

POLICY NOTE

THE PLANNING (SCOTLAND) ACT 2019 (COMMENCEMENT NO. 11 AND SAVING AND TRANSITIONAL PROVISIONS) REGULATIONS 2023

SSI 2023/10 (C. 2)

The above instrument was made in exercise of the powers conferred by section 63(2) and (3) of the Planning (Scotland) Act 2019. The instrument is subject to no procedure.

The instrument brings into effect provisions in the Planning (Scotland) Act 2019 which relate to a new development planning system within Scotland. In particular it makes the National Planning Framework part of the statutory development plan and makes provision for the handling of ‘old development plans’ as part of the transition. It removes the duty to prepare Strategic Development Plans and repeals the ability to prepare supplementary guidance in association with new Local Development Plans. It includes saving and transitional arrangements for supplementary guidance prepared under the current development planning system.

Policy Objectives

The purpose of this instrument is to bring into effect the new development planning structure within the Scottish planning system.

The commencement of section 6 of the Planning (Scotland) Act 2019 (the Act) repeals sections 4 to 14 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act), removing the requirement for groups of planning authorities, designated as strategic development planning authorities, to prepare Strategic Development Plans.

The commencement of section 9 of the Act repeals section 22 of the 1997 Act, removing the ability to prepare supplementary guidance in connection with a Local Development Plan. Saving and transitional provisions have been included for section 22 of the 1997 Act which will continue to have effect for a two year period (12 February 2023 and ending on 31 March 2025), during which time supplementary guidance can continue to be prepared and adopted in association with Local Development Plans.

The commencement of Section 13 (1), (2) and (3) of the Act is required to amend section 24 of the 1997 Act to make the National Planning Framework part of the statutory development plan. The commencement of this section also sets out that where there is an incompatibility between a provision of the National Planning Framework and a provision of a Local Development Plan, the later in date is to prevail.

Section 62 of the Act is commenced for the purposes of commencing paragraph 4 (development plan) of schedule 2 of the Act which is required to make changes to schedule 1 of the 1997 Act. This provides that ‘old development plans’ (Local Plans, Strategic Development Plans and supplementary guidance) which are in force before section 13 of the 2019 Act is commenced will continue in force and continue to be part of the development

plan. This is subject to other provisions of schedule 1 of the 1997 Act. The commencement of paragraph 4 of schedule 2 of Act also brings into force new paragraphs 6 and 6A of schedule 1 of the 1997 Act. In terms of paragraph 6, when the National Planning Framework is published, after the coming into force of section 13 of the Act, Strategic Development Plans and their supplementary guidance will cease to have effect.

The commencement of section 62 of the Act is required to commence paragraph 1 of schedule 2, which removes the requirement upon strategic development plan authorities to prepare Strategic Development Plans.

Under provisions of the Town and Country Planning (Scotland) Act 1997, introduced by the Planning (Scotland) Act 2019, the Scottish Ministers may not adopt a National Planning Framework until a draft of it has been approved by resolution of the Scottish Parliament. Following public consultation and parliamentary scrutiny of a draft of Scotland's Fourth National Planning Framework (NPF4), a revised draft was laid in the Scottish Parliament for approval in November 2022. On 11 January the Scottish Parliament approved NPF4, therefore, the commencement of these regulations is required to make NPF4 part of the statutory development upon adoption as well as implement the necessary transitional provisions.

Consultation

As these regulations only bring into force provisions of the Act, no consultation has been carried out in relation to this instrument.

Impact Assessments

As these regulations only bring into force provisions of the Act, no impact assessments have been carried out in relation to this instrument.

Financial Effects

The Minister for Public Finance, Planning and Community Wealth confirms that no BRIA is necessary as the instrument only brings into force the provisions of the Act and in itself has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Local Government and Housing

January 2023