

POLICY NOTE

THE PLANNING (SCOTLAND) ACT 2019 (COMMENCEMENT NO. 10) REGULATIONS 2022

SSI 2022/386 (C. 21)

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

The instrument brings into effect provisions in the Planning (Scotland) Act 2019 which set out when legal proceedings may be brought to question the validity of the National Planning Framework and to confirm the relevant date from which the period for applications for challenge runs. It also brings into effect a change to reflect that challenges to a local development plan may now arise from an amendment being made to that plan under a new procedure introduced by the Act.

Policy Objectives

The purpose of this instrument is to bring into effect the arrangements for when and how any legal proceedings may be brought to question the validity of the National Planning Framework. Sections 13(4) and (5) of the Planning (Scotland) Act 2019 amend sections 237 and 238 of the Town and Country Planning (Scotland) Act 1997 to provide that any legal challenge to the National Planning Framework would require to be made by application to the Court of Session within a period of six weeks from the date of the Framework's publication, or where relevant from the date on which an amendment to the Framework took effect.

This brings the arrangements for legal challenge of the National Planning Framework in line with the provisions which relate to legal challenge of local development plans produced by planning authorities. Section 13(5) also amends section 238 of the 1997 Act to add similar arrangements for a challenge to the validity of an amendment to a local development plan.

Under provisions of the Town and Country Planning (Scotland) Act 1997, introduced by the Planning (Scotland) Act 2019, the Scottish Ministers may not adopt a National Planning Framework until a draft of it has been approved by resolution of the Scottish Parliament. Following public consultation and parliamentary scrutiny of a draft of Scotland's Fourth National Planning Framework (NPF4), a revised draft was laid in the Scottish Parliament for approval in November 2022. Should NPF4 be approved by the Parliament, it can then be adopted and published by the Scottish Ministers.

It is necessary to commence the provisions in this instrument before the process towards adoption and publication of NPF4 is complete, so that the provisions which set out the arrangements for any legal challenge against its validity, as intended by Parliament, are in place in time for the start of the six-week period commencing from the date of publication.

Consultation

As these regulations only bring into force provisions of the Act, no consultation has been carried out in relation to this instrument.

Impact Assessments

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

Financial Effects

The Minister for Public Finance, Planning and Community Wealth 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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