

Planning (Scotland) Bill

6th Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the sixth day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Determination of applications: statement whether in accordance with development plan

58, 58A

Appeal rights

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Material considerations: meaning to be prescribed

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Nature of the infrastructure levy

25, 342, 343, 26, 344, 270, 271, 27, 272, 273, 345

Amendments already debated

Chief planning officer

With 184 – 158

National Planning Framework

With 185 – 154, 155

Notes on amendments in this group

Amendment 155 is pre-empted by amendment 48 in group “Strategic development plans” (already debated)

Strategic development plans

With 42 – 46, 47, 48, 49, 50

Notes on amendments in this group

Amendment 48 pre-empts amendment 155 in group “National Planning Framework” (already debated)

Local development plan: procedure

With 9 – 153, 278

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With 66 – 69, 70

Amending the local development plan

With 11 – 29

Directions etc.: form and publication

With 55 – 61, 148, 149, 150, 62, 63, 151

Notes on amendments in this group

Amendment 150 pre-empts amendments 62 and 63

Simplified development zones: renaming

With 232 - 279, 280, 281, 282, 283, 285, 286, 287, 288, 289

Simplified development zones: control of advertisements

With 236 - 284

Simplified development zones: land value capture

With 12 - 20

Notes on amendments in this group

Amendment 20 is pre-empted by amendment 156 in group “Simplified development zones: land which may or may not be included” (already debated)

Simplified development zones: land which may or may not be included

With 241 - 156

Notes on amendments in this group

Amendment 156 pre-empts amendment 20 in group “Simplified development zones: land value capture” (already debated)

Applications for planning permission and consideration of impact

With 207 - 209, 210

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With 257 - 145, 146, 147

Determination of applications and conditional grant of permission

With 318 - 263, 335

Fees for planning applications etc.

With 259 - 262, 332, 264, 265, 321, 266, 16

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Amendments in debating order

Determination of applications: statement whether in accordance with development plan

Andy Wightman

Supported by: Monica Lennon

58 After section 16, insert—

<Determination of applications: statement to accompany notification

Determination of applications: statement to accompany notification

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 37 (determination of applications: general considerations), after subsection (2) insert—
 - “(2A) The notice of the planning authority’s decision on an application must include a statement as to whether the authority consider that the application is for a development that is in accordance with the development plan for the time being applicable to the area to which the application relates.”>

Monica Lennon

58A As an amendment to amendment 58, line 10, after <relates> insert <together with an explanation of why the authority have reached that view>

Appeal rights

Alex Rowley

51 After section 16, insert—

<Appeal rights

Third party right of appeal against planning decisions not in accordance with local development plan

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 47A insert—

“47B Third party right of appeal against planning decisions not in accordance with local development plan

 - (1) Subject to subsection (2), any person may appeal to the Scottish Ministers against a decision of a planning authority to—
 - (a) grant an application for planning permission,
 - (b) grant an application for planning permission subject to conditions,
 - (c) refuse an application for planning permission.
 - (2) The right of appeal under subsection (1) applies only—
 - (a) to a person who made a submission on the planning application to which the decision relates,

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- (b) where the grounds of appeal are that the person appealing considers that the decision of the planning authority is not in accordance with that authority's local development plan in force at the time the decision was made.
- (3) Section 47A applies to an appeal under subsection (1) as it applies to an appeal under section 47(1).
- (4) Subsection (1) does not apply in relation to any such action on the part of a planning authority as is mentioned in section 237(3A).
- (5) An appeal under this section is to be made by notice served within such time and in such manner as may be prescribed by the Scottish Ministers by regulations.
- (6) The time prescribed for the service of such a notice must not be less than 28 days from the date of the notification of the decision.
- (7) The Scottish Ministers may by regulations make such further provision as they consider appropriate in relation to—
 - (a) the form and manner in which an appeal under subsection (1) is to be made,
 - (b) the procedure by which the Scottish Ministers are to determine an appeal under subsection (1).”.
- (3) In section 275 (regulations and orders), after subsection (7B) insert—
 - “(7C) Regulations under section 47B(5) or (7) are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.>

Andy Wightman

Supported by: Monica Lennon

59 After section 16, insert—

<Right to appeal against planning decisions

Right to appeal against planning decisions

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 47 (right to appeal against planning decisions and failure to take such decisions), in subsection (1A)—
 - (a) the words from “in relation” to the end become paragraph (a),
 - (b) after that paragraph insert—
 - “(b) where the notice of the planning authority's decision on the application for planning permission includes a statement that the authority consider that the application is for a development that is not in accordance with the development plan for the time being applicable to the area to which the application relates.”.>

THIS IS NOT THE MARSHALLED LIST

Andy Wightman

Supported by: Monica Lennon

60 After section 16, insert—

<Right to appeal against planning decisions

Community right to appeal against certain planning decisions

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 47 (right to appeal against planning decisions and failure to take such decisions), after subsection (2) insert—
 - “(2A) Where a planning authority—
 - (a) decide an application for planning permission, and
 - (b) any of the circumstances listed in subsection (2B) applies,a person or body listed in subsection (2C) may appeal to the Scottish Ministers against the decision.
 - (2B) The circumstances are—
 - (a) the planning authority’s decision to grant the application includes a statement that the authority consider that the application is for a development that is not in accordance with the development plan for the time being applicable to the area to which the application relates,
 - (b) the decision by the planning authority is in respect of a development on land in which the planning authority has an interest,
 - (c) the decision by the planning authority is in respect of a development of a description contained in schedule 1 of the Environmental Impact Assessment (Scotland) Regulations 1999 (SI 1999/1),
 - (d) the decision by the planning authority is in respect of an application on which there is an objection by a person, body or authority consulted in accordance with regulation 25 and schedule 5 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (SI 2013/155), and that the grounds for objection have not, in the opinion of the appellant, been addressed.
 - (2C) The persons or bodies are—
 - (a) a person who made representations to the planning authority in respect of the application,
 - (b) a community council representing the area to which the application relates.”.
- (3) In section 47A (matters which may be raised in an appeal under section 47(1))—
 - (a) in subsection (1), for “47(1)” substitute “47”,
 - (b) the title of the section becomes “**Matters which may be raised in an appeal under section 47**”.>

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Alex Rowley

92 After section 16, insert—

<Appeal rights

No right of appeal for development on land not allocated for development

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 47(1A) (right of appeal against planning decisions and failure to take such decisions), after “to” insert—
 - “(a) any application for development on land that has not been allocated for development in the local development plan for the time being applicable to the area, or
 - (b)”.>

Monica Lennon

143 After section 16, insert—

<Appeal rights

Community right of appeal against certain planning decisions not in accordance with local development plan

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 47A insert—

“47B Community right of appeal against certain planning decisions not in accordance with local development plan

 - (1) Subject to subsections (2) to (4), a person may appeal to the Scottish Ministers against a decision of a planning authority.
 - (2) The right of appeal under subsection (1) applies only—
 - (a) to a decision of a planning authority on—
 - (i) a national development,
 - (ii) a major development,
 - (b) to—
 - (i) a person who made a submission on the planning application to which the decision relates,
 - (ii) a community council representing the area to which the application relates.
 - (3) In the case of a decision by the planning authority to—
 - (a) grant an application for planning permission, or
 - (b) grant an application for planning permission subject to conditions,the right of appeal under subsection (1) applies only where the notice of the planning authority’s decision on the application includes a statement that the authority consider that the application is for a development that is not in accordance with the development plan for the time being applicable to the area to which the application relates.

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- (4) In the case of a decision by the planning authority to refuse an application for planning permission, the right of appeal under subsection (1) applies only where the notice of the planning authority's decision on the application includes a statement that the authority consider that the application is for a development that is in accordance with the development plan for the time being applicable to the area to which the application relates.
 - (5) Section 47A applies to an appeal under subsection (1) as it applies to an appeal under section 47(1).
 - (6) Subsection (1) does not apply in relation to any such action on the part of a planning authority as is mentioned in section 237(3A).
 - (7) An appeal under this section is to be made by notice served within such time and in such manner as may be prescribed by the Scottish Ministers by regulations.
 - (8) The time prescribed for the service of such a notice must not be less than 28 days from the date of the notification of the decision.
 - (9) The Scottish Ministers may by regulations make such further provision as they consider appropriate in relation to—
 - (a) the form and manner in which an appeal under subsection (1) is to be made,
 - (b) the procedure by which the Scottish Ministers are to determine an appeal under subsection (1)."
- (3) In section 275 (regulations and orders), after subsection (7B) insert—
- “(7C) Regulations under section 47B(7) or (9) are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”>

Andy Wightman

325 After section 16, insert—

<Right to appeal: maladministration or criminal activity

Right to appeal: maladministration or criminal activity

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 47A insert—

“47B Right to appeal: maladministration or criminal activity

 - (1) Where a member of a planning authority is found guilty of maladministration or criminal activity in relation to the authority's specified functions in consideration of planning applications, a person or body listed in subsection (2) may appeal to the Scottish Ministers for a review of the planning decision.
 - (2) The person or body are—
 - (a) the applicant,
 - (b) a person who made representations to the planning authority in respect of the application,
 - (c) a community council representing the area to which the application relates.

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- (3) The Scottish Ministers may request such further information and carry out such further investigation and consultation as they consider appropriate to aid their determination of the review.
 - (4) The Scottish Ministers may—
 - (a) grant the application for planning permission,
 - (b) uphold the decision to grant planning permission,
 - (c) modify the decision to grant planning permission in whole or in part, or
 - (d) revoke the decision to grant planning permission in whole.
 - (5) Any appeal under this section shall be made by notice served within such time and in such manner as may be prescribed by regulations or a development order.
 - (6) The Scottish Ministers may by regulations or a development order make such further provision as they consider appropriate in relation to—
 - (a) the form and manner in which an appeal under subsection (1) is to be made,
 - (b) the procedure by which the Scottish Ministers are to determine an appeal under subsection (1).”.
- (3) In section 275 (regulations and orders), after subsection (7B) insert—
- “(7C) Regulations under section 47A are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.>

Alex Cole-Hamilton

319 After section 16, insert—

<Determination of appeals

Determination of appeals

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 48 (determination of appeals)—
 - (a) in the introductory words to subsection (1) after “may” insert “, subject to subsection (1A)”,
 - (b) after subsection (1), insert—
 - “(1A) The Scottish Ministers may reverse or vary the decision of the planning authority (or any part of it) only if they consider that the decision (or any part of it) is manifestly unreasonable in all the circumstances.
 - (1B) Without prejudice to the generality of subsection (1A), a decision of the planning authority is manifestly unreasonable if it is so unreasonable or irrational that no reasonable person acting reasonably in those circumstances could have made that decision.”.>

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Material considerations: meaning to be prescribed

Andy Wightman

88 After section 16, insert—

<Meaning of “material considerations”

Meaning of “material considerations”

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 277(1) (interpretation), after the entry for “major developments” insert—

““material considerations” has the meaning prescribed by the Scottish Ministers.”.
- (3) In section 275 (regulations and orders), after subsection (7B) insert—

“(7C) Regulations under section 277(1) prescribing the meaning of “material considerations” are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.>

Planning obligations

Andy Wightman

98 Leave out section 19

John Finnie

166 After section 19, insert—

<Planning obligations: publication

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 75 (planning obligations), after subsection (4), insert—

“(4A) A planning authority are to publish and promote a relevant instrument in such a manner as they consider sufficient to ensure that it is brought to the attention of residents of the area or district to which the relevant planning obligation relates.”.>

Alex Cole-Hamilton

320 After section 19, insert—

<Planning obligations: publication

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 36 (registers of applications etc.), after subsection (4), insert—

“(5) As soon as reasonably practicable after the end of each financial year, a planning authority are to prepare and publish a report detailing—

 - (a) the number of planning obligations that are—
 - (i) entered into in that year,
 - (ii) entered into in a previous year and not yet expired,

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- (iii) entered into in a previous year and not yet complied with,
 - (b) the development to which each planning obligation relates, and
 - (c) the name of the person that has entered into the planning obligation.
- (6) In this section a financial year is the period of 12 months beginning with 1 April.”.
- (3) In section 75 (planning obligations), after subsection (4), insert—
- “(4A) A person who enters into an obligation must publish details of the obligation in such a manner as the person considers sufficient to ensure it is brought to the attention of residents of the area to which the obligation relates.”.>

Graham Simpson

- 317 In section 20, page 32, leave out line 35 and insert—
- <(i) in paragraph (a), the words “, by virtue of subsection (2),” are repealed,>

Compensation

Ruth Maguire

- 314 After section 20, insert—

<Development orders

Withdrawal of planning permission granted by development order

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 77 insert—

“77A Compensation for withdrawal of planning permission granted by development order

 - (1) The Scottish Ministers may by regulations make provision about the payment of compensation by a planning authority in cases where—
 - (a) planning permission granted by a development order is withdrawn (whether by the revocation or amendment of the order or by the issue of directions under powers conferred by the order), and
 - (b) on an application made under Part III or section 242A, planning permission for development formerly permitted by that order is refused or is granted subject to conditions other than those imposed by that order.
 - (2) Regulations under subsection (1) may, in particular, make provision—
 - (a) about the circumstances in which compensation is payable,
 - (b) about what compensation is payable in respect of,
 - (c) about how the amount of compensation is to be calculated,
 - (d) about how a claim for compensation must be made in order to be valid (including the form and content of a claim, and the period within which it must be made),

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- (e) applying, or disapplying, any of the provisions of this Part, with or without modifications.”.
- (3) Section 77 (compensation for refusal or conditional grant of planning permission formerly granted by development order) is repealed.>

Monica Lennon

333 After section 21, insert—

<Compensation

Compensation

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) Part IV (compensation for effects of certain orders, notices, etc.) is repealed.
- (3) Section 95 (special provisions as to compensation where purchase notice served) is repealed.>

Ruth Maguire

315 In schedule 2, page 55, line 34, at end insert—

<Development orders

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 78 (apportionment of compensation for depreciation), in subsection (2)(b), the words “or, in a case falling within section 77, the relevant planning decision,” are repealed.
- (3) In section 214 (meaning of “statutory undertakers”)—
 - (a) in subsection (4), and
 - (b) in subsection (7)(a),the words “77(3),” are repealed.
- (4) In section 215 (meaning of “operational land”), in subsection (3), the words “77(3),” are repealed.
- (5) In schedule 18, in Part 1, for “77” substitute “77A”.>

Training and performance of planning authorities

Andy Wightman

326 In section 21, page 34, line 37, at end insert—

<() Subsection (1A)(da) is repealed.>

Andy Wightman

327 In section 21, page 35, line 4, at end insert—

<() Subsections (1AA) and (1AB) are repealed.>

Andy Wightman

328 In section 21, page 35, line 4, at end insert—

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<() After subsection (1AB) insert—

“(1ZB) Regulations under subsection (1) may not make provision for the charge or fee payable to different planning authorities to be of different amounts on the basis of whether the functions of the authority are not being, or have not been, performed satisfactorily.”.>

Andy Wightman

310 In section 24, page 39, line 2, at end insert—

<() For the purposes of subsection (1), a member of a planning authority is to be taken to have fulfilled the specified training requirements where that member has started any specified training unless—

- (a) a period of more than 12 months has elapsed since that member started the specified training, and
- (b) the member has not during that time completed the training and any examination specified.>

Andy Wightman

311 In section 24, page 39, leave out lines 6 to 8 and insert—

<(b) “a member of a planning authority” means—

- (i) a member of the Scottish Government,
- (ii) a junior Scottish Minister,
- (iii) a member of a local authority,
- (iv) a member of a National Park authority,>

Andy Wightman

312 In section 24, page 39, line 20, leave out subsection (5) and insert—

<(5) The Scottish Ministers may, by regulations under this section—

(a) specify that sub-paragraphs (i) and (ii) of subsection (2)(b) apply only to—

- (i) a member of the Scottish Government who is appointed by the First Minister to take general responsibility for functions under the planning Acts (as defined by section 277 of the Town and Country Planning (Scotland) Act 1997),
- (ii) a junior Scottish Minister designated by that member,

(b) disapply subsection (1) in relation to a local authority or National Park authority (or all such authorities).>

Graham Simpson

23 Leave out section 24

Andy Wightman

313 In section 25, page 40, line 1, leave out from <has> to end of line and insert <means—

- (a) local authority, and
- (b) National Park authority.>

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Graham Simpson

24 Leave out section 25

Kevin Stewart

268 In section 26, page 42, leave out lines 7 to 10

Graham Simpson

Supported by: Monica Lennon

17 Leave out section 26

Graham Simpson

18 After section 26, insert—

<Annual report on determination of applications

Annual report on determination of applications

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 45 insert—

“45A Annual report on determination of applications

- (1) As soon as reasonably practicable after the end of each financial year, a planning authority are to prepare a report detailing—
 - (a) the number of applications made to the planning authority for planning permission during that year,
 - (b) the notice of their decision on the applications,
 - (c) the number of applications made during that year which have not yet received their determination at the time of the report, and
 - (d) the number of planning authority staff hours on average to process the applications.
- (2) The planning authority are to—
 - (a) submit a copy of the report to the Scottish Ministers, and
 - (b) publish the report.
- (3) In this section a financial year is the period of 12 months beginning with 1 April.”>

Kevin Stewart

276 In section 32, page 45, line 15, leave out <25,>

Fixed penalty notice where enforcement notice not complied with

Graham Simpson

329 In section 22, page 35, line 30, at end insert—

<() In section 136A (fixed penalty notice where enforcement notice not complied with)—

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- (a) in subsection (1), after “(1)” insert “or (5)”,
- (b) in subsection (3)—
 - (i) for “more than one” substitute “a second or subsequent”,
 - (ii) after “activity” insert “until the expiry of 6 months beginning with the date of service of the previous fixed penalty notice in relation to the particular step or activity”,
- (c) in subsection (4), for the words from “any” to the end substitute “liability to conviction for an offence under section 136 as respects that breach of the enforcement notice for a period of 6 months beginning with the date of service of that fixed penalty notice”,
- (d) in subsection (5), after “period” insert “of 30 days”,
- (e) in subsection (6), after first “period” insert “of 30 days”,
- (f) in subsection (8), after “period” insert “of 30 days”,
- (g) after subsection (9) insert—

“(9A) Despite subsection (9), it is competent to commence proceedings against the person for an offence under section 136 as respects that breach where, after the expiry of 6 months beginning with the date of payment of the amount, any step required by the enforcement notice to be taken has still not been taken or any activity required by the notice to cease is still being carried on.”,
- (h) in subsection (11)—
 - (i) after “Ministers” insert “—
 - (a) must make provision for increasing amounts to apply to a second and subsequent fixed penalty in the case of a continuing breach of an enforcement notice,”
 - (ii) the words from “may” to the end become paragraph (b),
 - (iii) in paragraph (b) so formed, after “make” insert “other”.>

Enforcement charters: approach to monitoring of compliance

John Finnie

334 After section 22, insert—

<Enforcement charters: approach to monitoring of compliance

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 158A(1) (content of enforcement charters)—
 - (a) the word “and” at the end of paragraph (b) is repealed,
 - (b) after paragraph (c) insert “, and
 - (d) an account of how the authority will report on their compliance monitoring in relation to major developments in their district, such reporting to be at least four times each calendar year and to include—
 - (i) a summary of the current status of such developments,

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- (ii) details of meetings of any technical working groups, community liaison groups or other structures established to oversee compliance with conditions imposed on the granting of planning permission for, or obligations entered into in relation to, such developments,
 - (iii) details of the status and duration of any financial guarantee in relation to such developments,
 - (iv) such other matters as the authority consider relevant to the compliance monitoring of such developments.”,
- (c) after subsection (4) insert—
- “(5) A planning authority are to make reports prepared under subsection (1)(d) available to the public, including by electronic means (as for example by means of the internet).
 - (6) In this section, “compliance monitoring” means activities undertaken by a planning authority to ensure that conditions imposed on the granting of planning permission for, or obligations entered into in relation to, a development are complied with.”.>

Charging orders

Kevin Stewart

267 In section 23, page 38, line 19, at end insert—

- <() A discharge of a registered charging order may not be registered unless it is in the form prescribed by the Scottish Ministers in regulations.>

Regulations

Kevin Stewart

269 After section 26, insert—

<Regulations

Regulations

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 275 (regulations and orders), in subsection (2A) after “purposes” insert “and areas”.>

Kevin Stewart

275 After section 31, insert—

<Power to replace descriptions with actual dates

- (1) The Scottish Ministers may by regulations amend—
 - (a) section 158B of the Town and Country Planning (Scotland) Act 1997, and

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- (b) section 23(5) of this Act,
so that, instead of referring to the day on which section 23 comes into force, they specify the date on which section 23 actually came into force.
- (2) The Scottish Ministers may by regulations amend section 275B(2)(b) of the Town and Country Planning (Scotland) Act 1997 so that, instead of referring to the day on which section (*Publication of directions*) of this Act comes into force, it specifies the date on which that section actually came into force.
- (3) The Scottish Ministers may by regulations amend section (*Lapsing of power to provide for levy*)(1) so that, instead of referring to the day that the Bill for this Act receives Royal Assent, it specifies the date on which the Bill actually received Royal Assent.>

Kevin Stewart

157 In schedule 2, page 55, line 34, at end insert—

<PART 4

REGULATIONS

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 275, after subsection (7B) insert—
- (7C) Regulations under sections 3AB(2) and 251B(3)(a) and paragraph 3 of schedule 5A are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).>

Kevin Stewart

291 In section 34, page 45, line 19, after <31,> insert <(Power to replace descriptions with actual dates),>

Kevin Stewart

292 In section 34, page 45, line 25, leave out subsection (4)

Designations of land

Graham Simpson

19 After section 26, insert—

<National Scenic Areas

National Scenic Areas

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 263A(2) (national scenic areas), the words “the desirability of” are repealed.>

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Rhoda Grant

330 After section 26, insert—

<National Scenic Areas: annual report

National Scenic Areas: annual report

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 3A(4) insert—
 - “(4A) The Scottish Ministers must have regard to any National Scenic Areas annual report published by them and include in the framework a statement setting out the ways the report has been taken into account in preparing the framework.”.
- (3) In section 263A (National Scenic Areas), after subsection (6)(a), insert—
 - “(aa) persons resident within, or adjacent to, the area of a proposed designation,
 - (ab) a community body (as defined by section 4(9) of the Community Empowerment (Scotland) Act 2015) with an interest in the area of a proposed designation.”.
- (4) After section 263A, insert—

“263AB National Scenic Areas: annual report

- (1) The Scottish Ministers are to prepare and publish an annual report setting out information about any consultation process under section 263A(6) undertaken during the reporting year.
- (2) A report under subsection (1) must include—
 - (a) the ways in which views expressed by any person consulted under subsection 263A(6)(aa) and (ab) were taken into account by the Scottish Ministers before issuing a direction under section 263A(1) or (5), and
 - (b) how the Scottish Ministers intend to improve their consultation process before issuing any future such directions.
- (3) In this section, “reporting year” means—
 - (a) in the case of the first report, the period of time from the date on which section (*National Scenic Areas: annual report*) of the Planning (Scotland) Act 2019 comes into force until 31 March of the following year,
 - (b) in the case of each subsequent report, the period of time beginning with 1 April and ending with 31 March in the following year.”.>

Alex Cole-Hamilton

322 After section 26, insert—

<Wild land areas

Wild land areas

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 263A (National Scenic Areas), insert—

“263AB Wild land areas

- (1) Where it appears to the Scottish Ministers that an area is a semi-natural landscape that shows minimal signs of human influence and—

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- (a) is sensitive to any form of intrusive human activity, or
 - (b) would have little or no capacity to accept new development,
- and that the special protection measures specified in subsection (2) are appropriate for it, they may by direction designate the area as a wild land area.
- (2) Where any area is for the time being designated as a wild land area, special attention is to be paid to safeguarding or enhancing its character or appearance in the exercise, with respect to any land in that area, of any powers under this Act.
 - (3) The Scottish Ministers may issue guidance to a planning authority for the purposes of this section and that authority must have regard to any guidance so issued.
 - (4) In deciding whether to designate an area as a wild land area, the Scottish Ministers are to take account of any wild land maps prepared and published by Scottish Natural Heritage.
 - (5) Any designation under subsection (1) may be varied or cancelled by a subsequent direction.
 - (6) Before issuing a direction under subsection (1) or (5), the Scottish Ministers are to consult with—
 - (a) Scottish Natural Heritage, and
 - (b) such other persons as are prescribed.
 - (7) The Scottish Ministers are to compile and make available for inspection free of charge a list containing particulars of any area which has been designated as a wild land area.
 - (8) For the purposes of subsection (7), a list may be made available by electronic means.
 - (9) The Scottish Ministers may by regulations make provisions as to—
 - (a) the form of any direction under subsection (1) or (5),
 - (b) the manner in which a wild land area is to be described in such a direction,
 - (c) the publicity to be given to any such direction, and
 - (d) other procedural matters in connection with the making of such a direction.
 - (10) Regulations under this section may make different provision for different purposes.”.>

Locally significant buildings

Graham Simpson

81 After section 26, insert—

<Exemption list of locally significant buildings

Exemption list of locally significant buildings

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

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(2) After section 24 insert—

“24A List of locally significant buildings

- (1) A planning authority must compile a list of locally significant buildings within their district.
- (2) A planning authority must consult residents of their district before compiling the list.
- (3) A building may be considered by the authority for inclusion in the list—
 - (a) at their own initiative,
 - (b) following nomination by a resident of their district.
- (4) Where a building is included in the planning authority’s list of locally significant buildings, that building may not be demolished.
- (5) The planning authority are to publish and make the list available for public inspection.
- (6) Within 5 years after publishing the list (including each revision of it) under subsection (5), the planning authority must revise the list.
- (7) The Scottish Ministers may by regulations make further provision for the purposes of this section on—
 - (a) the meaning of “locally significant buildings”,
 - (b) how planning authorities are to discharge their functions under this section,
 - (c) the form in which the list is to be kept,
 - (d) how consultation under subsection (1) is to be undertaken,
 - (e) the manner in which and by whom an appeal against the inclusion of a building on the list may be made, and the process by which such an appeal is to be determined.
- (8) Provision made in regulations under subsection (7) may include provision disapplying, or applying with such modifications as the Scottish Ministers consider appropriate, any provisions of or provision made under the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997.”

(3) In section 275, after subsection (7B) insert—

“(7C) Regulations under section 24A(4) are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”>

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Preservation of trees

Andy Wightman

90 After section 26, insert—

<Tree preservation orders

Tree preservation orders

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 160 (power to make tree preservation orders), after subsection (6) insert—
 - “(6A) But nothing in subsection (6) is to be taken as permitting a development order under section 30 to authorise the uprooting, felling or lopping of trees.”.>

Andy Wightman

91 After section 26, insert—

<Preservation of trees in conservation areas

Preservation of trees in conservation areas

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 172 (preservation of trees in conservation areas)—
 - (a) after subsection (1A) insert—
 - “(1B) But nothing in subsection (1A) is to be taken as permitting a development order under section 30 to authorise the uprooting, felling or lopping of trees.”,
 - (b) for subsection (3) substitute—
 - “(3) Subsection (1) does not apply where—
 - (a) the person served notice of the person’s intention to do the act in question (with sufficient particulars to identify the tree) on the planning authority in whose area the tree is or was situated,
 - (b) the act in question is done after the expiry of the period of 6 weeks from the date of the notice but before the expiry of the period of 2 years from that date, and
 - (c) within that period of 6 weeks the planning authority within whose area the tree is or was situated—
 - (i) consented to the act in question, or
 - (ii) did not refuse consent to the act in question.
 - (3A) For the purposes of subsection (3), section 173 does not apply.”.>

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Listed building consent

Gordon Lindhurst

152 After section 26, insert—

<Notice by planning authority of applications for listed building consent

Notice by planning authority of applications for listed building consent

- (1) The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is amended as follows.
- (2) In section 9 (making of applications for listed building consent), after subsection (3) insert—
 - “(3A) Without prejudice to the generality of subsection (3)(b), the regulations must require that a planning authority are to give notice of an application for listed building consent to neighbouring properties.
 - (3B) For the purposes of this section, giving notice to neighbouring properties means—
 - (a) where there are premises situated on land neighbouring the building for which consent is sought to which the notice can be sent to the owner, lessee or occupier of such premises, by sending a notice addressed to “the Owner, Lessee or Occupier” to such premises, and
 - (b) where there are no such premises, by publication of a notice in a newspaper circulating in the locality in which the neighbouring land is situated.
 - (3C) Notice in accordance with subsection (3A) is to be given—
 - (a) in such manner,
 - (b) for such period, and
 - (c) on such number of occasions,as is prescribed in the regulations.
 - (3D) For the purposes of subsection (3A), an applicant is to provide such information with respect to the application as may be prescribed in the regulations.
 - (3E) No application for listed building consent is to be determined by the planning authority until the expiry of the period prescribed in accordance with subsection (3C)(b).
 - (3F) The regulations are to ensure that—
 - (a) notice under this section is to be given to the same categories of person, and in the same manner and time,
 - (b) persons given notice under this section have the same rights to make representations,as is for the time being provided in regulations or a development order under section 34 of the Town and Country Planning (Scotland) Act 1997.”.>

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Andy Wightman

182 After section 26, insert—

<Decision on application for listed building consent: presumption

Decision on application for listed building consent: presumption

- (1) The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is amended as follows.
- (2) In section 14 (decision on application), in subsection (2)—
 - (a) the words from “shall” to the end become paragraph (a),
 - (b) after paragraph (a) so formed insert—
 - “(b) must proceed on the presumption that they will refuse an application for works which—
 - (i) would not preserve the building or its setting, or
 - (ii) would otherwise affect a building’s character as a building of special architectural or historic interest.”.>

Compulsory acquisition

Rhoda Grant

231 After section 26, insert—

<Compulsory acquisition of land in connection with development and for other planning purposes

Compulsory acquisition of land in connection with development and for other planning purposes

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 189 (compulsory acquisition of land in connection with development and for other planning purposes), after subsection (1)(a), insert—
 - “(aa) has been allocated in the local development plan for the resettlement of previously inhabited settlements.”.>

Mineral workings

Claudia Beamish

336 After section 26, insert—

<Power to impose aftercare conditions

Power to impose aftercare conditions

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In schedule 3 (conditions relating to mineral working)—
 - (a) in paragraph 2(2)—

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- (i) in sub-sub-paragraph (b), the word “or” is repealed,
- (ii) after sub-sub-paragraph (c), insert “, or
(d) use for nature conservation.”,

(b) after paragraph 3(3), insert—

“(3A) Where the use specified in an aftercare condition is a use for nature conservation, the land is brought to the required standard when it meets a standard determined by Scottish Natural Heritage.”>

Claudia Beamish

337 After section 26, insert—

<Automatic suspension of permissions for mineral sites

Automatic suspension of permissions for mineral sites

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In schedule 8 (old mineral workings and permissions), after paragraph 12, insert—

“PART 1A

AUTOMATIC SUSPENSION OF PERMISSIONS FOR MINERAL SITES

- 1 Where development of land consisting of the winning and working of minerals or involving the depositing of mineral waste has occurred but the winning and working or depositing has permanently ceased or temporarily suspended for a continuous period exceeding two years, permission is automatically suspended.
- 2 Where the person who is an owner or occupier of any of the land to which the permission mentioned in paragraph 1 relates intends to resume the winning and working or the depositing, the person must give notice of the intention to the planning authority.
- 3 Where a planning authority receives notice of intention of resumption of the winning and working or the depositing that has automatically been suspended, the planning authority may by order—
 - (a) grant permission for continuance if it appears to the planning authority that it is expedient in the interest of the proper planning of their district (including the interests of amenity),
 - (b) prohibit the resumption of the winning and working or the depositing, or
 - (c) impose, in relation to the site, any of the requirements specified in paragraph 4.
- 4 The requirements mentioned in paragraph 3(c) are—
 - (a) a requirement to alter or remove plant or machinery which was used for the purpose of the winning and working or the depositing or for any purpose ancillary to that purpose,
 - (b) a requirement to take such steps as may be specified in the order, within such period as may be so specified, for the purpose of removing or alleviating any injury to amenity which has been caused by the winning and working or depositing, other than injury due to subsidence caused by underground mining operations,

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- (c) a requirement that any condition subject to which planning permission for the development was granted or which has been imposed by virtue of any provision of this Act shall be complied with,
- (d) a restoration condition.

5 Where—

- (a) an order under paragraph 3 includes a restoration condition, or
- (b) a restoration condition has previously been imposed in relation to the site by virtue of any provision of this Act,

the order may include any such aftercare condition as the planning authority think fit.”.>

Claudia Beamish

338 After section 26, insert—

<Permissions ceasing to have effect for old mineral planning permissions>

Permissions ceasing to have effect for old mineral planning permissions

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In schedule 9 (review of old mineral planning permissions), after paragraph 12(3) insert—
 - “(3A) A relevant planning permission which relates to an active or dormant Phase I or II site shall cease to have effect, except in so far as it imposes any restoration or aftercare condition, the day after the expiry of the period of 2 years beginning with the day on which the Bill for the Planning (Scotland) Act 2019 received Royal Assent.”.>

Claudia Beamish

339 After section 26, insert—

<Special basis for compensation in respect of certain orders affecting mineral working>

Special basis for compensation in respect of certain orders affecting mineral working

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In schedule 13 (regulations as to compensation in respect of orders relating to mineral working), after paragraph 1(2), insert—
 - “(2A) Without prejudice to the generality of sub-paragraph (2), the amount to be paid must be assessed on the basis that there will be no market for horticultural peat—
 - (a) in the retail sector after 1 January 2020,
 - (b) in the commercial sector after 1 January 2030.”.>

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