POLICY NOTE

THE PLANNING (SCOTLAND) ACT (ANCILLARY PROVISION) REGULATIONS 2019

SSI 2019/XXX

The above instrument was made in exercise of the powers conferred by section 59 of the Planning (Scotland) Act 2019. The instrument is subject to affirmative procedure.

Purpose of the instrument:
These Regulations amend minor cross-referencing and typographical errors identified in the Planning (Scotland) Act 2019.

Policy Objectives

These Regulations make several amendments to the Act to replace or delete references to sections of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act") that were removed during the Parliamentary process. They are subject to affirmative procedure because they amend the text of primary legislation.

Regulation 2(2) omits section 7(2)(e)(viii) of the Act. This sub-paragraph amends section 15(5)(f) of the 1997 Act, which refers to the content of the previous paragraphs of section 15(5), (a) to (e). During the passage of the Bill, a paragraph (eb) was added but later removed. There is therefore now no need to amend paragraph (f).

Regulations 2(3) and (5) substitute references to section 3CA(7) of the 1997 Act for references to section 3A(6) or 3A(8). Section 3CA(7), inserted by section 2(13) of the Act, requires the Scottish Ministers to publish the National Planning Framework as soon as practicable after it has been adopted. Section 3A(6) and (8) required Ministers to publish the framework or any revised framework.

Sections 3A to 3C of the 1997 Act were inserted by the Planning (Scotland) Act 2006, and introduced the National Planning Framework. Sections 3A(6) to (10), 3B and 3C of the 1997 Act were repealed and sections 3AA to 3CC were inserted by amendments at stage 3 of the Bill, making substantial changes to the content and procedures for preparing the framework.

The date on which the Framework is published will determine:

- whether the Framework or a local development plan will take precedence if there is any incompatibility between them (regulation 2(3)(a)),
- the timescale for making an application to the Court of Session to question the validity of the National Planning Framework (regulation 2(3)(b)), and
- when strategic development plans cease to have effect (regulation 2(5)).

Regulation 2(4) omits a set of empty brackets in section 61(3), which sets out regulation-making powers that are subject to affirmative procedure. The empty brackets represent a cross-reference to a section of the Bill which was deleted at stage 3.

Consultation

As these regulations only make technical amendments to the Act, no consultation has been carried out in relation to this instrument.

Impact Assessments

As these regulations only make technical amendments to the Act, 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, as these regulations only make technical amendments to the Act.

Scottish Government
Directorate for Local Government and Communities

November 2019