtain that person's consent before making the determination.

(4C) Where an application under subsection (2) relates to more than one planning obligation, the Scottish Ministers may make a separate determination in relation to each planning obligation.”,

(c) in subsection (5)—

(i) the words “the applicant” become paragraph (a),

(ii) after paragraph (a), insert “, and

(b) any non-applicant against whom the planning obligation is enforceable,”,

(iii) the words “within such period as is prescribed.” become the closing words.

VALID FROM 01/10/2022

Declining to determine an application: further provision

38 Declining to determine an application: further provision

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 39 insert—

“**39A Declining to determine an application: further provision**

The Scottish Ministers must publish guidance outlining what constitutes a “similar application” and a “significant change” for the purposes of section 39.”.

PROSPECTIVE

Development orders

39 Withdrawal of planning permission granted by development order

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 77 insert—

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"77A Compensation for withdrawal of planning permission granted by development order

(1) The Scottish Ministers may by regulations make provision about the payment of compensation by a planning authority in cases where—

(a) planning permission granted by a development order is withdrawn (whether by the revocation or amendment of the order or by the issue of directions under powers conferred by the order), and

(b) on an application made under Part III or section 242A, planning permission for development formerly permitted by that order is refused or is granted subject to conditions other than those imposed by that order.

(2) Regulations under subsection (1) may, in particular, make provision—

(a) about the circumstances in which compensation is payable,

(b) about what compensation is payable in respect of,

(c) about how the amount of compensation is to be calculated,

(d) about how a claim for compensation must be made in order to be valid (including the form and content of a claim, and the period within which it must be made),

(e) applying, or disapplying, any of the provisions of this Part, with or without modifications.".

(3) Section 77 (compensation for refusal or conditional grant of planning permission formerly granted by development order) is repealed.

VALID FROM 01/12/2019

PART 4

OTHER MATTERS

VALID FROM 17/07/2021

Promotion and use of mediation etc.

40 Promotion and use of mediation etc.

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 268 insert—

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"Promotion and use of mediation etc.

268A Promotion and use of mediation etc.

(1) The Scottish Ministers may issue guidance in relation to the promotion and use of mediation in relation to the following—
  (a) the preparation of local development plans and related evidence reports under Part 2,
  (b) a prospective applicant's compliance with any requirements in respect of pre-application consultation imposed under or by virtue of section 35B,
  (c) assisting in the determination of an application for planning permission,
  (d) any other matter related to planning that they consider appropriate.

(2) Guidance under subsection (1) may include provision about—
  (a) the form of mediation that is to be used in a particular circumstance, and
  (b) the procedure to be followed in any such mediation.

(3) Local authorities must have regard to any guidance issued under subsection (1).

(4) Before issuing any guidance under subsection (1), the Scottish Ministers must consult—
  (a) planning authorities, and
  (b) such other persons that the Scottish Ministers consider appropriate.

(5) The Scottish Ministers must make any guidance issued under subsection (1) publicly available.

(6) The power under subsection (1) to issue guidance includes power to—
  (a) issue guidance that varies guidance issued under that subsection, and
  (b) revoke guidance issued under that subsection.

(7) For the purposes of this section, "mediation" includes any means of exploring, resolving or reducing disagreement between persons involving an impartial person that the Scottish Ministers consider appropriate.

(8) The Scottish Ministers must issue guidance under subsection (1) within the period of two years beginning with the date on which the Planning (Scotland) Act 2019 received Royal Assent.".

Charges and fees

41 Fees for planning applications etc.

(1) Section 252 of the Town and Country Planning (Scotland) Act 1997 (fees for planning applications etc.) is amended as follows.

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(2) After subsection (1)(b) insert—

"(c) the performance by a person appointed by virtue of a scheme of delegation under section 43A of the person's functions.".

(3) After subsection (1) insert—

"(1ZA) The Scottish Ministers may by regulations make provision for the payment of a charge or fee to the Scottish Ministers in respect of—

(a) the performance by the Scottish Ministers of any of their functions under the planning Acts or any order or regulations made under them,

(b) anything done by the Scottish Ministers which is calculated to facilitate, or is conducive or incidental to, the performance of any such function,

(c) the performance by a person appointed by the Scottish Ministers under paragraph 1 of schedule 4 of the person's functions.".

(4) In subsection (1A), for "The regulations" substitute " Regulations under subsections (1) and (1ZA) ".

(5) In subsection (1A)(b), after "calculated" insert " (including conferring on a planning authority the power to determine how it is to be calculated) ".

(6) Subsection (1A)(da) is repealed.

(7) For subsection (1A)(e) substitute—

"(e) provide that a planning authority or the Scottish Ministers may waive or reduce the charge or fee,

(ea) specify circumstances in which a planning authority or the Scottish Ministers are or are not to waive or reduce the charge or fee,".

(8) Subsections (1AA) and (1AB) are repealed.

(9) After subsection (1AB) insert—

"(1AC) Regulations under subsection (1) may not make provision for the charge or fee payable to different planning authorities to be of different amounts on the basis of whether the functions of the authority are not being, or have not been, performed satisfactorily.".

(10) After subsection (1B) insert—

"(1C) The power to make provision such as mentioned in subsection (1A)(e) and (ea) includes the power to specify the steps a planning authority are to take before or after waiving or reducing the charge or fee.

(1D) Regulations under subsections (1) and (1ZA) may provide for a surcharge to be imposed in relation to an application for planning permission made after the carrying out of the development to which it relates but those regulations may not provide for the imposition of a surcharge greater than the fee that would be payable otherwise in relation to the application.

(1E) Without prejudice to the generality of paragraphs (e) and (ea) of subsection (1A), in relation to applications for planning permission, provision may be made under those paragraphs for fees and charges to be

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waived where the application is for a development that, in the opinion of the planning authority—

(a) has the primary purpose of contributing to a social enterprise or not for profit enterprise,

(b) is likely to contribute to improving the health of residents of the area to which the application relates.

(1F) For the purposes of subsection (1E)—

"not for profit enterprise" means an organisation which a person might reasonably consider to exist wholly or mainly to provide benefits for society,

"social enterprise" means an organisation whose activities are wholly or mainly activities which a person might reasonably consider to be activities carried on for the benefit of society ("its social objects"), and which—

(a) generates most of its income through business or trade,

(b) reinvests most of its profits in its social objects,

(c) is independent of any public authority, and

(d) is owned, controlled and managed in a way that is consistent with its social objects.".

(11) Subsection (2) is repealed.

(12) In subsection (3)—

(a) in paragraph (a), for "subsection (1)" substitute " subsections (1) and (1ZA) ",

(b) paragraph (b) is repealed.

(13) In subsection (7), for "the regulations, the planning authority" substitute " regulations under subsection (1A) or (1ZA), the planning authority or, as the case may be, the Scottish Ministers ".

(14) After subsection (8) insert—

"(9) Subsection (7) does not apply in relation to surcharges imposed by virtue of subsection (1D).".

VALID FROM 20/12/2019

Enforcement

42 Fines: increases and duty of court in determining amount

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 126 (penalties for non-compliance with planning contravention notice)—

(a) in subsection (4), for "level 3" substitute " level 5 ",

(b) in subsection (6), for "level 5 on the standard scale" substitute " the statutory maximum ".

(3) In section 136 (offence where enforcement notice not complied with), in subsection (8)(a), for "£20,000" substitute " £50,000 ".

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(4) In section 138 (enforcement notice to have effect against subsequent development) —

(a) in subsection (4), for "level 5 on the standard scale" substitute " the statutory maximum ",

(b) after subsection (4), insert—

"(5) In determining the amount of the fine to be imposed under subsection (4), the court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the activity which constituted the offence.".

(5) In section 144 (penalties for contravention of stop notice), in subsection (5)(a), for "£20,000" substitute " £50,000 ".

(6) In section 144C (temporary stop notices: offences), in subsection (6)(a), for "£20,000" substitute " £50,000 ".

(7) In section 145 (enforcement of conditions)—

(a) in subsection (12), for "level 3" substitute " level 5 ",

(b) after subsection (12), insert—

"(12A) In determining the amount of the fine to be imposed under subsection (12), the court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the activity which constituted the offence.".

(8) In section 186 (enforcement of control as to advertisements), in subsection (3) for "level 3" in both places it occurs substitute " level 5 ".

PROSPECTIVE

43 Liability for expenses under enforcement notice

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 135 (execution and cost of works required by enforcement notice)—

(a) in subsection (1)(b)—

(i) the words "from the person who is then the owner or lessee of the land" are repealed, and

(ii) after "so", insert "from—

(i) the person who is then the lessee of the land, or any part of the land,

(ii) any person who is then or subsequently becomes the owner of the land, or any part of the land (whether or not that person remains the owner).",

(b) in paragraph (b) of subsection (4), the words from "in respect" to the end of that paragraph are repealed,

(c) after subsection (4), insert—

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"(4A) The right of recovery that an owner, lessee or occupier of land has under subsection (4) applies whether or not that person remains the owner, lessee or occupier of the land.".

(3) After section 158A, insert—

"Charging orders

158B Liability under a charging order

(1) Where—

(a) a planning authority or the Scottish Ministers ("the charging body") have taken action in relation to land under section 135(1), and

(b) a person is liable under that section for the expenses reasonably incurred by the charging body in taking that action,

the charging body may make a charging order and apply to register it in the appropriate land register.

(2) Once the charging order is registered the amount payable under section 135(1)(b)—

(a) becomes payable in instalments in accordance with section 158C, and

(b) includes the administrative expenses referred to in subsection (3)(a) and, if the order so provides, the interest charges referred to in subsection (3)(b).

(3) The administrative expenses and interest charges referred to are—

(a) any administrative expenses reasonably incurred by the charging body in connection with recovering the amount due under section 135(1)(b) (including the fees for registration and discharge of the charging order),

(b) if the charging order provides for it, interest—

(i) on the expenses mentioned in subsection (1)(b),

(ii) at the rate (which must be a reasonable rate) specified in the order,

(iii) in respect of the period beginning with the first demand for payment of the expenses mentioned in subsection (1)(b) and ending with payment of the amount payable under section 135(1)(b).

(4) In this section and sections 158C to 158F, reference to section 135(1) includes reference to that section as applied by section 139(4) or 179(6).

(5) A charging order may not be made or registered in connection with a liability under section 135(1) that was incurred before section 43 of the Planning (Scotland) Act 2019 came into force.

158C Payments under a charging order

(1) A charging body which makes a charging order must specify in the order—

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(a) the number of annual instalments in which the amount payable under section 135(1)(b) is to be paid (which must be between 3 and 30), and

(b) the date on which each instalment falls due.

(2) The date specified under subsection (1)(b) for the payment of the first instalment must fall at least 56 days after the date on which a copy of the charging order is served on a person from whom payment is sought.

(3) A person may redeem the amount payable under section 135(1)(b) early by paying to the charging body—

(a) the amount payable under section 135(1)(b), or

(b) such lower sum as the person agrees with the charging body.

(4) For the avoidance of doubt, despite the terms of a registered charging order, the charging body may (at any time) waive or reduce the amount payable under section 135(1)(b).

158D Form of a charging order

(1) A charging order may not be registered unless it is in the form prescribed by the Scottish Ministers in regulations.

(2) Regulations under subsection (1) must require that a charging order contain at least the following information—

(a) the land to which it relates,

(b) the action taken under section 135(1) in relation to the land,

(c) the amount payable under section 135(1)(b), or a description of that amount,

(d) the number of annual instalments into which the amount payable under section 135(1)(b) is divided and the date on which each instalment falls due,

(e) notice that an instalment which is not paid is recoverable as a debt.

(3) On making a charging order, the charging body are to serve a copy of the order on the owner of the land to which it relates.

158E Discharge of charging order

(1) The charging body must register a discharge of a registered charging order in the appropriate land register as soon as reasonably practicable after it has received payment in full of—

(a) the amount payable under section 135(1)(b), or

(b) such lower sum as the person agrees with the charging body under section 158C(3)(b).

(2) A discharge of a registered charging order may not be registered unless it is in the form prescribed by the Scottish Ministers in regulations.

158F Meaning of "register" and "appropriate land register"

(1) In sections 158B to 158E, "register" means—

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(a) register the information contained in the order, discharge or notice in the Land Register of Scotland, or

(b) record the order, discharge or notice in the Register of Sasines,

and "registered" is to be construed accordingly.

(2) In sections 158B and 158E, "appropriate land register" means the Land Register of Scotland or the Register of Sasines.".

(4) In section 186(2) (enforcement of control as to advertisements), after "enforcement notices" insert " , charging orders ".

(5) The modifications made by this section do not apply in relation to any liability under section 135(1) of the Town and Country Planning (Scotland) Act 1997 that was incurred before this section came into force.

PROSPECTIVE

44 Enforcement charters: statement on major developments

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 158A (enforcement charters), after subsection (1) insert—

"(1A) The charter is also to contain a statement in relation to the planning authority's monitoring of compliance with planning permissions which have been granted in respect of major developments (as described in regulations made under section 26A(2)), which must set out—

(a) how the authority monitor compliance with such planning permissions,

(b) how the authority record—

(i) the monitoring activities undertaken, and

(ii) the findings of those monitoring activities, and

(c) how the authority make such records available to the public.".

PROSPECTIVE

Training for taking planning decisions

45 Power to impose training requirements: planning authorities

(1) A member of a planning authority who has not fulfilled the specified training requirements is prohibited from—

(a) exercising any of the authority's specified functions on their behalf, or

(b) being involved in exercising any of those functions on the authority's behalf as a member of a committee or any other body.

(2) In this section—

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(a) "specified" means specified by the Scottish Ministers in regulations under this section,

(b) "planning authority" means—

(i) local authority, and

(ii) National Park authority,

(c) the reference to a member of a planning authority includes a member of a committee of a National Park authority appointed under paragraph 16(1) of schedule 1 of the National Parks (Scotland) Act 2000.

(3) Regulations under this section specifying functions of a planning authority may only specify functions conferred by the planning Acts as defined by section 277 of the Town and Country Planning (Scotland) 1997 Act.

(4) Regulations under this section may in particular—

(a) specify that completing a training course is a training requirement,

(b) specify training requirements on the basis that the content and provider of the training must be accredited by the Scottish Ministers.

(5) The Scottish Ministers may disapply subsection (1) in relation to a planning authority (or all authorities) by regulations under this section.".

Performance of planning authorities

PROSPECTIVE

46 Annual report by planning authorities on performance

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After Part 12 insert—

"**PART 12A**

PERFORMANCE OF PLANNING AUTHORITY FUNCTIONS

Annual report

251A **Annual report on performance of functions**

(1) As soon as reasonably practicable after the end of each financial year, a planning authority are to prepare a report on the performance of their functions (or such of their functions as are specified in regulations made by the Scottish Ministers) during that year.

(2) The planning authority are to—

(a) submit a copy of the report to the Scottish Ministers, and

(b) publish the report.

(3) The Scottish Ministers may by regulations make provision about—

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(a) the form of the report,

(b) the content of the report (including about what quantitative and qualitative information is to be included in the report, and what outcomes are to be used to assess the performance by planning authorities of their functions),

(c) the process to be undertaken in preparing the report,

(d) how the report is to be published.

(4) In this section, a financial year is the period of 12 months beginning with 1 April.”.

47 National performance monitoring

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 251A (as inserted by section 46) insert—

“National performance monitoring

251B National planning improvement co-ordinator

(1) The Scottish Ministers may appoint a person (“the co-ordinator”) to—

(a) monitor the performance by planning authorities of their functions, and

(b) provide advice to planning authorities, and to such other persons as the co-ordinator considers appropriate, in relation to what steps might be taken by planning authorities or such other persons to improve the performance of their functions.

(2) The Scottish Ministers may by regulations make further provision about the appointment and functions of the co-ordinator.”.

Regulations

48 Regulations

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 275 (regulations and orders), in subsection (2A) after “purposes” insert “ and areas ”.

Ministerial directions

49 Publication of directions

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 275A insert—

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"**275B Directions**

(1) Having given a direction in exercise of a power conferred by virtue of this Act, the Scottish Ministers are to publish—
  (a) the direction, and
  (b) their reasons for giving it.

(2) Subsection (1) does not apply in relation to the following—
  (a) a direction under section 265A,
  (b) a direction given before the day that section 49 of the Planning (Scotland) Act 2019 comes into force,
  (c) a direction given in the form of a regulation or order (see, for example, section 173(1)).

(3) In this section, "publish" includes, without prejudice to that expression's generality, publish by electronic means (as for example by means of the internet).".

VALID FROM 01/04/2024

Chief planning officers

50 Chief planning officers

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) After section 1 insert—

"**1A Planning authorities: chief planning officer**

(1) Each planning authority must have a chief planning officer.

(2) The role of an authority's chief planning officer is to advise the authority about the carrying out of—
  (a) the functions conferred on them by virtue of the planning Acts, and
  (b) any function conferred on them by any other enactment, insofar as the function relates to development.

(3) The Scottish Ministers must issue guidance to planning authorities concerning the role of an authority's chief planning officer.

(4) A planning authority may not appoint a person as their chief planning officer unless satisfied that the person has appropriate qualifications and experience for the role.

(5) In deciding what constitutes appropriate qualifications and experience for the role of chief planning officer, a planning authority must have regard to any guidance on the matter issued by the Scottish Ministers.".

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National Scenic Areas

51 National Scenic Areas

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 263A(2) (National Scenic Areas), the words "the desirability of" are repealed.

(3) In section 263A (National Scenic Areas), after subsection (6)(a), insert—

"(aa) persons resident within, or adjacent to, the area of a proposed designation,

(ab) a community body (as defined by section 4(9) of the Community Empowerment (Scotland) Act 2015) with an interest in the area of a proposed designation,".

(4) After section 263A insert—

"**263B National Scenic Areas: report on consultation**

(1) Where in any year the Scottish Ministers have designated a National Scenic Area under section 263A(1), they must, as soon as practicable after the end of that year, prepare and publish a report on the consultation undertaken in regard to the designation.

(2) A report under subsection (1) must include—

(a) the ways in which views expressed by any person consulted under subsection 263A(6)(aa) and (ab) were taken into account by the Scottish Ministers before issuing a direction under section 263A(1) or (5), and

(b) how the Scottish Ministers intend to improve their consultation process before issuing any future such directions.".

Notice by planning authority of applications for listed building consent

52 Notice by planning authority of applications for listed building consent

(1) The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is amended as follows.

(2) In section 9 (making of applications for listed building consent), in subsection (3), after paragraph (ab) insert—

"(ac) the planning authority giving notice of such applications made to them—

(i) to such persons or categories of person as may be prescribed,

(ii) in such manner as may be prescribed,

(iii) for such period as may be prescribed, and

(iv) on such number of occasions as may be prescribed,

(ad) the applicant providing such person or persons as may be prescribed such information with respect to the application as may be prescribed,".

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Forestry and woodland strategy

53 Forestry and woodland strategy

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) Before section 159 (planning permission to include appropriate provision for preservation and planting of trees) insert—

"A159 **Forestry and woodland strategy**

(1) A planning authority are to prepare a forestry and woodland strategy.

(2) A forestry and woodland strategy is to—
- (a) identify woodlands of high nature conservation value in the planning authority's area, and
- (b) set out the planning authority's policies and proposals in their area, as to—
  - (i) the development of forestry and woodlands,
  - (ii) the protection and enhancement of woodlands, in particular those mentioned in paragraph (a),
  - (iii) the resilience to climate change of woodlands, in particular those mentioned in paragraph (a),
  - (iv) the expansion of woodlands of a range of types to provide multiple benefits to the physical, cultural, economic, social and environmental characteristics of the area,
- (c) any other matter which the planning authority consider appropriate.

(3) In preparing a forestry and woodland strategy a planning authority are to consult—
- (a) the Scottish Ministers,
- (b) such organisations appearing to them to represent those with an interest in the matters listed in subsection (2)(b), and
- (c) such other persons as they consider appropriate.

(4) The planning authority must publish the strategy by such means as they consider appropriate.

(5) Two or more planning authorities may act jointly to prepare a forestry and woodland strategy.

(6) Where two or more planning authorities act jointly to prepare a forestry and woodland strategy, a reference in this section to—
- (a) a planning authority is to those authorities acting jointly,
- (b) a planning authority's area is a reference to the combined area of the authorities.

(7) In this section, "publish" includes, without prejudice to that expression's generality, publish by electronic means (as for example by means of the internet).".

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PART 5

INFRASTRUCTURE LEVY

PROSPECTIVE

54 Power to provide for levy

(1) The Scottish Ministers may by regulations establish, and make provision about, an infrastructure levy.

(2) An infrastructure levy (within the meaning of this Act) is a levy—
- (a) payable to a local authority,
- (b) in respect of development wholly or partly within the authority's area,
- (c) the income from which is to be used by local authorities to fund, or contribute towards funding, infrastructure projects.

(3) Schedule 1 elaborates on the regulation-making power conferred by this section.

PROSPECTIVE

55 Guidance

(1) The Scottish Ministers may issue guidance to local authorities dealing with—
- (a) how they are to discharge the infrastructure-levy functions conferred on them by regulations under section 54, and
- (b) how infrastructure-levy income should be spent.

(2) Local authorities must have regard to any guidance under subsection (1) that is addressed to them.

(3) Guidance under subsection (1) may be addressed to—
- (a) an authority, or more than one authority, identified in the guidance, or
- (b) all authorities.

(4) The Scottish Ministers must make guidance issued under subsection (1) publicly available.

(5) The power under subsection (1) to issue guidance includes the power to—
- (a) issue guidance that varies guidance issued under that subsection, and
- (b) revoke guidance issued under that subsection.

(6) In subsection (1)(b), "infrastructure-levy income" includes monies collected as financial penalties imposed by virtue of paragraph 9 of schedule 1.

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PROSPECTIVE

56 Interpretation of Part and schedule

In this Part and schedule 1—

"development" has the meaning given by section 26 of the Town and Country Planning (Scotland) Act 1997,

"infrastructure" includes—

(a) communications, transport, drainage, sewerage and flood-defence systems,

(b) systems for the supply of water and energy,

(c) green and blue infrastructure,

(d) educational and medical facilities, and

(e) facilities and other places for recreation,

"green and blue infrastructure" means features of the natural and built environments (including water) that provide a range of ecosystem and social benefits,

"infrastructure project" means a project to provide, maintain, improve or replace infrastructure.

PROSPECTIVE

57 Power to change meaning of "infrastructure"

The Scottish Ministers may by regulations modify section 56 so as to change, or clarify, the meaning of "infrastructure" for the purposes of this Part and schedule 1.

58 Lapsing of power to provide for levy

(1) The regulation-making power conferred by section 54 ceases to be exercisable if no regulations have been made under it within the period of 7 years beginning with the day that the Bill for this Act receives Royal Assent.

(2) If, by virtue of subsection (1), the regulation-making power conferred by section 54 ceases to be exercisable, the Scottish Ministers may by regulations repeal—

(a) this Part, and

(b) schedule 1.

PART 6

FINAL PROVISIONS

59 Ancillary provision

The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate

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for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.

60 Power to replace descriptions with actual dates

(1) The Scottish Ministers may by regulations amend—
  (a) section 158B of the Town and Country Planning (Scotland) Act 1997, and
  (b) section 43(5) of this Act,

so that, instead of referring to the day on which section 43 comes into force, they specify the date on which section 43 actually came into force.

(2) The Scottish Ministers may by regulations amend section 275B(2)(b) of the Town and Country Planning (Scotland) Act 1997 so that, instead of referring to the day on which section 49 of this Act comes into force, it specifies the date on which that section actually came into force.

(3) The Scottish Ministers may by regulations amend section 58(1) so that, instead of referring to the day that the Bill for this Act receives Royal Assent, it specifies the date on which the Bill actually received Royal Assent.

61 Regulation-making powers

(1) A power to make regulations conferred by this Act includes the power to make different provision for different purposes and areas.

(2) Regulations under section 59—
  (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act (including this Act), but
  (b) otherwise are subject to the negative procedure.

(3) Regulations under sections [ ], 54 and 57 are subject to the affirmative procedure.

(4) Before making regulations under section 54, the Scottish Ministers must consult—
  (a) any local authority that may be affected by the regulations, and
  (b) any other persons the Ministers consider appropriate.

62 Minor and consequential amendments and repeals

Schedule 2 makes provision for minor and consequential amendments and repeals.

Commencement Information
I9 S. 62 in force at 8.11.2019 for specified purposes by S.S.I. 2019/314, **reg. 2**, **sch.**

63 Commencement

(1) This section and sections 58, 59, 60, 61 and 64 come into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

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(3) Regulations under subsection (2) may—

(a) appoint different days for different purposes,

(b) contain transitional, transitory or saving provision.

64 Short title

The short title of this Act is the Planning (Scotland) Act 2019.

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PROSPECTIVE

SCHEDULE 1

(introduced by section 54)

INFRASTRUCTURE-LEVY REGULATIONS

General

1 In this schedule, "infrastructure-levy regulations" means regulations under section 54.

2 This schedule (apart from paragraphs 15(2) and 16) is without prejudice to the generality of the regulation-making power conferred by section 54.

3 Infrastructure-levy regulations may make incidental, supplementary, consequential, transitional, transitory or saving provision.

4 Any provision which infrastructure-levy regulations may make may be made by the regulations modifying another enactment.

Who is liable for what

5 Infrastructure-levy regulations may set out—

(a) the kinds of development in respect of which infrastructure levy is payable,

(b) who is liable to pay infrastructure levy in respect of a development,

(c) when liability to pay infrastructure levy in respect of a development arises, and

(d) the amount to be paid by way of infrastructure levy in respect of a development ("the payable amount") either by—

(i) stating the amount, or

(ii) setting out how it is to be calculated.

Relief where relevant planning obligation

6 Infrastructure-levy regulations may make provision to grant relief from liability to pay infrastructure levy in respect of a development where—

(a) a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997 has been entered into in respect of the development, and

(b) the planning authority in respect of the development considers that to require payment of infrastructure levy in respect of the development would constitute a duplication in any form of contribution by the person who is liable to pay infrastructure levy.

Local exemptions and discounts

7 Infrastructure-levy regulations may—

(a) confer on local authorities the power to waive or reduce infrastructure levy in respect of development in their areas, and

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(b) set conditions on the exercise of any power so conferred.

Collection and enforcement

8 Infrastructure-levy regulations may—

(a) make provision about the collection of—

(i) payable amounts, and

(ii) penalties imposed by virtue of paragraph 9,

(b) enable local authorities to confer—

(i) powers of entry (except in relation to a dwelling-house) for the purpose of investigating liability for infrastructure levy, and

(ii) powers to seize things found in the course of investigating liability for infrastructure levy,

(c) make it an offence to evade, or reduce liability to pay, infrastructure levy (or attempt to do so) by—

(i) withholding information,

(ii) providing information that is false or misleading,

(iii) otherwise obstructing the investigation of someone's infrastructure-levy liability, or

(iv) causing another person to do any of those things.

Financial penalty for late payment

9 (1) Infrastructure-levy regulations may allow, or require, local authorities to charge a financial penalty if the payable amount is not paid within a period specified in the regulations.

(2) The regulations may, in particular, provide for the charging of—

(a) a penalty of a specified amount (or amounts),

(b) a penalty that is calculated periodically as a proportion of the payable amount, or

(c) both kinds of penalty.

Stopping development

10 (1) Infrastructure-levy regulations may—

(a) empower a local authority to direct that the carrying out of development stop until there has been payment in full of—

(i) the payable amount, and

(ii) any financial penalty imposed in connection with the development by virtue of paragraph 9, and

(b) prescribe the consequences of not stopping development when directed to do so.

(2) The regulations may, in particular, make it an offence not to stop development when directed to do so.

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Remission and repayment

11 Infrastructure-levy regulations may provide for the remission or repayment (with or without interest) of the whole or part of—
(a) the payable amount, and
(b) any financial penalty imposed by virtue of paragraph 9.

Appeals

12 Infrastructure-levy regulations may—
(a) establish a process for appealing against a decision—
(i) that infrastructure levy is payable, or
(ii) about what the payable amount is,
(b) provide that such an appeal is to be made to—
(i) the Scottish Ministers, or
(ii) a person appointed by them,
(c) enable the person to whom such an appeal is made to set rules (or further rules, in addition to those set by the regulations) about the conduct of the appeal,
(d) in respect of such appeals—
(i) prescribe fees, and
(ii) make provision allowing expenses to be awarded.

Accounting requirements

13 (1) Infrastructure-levy regulations may make provision about the accounts that local authorities are to keep in connection with—
(a) the exercise of their functions under infrastructure-levy regulations, and
(b) their expenditure of infrastructure-levy income.

(2) In sub-paragraph (1), "infrastructure-levy income" includes monies collected as financial penalties imposed by virtue of paragraph 9.

Expenditure of levy income

14 (1) Infrastructure-levy regulations may make provision about the particular purposes for which local authorities may apply infrastructure-levy income.

(2) In sub-paragraph (1), "infrastructure-levy income" includes monies collected as financial penalties imposed by virtue of paragraph 9.

Use of planning and development powers

15 (1) Infrastructure-levy regulations may make provision about how any of the following powers may or may not be exercised—
(a) section 75 of the Town and Country Planning (Scotland) Act 1997 (planning obligations),
(b) section 53 of the Roads (Scotland) Act 1984 (agreements as to use of land near roads),
(c) any other power relating to planning or development.

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(2) But provision of the kind mentioned in sub-paragraph (1) may be made only if the Scottish Ministers consider it necessary or expedient for the purpose of—
  (a) enhancing the effectiveness of infrastructure levy as a means of raising revenue to fund, or contribute towards funding, infrastructure projects, or
  (b) preventing or restricting the use of powers, other than the power to charge infrastructure levy, in circumstances in which the Ministers think using the power to charge infrastructure levy would be more appropriate.

Maximum penalties

16 (1) The maximum penalty that infrastructure-levy regulations can specify for an offence they create is—
  (a) for a summary-only offence—
    (i) a fine not exceeding level 5 on the standard scale,
    (ii) a term of imprisonment not exceeding 12 months, or
    (iii) both,
  (b) for an either-way offence—
    (i) a fine, which may not exceed the statutory maximum on summary conviction,
    (ii) a term of imprisonment not exceeding—
      (A) 12 months on summary conviction,
      (B) 2 years on conviction on indictment, or
    (iii) both.

(2) In sub-paragraph (1)(b), "either-way offence" means an offence that is triable either on indictment or summary complaint.

SCHEDULE 2

(introduced by section 62)

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

VALID FROM 11/02/2023

PART 1

DEVELOPMENT PLANNING

VALID FROM 12/02/2023

Removal of requirement to prepare strategic development plans

1 (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) Section 16(6) (local development plan consistency with strategic development plan) is repealed.

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(3) In section 20B (development plan schemes)—

(a) in subsection (1), the words "by each strategic development authority and" are repealed,

(b) in subsection (2), in the opening words, for "The authority in question is" substitute " An authority are ",

(c) in subsection (3), the words "their strategic development plan or as the case may be" are repealed,

(d) in subsection (5)(c), for "strategic development plan area or the area of the planning authority, as the case may be" substitute " area of the authority ".

(4) In section 21 (action programmes)—

(a) subsection (1) is repealed,

(b) in subsection (3), for "the authority in question" substitute " an authority ",

(c) paragraph (a) of subsection (4) and the "or" immediately following it are repealed,

(d) in subsection (5), for "the authority in question" substitute " an authority ",

(e) in subsection (6), for "the authority in question" substitute " an authority ",

(f) sub-paragraph (i) of subsection (10)(b) and the "and" immediately following it are repealed,

(g) in subsection (10)(b)(ii), the words "in the case of a planning authority," are repealed.

(5) In section 23 (disregarding of representations with respect to development authorised by or under other enactments), paragraph (a) of subsection (1) and the "and" immediately following it are repealed.

(6) In section 23A(2) (directions in relation to functions under Part)—

(a) the words "or strategic development planning authority" are repealed,

(b) the words "or strategic development planning authorities" are repealed.

(7) In section 23B (default powers of the Scottish Ministers)—

(a) in subsection (1)(a)—

(i) the words "strategic development plan or" where they first occur are repealed,

(ii) the words "proposed strategic development plan or" are repealed,

(b) in subsection (2)(b), the words "strategic development plan or" are repealed,

(c) subsection (3) is repealed,

(d) subsection (4)(b) and the word "or" immediately preceding it are repealed,

(e) subsection (5)(b) and the word "and" immediately preceding it are repealed.

(8) In section 23C (reviews of plans in enterprise zones), paragraph (a) and the word "and" immediately following it are repealed.

(9) In section 237 (validity of development plans etc.), in subsection (1)(a), the words "strategic development plan or" are repealed.

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(10) In section 238 (proceedings for questioning validity of development plans etc.)—
- (a) in subsection (1), the words "strategic development plan or" are repealed,
- (b) subsection (5)(a) is repealed.

(11) In section 255(2)(a) (contributions by local authorities and statutory undertakers), the words "a strategic development plan or" are repealed.

(12) In section 269(1)(a) (rights of entry), the words "strategic development plan or" are repealed.

(13) In section 277(1) (interpretation), the entries in the list for "strategic development plan", "strategic development plan area" and "strategic development planning authority" are repealed.

(14) In schedule 14 (blighted land)—
- (a) paragraph 1 is repealed,
- (b) in paragraph 2—
  - (i) in sub-paragraph (1)(a), for the words "paragraph 1(1)(a)(i) or (ii)" substitute " sub-paragraph (1A) ",
  - (ii) after sub-paragraph (1) insert—

"(1A) The functions are—
- (a) the functions of a government department, local authority or statutory undertaker,
- (b) the provision by an electronic communications operator of an electronic communications code network, or
- (c) the provision by a former PTO of a public electronic communications network or a public electronic communications service.".

VALID FROM 19/05/2023

Local development plans

2 (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 18 (preparation and publication of proposed local development plan), subsection (1)(c) is repealed.

(3) In section 19 (examination of proposed local development plans), in subsection (2), the words "or (6)" are repealed.

(4) In section 19A (further provision as regards examination under section 19(4)), in subsection (10)(a), the words "or (6)" are repealed.

(5) In section 20B(2)(b), for "plan" substitute " scheme ".

(6) In section 23(1)(b) (disregarding representations with respect to main issues report), sub-paragraph (i) and the "or" immediately following it are repealed.

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(7) In section 23B(1)(a) (default powers of the Scottish Ministers), the words "any main issues report requires to be compiled or" are repealed.

VALID FROM 19/05/2023

Delivery programmes

3 (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 18(4)(a)(ii) (submission of programme to Scottish Ministers), for "action" substitute " delivery ".

Development plan

4 (1) Schedule 1 of the Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) For paragraph 1 substitute—

"1 In this schedule "old development plan" means—

(a) a local plan,

(b) a strategic development plan,

(c) supplementary guidance.".

(3) In paragraph 2, for "that section" substitute " section 13 of the Planning (Scotland) Act 2019 "

(4) Paragraphs 3 and 5, and the italic headings immediately preceding them, are repealed.

(5) For paragraph 6 substitute—

"6 On the publication of the revised National Planning Framework under **[**[F3]section 3CA(7)**]** after the coming into force of section 13 of the Planning (Scotland) Act 2019, all strategic development plans and any supplementary guidance issued in connection with them cease to have effect.

6A On the constitution of a local development plan for an area under section 20 after the coming into force of section 13 of the Planning (Scotland) Act 2019—

(a) so much of any local plan in force by virtue of paragraph 2 as relates to the area to which the plan so adopted relates ceases to have effect, and

(b) any supplementary guidance issued in connection with a local development plan for that area ceases to have effect.".

(6) The italic heading immediately preceding paragraph 6 becomes " Discontinuance of old development plans ".

(7) For paragraph 7 substitute—

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"7 The Scottish Ministers may by regulations provide that any of the provisions of an old development plan are to continue in force in relation to an area despite paragraphs 6 and 6A."

(8) In paragraph 8, for the word "a" where first occurring substitute " an old ".

(9) In paragraph 9, the words "and the strategic development planning authority for any strategic development plan area," are repealed.

(10) For paragraph 10, substitute—

"10 In this schedule—

"local plan" is to be construed in accordance with section 11 as that section applied immediately before the coming into force of the Planning etc. (Scotland) Act 2006,

"strategic development plan" is to be construed in accordance with section 7 as it applied immediately before the coming into force of section 6 of the Planning (Scotland) Act 2019,

"supplementary guidance" means guidance issued under section 22 of this Act as it applied immediately before the coming into force of section 9 of the Planning (Scotland) Act 2019.".

Textual Amendments

F3 Words in sch. 2 para. 4(5) substituted (18.12.2019) by The Planning (Scotland) Act 2019 (Ancillary Provision) Regulations 2019 (S.S.I. 2019/424), regs. 1, **2(5)**

PROSPECTIVE

PART 2

MASTERPLAN CONSENT AREAS

Masterplan consent area schemes

5 (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 27(3)—

(a) after "54(4)," insert " 54B(1)(b), 54D(2), ",

(b) after "61" insert " and paragraph 20 of schedule 5A ".

(3) In section 29(1)—

(a) the word "or" at the end of paragraph (c) is repealed, and

(b) after paragraph (c), insert—

"(ca) by a masterplan consent area scheme, or".

(4) In section 36(1)—

(a) the word "and" at the end of paragraph (c) is repealed, and

(b) after paragraph (c), insert—

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"(ca) masterplan consent area schemes relating to parts of the authority's area, and".

(5) In section 58(4)—

(a) the word "or" at the end of paragraph (f) is repealed, and

(b) after paragraph (f), insert—

"(fa) any planning permission granted by a masterplan consent area scheme, or".

(6) In section 61(1)—

(a) the word "or" at the end of paragraph (b) is repealed, and

(b) after paragraph (b), insert—

"(ba) development has been begun in accordance with planning permission under a masterplan consent area scheme but has not been completed by the time that the scheme ceases to have effect, or".

(7) In section 183(1)—

(a) the word "and" at the end of paragraph (a) is repealed, and

(b) after paragraph (b) insert—

"(c) with respect to masterplan consent areas.".

(8) In section 237(1), after paragraph (b) insert—

"(ba) a masterplan consent area scheme or any alteration of such a scheme,".

(9) In section 238—

(a) in subsection (3)—

(i) for the words from "a simplified" to "230", substitute " any of the following ",

(ii) at the end insert—

"(a) a simplified planning zone scheme or an alteration of such a scheme,

(b) a masterplan consent area scheme or an alteration of such a scheme,

(c) an order under section 202, 203, 206, 207, 208 or 230.",

(b) in subsection (5), after paragraph (b) insert—

"(ba) in the case of an application by virtue of subsection (3) in respect of a masterplan consent area scheme or an alteration of such a scheme, the date that notice is first published (in accordance with regulations under paragraph 22 of schedule 5A) that the scheme has been made or (as the case may be) altered,",

(c) after subsection (6) insert—

"(7) In their application to masterplan consent area schemes and their alteration, subsections (1) and (2) have effect as if, instead of Part II, they referred to Part III and schedule 5A.".

(10) In section 277(1), after the definition of "major developments" insert—

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""masterplan consent area scheme" is to be construed in accordance with sections 54A to 54E,".

VALID FROM 01/10/2022

PART 3

DEVELOPMENT MANAGEMENT

Duration of planning permission

6 (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 37 (determination of applications: general considerations), in subsection (1)(a), for "and 59(1)(b)" substitute " , 58 and 59 ".

(3) In section 60 (provisions supplementary to sections 58 and 59) in subsection (1), in the opening words, for "58(2) and (3A)(b) and 59(5)" substitute " 58(1)(b) and (3A)(b) and 59(2A)(b) and (2D)(b) ".

(4) In section 71 (order requiring discontinuance of use or alteration or removal of buildings or works), in subsection (7), for "58(2) and (3A)(b) and 59(5)" substitute " 58(1)(b) and (3A)(b) and 59(2A)(b) and (2D)(b) ".

(5) In section 88 (circumstances in which purchase notices may be served), in subsection (5), for "provisions of" substitute " conditions referred to in ".

(6) In section 232 (right of compensation in respect of certain decisions and orders), in subsection (7), for "provisions of" substitute " conditions referred to in ".

PROSPECTIVE

Schemes of delegation and local review

7 (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 39 (declining to determine an application), in subsection (2A)—
(a) in the opening words, for "43A(5)" substitute " 43AA(2) ",
(b) in paragraph (a), for "43A(8)" substitute " 43AC ",
(c) in paragraph (c), for "43A(8)(c)" substitute " 43AC(1)(e) ".

(3) In section 43B (matters which may be raised in a review under section 43A(8)), in subsection (1), for "43A(8)" substitute " 43AC (other than one required by virtue of paragraph (e) of subsection (1)) ".

(4) The section title of section 43B becomes " **Matters which may be raised in a review under section 43AC** ".

(5) In section 46 (call-in of applications), in subsection (2)(ab), for "43A(8)" substitute " 43AC ".

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(6) In section 237 (validity of development plans and certain orders, decisions and directions), in subsection (3A)—
  (a) the words "(other than a deemed decision)" are repealed,
  (b) for "43A(8)" substitute " 43AC ".

(7) In section 277 (interpretation), in subsection (5)—
  (a) in paragraph (ba), for "43A(8)(a) or (b)" substitute " 43AC(1)(a) to (d) ",
  (b) in paragraph (ca), for "43A(8)(c)" substitute " 43AC(1)(e) ",
  (c) in paragraph (da)(i), for "43(8)(a) or (b)" substitute " 43AC(1)(a) to (d) ",
  (d) in paragraph (da)(ii)—
    (i) for "43A(8)(c)" substitute " 43AC(1)(e) ",
    (ii) for "43A(9)" substitute " 43AC(3) ".

PROSPECTIVE

Development orders

8 (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 78 (apportionment of compensation for depreciation), in subsection (2)(b), the words "or, in a case falling within section 77, the relevant planning decision," are repealed.

(3) In section 214 (meaning of "statutory undertakers")—
  (a) in subsection (4), and
  (b) in subsection (7)(a),
  the words "77(3)," are repealed.

(4) In section 215 (meaning of "operational land"), in subsection (3), the words "77(3)," are repealed.

(5) In schedule 18, in Part 1, for "77" substitute " 77A ".

PART 4

REGULATIONS

9 (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 275, after subsection (7B) insert—

"(7BA) Regulations under sections 3CC(3), 3G(5)(b), 26B(5), 40A, 41B(4), 77A(1), 251B(2) and [ ] and paragraph 3 of schedule 5A are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).".

Commencement Information

I10 Sch. 2 para. 9 in force at 8.11.2019 for specified purposes by S.S.I. 2019/314, **reg. 2**, **sch.**

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