

**Changes to legislation:** Town and Country Planning (Scotland) Act 1997, PART 3 is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

# SCHEDULES

## [<sup>F1</sup>SCHEDULE 5A

### MASTERPLAN CONSENT AREAS

#### Textual Amendments

- F1** Sch. 5A inserted (1.4.2024 for specified purposes) by Planning (Scotland) Act 2019 (asp 13), ss. 15(3), 63(2); S.S.I. 2024/79, reg. 2(1)(2)(b)(4)

### PART 3

#### PROCESS FOR PLANNING AUTHORITY MAKING OR ALTERING SCHEME

#### CHAPTER 1

#### PROCESS FOR ALL CASES

##### *Outline of process*

- 7 (1) Before making or altering a scheme, a planning authority must—
- formulate their proposals for the scheme or alteration to be made, having first consulted in accordance with paragraph 8, and
  - consult on their proposals in accordance with paragraphs 9 and 10.
- (2) Having considered any responses received to the consultation on their proposals (as paragraph 10 requires), the planning authority may (subject to any direction under paragraph 12 or Chapter 1 of Part 4)—
- make the proposed scheme or alteration,
  - make a scheme or alteration which, in light of the consideration given to responses received to the consultation and any other matters which appear to the authority to be material, differs from what they proposed, or
  - decide not to make any scheme or alteration.
- (3) If the planning authority wish to make an alteration that would have an effect described in sub-paragraph (1)(b) of paragraph 13, they must wait as required by that paragraph before making the alteration.

##### *Consultation on possible proposals*

- 8 (1) Before publicising, in accordance with paragraph 9, proposals for making or altering a scheme, a planning authority must—

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- (a) comply with any requirements as to consultation prescribed in regulations under this paragraph, and
  - (b) have regard to any valid representations received from anyone consulted in compliance with those requirements.
- (2) The Scottish Ministers are to prescribe by regulations requirements about—
- (a) who a planning authority must consult before determining the content of any proposals which may be publicised in accordance with paragraph 9,
  - (b) how that consultation is to be undertaken, and
  - (c) how representations to the planning authority must be made by anyone consulted if they are to be treated as valid representations for the purpose of sub-paragraph (1)(b).
- (3) Without prejudice to the generality of sub-paragraph (2), regulations made under this paragraph may—
- (a) require a planning authority to consult the public (or a portion of the public), or
  - (b) empower the Scottish Ministers to direct an authority to do so in particular cases.

#### *Publicity for proposals*

- 9 (1) Before making or altering a scheme, a planning authority must—
- (a) comply with the requirements for publicising, and inviting representations in relation to, their proposals for making or altering the scheme, and
  - (b) wait until the period for representations has expired.
- (2) The Scottish Ministers are to prescribe by regulations—
- (a) the requirements for publicising and inviting representations in relation to proposals for making or altering a scheme, and
  - (b) the period for representations.

#### *Consideration of representations*

- 10 (1) Where a planning authority have received validly submitted representations in relation to their proposals for making or altering a scheme, they may not make the proposed scheme or alteration (whether in the terms proposed or otherwise) until they have considered the representations.
- (2) For the purpose of this paragraph, representations are validly submitted if—
- (a) they are submitted within the period for representations prescribed under paragraph 9(2), and
  - (b) they comply with any requirements prescribed by the Scottish Ministers in regulations under this sub-paragraph about how representations must be submitted.

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## CHAPTER 2

### FURTHER PROCESS FOR SOME CASES

#### *Requirement to hold hearings*

- 11 (1) The Scottish Ministers may by regulations prescribe circumstances in which, to fulfil the requirement under paragraph 10(1), a planning authority must give a person of a description prescribed in the regulations an opportunity to appear before and be heard by a committee of the authority.
- (2) The requirement under paragraph 10(1) for a planning authority to consider representations includes any representations made at a hearing required by regulations under sub-paragraph (1).
- (3) Each planning authority is to make such rules as they consider appropriate in relation to—
- (a) the procedures in accordance with which any hearing required by regulations under sub-paragraph (1) is arranged and conducted (including, without prejudice to the generality of this sub-paragraph, procedures for ensuring relevance and avoiding repetition),
  - (b) any other procedures consequent upon such a hearing,
  - (c) any right of attendance at such a hearing (other than for the purpose of appearing before, and being heard by, a committee).
- (4) Any requirement to hold hearings created by regulations under sub-paragraph (1) is subject to paragraph 14(3)(b).

#### *Requirement to notify the Scottish Ministers of certain proposals*

- 12 (1) The Scottish Ministers may direct a planning authority to notify them, as soon as reasonably practicable, of any proposals for making or altering a scheme that the authority have publicised in accordance with paragraph 9.
- (2) Where a planning authority are required by a direction under this paragraph to notify the Scottish Ministers of their proposals, the authority may not make the proposed scheme or alteration (whether in the terms proposed or otherwise) until the period provided for in the direction has ended.
- (3) A direction under this paragraph may—
- (a) be addressed to a particular authority or all authorities,
  - (b) require that the Scottish Ministers be notified of proposals if—
    - (i) the proposals are of a description specified in the direction, or
    - (ii) an event specified in the direction occurs in connection with the proposals,
  - (c) provide for the period in the direction to be either—
    - (i) a specified period of time, or
    - (ii) an indefinite period that ends only when the Scottish Ministers tell the authority it has ended.

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*Pause before making certain alterations*

- 13 (1) Sub-paragraph (2) applies where, having completed the consultation process in relation to their proposals for altering a scheme—
- (a) a planning authority intend to alter the scheme (whether in the terms proposed or otherwise), and
  - (b) the intended alteration would have the effect of—
    - (i) excluding a place from the area to which the scheme relates,
    - (ii) withdrawing authorisation granted by the scheme, or
    - (iii) making the authorisation granted by the scheme subject to new or more stringent conditions, limitations or exceptions.
- (2) The intended alteration may not be made before the end of the day that falls 12 months after the consultation process was completed.
- (3) For the purpose of this paragraph, the consultation process in relation to proposals to alter a scheme is completed—
- (a) on the last day of hearings in relation to the proposals required by regulations under paragraph 11(1), or
  - (b) if no such hearings are required in relation to the proposals, on the last day that representations in relation to the proposals could be validly submitted for the purpose of paragraph 10.]

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)