

POLICY NOTE

THE PLANNING (SCOTLAND) ACT 2019 (COMMENCEMENT NO. 13 AND SAVING PROVISIONS) REGULATIONS 2024

SSI 2024/79 (C. 7)

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 laid but is subject to no procedure.

The instrument brings into effect various provisions in the Planning (Scotland) Act 2019, to support planning reform. In particular it commences sections relating to amendment of National Planning Framework and local development plans, masterplan consent areas, bar to creation of new simplified planning zones, chief planning officers, and includes minor and consequential amendments and repeals.

It also provides saving and transitional arrangements for simplified planning zones which had reached the stage that a planning authority have given notice by advertisement of the proposed simplified planning zone scheme in accordance with regulation 4(b) of the Town and Country Planning (Simplified Planning Zones) (Scotland) Regulations 1995 before 1 April 2024. This regulation allows that where that applies section 50(2) and (3) and schedule 5 of the 1997 Act continue to apply in respect of that simplified planning zone scheme as they had effect immediately before 1 April 2024.

Policy Objectives

The purpose of this instrument is to commence various provisions in the Planning (Scotland) Act 2019 (“the Act”) which amend the provisions of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) relating to amendment of National Planning Framework and local development plans, masterplan consent areas, bar to creation of new simplified planning zones, chief planning officers, and includes minor and consequential amendments and repeals.

The regulations bring the following sections of the Act into force on 1 April 2024:

- section 12 of the 2019 Act (amendment of National Planning Framework and local development plans) – for the purpose of making regulations only.
- section 15 of the 2019 Act (masterplan consent area schemes) for the purpose of making regulations.
 - Section 15 of the Act amends the 1997 Act to insert new sections 54A-F and schedule 5A, which relate to masterplan consent areas (MCAs).
 - These provides detail on the process for making and altering MCA schemes, and give the Scottish Ministers regulation-making powers to allow the Scottish Ministers to provide further detailed requirements.
- section 15 (masterplan consent area schemes) of the 2019 Act to bring fully into force paragraph 5 of schedule 5A of the 1997 Act (as inserted by section 15(3) of the Act). This relates to the ‘Duty to periodically consider making scheme’ and places on planning authorities to periodically (at least once in each 5 year period) consider making a MCA scheme, and the associated required timescale for that to be fulfilled.

To provide transparency as to their consideration and decision, planning authorities have to publish a statement as a formal record of how they have fulfilled their duty to consider preparing MCAs. In relation to paragraph 5(2)(a) the Planning (Scotland) Act 2019 received Royal Assent on 25 July 2019 - the first five year period therefore ends on 24 July 2024 and is the date the first statement is required from planning authorities.

- section 16 of the 2019 Act (bar to creation of new simplified planning zones) (SPZs). SPZs as a mechanism will be replaced by MCAs. MCAs will be broader in scope, covering a wider range of consents, with modernised procedures. The intention is that once the new provisions around MCAs are in place, existing SPZs will be allowed to run their course but there will be a bar to the creation of new SPZs, as the new MCA tool should be used instead. Therefore section 16 of the Act repeals various references to making or preparing SPZ schemes, while leaving in place (for the duration of their existing term) the ability to alter any such schemes which are already up and running.
- section 50 of the 2019 Act (chief planning officers) which inserts a new section 1A into the Town and Country Planning (Scotland) Act 1997, introducing a requirement for planning authorities to have a chief planning officer and to enable Scottish Ministers to issue guidance on their role.
- section 62 of the 2019 Act (minor and consequential amendments and repeals) - commenced only for the purposes of the commencement of paragraph 9 of schedule 2 of the Act.
- paragraph 9 (regulations) of schedule 2 (minor and consequential amendments and repeals) - commenced only for the purposes of making regulations under—
 - a. section 3CC(3) of the 1997 Act (as inserted by section 12 of the Act),
 - b. paragraph 3 of schedule 5A of the 1997 Act (as inserted by section 15(3) of the Act).

The regulations also provide savings provisions for SPZs which had reached the stage of being publicly advertised before 1st April 2024. It applies in relation to a SPZ scheme in respect of which a planning authority have given notice by advertisement of the proposed SPZ scheme in accordance with regulation 4(b) of the Town and Country Planning (Simplified Planning Zones) (Scotland) Regulations 1995 before 1 April 2024. Where this regulation applies section 50(2) and (3) and schedule 5 of the 1997 Act continue to apply in respect of that simplified planning zone scheme as they had effect immediately before 1 April 2024.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

As these regulations only bring into force provisions of the Act (and make saving and transition provision), no consultation has been carried out in relation to this instrument.

Impact Assessments

As these regulations only bring into force provisions of the 2019 Act (and make saving provisions), no impact assessments have been carried out in relation to this instrument.

Financial Effects

The Minister for Local Government Empowerment and Planning 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
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