

## POLICY NOTE

### THE PLANNING (SCOTLAND) ACT 2019 (COMMENCEMENT NO. 12 AND SAVING AND TRANSITIONAL PROVISIONS) REGULATIONS 2023

SSI 2023/100 (C. 11)

The above instrument was made in exercise of the powers conferred by section 63(2) and (3) 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 relate to a new development planning system within Scotland. In particular it commences sections relating to local development plans, community engagement guidance, local place plans, delivery programmes, and includes minor and consequential amendments and repeals.**

**It also provides saving and transitional arrangements for local development plans (LDPs) for which preparation started under the previous LDP system and which had reached the stage of publishing a notice of a Proposed Plan before 12 February 2023. These Regulations allow planning authorities in such circumstances to progress that LDP towards adoption following the procedures of the previous system, and exempting them from various new requirements relating to LDP plan making introduced under the 2019 Act.**

#### Policy Objectives

The purpose of this instrument is to bring into effect the new arrangements for producing local development plans (“LDPs”) within the Scottish planning system. It commences provisions in the Planning (Scotland) Act 2019 (“the Act”) which amend the provisions of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) relating to local development planning and provides saving and transitional arrangements for LDPs that started under the previous LDP system.

The Regulations bring sections 7, 11, 14(2) and paragraphs 2 and 3 of schedule 2 of the Act fully into force on 19 May 2023. They bring Section 14(1) in to force on that date for the limited purposes of the commencement of Section 14(2). They also bring section 62 into force on that date for the limited purposes of the commencement of paragraphs 2 and 3 of schedule 2.

These Regulations bring section 14(4) of the Act fully into force on 20 May 2023 and section 14(1) into force for the limited purposes of the commencement of section 14(4) on that date.

The commencement of section 7 ‘Local Development Plans’ brings into force the procedures for preparing and adopting a LDP. This instrument is required to commence the following provisions:

- Section 7(2) amends section 15 of the 1997 Act to identify specific matters an LDP must include and 7(3) amends the list of matters in section 15(5) of the 1997 Act that are to be taken into account in preparing the LDP spatial strategy.
- Section 7(4) amends section 16 of the 1997 Act, dealing with the preparation and monitoring of LDPs. In particular, this amends the time period within which LDPs must be prepared to intervals of no more than 10 years (rather than the previous 5 years), and introduces the requirement for Local Outcomes Improvement Plans to be taken into account in the preparation of LDPs. By the renumbering of section 16(2)(a) and the inclusion of sub paragraph (ii) also has the effect of enabling the introduction of sub paragraph (iii) into section 16(2)(a) of the 1997 Act by 14(4) of the 2019 Act.
- Section 7(5) introduces section 16A into the 1997 Act, requiring planning authorities to make appropriate arrangements to promote and facilitate participation by children and young people in the preparation of the LDP, and to publish information about those arrangements.
- Section 7(6) commences the new requirements in section 16B of the 1997 Act for 'Evidence Reports for preparation of local development plans'. It fully commences section 16C 'Effective community engagement: guidance'. It also fully commences section 16D bringing in new requirements for the production of 'Play sufficiency assessments'.
- Section 7(7) repeals section 17 of the 1997 Act. This removes the requirement for a main issues report to be prepared. Additional consequential changes to remove references to main issues reports are also made in schedule 2 of the Act.
- Section 7(8) amends section 18 of the 1997 Act to require planning authorities to prepare a proposed LDP after they are notified that the appointed person is satisfied that the Evidence Report is sufficient. The planning authority are required to have regard to the appointed person's report in preparing the proposed plan. The provisions also require the evidence report and the proposed LDP to be published at the same time and in the same manner.
- Sections 7(9) to (11) relate to examination of the LDP, requiring the planning authority to publish a report of modifications where they are made to the proposed plan prior to examination, and the reasons for making them. They enable an appointed person to recommend modifications to the proposed plan or the ability to recommend the plan be amended once adopted if the matter cannot suitably be dealt with by modification. New section 19ZA introduced into the 1997 Act by section 7(10) makes provision for where an appointed person is not satisfied with the amount of land allocated for housing in the LDP.
- Section 7(12) removes the Scottish Ministers' ability to intervene in LDPs at the end of the plan preparation process, prior to its adoption
- Section 7(13) inserts new subsections (1A) to (1E) into section 20A of the 1997 Act, which deals with publication and publicity for the LDP.
- Section 7(14) of the Act inserts subsection 4A into section 20B of the 1997 Act, requiring the planning authority to seek the views of, and have regard to any views expressed by the public at large as to the content of the participation statement in preparing the development plan scheme.

Section 11 of the Act ‘Delivery programmes’ amends section 21 (action programmes) of the 1997 Act to bring in changes related to the delivery programme. Paragraph 3 of schedule 2 amends section 18(4)(a)(ii) of the 1997 Act (submission of programme to Scottish Ministers), so that “delivery” is substituted for “action”.

Section 14 of the Act ‘Local place plans’ introduces provisions on local place plans and their links to local development plans. In particular, it brings into effect the statutory framework that requires planning authorities to let community bodies know that the period for preparing local place plans to inform the preparation of the local development plan is open, by way of an invitation. It also brings into effect the requirement to publish information on: how and by when local place plans should be prepared; and assistance available to communities to help with the preparation of local place plans. It also brings into effect the statutory provision that registered local place plans should be taken account of in the preparation of local development plans.

The commencement of paragraphs 2 and 3 of schedule 2, and section 62 for those purposes, brings into force various minor and consequential amendments and repeals, relating to local development plans and delivery programmes. Regulation 4 contains saving and transitional provisions so that the provisions of the 1997 Act relating to the form and content, preparation, examination and publication of a local development plan continue to apply as they had effect before 19 May 2023 where the proposed local development plan was published by the planning authority before 12 February 2023. The date of 12 February 2023 is used as that was the date on which section 22 of the 1997 Act was repealed by section 9 of the Planning (Scotland) Act 2019 subject to saving and transitional provisions contained in S.S.I. 2023/10. It also means that such plans do not have to meet new requirements regarding local place plans, participation of children of young people, evidence reports and a new provision linked to housing land and examinations.

### **Consultation**

As these regulations only bring into force provisions of the Act (and make saving and transition provision), no 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 and transition provision), 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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