

PLANNING (SCOTLAND) ACT 2019

EXPLANATORY NOTES

OVERVIEW OF THE ACT

PART 2 – MASTERPLAN CONSENT AREAS

Section 15: Masterplan consent area schemes

Interpretation of provisions about schemes

Schedule 5A of the 1997 Act: Masterplan consent areas

Part 3: Process for planning authority making or altering scheme

Chapter 1: Process for all cases

108. Paragraph 7 of new schedule 5A sets out the outline of the process for making or altering a scheme, as follows:
- The planning authority must consult as required by any regulations made under paragraph 8(2), and have regard to any valid representations made through that consultation. Following that consultation, they must come up with proposals.
 - Then the planning authority must publicise the proposals in accordance with paragraph 9, and consider any representations received in accordance with paragraph 10 (including holding any hearings required under paragraph 11).
 - The planning authority may then decide to make the proposed scheme or alteration, make an alternative scheme or alteration in light of the results of the consultation or any other material considerations, or decide not to make any scheme or alteration.
 - If the planning authority propose to make an alteration that would exclude land from a scheme, withdraw authorisation granted by a scheme, or impose more stringent conditions or restrictions on any such authorisation, they must wait 12 months before making the alteration, as required by paragraph 13.

Consultation on possible proposals

109. Paragraph 8 requires the Scottish Ministers (sub-paragraph (2)) to prescribe in regulations who a planning authority must consult before determining the content of any proposals, how such consultation is to be undertaken, and how representations must be made by those consulted in order for those representations to be treated as valid representations. These regulations may require a planning authority to consult the public (or a portion of the public), or allow the Scottish Ministers to direct the planning authority to do so in particular cases. The planning authority must comply with the consultation requirements set out in the regulations and have regard to any valid representations received.

Publicity for proposals

110. Paragraph 9 provides that the Scottish Ministers are to set out by regulations the requirements for publicising and inviting representations on the proposals for making or altering any scheme; and the period in which representations may be made. Before making or altering a scheme, a planning authority must comply with the prescribed requirements and wait until the period for representations has expired.

Consideration of representations

111. Under paragraph 10, a planning authority may not make a proposed scheme or alteration until they have considered any representations which are validly submitted (that is, if they are submitted within the period prescribed in regulations under paragraph 9(2) and comply with any requirements that may be prescribed in regulations about how representations must be submitted).

Chapter 2: Further process for some cases

112. Paragraph 11 makes provision for holding hearings on the proposals in certain cases. The Scottish Ministers may make regulations setting out circumstances in which the planning authority must give certain persons (as specified in the regulations) an opportunity to appear before and be heard by a committee of the authority. Any representations made at such a hearing must be considered under paragraph 10 before any scheme or alteration is made.
113. Each planning authority is to make rules for the procedures for such hearings, including procedures to ensure the relevance of proceedings and avoid repetition, and rules about the right of anyone other than a person being heard to attend the hearing.
114. However, if the proposal is called-in by the Scottish Ministers under paragraph 14, the planning authority are not to hold or continue with such hearings.
115. Paragraph 12 allows the Scottish Ministers to direct a planning authority to notify them of any proposals for making or altering a masterplan consent area scheme that the authority has publicised in accordance with paragraph 12. The direction may be addressed to one, various or all authorities and may require the Scottish Ministers to be notified of particular types of proposals, or if a particular event occurs in connection with the proposals (for example if a key agency submits an objection). The planning authority may not make the proposed scheme or alteration (or any variant of it) until the period provided for in the direction has ended. This period may be a specified period of time, or may last indefinitely until the Scottish Ministers tell the authority it has ended.
116. Paragraph 13 imposes a requirement on the planning authority not to make certain alterations to schemes until 12 months after the completion of the consultation process. This applies where the alteration they intend to make would exclude a place from the scheme, withdraw authorisation granted by the scheme or make the authorisation granted by the scheme subject to new or more stringent conditions, limitations or exceptions.
117. Sub-paragraph (3) sets out that the consultation process is completed on the last day of hearings required under paragraph 11(1) or, where no such hearing was required, the last day that a representation could be validly submitted.