

PLANNING (SCOTLAND) ACT 2019

EXPLANATORY NOTES

OVERVIEW OF THE ACT

PART 1 – DEVELOPMENT PLANNING

Development planning

5. Sections 1 to 13 of the Act change the procedures for preparing the development plans and associated documents, and the content required to be included in them.

Section 1: Purpose of planning

6. Section 1 of the Act inserts Part 1ZA, comprising section 3ZA, into the 1997 Act. This provides that the purpose of planning is to manage the development and use of land in the long term public interest. Subsection (2) states that anything that contributes to sustainable development or achieves the national outcomes is to be considered to be in the long term public interest.
7. Subsection (3) of section 3ZA states that the purpose applies only to the Scottish Ministers' and planning authorities' functions under parts 1A and 2 of the 1997 Act. Part 1A of the 1997 Act deals with the National Planning Framework and Part 2 deals with local development plans and other aspects of the development plan.
8. Subsection (3) of section 1 of the Act repeals sections 3D and 3E of the 1997 Act, which relate to sustainable development and are now superseded by the purpose.

Section 2: National Planning Framework

9. Section 2 of the Act amends section 3A of the 1997 Act, which requires there to be a spatial plan for Scotland to be known as the National Planning Framework (“the Framework”).
10. Section 2(2) of the Act amends the description of what is to be set out in the Framework in section 3A(3) of the 1997 Act to specify that it is to be the Scottish Ministers' policies and proposals for the development and use of land.
11. Section 2(3) of the Act amends the description in section 3A(3) of the 1997 Act of what the Framework is to contain. After the requirements for a strategy for Scotland's spatial development and priorities for that development, it adds the following requirements:
 - a statement about how development under the Framework will contribute to the outcomes listed in new subsection (3A);
 - targets for the use of land for housing;
 - an assessment of the each proposed national development's lifecycle greenhouse gas emissions and their impact on achieving emissions reduction targets.
12. Section 2(4) of the Act introduces new subsection 3A(3A) to the 1997 Act, setting out outcomes to which development under the Framework is to contribute. These

*These notes relate to the Planning (Scotland) Act 2019
(asp 13) which received Royal Assent on 25 July 2019*

cover housing; health and wellbeing; repopulation of rural areas; equalities; reducing greenhouse gas emissions; and biodiversity.

13. Section 2(5) of the Act amends section 3A(4) of the 1997 Act, which sets out additional material which the Framework may contain. It inserts a new paragraph (aa) adding reference to such visual and descriptive material relating to rural areas which have become depopulated as may set out in regulations made under the 1997 Act.
14. Section 2(6) of the Act inserts a new subsection 3A(4A) into the 1997 Act. This requires the Scottish Ministers when preparing the Framework to have due regard to any National Scenic Areas report under section 263B of the 1997 Act. These reports are introduced by section 51 of the Act.
15. Section 3A(4)(b) of the 1997 Act provides that the Framework may designate “national developments”. Subsection (7) of section 1 of the Act inserts a new paragraph (za) into section 3A(5) of the 1997 Act, stating that if the Framework contains a designation under subsection (4)(b), it 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.
16. New section 3A(5A) of the 1997 Act, inserted by section 2(8) of the Act, clarifies that the Scottish Ministers may set out policies or proposals relating to the development or use of land outwith the National Planning Framework (and therefore without needing approval from the Scottish Parliament – see subsection 2(13)). New section 3A(5B) provides a definition of biodiversity.
17. Subsections (6) to (10) of section 3A of the 1997 Act, which deal with preparing, publishing and reviewing the Framework, are repealed.
18. Section 2(11) of the Act inserts new sections after section 3A of the 1997 Act.
19. New section 3AA requires the Scottish Ministers to keep the Framework under review. Subsection (2)(a) requires a review no later than 23 June 2024, which is 10 years from the date of the publication of the last national planning framework (NPF3). Subsection (2)(b) requires a 10 year review period thereafter. Subsection (3) requires that after a review of the Framework, the Scottish Ministers are to either (a) prepare a revised framework or (b) publish an explanation of why they have decided not to revise it.
20. New section 3AB of the 1997 Act sets out further detail on preparing a revised Framework. Subsection (2) requires the Scottish Ministers to prepare and publish a participation statement. This is defined in subsection (4) as an account of when consultation is likely to take place, with whom consultation will be undertaken, the steps taken to involve the public and likely form of the review. Consultation must include planning authorities, key agencies, the “appropriate body” on climate change (as defined in subsection (5)) and any other persons who have a role in the delivery of the outcomes to which the framework must contribute. Subsection (3)(a) requires the Scottish Ministers to have regard to relevant policies and strategies, setting out a list covering transport, land use, marine, infrastructure, climate change adaptation and housing. Subsection (3)(b) includes new policy objectives to which the Scottish Ministers must have regard in preparing the Framework, namely: resettling previously populated rural areas, preserving disused railway lines for future public transport use; and protecting peatland.
21. New section 3AC(1) allows the Scottish Ministers to direct a planning authority, or two or more planning authorities, to provide information to assist in the preparation or revision of the Framework. Subsections (2) and (3) define the matters about which the authorities may be required to provide information and includes additional matters that may be prescribed in regulations made under the 1997 Act. Subsection (4) requires that, where the direction relates to two or more planning authorities, they are to co-operate with one another.

22. Subsection (13) of section 1 of the Act introduces section 3CA into the 1997 Act, setting out the procedure for consultation and parliamentary scrutiny of a revised Framework. This replaces sections 3B and 3C of the 1997 Act, which are repealed by section 1(12) of the Act. Section 3CA requires the Scottish Ministers to consult in accordance with their participation statement (as defined in new section 3AA, lay a copy of the draft revised Framework before the Scottish Parliament, allowing 120 days for representations (excluding periods of parliamentary recess of more than 4 days or where the Parliament is dissolved). The Scottish Ministers must have regard to any representations, and if they make any changes as a result of the consultation, they must undertake such further consultation on those changes as they consider appropriate. Following the consultation, the Scottish Ministers must lay an explanatory document before the Parliament, setting out the consultation undertaken, a summary of representations received, and any changes made as a result of the consultation. Having completed these steps, the Scottish Ministers may lay the draft revised Framework before the Parliament, which must be approved by resolution of the Parliament before it can be brought into effect.
23. New section 3CB places a duty on key agencies to co-operate with the Scottish Ministers in the review of the Framework and preparation of any revised framework or amendment to the framework. Key agencies are specified by regulations under section 23D of the 1997 Act.

Section 3: Open space strategy

24. Section 3 of the Act introduces section 3G into the 1997 Act, which requires a planning authority to prepare and publish an open space strategy, as defined in section 3G(2), (3) and (4). Section 3G(5) gives the Scottish Ministers powers to make further provision in regulations about how planning authorities are to discharge these functions, and the meaning of certain terms. Section 3G(6) provides that a national park authority is not a planning authority for the purposes of this section (and so is not required to prepare and publish an open space strategy).

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

25. Section 4 of the Act introduces section 3CD into the 1997 Act. This requires the Scottish Ministers to lay before the Scottish Parliament, and publish, a report on how the planning system is operating to help ensure that the housing needs of older people and disabled people are met. This must be done as soon as practicable after the end of the period of two years from the day on which section 4 of the Act comes into force, and every two years thereafter. Section 3CD(2) sets out what the report must contain information about, and subsection (3) sets out who the Scottish Ministers must consult in preparing the report.

Sections 5 & 6: Strategic development: regional spatial strategies and removal of requirement to prepare strategic development plans

26. Section 5 of the Act inserts sections 4ZA to 4ZE into the 1997 Act, introducing the requirement for a planning authority, or two or more authorities acting jointly, to prepare and adopt a regional spatial strategy. These replace strategic development plans, which are removed by section 6 of the Act and its repeal of sections 4 to 14 of the 1997 Act. Paragraph 1 of schedule 2 of the Act sets out minor amendments consequential on the removal of strategic development plans.
27. New section 4ZA(1) sets out the requirement for planning authorities to prepare and adopt regional spatial strategies. Subsection (2) states that a regional spatial strategy is a long term spatial strategy and sets out what the strategy should cover, including setting out the area (or areas) to which it relates ('the region') and identifying the need

for strategic development, the outcomes, priorities and proposed locations (to be shown in the form of a map or diagram).

28. Subsection (3) requires authorities to publish a draft of the strategy, a summary of information taken into account in preparing the draft strategy, and a statement inviting representations on the draft. Authorities are also required to send the draft strategy to other relevant authorities who may be significantly impacted by the strategic development that the strategy covers, the key agencies and any others as appropriate. Under subsection (4) authorities are also required to publish the adopted strategy, and to submit it to Ministers.
29. Subsection (5) defines strategic development as development that is likely to have a significant impact on future development within the area of more than one planning authority.
30. New section 4ZB sets out that the Scottish Ministers must have regard to regional spatial strategies in preparing, revising or amending the National Planning Framework, and planning authorities must have regard to their regional spatial strategy in preparing, revising or amending a local development plan.
31. New section 4ZC sets out arrangements for the first strategies to be prepared and for how strategies are to be reviewed and revised. Subsection (1) requires regional spatial strategies to be prepared as soon as reasonably practicable after section 5 of the Act comes into force. Subsection (2) requires planning authorities to keep their adopted regional spatial strategy under review, and allows them to prepare and adopt a replacement strategy if they consider it appropriate at any time. Subsection (3) requires a review at least once every 10 years, following which (subsection (4)) authorities either have to prepare and adopt a replacement strategy, or to publish an explanation of why they have decided not to do so. Subsection (5) makes it clear that a replacement strategy is to be prepared and treated in the same way as the original strategy.
32. New section 4ZD allows the Scottish Ministers to direct a planning authority or authorities to prepare and adopt a regional spatial strategy, or to review an adopted strategy. Any such direction can specify the matters that authorities should take into account in preparing or reviewing the strategy. Subsection (3) requires authorities to co-operate with one another when such a direction is made.
33. New section 4ZE(1) makes provision for Scottish Ministers to issue guidance on the preparation, adoption, review and content of regional spatial strategies. Subsection (2) requires planning authorities to have regard to any such guidance when preparing or adopting a regional spatial strategy. Before issuing such guidance, subsection (3) requires the Scottish Ministers to consult each planning authority and any other persons as appropriate. Subsection (4) requires that the guidance is made publicly available. Under subsection (5) the guidance can be varied or revoked.

Section 7: Local development plans

34. Section 7 of the Act amends the provisions of the 1997 Act which set out the procedures for preparing and adopting a local development plan. Minor and consequential amendments to other sections of the 1997 Act are set out in paragraph 2 of schedule 2 of the Act.
35. Section 15(1) of the 1997 Act provides that a local development plan is a plan in which is set out a spatial strategy for the development and use of land in the area, such other matters as may be prescribed, and any other matters the planning authority consider appropriate. Section 7(2)(a) of the Act adds wording to paragraph (a) of section 15(1) of the 1997 Act, requiring the strategy to take account of the matters mentioned in section 15(5). This wording is moved from section 15(2) of the 1997 Act, which required local development plans outwith strategic development plan areas to set out a vision statement. Section 7(2)(c) of the Act repeals section 15(2) of the 1997 Act.

36. Section 7(2)(d) of the Act inserts new subsections (2A) and (2B) into section 15 of the 1997 Act requiring a local development plan to include statements on the provision of public conveniences and water refill locations.
37. Section 15(5) of the 1997 Act sets out a list of matters which a planning authority must take account of in setting out its spatial strategy. This is currently attached to the vision statement required by section 15(2), but section 7(2)(a) of the Act moves it to the spatial strategy, as section 15(2) is repealed by section 7(2)(c). Sections 7(2)(e) and 7(3) of the Act amend the list of matters in section 15(5) that are to be taken into account.
38. Section 7(4) of the Act amends section 16 of the 1997 Act, dealing with the preparation and monitoring of the local development plan. Paragraph (a) amends the time period within which local development plans must be prepared, from intervals of no more than five years as set out in the 1997 Act, to intervals of no more than 10 years.
39. Paragraph (b) requires the planning authority to take into account any local outcomes improvement plan for the part of the district to which the local development plan relates, in addition to the existing requirement to take into account the National Planning Framework. Section 14(4) of the Act also adds any registered local place plan for the area. Paragraph (c) requires them to have regard to preserving disused railway infrastructure for future public transport requirements, and to the list published under section 16E (inserted by section 8 of the Act) of persons seeking land for self-build housing.
40. Section 7(4)(d) of the Act repeals sections 16(9) and (10) of the 1997 Act. This removes the requirement to publish a statement about the monitoring of changes in the characteristics of the district and the impact of policies and proposals in the local development plan. However, the requirement to monitor those matters will continue in place, as section 16(8) of the 1997 Act is not being amended.
41. Section 7(5) of the Act introduces section 16A into the 1997 Act, requiring planning authorities to make appropriate arrangements to promote and facilitate participation by children and young people in the preparation of the local development plan, and to publish information about those arrangements.
42. Section 7(6) introduces sections 16B, 16C and 16D into the 1997 Act.

Evidence report for preparation of local development plan

43. New section 16B introduces the evidence report and “gatecheck” process for local development plans. It requires an evidence report to be prepared, covering the matters specified in section 15(5) of the 1997 Act and other such matters as may be prescribed. The evidence report must also set out information on action taken by the planning authority in relation to meeting the housing needs of older people and disabled people, meeting the accommodation needs of Gypsies and Travellers, and inviting and supporting local communities to prepare local place plans.
44. Subsection (2) of new section 16B sets out groups the planning authority must consult with in preparing the evidence report, and subsection (4) requires the evidence report to include a statement on the consultation undertaken (with a different list of groups).
45. Under subsections (5) and (6), the evidence report must be approved by the full planning authority, before being submitted to the Scottish Ministers under subsection (7). These subsections do this by requiring the planning authority to approve the proposed evidence report before submitting it and then disapplying section 56 of the Local Government (Scotland) Act 1973 to the function of approving the proposed report (which means that the task cannot be delegated to, for example, a committee or an officer of the authority).
46. Subsections (8) to (12) provide for the Scottish Ministers to appoint a person to assess the report and sets out the process which applies depending on whether or not the

appointed person is satisfied with the report. Subsection (13) allows for regulations to cover costs, procedure and what is to be assessed. Subsection (14) and (15) set out definitions for section 16B, including that the meaning of “Gypsies and Travellers” is to be specified in regulations. The Scottish Ministers must consult before making such regulations.

47. New section 16C provides that the Scottish Ministers may issue guidance to planning authorities about undertaking effective community engagement in relation to the local development plan. A planning authority must have regard to any such guidance.
48. New section 16D requires a planning authority to carry out a play sufficiency assessment in preparing an evidence report. The Scottish Ministers must make regulations about the form and content of this assessment, who must be consulted in relation to the assessment and about its publication.
49. Section 7(7) of the Act repeals section 17 of the 1997 Act. This removes the requirement for a main issues report to be prepared for a local development plan. Additional consequential changes to remove reference to main issues reports are also made in schedule 2 of the Act.

Preparation and publication of proposed local development plan

50. Section 7(8) of the Act amends section 18 of the 1997 Act to require planning authorities to prepare a proposed local development plan when they are notified that the appointed person is satisfied that the evidence report is sufficient, as per paragraph 46 above. The planning authority are required to have regard to the appointed person’s report in preparing the proposed plan. The provisions also require the appointed person’s report and the proposed local development plan to be published at the same time and in the same manner.
51. Paragraph (d) of section 7(8) of the Act introduces a new subsection (1A) to section 18 of the 1997 Act, which requires a planning authority within the relevant area to consult the Central Scotland Green Network Partnership on the proposed local development plan (for as long as it is included in the National Planning Framework as a national development). This paragraph was inserted by amendment and does not correctly identify the development or the body responsible for it. However, despite these deficiencies, the intention of requiring planning authorities to consult the Central Scotland Green Network in appropriate cases is clear.
52. Paragraph (d) also introduces subsections (1B) and (1C) into section 18 of the 1997 Act, which require the proposed plan to be approved by the full council of the planning authority before the plan is published. This is done in the same way as for the proposed evidence report under section 7(6) of the Act (new section 16B(5) and (6) of the 1997 Act).
53. Section 7(8)(e) of the Act amends the minimum time period for representations to be received once the proposed plan is published, from not less than six weeks as set out in the 1997 Act, to not less than twelve weeks.
54. Section 7(8)(f) of the Act repeals wording relating to where an authority decides to make no or only a certain type of modifications, meaning that the requirement to submit the proposed plan to the Scottish Ministers applies to all proposed local development plans, instead of a different approach being taken depending on whether or not (or what type of) modifications have been made. Paragraph (g) adds a requirement that where modifications are made to the proposed plan, the planning authority must prepare a report setting out the modifications made and the reasons for making them, and submit this to the Scottish Ministers with the proposed plan.
55. Section 7(8)(h) of the Act removes the requirements to publish the proposed plan and to advertise the authority’s intention to adopt the plan if there is to be no examination. These are replaced by new arrangements in the subsequent subsections.

56. Section 7(8)(i) of the Act repeals subsections (5) to (9) of section 18 of the 1997 Act. This removes the requirement for a modified proposed plan or new proposed plan and for those to be published and representations allowed on them. This enables changes to be made to the proposed plan without requiring a further stage of plan preparation.

Examination of proposed local development plan

57. Subsections (9) to (14) of section 7 of the Act remove the Scottish Ministers' ability to intervene in local development plans (LDPs) at the end of the plan preparation process, prior to its adoption; adjust requirements relating to publication and notification requirements to prevent duplication of process due to the changes; and introduce new powers for the appointed person where they find the proposed plan is not satisfactory.
58. At present, if a proposed plan is unsatisfactory (for example by failing to allocate sufficient land for housing) the Reporter is expected to make recommendations for modifications, which the planning authority must implement. The Scottish Ministers may also direct the authority to consider modifying the plan, and may prevent the plan being adopted until they approve it. The new provisions place the responsibility back on the planning authority to address any failures in the plan, either before or immediately after the plan is adopted.
59. Section 19 of the 1997 Act relates to examination of the proposed local development plan. Section 7(9)(a) of the Act inserts a new subsection (5A) into section 19. This requires that when an examination of a plan is to take place, either at the request of the authority or by Ministers, the planning authority must publish the proposed plan and a report setting out any modifications made and the reasons for them. The change to section 19(9), made by paragraph (e), is in consequence of this and by reference to the new subsection (5A), allows publication to include publication by electronic means.
60. Section 7(9)(f) of the Act repeals paragraphs (b) to (d) in section 19(10) of the 1997 Act. This removes the requirements for the planning authority, following the examination, to publish the plan and modifications made to it, to advertise their intention to adopt the plan and to notify those who made representations on it. This avoids duplication with the publicity requirements when the plan is constituted, set out in section 20A of the 1997 Act.
61. Section 7(9)(g) of the Act removes section 19(12) of the 1997 Act. This removes the requirement for planning authorities to send copies of various documents to the Scottish Ministers, including the modifications made, any reasons for not modifying the plan as recommended, the proposed plan, the examination report, environmental assessment undertaken and details of the advert of their intention to adopt the plan.
62. Section 7(9)(d) of the Act introduces new subsections (8A) and (8B) into section 19 of the 1997 Act. Subsection (8A)(a) replaces provisions (removed by section 7(9)(c)) which enable recommendations to be made to modify the proposed local development plan. Subsection (8A)(b) introduces a new power for the appointed person (Reporter) to recommend that the plan is amended following its adoption. If a recommendation is made under subsection (8A)(b) new subsection (8B) requires that the report submitted to the planning authority including that recommendation is also sent to the Scottish Ministers.
63. Section 7(9)(b) of the Act broadens otherwise mandatory requirements of section 19(8) of the 1997 Act to allow for the new section 19ZA, inserted by section 7(10).
64. New section 19ZA gives the appointed person a new power, if they are not satisfied that the amount of land allocated is sufficient to meet the targets that are set in the plan, to issue a notice to a planning authority to require it to prepare another proposed local development plan. Subsection (3) sets out what the notice must include and subsection (4) sets out requirements to notify Ministers and those who have made representations, and to publish it (electronically). If the planning authority receives such

a notice, under subsection (5) they must prepare another proposed local development plan. Subsection (6) allows this to be done on the basis of the existing evidence report, rather than having to start from the beginning of the process (although it does not prevent the authority for preparing a new evidence report if it considers it appropriate to do so).

65. Section 19A of the 1997 Act deals with whether the planning authority's consultation and public involvement with respect to the proposed plan has conformed with their participation statement in place at the time. The appointed person must consider this before carrying out the examination. If the appointed person is not satisfied, the Scottish Ministers may direct the authority to undertake further consultation, after which the authority may modify and must resubmit the proposed plan. Section 7(11) of the Act removes the separate requirements to publish the modified plan and advertise that a proposed plan has been resubmitted in these circumstances, and instead applies the requirement to publish the proposed plan and report on modifications under new section 19(5A).
66. Section 7(12) of the Act amends section 20 of the 1997 Act, which provides for the local development plan to be constituted when it is adopted by the planning authority. In particular, it removes subsections (2) to (7), which allow the Scottish Ministers to direct that modifications are to be made to the proposed plan, extend the time before which the plan may not be adopted, or require that the plan is to be constituted when it is approved by the Scottish Ministers, rather than when it is adopted by the planning authority. In place of these, the Act inserts new subsections (1A) and (1B) into section 20.
67. New subsection (1A) provides that planning authorities cannot adopt their plan until 28 days have passed following submission of the proposed local development plan to the Scottish Ministers. This allows Ministers 28 days within which they can either appoint a person to examine the plan, or decide not to. New subsection (1B) requires, where an examination has taken place, for the examination report to have been received by the planning authority before they can proceed to adopt the plan.
68. Section 7(13) of the Act inserts new subsections (1A) to (1E) into section 20A of the 1997 Act, which deals with publication and publicity for the local development plan.
69. New subsection (1A) provides that in certain circumstances, as soon as reasonably practicable after the local development plan is constituted, the planning authority must publish either (a) a "recommended-modification statement" or (b) a "report on modifications".
70. New subsection (1B) defines the circumstances where a recommended-modification statement is required – this being where a planning authority has declined to follow a recommendation in an examination report. New subsection (1E)(a) provides that the statement must set out the modification and explain why it was not made.
71. New subsection (1C) sets out where a report on modifications is required – this is where the constituted plan is different to the proposed plan as a result of modifications from earlier stages. New subsection (1D) provides that if a report on modifications was published at the examination stage, only new modifications need to be included in the report following constitution of the plan; if no new modifications were made no report need be published.
72. Section 7(14) of the Act inserts a new subsection (4A) into section 20B of the 1997 Act relating to development plan schemes. A development plan scheme is a document setting out the authority's programme for preparing and reviewing their plan. The development plan scheme is currently required to include a participation statement, which is an account of when consultation is likely to take place, with whom, its likely form, and steps to be taken to involve the public at large. New subsection (4A) requires that when the planning authority is preparing a development plan scheme, they must seek the views of, and have regard to any views expressed by, the public at large on the

content of the participation statement. This will allow interested stakeholders to have a say in how they can be most effectively consulted, so that authorities can tailor their approach to improve its effectiveness.

Section 8: List of person seeking self-build land for housing

73. Section 8 of the Act inserts section 16E into the 1997 Act, requiring a planning authority to prepare, maintain and publish a list of people who have registered with the authority that they are interested in acquiring land in the area for self-build housing. The authority are to have regard to this list in preparing their local development plan, under section 16(2)(ab) inserted by section 7(4)(c) of the Act.

Section 9: Supplementary guidance

74. Section 9 of the Act repeals section 22 of the 1997 Act. This removes the ability for supplementary guidance to be prepared, adopted and issued in connection with the development plan which then forms part of the development plan.

Section 10: Key agencies

75. Section 10 of the Act amends section 23D of the 1997 Act so that references to a key agency as “a body” are replaced with “a person (other than an individual) or an officeholder”. This broadens the ability to designate key agencies, as the current reference to “a body” would not allow an officeholder to be so designated.

Section 11: Delivery programmes

76. Section 11 of the Act amends section 21 of the 1997 Act so that references to “action” are replaced with “delivery”. This is done to more accurately describe and emphasise the purpose of the document, which is to deliver the plan and achieve its outcomes, rather than its current focus of monitoring specific actions. Subsection (2)(d) introduces section 21(4A) into the 1997 Act, which places the duty to prepare the proposed delivery programme on the head of the planning authority’s paid service. Subsection (2)(d) also introduces sections 21(4B) and (4C) into the 1997 Act, which require the proposed delivery programme to be approved by the full council of the authority (without delegating that function) before it is published. Minor and consequential amendments to other sections of the 1997 Act are set out in schedule 2 of the Act.

Section 12: Amendment of National Planning Framework and local development plans

77. Section 12 of the Act introduces sections 3CC and 20AA into the 1997 Act. New section 3CC(1) enables the Scottish Ministers to amend the National Planning Framework at any time. New section 3CC(2) provides that Ministers may direct planning authorities to provide specified information to them for the purpose of preparing the amendments. New section 3CC(3) requires the Scottish Ministers to set out in regulations circumstances in which they consider that an amendment would result in a significant change to the National Planning Framework such that a full revision should be carried out in line with the procedures set out in sections 3AA to 3CA. New section 3CC(4) and (5) allow the Scottish Ministers to make further provision about the amendment process in regulations, including the procedure to be followed, the required consultation, the effective date of the amendments, publication of the amended framework and laying of it before the Scottish Parliament.
78. New sections 20AA(1) to (3) of the 1997 Act enable planning authorities to amend a local development plan for their district at any time and allow the Scottish Ministers to direct a planning authority to amend a plan in relation to matters set out in the direction. The Scottish Ministers are required to set out the reasons for their direction.

79. New section 20AA(4) provides that in preparing an amendment to a local development plan, a planning authority are to take into account the National Planning Framework and any local outcomes improvement plan for the area. Section 14(6) of the Act also adds any registered local place plan. They must also have regard to such information and considerations as are prescribed, and to any other information and considerations as appear to them to be relevant.
80. New sections 20AA(5) and 20AA(6) allow the Scottish Ministers by regulations to make further provision about amending a plan and set out that regulations may in particular include the procedure to be followed, the consultation to be undertaken, when the amendments will take effect, and what the publication arrangements are to be. New section 20AA(7) allows regulations to apply sections 16A to 20A of the 1997 Act so that those sections apply equally to the process for amendments to a plan, with any modifications to those sections being set out in the regulations.

Section 13: Development plan

81. Section 13(2) of the Act amends section 24 of the 1997 Act, which sets out what constitutes the development plan for any area. It adds the National Planning Framework, and removes reference to the planning authority's resolution of adoption of, or the Scottish Ministers' notice of approval of, a local development plan, and supplementary guidance issued in connection with a local development plan. Note that the references to a strategic development plan and associated documents will cease to have effect once section 6 of the Act is fully implemented. Subsection (3) of the amended section 24 provides that in the event that any provisions of the National Planning Framework and the local development plan are incompatible, whichever provision is the later in date is to prevail. New subsections (2) and (4) of section 24 are intended to aid the interpretation of the provisions, however the references in subsection (4)(a) are incorrect as these subsections are repealed by section 2(9) of the Act. The National Planning Framework is now to be adopted and published under new section 3CA(1) and (7) of the 1997 Act.
82. Section 13(3) of the Act amends section 25 of the 1997 Act in consequence of the changes made to section 24 of the 1997 Act. Paragraph (a) requires that, as now, decisions under the planning Acts are to be made in accordance with the development plan unless material considerations indicate otherwise. This paragraph also, together with paragraph (b), repeals references to national developments and the National Planning Framework which currently exist within sections 25(1), (2) and (3) of the 1997 Act.
83. Sections 13(4) and (5) of the Act introduce new sections 237(1)(za), 238(A1) and 238(5)(za) into the 1997 Act. These provisions set out when legal proceedings may be brought to question the validity of the National Planning Framework and confirm the relevant date from which the period for applications for challenge runs (again there is an incorrect reference to section 3A(8)). A consequential change is also made to section 238(5)(aa) of the 1997 Act to reflect the fact that challenges to the local development plan may now arise from an amendment being made under the new procedure introduced by section 20AA of the 1997 Act (as inserted by section 7(3) of the Act).

Local place plans

Section 14: Local place plans

84. Section 14 of the Act inserts schedule 19 into the 1997 Act. This provides that a community body may prepare a local place plan, and sets out details about their preparation and submission and keeping a register and map of local place plans within a local authority area.

85. Section 14(2) of the Act inserts a new section 15A into the 1997 Act. This requires a planning authority, before preparing a local development plan, to publish an invitation to local communities to prepare local place plans, with information on the assistance available to do so, and on the manner in which and date by which local place plans must be prepared in order to be taken into account in the preparation of the local development plan.
86. Section 14(3) of the Act inserts a new section 15B into the 1997 Act, which requires the Scottish Ministers to carry out a review of local place plans within 7 years after the Act receives Royal Assent (by 25 July 2026). The review must cover: the number of local place plans submitted to and registered by planning authorities, with the names of the bodies that submitted them; a summary of the people who participated in preparing local place plans; the support given to community bodies; and assessments of how local place plans have influenced local development plans and planning decisions, and of their impact and effectiveness and whether further support is needed. The Scottish Ministers may require planning authorities to provide information for the report. The conclusions of the review must be set out in a report which is published and laid before the Scottish Parliament.
87. **Section 14(4)** of the Act amends section 16 of the 1997 Act to provide that where a planning authority are preparing their local development plan, they must take account of any registered local place plans within their district. Section 14(5) makes provision in case amendments made to section 16 of the 1997 Act by different parts of the Act come into force at different times. Section 14(6) of the Act amends section 20AA of the 1997 Act, inserted by section 11(3) of the Act, to provide that local place plans must be taken into account when a planning authority is amending its local development plan. Section 14(7) of the Act inserts schedule 19 (local place plans) into the 1997 Act.

Preparation of local place plans

88. Paragraph 1(1) of new schedule 19 to the 1997 Act states that a community body may prepare a local place plan. Sub-paragraph (2) states that a local place plan is a proposal as to the development and use of land. Sub-paragraph (3) provides that it may also identify land and buildings that the community body considers to be of particular significance to the local area. Sub-paragraph (2)(a) sets out the matters which the community body must have regard to when preparing the local place plan, namely the local development plan for the land to which the local place plan relates, the National Planning Framework and such other matters as may be prescribed. Sub-paragraph (2)(b) sets out that a community body, when preparing a local place plan, must set out reasons for considering that the local development plan should be amended, and sub-paragraph (2)(c) that they must comply with any prescribed requirements as to the form and content of the plan and any steps which must be taken before preparing the plan.

Submission of local place plans

89. Paragraph 2 sets out the requirements for the submission of a local place plan. The community body must comply with any prescribed requirements as to the steps to be taken before submitting a plan and information to be provided alongside the plan, as well as how the views of local councillors are to be taken into account. “Prescribed” is defined in section 277 of the 1997 Act and means prescribed in regulations made by the Scottish Ministers. Having complied with any prescribed requirements, a community body may submit a local place plan to the local planning authority.

Register and map of local place plans

90. Paragraph 3 provides that every planning authority must keep a register of local place plans. When a valid local place plan (that is, one in relation to which the requirements of paragraph 1(4) and 2(1) have been complied with) is submitted to them, a planning authority must include it in their register and inform the community body that it has been

registered. Under sub-paragraph (3), if the planning authority consider the local place plan is not valid and therefore decide not to register it, they must give their reasons to the community body. Sub-paragraph (5) allows the Scottish Ministers to make regulations about the register, including when a local place plan may or must be removed from it. This will enable arrangements to be made for local place plans to expire after a period of time or to be superseded by a more recent version. Paragraph 4 requires each planning authority to make available a map of the land covered by registered local place plans in their district.

Meaning of ‘community body’

91. Paragraph 4 defines a ‘community body’ which can prepare a local place plan. A community body may be (a) a community controlled body (as defined 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.