

POLICY NOTE

The Planning (Scotland) Act 2019 (Commencement No. 6 and Transitional Provision) Regulations 2021

SSI 2021/101 (C. 4)

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

The instrument brings sections 17 and 18(3) of the Planning (Scotland) Act 2019 fully into force. Respectively, the effect of these provisions is to:

- **Allow planning authorities to designate, vary or cancel short term let control areas; and**
- **Introduce a time limit on making an application for planning permission where pre-application consultation (PAC) requirements apply.**

Policy Objectives

Regulation 2 brings into force section 17 of the 2019 Act in so far as it is not already in force on 1 April 2021. The implementation of section 17 of the Act will allow planning authorities to consider any potential need for a short-term let in part of all of their area and designate, vary or cancel short-term let control areas as they consider appropriate.

Regulations 3 and 4 relate to pre-application consultation (PAC) requirements. PAC requirements ensure early engagement by prospective applicants with local communities prior to applying for planning permission for national and major developments. The intention is that communities have early notice of proposals and an opportunity to comment to the prospective applicant at an early stage in the development of a proposal. Such early engagement is to increase the chances of being taken on board by the prospective applicant, compared to when a proposal is largely finalised in an application.

Regulation 3 brings section 18(3) of the 2019 Act into force on 1 October 2021. Section 18(3) amends section 35B(3) of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act). Section 35B of the 1997 Act relates to compliance with PAC requirements, and section 35B(3) currently provides that no application for planning permission can be made within 12 weeks from a proposal of application notice (PAN) being served on the planning authority. The PAN sets out what consultation the prospective applicant intends to carry out during PAC.

Section 18(3) of the 2019 Act will add a time limit specifying that to comply with PAC requirements an application must be made within 18 months from when the PAN is given to the planning authority. This is to prevent the PAC being too divorced in time from the application.

Regulation 4 makes a transitional provision to adjust the application of the new time limit where a PAN was served prior to the coming into force date (1 October 2021). In those cases, 'relevant applications', as described in regulation 4(2), a time limit of 18 months from the

coming into force date will apply. This means where a PAN was served prior to 1 October 2021, prospective applicants will not suddenly find they have little or no time to make an application. They will have 18 months from 1 October 2021. By applying the new time limits subject to this transitional adjustment this also means a prospective applicant cannot avoid the new time limit merely by serving a PAN prior to the coming into force date.

Regulation 3 specifies a coming into force date of 1 October 2021 for section 18(3) of the 2019 Act. This is to align with the coming into force of a package of other PAC measures in the Town and Country Planning (Pre-Application Consultation) (Scotland) Amendment Regulations 2021, laid before Parliament on 24 February 2021.

Consultation

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

Financial Effects

The Cabinet Secretary for Communities and Local Government confirms that no BRIA is necessary: these regulations bring into force two sections of the 2019 Act and make transitional provision. The instrument itself has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Local Government & Communities Directorate

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