
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Planning etc. (Scotland) Act 2006 (Saving and Transitional Provisions) Order 2011 (“the 2011 Order”) insofar as it makes the transitional and savings provisions in connection with the commencement of section 23 of the Planning etc. (Scotland) Act 2006 (“the 2006 Act”). Section 23(1) of the 2006 Act inserted new sections 75 to 75C into the Town and County Planning (Scotland) Act 1997 (“the 1997 Act”) in substitution for the previous section 75 of the 1997 Act with effect from 1st February 2011.

Article 2 substitutes a new article 3 to replace article 3 of the 2011 Order. The new article 3(1)(a) provides that an agreement entered into under section 75 of the 1997 Act before 1st February 2011 is to have effect as if made under section 75 after that date. New article 3(1)(b) makes it clear that new sections 75 to 75B apply to an obligation contained in such an agreement in the same way as they apply to a planning obligation contained in an agreement entered into on or after 1st February 2011. Section 23(2) of the 2006 Act preserves the application of provisions of the old section 75(3) and (4) of the 1997 Act relating to enforceability of obligations in respect of agreements entered into before 1st February 2011. New article 3(2) provides that the equivalent enforcement provisions contained in the new section 75(5) and (6) and 75C do not apply in relation to such agreements notwithstanding that the agreement has effect as if made under the new section 75. New article 3(3) provides definitions of “existing planning agreement” and “existing planning obligation”.