

POLICY NOTE

THE PLANNING (SCOTLAND) ACT 2019 (COMMENCEMENT NO. 5 AND SAVING, TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) REGULATIONS 2020

SSI 2020/294

The above instrument was made in exercise of the powers conferred by sections 59 and 63(2) and (3) of the Planning (Scotland) Act 2019. The instrument is subject to negative procedure.

The instrument brings sections 34 and 37 of the Planning (Scotland) Act 2019 into force. Respectively, the effect of these provisions is to:

- **Clarify the scope of planning obligations entered into section 75 of the Town and Country Planning (Scotland) Act 2019;**
- **Amend the procedures by which planning obligations may be modified or discharged under sections 75A and 75B of the Town and Country Planning (Scotland) Act 1997.**

Policy Objectives

Regulation 2(2)(a) brings into force section 34 of the Planning (Scotland) Act 2019 (“the 2019 Act”), which clarifies that planning obligations under section 75 of the Town and Country Planning (Scotland) Act 1997 Act (“the 1997 Act”) may comprise either (or both) obligations which restrict or regulate the development or use of land or which require financial payments, either of a specified amount or periodical sums.

Regulation 2(2)(b) brings into force section 37 of the 2019 Act, which amends the procedures for modifying or discharging planning obligations under sections 75A and 75B of the 1997 Act. The amendments made by section 37 of the 2019 Act are intended to provide planning authorities and developers with greater flexibility as to the modification or discharge of planning obligations previously entered into.

Regulation 3(1) provides that the amendments made by section 34 of the 2019 Act do not affect the validity of an existing planning obligation – i.e. a planning obligation entered into before the date of commencement specified in regulation 2(1). Regulation 3(2) provides that existing planning obligations (and not just those entered into after the date of commencement specified in regulation 2(1)) may be modified or discharged under the amended procedures.

Regulation 4 makes a consequential amendment to the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 following changes made to section 43(4) of the 1997 Act by section 37(3) of the 2019 Act.

Consultation

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

Financial Effects

The Minister for Local Government, Housing and Planning confirms that no BRIA is necessary: these regulations bring into force two sections of the 2019 Act and make saving, transition and consequential provision. The instrument itself has no financial effects on the Scottish Government, local government or on business.

Scottish Government

Directorate for Local Government and Communities

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