

*Status: Point in time view as at 20/12/2019.*

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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 [F1section 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**

**F1** 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

- II** 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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**I2** Sch. 2 para. 9 in force at 1.12.2019 for specified purposes by S.S.I. 2019/385, reg. 2, sch.

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