

Planning (Scotland) Bill

4th 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 fourth 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

Simplified development zones: renaming

232, 233, 234, 235, 237, 238, 239, 240, 245, 249, 251, 252, 253, 254, 255, 279, 280, 281, 282, 283, 285, 286, 287, 288, 289

Simplified development zones: control of advertisements

236, 284

Simplified development zones: land value capture

12, 295, 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”

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

241, 242, 13, 243, 244, 246, 247, 248, 250, 293, 156

Notes on amendments in this group

Amendment 242 pre-empts amendment 13

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

Simplified development zones: when they may be established

296, 297, 298, 299, 300, 301

Simplified development zones: procedure

93, 14, 302, 94, 303, 95, 96, 97, 304, 256

Notes on amendments in this group

Amendment 93 pre-empts amendment 56 in group “Directions etc.: form and publication”

Amendment 14 pre-empts amendment 252 in group “Simplified development zones: renaming”

Amendment 303 pre-empts amendment 293 in group “Simplified development zones: land which may or may not be included” and amendment 253 in group “Simplified development zones: renaming”

Amendment 95 pre-empts amendment 57 in group “Directions etc.: form and publication”

Amendment 96 pre-empts amendments 254 and 255 in group “Simplified development zones: renaming”

Amendment 304 pre-empts amendment 256

Meaning of “development”

43, 44, 45, 140

Applications for planning permission and consideration of impact

207, 228, 229, 113, 114, 307, 209, 210

Declining to determine an application

257, 145, 146, 147

Determination of applications and conditional grant of permission

318, 80, 141, 208, 294, 324, 323, 323A, 230, 263

Fees for planning applications etc.

259, 260, 261, 262, 264, 265, 321, 266, 16

Call-in of applications by Scottish Ministers

15, 144, 22, 142

Development orders: Gypsy and Traveller sites

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Development orders: private ways

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Development orders: drinking establishments

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Determination of applications: statement whether in accordance with development plan

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Appeal rights

51, 59, 60, 92, 143, 325, 319

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269, 275, 157, 291, 292

Designations of land

19, 322

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90, 91

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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

Supplementary guidance and the development plan

With 66 – 69, 70

Amending the local development plan

With 11 – 29

Directions etc.: form and publication

With 55 – 56, 57, 61, 148, 149, 150, 62, 63, 151

Notes on amendments in this group

Amendment 56 is pre-empted by amendment 93 in group “Simplified development zones: procedure”

Amendment 57 is pre-empted by amendment 95 in group “Simplified development zones: procedure”

Amendment 150 pre-empts amendments 62 and 63

Agent of change

With 2 – 305, 181, 306, 258, 1

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Amendments in debating order

Simplified development zones: renaming

Kevin Stewart

- 232 In section 10, page 9, line 23, leave out <*Simplified development zones*> and insert <*Masterplan consent areas*>

Kevin Stewart

- 233 In section 10, page 9, line 26, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

- 234 In section 10, page 9, line 32, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

- 235 In section 10, page 9, line 33, leave out <zone> and insert <area>

Kevin Stewart

- 237 In section 10, page 11, line 19, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

- 238 In section 10, page 11, line 28, leave out <SIMPLIFIED DEVELOPMENT ZONES> and insert <MASTERPLAN CONSENT AREAS>

Kevin Stewart

- 239 In section 10, page 12, line 2, leave out <zone> and insert <area>

Kevin Stewart

- 240 In section 10, page 12, line 12, leave out <zone> and insert <area>

Kevin Stewart

- 245 In section 10, page 12, line 26, leave out <a zone> and insert <an area>

Kevin Stewart

- 249 In section 10, page 12, line 29, leave out <zone> and insert <area>

Kevin Stewart

- 251 In section 10, page 12, line 37, leave out <a zone> and insert <an area>

Kevin Stewart

- 252 In section 10, page 13, line 31, leave out <a zone> and insert <an area>

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Kevin Stewart

253 In section 10, page 17, line 27, leave out <zone> and insert <area>

Kevin Stewart

254 In section 10, page 19, line 26, leave out <zone> and insert <area>

Kevin Stewart

255 In section 10, page 20, line 8, leave out <zone> and insert <area>

Kevin Stewart

279 In schedule 2, page 53, line 22, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

280 In schedule 2, page 53, line 26, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

281 In schedule 2, page 53, line 26, leave out <zones in> and insert <parts of>

Kevin Stewart

282 In schedule 2, page 53, line 31, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

283 In schedule 2, page 54, line 3, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

285 In schedule 2, page 54, line 6, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

286 In schedule 2, page 54, line 14, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

287 In schedule 2, page 54, line 18, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

288 In schedule 2, page 54, line 23, leave out <simplified development zone> and insert <masterplan consent area>

Kevin Stewart

289 In schedule 2, page 54, line 31, leave out <simplified development zone> and insert <masterplan consent area>

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Simplified development zones: control of advertisements

Kevin Stewart

236 In section 10, page 10, leave out lines 22 to 34

Kevin Stewart

284 In schedule 2, page 54, line 4, at end insert—

<() In section 183(1)—

(a) the word “and” at the end of paragraph (a) is repealed, and

(b) after paragraph (b) insert—

“(c) with respect to masterplan consent areas.”.>

Simplified development zones: land value capture

Graham Simpson

Supported by: Andy Wightman

12 In section 10, page 10, line 34, at end insert—

<54CA Scheme may also make provision for land value capture by compulsory purchase of land

(1) A scheme, if it so provides, has the effect of permitting a local authority to purchase land within the zone to which the scheme relates.

(2) The Scottish Ministers must, by regulations, make—

(a) further provision about—

(i) land that may be purchased under subsection (1),

(ii) the process the local authority must follow in the purchase of such land,

(b) provision for the compensation that is payable in respect of land purchased under this section.

(3) Provision made in regulations under subsection (2) must include provision—

(a) that the compensation payable is to be calculated so as to ensure that the person from whom the land is purchased receives a sum reflecting—

(i) the value of the person’s interest in the land taking no account of any value that is attributable to the fact that the carrying out of development is authorised by the scheme,

(ii) any reasonable costs, attributable to the purchase of land under this section, that the person may have to establish a place of business in a new location, and

(ii) an amount representing a portion (that portion to be no more than one quarter) of the difference between—

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- (A) the combined total of the amounts described in subparagraphs (i) and (ii), and
 - (B) the market value of the person's interest in the land taking account of the fact that the carrying out of development is authorised by the scheme,
- (b) disapplying, or applying with such modifications as the Scottish Ministers consider appropriate, any provisions of the Land Compensation (Scotland) Act 1963.>

Andy Wightman

295 In section 10, page 10, line 34, at end insert—

<54CB Scheme may also make provision for compulsory purchase of land to meet housing need

- (1) Where a planning authority—
 - (a) make a scheme, and
 - (b) intend as part of that scheme to include provision with the effect mentioned in subsection (2),they must assess the value of the land in the area to which the scheme relates.
- (2) A scheme, if it so provides, has the effect of permitting a local authority to purchase land within the area to which the scheme relates at the value assessed under subsection (1).
- (3) A local authority may exercise the power in subsection (2) only where the authority consider that the land is required—
 - (a) to meet the housing needs of the community in that area, and
 - (b) to uphold the right of every person in that area to housing, as set out in article 25 of the Universal Declaration of Human Rights, adopted by resolution 217A of the General Assembly of the United Nations on 10 December 1948, and article 11 of the International Covenant on Economic, Social and Cultural Rights, adopted by resolution 2200A of the General Assembly of the United Nations on 16 December 1966.
- (4) The Scottish Ministers must by regulations make further provision—
 - (a) about how the land is to be valued,
 - (b) disapplying, or applying with such modifications as the Scottish Ministers consider appropriate, any provisions of the Land Compensation (Scotland) Act 1963,for the purposes of this section.
- (5) Regulations making provision under subsection (4) must include provision that the value of the land is to—
 - (a) be assessed at the date the scheme is made,
 - (b) be based on its use at the date the scheme is made, and
 - (c) take no account of any value that is attributable to the fact that—
 - (i) the land is in an area to which the scheme relates,

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(ii) the carrying out of development is authorised by the scheme.>

Graham Simpson

20 In schedule 2, page 54, line 27, after <under> insert <section 54CA(2) and>

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

Kevin Stewart

241 In section 10, page 12, line 18, leave out <Land> and insert <Places>

Kevin Stewart

242 In section 10, page 12, line 19, leave out from <land> to end of line 21 and insert <any place which sub-paragraph (4) applies to at the time the scheme is made.>

Graham Simpson

13 In section 10, page 12, line 19, after <made,> insert<—

- () in a conservation area,
- () in a National Scenic Area,
- () identified in the development plan for the area as part of a green belt,
- () in a site of special scientific interest,
- () in respect of which a nature conservation order or land management order made under Part 2 of the Nature Conservation (Scotland) Act 2004 has effect,
- () other land>

Kevin Stewart

243 In section 10, page 12, line 22, leave out from <land> to end of line 24 and insert <a place that is, at the time the alteration is made, a place to which sub-paragraph (4) applies.>

Kevin Stewart

244 In section 10, page 12, line 26, leave out <land> and insert <a place>

Kevin Stewart

246 In section 10, page 12, line 27, leave out first <land> and insert <place>

Kevin Stewart

247 In section 10, page 12, line 27, leave out from second <land> to end of line 28 and insert <a place to which sub-paragraph (4) applies,>

Kevin Stewart

248 In section 10, page 12, line 29, leave out <land> and insert <place>

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Kevin Stewart

250 In section 10, page 12, line 29, at end insert—

- <(4) This sub-paragraph applies to—
 - (a) any place that is or forms part of—
 - (i) a European site as defined in regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716),
 - (ii) a marine protected area,
 - (iii) a National Scenic Area (see section 263A),
 - (iv) a Ramsar site as defined in section 37A of the Wildlife and Countryside Act 1981,
 - (v) a site of special scientific interest as defined in section 58 of the Nature Conservation (Scotland) Act 2004,
 - (vi) a site included in the World Heritage List (“a world heritage site”) or an area identified in the World Heritage List as a buffer zone for a world heritage site, or
 - (b) any place in respect of which either of the following has effect—
 - (i) a nature conservation order made under Part 2 of the Nature Conservation (Scotland) Act 2004,
 - (ii) a land management order made under that Part of that Act.
- (5) In sub-paragraph (4)—

“marine protected area” means an area designated by an order under section 67 of the Marine (Scotland) Act 2010 as—

 - (a) a nature conservation area,
 - (b) a demonstration and research marine protected area, or
 - (c) a historic marine protected area,

“World Heritage List” means the list kept in accordance with article 11(2) of the Convention concerning the Protection of the World Cultural and Natural Heritage adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation at Paris on 16 November 1972.
- (6) The Scottish Ministers may by regulations modify sub-paragraphs (4) and (5).>

Kevin Stewart

293 In section 10, page 17, line 27, leave out <land> and insert <a place>

Kevin Stewart

156 In schedule 2, page 54, leave out lines 26 to 29

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Simplified development zones: when they may be established

Monica Lennon

296 In section 10, page 12, line 35, leave out <At any time,>

Monica Lennon

297 In section 10, page 12, line 35, leave out <(in> and insert <(subject to sub-paragraphs (2) and (3) and in>

Monica Lennon

298 In section 10, page 12, line 37, at end insert—

- <(2) A planning authority may exercise the power in sub-paragraph (1)—
 - (a) when preparing a local development plan for the part of their district to which the proposed scheme relates, or
 - (b) in accordance with sub-paragraph (3).
- (3) Where a planning authority exercises the power in sub-paragraph (1) otherwise that in accordance with sub-paragraph (2)(a), they must amend, under section 20AA, the local development plan for the part of their district to which the proposed scheme relates.>

Adam Tomkins

299 In section 10, page 13, line 2, leave out from <from> to the end of line 3 and insert <at least once in each 5-year period, consider whether it would be desirable to—

- (a) make a scheme for a part or parts of their district,
 - (b) alter a scheme that relates to a zone in their district.
- (1A) In sub-paragraph (1), the “5-year period” means—
- (a) the period of 5 years beginning with the day on which the Bill for the Planning (Scotland) Act 2018 received Royal Assent, and
 - (b) each subsequent period of 5 years beginning with the day on which the authority last published a statement under sub-paragraph (2).>

Adam Tomkins

300 In section 10, page 13, line 4, leave out <that question in accordance with> and insert <the matters mentioned in>

Adam Tomkins

301 In section 10, page 13, leave out lines 9 and 10

Simplified development zones: procedure

Andy Wightman

Supported by: Monica Lennon

93 In section 10, page 13, leave out lines 17 to 27

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Graham Simpson

Supported by: Andy Wightman

- 14 In section 10, page 13, line 28, leave out from beginning to end of line 39 on page 14

Monica Lennon

- 302 In section 10, page 15, line 5, leave out from beginning to end of line 2 on page 17

Andy Wightman

Supported by: Monica Lennon

- 94 In section 10, page 17, leave out lines 3 to 20

Monica Lennon

- 303 In section 10, page 17, leave out lines 21 to line 39

Andy Wightman

Supported by: Monica Lennon

- 95 In section 10, page 18, leave out lines 1 to 38

Andy Wightman

Supported by: Monica Lennon

- 96 In section 10, page 19, line 1, leave out from beginning to end of line 9 on page 20

Andy Wightman

- 97 In section 10, page 20, line 32, leave out from beginning to end of line 3 on page 21

Monica Lennon

- 304 In section 10, page 21, line 4, leave out from beginning to end of line 18 on page 22

Kevin Stewart

- 256 In section 10, page 22, leave out lines 9 to 13 and insert—

- <(a) if the final month has a day corresponding to the day of the month on which the period began, the period ends at the end of that day of the final month,
- (b) if the final month is shorter than the month in which the period began and so does not have a corresponding day, the period ends on the last day of the final month.>

Meaning of “development”

Andy Wightman

- 43 Before section 12, insert—

<Meaning of “development”

Meaning of “development”: agriculture and forestry

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 26 (meaning of “development”)—

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- (a) in subsection (2), paragraph (e) is repealed,
- (b) subsection (2A) is repealed.>

Andy Wightman

44 Before section 12, insert—

<Meaning of “development”

Meaning of “development”: change of use of dwellinghouse

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 26 (meaning of “development”)—
 - (a) after paragraph (a) of subsection (3) insert—

“(aa) the change of use of a dwellinghouse from being the sole or main residence of any person to being used for any other purpose (including, in particular, to being used as a holiday or second home) involves a material change in the use of the building,”
 - (b) after subsection (7), insert—

“(8) The Scottish Ministers may issue guidance on the interpretation of subsection (3)(aa).”>

Andy Wightman

45 Before section 12, insert—

<Meaning of “development”

Meaning of “development”: use of dwellinghouse for short-term holiday lets

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 26 (meaning of “development”)—
 - (a) after paragraph (a) of subsection (3) insert—

“(aa) the use of a dwellinghouse for the purpose of providing short-term holiday lets involves a material change in the use of the building,

(ab) for the purposes of subsection (3)(aa), “providing short-term holiday lets” does not include—

 - (i) the letting of a residential property under a residential lease,
 - (ii) the letting of part or the whole of a residential property where the property is the sole or main residence of the landlord or occupier.”
 - (b) after subsection (7) insert—

“(8) The Scottish Ministers may issue guidance on the interpretation of “providing short-term holiday lets” for the purposes of subsection (3)(aa).”>

Claudia Beamish

140 Before section 12, insert—

<Meaning of “development”

Meaning of “development”

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

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- (2) In section 26 (meaning of “development”)—
- (a) in subsection (2), at the beginning of the introductory words insert “Subject to subsection (2ZAA)”,
 - (b) after subsection (2) insert—

“(2ZAA)The operations or uses of land mentioned in subsection (2) will be taken for the purposes of this Act to involve development of the land if, in the opinion of the planning authority—

 - (a) there is reliable information that—
 - (i) any flood has occurred in the immediate vicinity of the proposed operations or uses and which had significant adverse consequences for human health, the environment, cultural heritage or economic activity, or
 - (ii) a significant flood risk exists or is likely to exist in the immediate vicinity of the proposed operations or uses, and
 - (b) the proposed operations or uses would—
 - (i) remove any artificial structures or natural features, the proposed removal of which has been considered by the Scottish Environment Protection Agency and certified by it as significantly increasing the risk of flooding from a body of surface water, or
 - (ii) affect any natural features or characteristics which can assist in the retention of flood water, whether on a permanent or temporary basis (such as flood plains, woodlands and wetlands) or in slowing the flow of such water (such as woodlands and other vegetation).”.>

Applications for planning permission and consideration of impact

Pauline McNeill

207 After section 12, insert—

<Applications

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 32(3) (applications for planning permission)—
 - (a) in the introductory words to paragraph (a), the words “(either or both and if both then either in one document or two)” are repealed,
 - (b) after sub-paragraph (ii) insert—

“(iii) including evidence of how the development would achieve an energy performance certificate asset rating of C or above (in accordance with the way of expressing asset energy performance approved by the Scottish Ministers under regulation 7(b) of the Energy Performance of Buildings (Scotland) Regulations 2009 S.S.I 2008/309).”.>

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Claudia Beamish

228 After section 12, insert—

<Applications for planning permission

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 32 (applications for planning permission) after subsection (3), insert—
 - “(3A) The regulations or development order must require that an application for planning permission for a national development or a major development is to include a national infrastructure needs assessment (within the meaning of section 3H).”>

John Finnie

229 After section 12, insert—

<Applications for planning permission: considerations

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 32 (applications for planning permission) insert—

“32A Applications for planning permission: considerations

 - (1) Where an application for planning permission is made by a local authority or a health board, the application must include evidence that matters of population growth and population projection have been considered in relation to the development to which the application relates.
 - (2) The evidence provided to comply with the duty in subsection (1) may include information previously published in—
 - (a) the local development plan for the area to which the application relates,
 - (b) a local housing strategy prepared under section 89 of the Housing (Scotland) Act 2001 for the area to which the application relates.”>

Monica Lennon

113 After section 12, insert—

<Assessment of health effects

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 40 insert—

“40A Assessment of health effects

The Scottish Ministers must by regulations make provision about the consideration to be given, before planning permission for a national development or a major development is granted, to the likely health effects of the proposed development.”.
- (3) In section 275 (regulations and orders), after subsection (7B) insert—

“(7C) Regulations under section 40A are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”>

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Alex Rowley

114 After section 12, insert—

<Report on, and assessment of, likely effects of development

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 40 insert—

“40A Report on, and assessment of, likely effects of development

- (1) Before submitting an application for planning permission for a major development, the prospective applicant is to prepare a report setting out the likely effects of the proposed development on the capacity of—
 - (a) education services,
 - (b) health services,
 - (c) leisure and recreation services,
 - (d) such other public amenities as appear to the prospective applicant to be relevant,in the area in which the proposed development is located.
- (2) The Scottish Ministers must by regulations make provision about the consideration to be given, before planning permission for a major development is granted, to the likely effects of the proposed major development on the matters listed in subsection (1).
- (3) Regulations under subsection (2) must include provision that the relevant planning authority or the Scottish Ministers—
 - (a) must not grant planning permission for a major development unless they have first taken those effects into consideration, and
 - (b) must state in their decision that they have done so.”.
- (3) In section 75 (planning obligations), after subsection (3) insert—

“(3A) Without prejudice to the generality of subsection (1), a planning authority are to consider a report under section 40A before they reach agreement with a person on an obligation.”.
- (4) In section 275 (regulations and orders), after subsection (7B) insert—

“(7C) Regulations under section 40A(2) are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”.>

Daniel Johnson

307 After section 14, insert—

<Notice by planning authority of certain applications made to them

Notice by planning authority of certain applications made to them

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 34 (notice by planning authority of certain applications made to them), after subsection (2), insert—

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“(2A) Where an application under subsection (2) is for a major development, a planning authority must give notice of the application to each—

- (a) councillor of the local authority,
- (b) member of the Scottish Parliament,
- (c) member of the House of Commons,

representing the district to which the application relates.”.>

Daniel Johnson

209 After section 16, insert—

<Interpretation of neighbouring land

Interpretation of neighbouring land

- (1) The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013/155 are amended as follows.
- (2) In regulation 3 (interpretation) for “20 metres” substitute “100 metres”.>

Daniel Johnson

210 In section 34, page 45, line 19, after <sections> insert <(Interpretation of neighbouring land),>

Declining to determine an application

Kevin Stewart

257 After section 14, insert—

<Decline to determine an application

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 39(1) (declining to determine an application), in each of the following paragraphs, for “two” substitute “5”—
 - (a) paragraph (a)(i),
 - (b) paragraph (b)(i),
 - (c) paragraph (c)(i),
 - (d) paragraph (d)(i),
 - (e) paragraph (e)(i).>

Claudia Beamish

145 After section 20, insert—

<Declining to determine an application

Declining to determine an application

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 39(1)(declining to determine an application)—

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- (a) in sub-paragraph (a)(i), for “two” substitute “ten”,
- (b) in paragraph (b)—
 - (i) in sub-paragraph (i)—
 - (A) for “two” substitute “ten”,
 - (B) for “more than one” substitute “a”,
 - (ii) in sub-paragraph (ii) for “against either (or as the case may be any) of those refusals” substitute “that refusal”,
 - (iii) in sub-paragraph (iii) for “more (or as the case may be most) recent of the refusals” substitute “most recent refusal”,
- (c) in paragraph (c)—
 - (i) in sub-paragraph (i)—
 - (A) for “two” substitute “ten”,
 - (B) for “more than one” substitute “a”,
 - (ii) in sub-paragraph (ii) for “against either (or as the case may be any) of those refusals” substitute “that refusal”,
 - (iii) in sub-paragraph (iii) for “more (or as the case may be most) recent of the refusals” substitute “most recent refusal”,
- (d) in paragraph (d)—
 - (i) in sub-paragraph (i)—
 - (A) for “two” substitute “ten”,
 - (B) for “more than one” substitute “a”,
 - (ii) in sub-paragraph (ii) for “more (or as the case may be most) recent of the refusals” substitute “most recent refusal”,
- (e) in paragraph (e)(i) for “two” substitute “ten”.>
- (e) in paragraph (e)(i) for “two” substitute “ten”.>

Claudia Beamish

146 After section 20, insert—

<Declining to determine an application: further provision

Declining to determine an application: further provision

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 39 insert—

“39A Declining to determine an application: further provision

The Scottish Ministers must publish guidance outlining what constitutes a “similar application” and a “significant change” for the purposes of section 39.”.>

Claudia Beamish

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

<() After subsection (1A)(d) insert—

THIS IS NOT THE MARSHALLED LIST

“(dza)make provision for the payment of a higher level of charge or fee in regard to an application that is deemed by the planning authority to be similar to an application the planning authority have refused under section 39 or the Scottish Ministers have refused under section 46.”.>

Determination of applications and conditional grant of permission

Mark Ruskell

318 After section 14, insert—

<Determination of application for major development: air quality considerations

Determination of application for major development: air quality considerations

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 37 (determination of applications: general considerations), after subsection (1) insert—
 - “(1A) Without prejudice to the generality of subsection (1), where an application is made to a planning authority for planning permission for a major development, a planning authority may not grant planning permission if the application would, in their opinion, be likely to—
 - (a) have an adverse effect on the achievement of the limit value or target value in relation to an area for which there is drawn up and implemented an air quality plan (within the meaning given in the Air Quality Standards (Scotland) Regulations 2010 (S.I. 2010/204) (“the 2010 Regulations”)), or
 - (b) increase the level of pollutants in ambient air in any zone to the extent that the Scottish Ministers would be required to draw up and implement an air quality plan for that zone under regulation 24(1) of the 2010 Regulations.
 - (1B) In subsection (1A), “ambient air”, “limit value”, “pollutant” and “target value” have the same meanings as in the 2010 Regulations.”.>

Jeremy Balfour

80 After section 14, insert—

<Determination of applications: housing for older people and people with disabilities

Determination of applications: housing for older people and people with disabilities

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 37 (determination of applications: general considerations), after subsection (1) insert—
 - “(1A) Without prejudice to the generality of subsection (1), where an application is made to a planning authority for planning permission for the development of housing suitable for—
 - (a) older people,
 - (b) people with disabilities,

THIS IS NOT THE MARSHALLED LIST

the planning authority must proceed on the assumption that such an application will normally be granted permission.”.>

Claudia Beamish

141 After section 14, insert—

<Determination of applications: flood risk

Determination of applications: flood risk

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 37 (determination of applications: general considerations) insert—

“37A Determination of applications: flood risk

- (1) Without prejudice to the generality of section 37, planning permission may not be granted if—
 - (a) the Scottish Environment Protection Agency has objected to the application in relation to concerns of flood risk likely to arise as a consequence of the proposals in the application and to the area to which the application relates,
 - (b) the development would affect any natural features or characteristics which can assist in the retention of flood water, whether on a permanent or temporary basis (such as flood plains, woodlands and wetlands) or in slowing the flow of such water (such as woodlands and other vegetation), or
 - (c) the development is otherwise not consistent with any plans for the management of flood risk set out or described in any—
 - (i) flood risk assessment,
 - (ii) flood hazard map,
 - (iii) flood risk map,
 - (iv) flood risk management plan, or
 - (v) flood protection scheme,
- as defined in the Flood Risk Management (Scotland) Act 2009.”.>

Alex Cole-Hamilton

208 After section 14, insert—

<Determination of applications: brownfield land

Determination of applications: brownfield land

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 37 (determination of applications: general), after subsection (1) insert—

“(1A) Without prejudice to the generality of subsection (1), where an application is made to a planning authority for planning permission for development on land designated as green belt land, a planning authority may not grant planning permission—

- (a) if the applicant has not included in the application for planning permission a statement setting out—

THIS IS NOT THE MARSHALLED LIST

- (i) why the development cannot be achieved on land the planning authority consider brownfield land,
 - (ii) the brownfield land that was considered and why it was not considered suitable to the development, or
- (b) if the application would, in their opinion, be likely to have an adverse effect on any intrinsic natural or cultural heritage value of the proposed green belt land.”.>

John Finnie

294 After section 14, insert—

<Determination of applications: demolition

Determination of applications: demolition

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 37 (determination of applications: general considerations), after subsection (1), insert—
 - “(1A) Without prejudice to the generality of subsection (1), where an application is made to a planning authority for planning permission for a development that involves the demolition of a building, the planning authority must not grant planning permission where the building proposed to be demolished—
 - (a) is the subject of a repairing standard enforcement order (within the meaning given in section 24(2) of the Housing (Scotland) Act 2006), and
 - (b) the work required by that order has not been completed.”.>

Graham Simpson

324 After section 14, insert—

<Determination of applications: biodiversity effects

Determination of applications: biodiversity effects

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 37 (determination of applications: general considerations), in subsection (1)(a), after “27B(2)” insert “, 37A”.
- (3) After section 37 insert—

“37A Determination of applications: biodiversity effects

- (1) Where it appears to a planning authority that a development that is the subject of an application for planning permission may have an effect on biodiversity in the area to which the application relates, the authority must consider the possible biodiversity effects.
- (2) Having considered the possible biodiversity effects, a planning authority may grant planning permission only where they are satisfied that the applicant has taken in the design of the development, or proposes to take in the course of the development, sufficient measures to ensure net positive effects on biodiversity would be likely to result from the development.”.>

THIS IS NOT THE MARSHALLED LIST

Jeremy Balfour

323 After section 14, insert—

<Conditional grant of planning permission: provision of toilet facilities within certain large developments

Conditional grant of planning permission: provision of toilet facilities within certain large developments

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 41 insert—

“41A Conditional grant of planning permission: provision of toilet facilities within certain large developments

- (1) Without prejudice to the generality of section 41(1), a planning authority may grant planning permission for a development that falls within subsection (2) only on condition that the development includes at least one toilet facility described in subsection (3).
- (2) A development that is the subject of an application for planning permission falls within this subsection if it is for the construction of a building, structure or other erection for use for any of the following purposes—
 - (a) as a school, college or university,
 - (b) as a community centre, sports and leisure centre, or similar public building,
 - (c) as a hospital or other facility for the provision of health services,
 - (d) as a retail outlet the gross floor space of which is or exceeds 10,000 square metres.
- (3) The toilet facility mentioned in subsection (1) is a toilet which—
 - (a) has sufficient space, being not less than 12 square metres, to allow up to two carers to assist an adult to use the toilet and the equipment mentioned in paragraph (c),
 - (b) has a centrally-placed toilet with sufficient space, being not less than 1 metre, from the wall on either side for carers to assist an adult to use the toilet,
 - (c) includes—
 - (i) a height-adjustable changing bench of a size suitable for an adult,
 - (ii) a tracking hoist able to cover the full floor area of the toilet facility,
 - (d) is equipped with—
 - (i) a non-slip floor surface,
 - (ii) a screen or curtain,
 - (iii) a supply of hygienic disposable covering for the changing bench,
 - (iv) suitable waste disposal facilities,
 - (v) a shelf suitable for temporary placing of colostomy bags and related equipment.

THIS IS NOT THE MARSHALLED LIST

- (4) The Scottish Ministers may by regulations—
- (a) amend subsection (2) so as—
 - (i) to add, amend or remove a purpose, or
 - (ii) to describe other types of development that fall within subsection (2), (whether or not by reference to the development’s use for a particular purpose) and to amend or remove such types,
 - (b) specify that the requirement in subsection (1) does not apply—
 - (i) to a particular building, structure or erection,
 - (ii) to such descriptions of buildings, structures or erections as may be prescribed, or
 - (iii) in such circumstances as may be prescribed,
 - (c) amend the description of toilet facility in subsection (3).”.
- (3) In section 275 (regulations and orders), after subsection (7B) insert—
- “(7C) Regulations under section 41A(4) are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010)”.>

Mary Fee

323A As an amendment to amendment 323, line 22, at end insert—

- <() as a cultural centre, such as a museum, concert hall or art gallery,
- () as a stadium or large auditorium,
- () as a major transport terminus or interchange,
- () as a motorway service facility.>

Claudia Beamish

230 After section 14, insert—

<Conditional grant of planning permission: community open space

Conditional grant of planning permission: community open space

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 41 (conditional grant of planning permission) insert—

“41A Conditional grant of planning permission: community open space

- (1) Without prejudice to the generality of section 41, in relation to a planning application for the development of four or more dwellinghouses, the condition that the proposed development must include community open space must be imposed.
- (2) In this section “community open space” means space within or on the edge of settlements comprising green infrastructure or civic areas such as squares, market places and other paved or hard landscaped areas with a civic function.
- (3) For the purposes of this section, “other paved or hard landscaped areas with a civic function” does not include a parking space.”.>

THIS IS NOT THE MARSHALLED LIST

Kevin Stewart

- 263** In section 17, page 29, line 38, leave out <paragraph (ca) is> and insert <paragraphs (c) and (ca) are>

Fees for planning applications etc.

Kevin Stewart

- 259** In section 16, page 27, leave out lines 2 to 5 and insert <the relevant period,>

Kevin Stewart

- 260** In section 16, page 27, line 8, leave out from first <period> to <paragraph> in line 9 and insert <relevant period>

Kevin Stewart

- 261** In section 16, page 27, line 33, at end insert—

<() For the purposes of this section, the “relevant period” is—

- (a) such period as may be prescribed by regulations or a development order,
or
- (b) such other period as may be agreed in writing between the applicant and the planning authority (or the appointed person on their behalf) in respect of the application (whether before or after it is made).>

Kevin Stewart

- 262** After section 16, insert—

<Agreements relating to period before which an appeal may be made

Agreements relating to period before which an appeal may be made

- (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)—
 - (a) in subsection (2), in the closing words, for the words from “such” where it first occurs to the end substitute “the relevant period.”,
 - (b) in subsection (4)(b), for the words from “period” where it first occurs to the end substitute “relevant period”.
 - (c) after subsection (5) insert—

“(6) For the purposes of subsection (2), the “relevant period” is—

 - (a) such period as may be prescribed by regulations or a development order,
or
 - (b) such other period as may be agreed in writing between the applicant and the authority in respect of the application (whether before or after it is made).”.>

THIS IS NOT THE MARSHALLED LIST

Kevin Stewart

- 264 In section 21, page 35, line 2, after <planning authority> insert <or the Scottish Ministers>

Kevin Stewart

- 265 In section 21, page 35, line 3, after <planning authority> insert <or the Scottish Ministers>

Monica Lennon

- 321 In section 21, page 35, line 11, at end insert—

<“(1E) Without prejudice to the generality of paragraphs (e) and (ea) of subsection (1A), in relation to applications for planning permission, provision may be made under those paragraphs for fees and charges to be waived where the application is for a development that, in the opinion of the planning authority—

- (a) has the primary purpose of contributing to a social enterprise or not for profit enterprise,
- (b) is likely to contribute to improving the health of residents of the area to which the application relates.

(1F) For the purposes of subsection (1E)—

“not for profit enterprise” means an organisation which a person might reasonably consider to exist wholly or mainly to provide benefits for society,

“social enterprise” means an organisation whose activities are wholly or mainly activities which a person might reasonably consider to be activities carried on for the benefit of society (“its social objects”), and which—

- (a) generates most of its income through business or trade,
- (b) reinvests most of its profits in its social objects,
- (c) is independent of any public authority, and
- (d) is owned, controlled and managed in a way that is consistent with its social objects.”>

Kevin Stewart

- 266 In section 21, page 35, line 11, after <relates> insert <but those regulations may not provide for the imposition of a surcharge greater than the fee that would be payable otherwise in relation to the application>

Graham Simpson

- 16 In section 21, page 35, line 15, at end insert—

<() After subsection (4) insert—

“(4A) Without prejudice to the generality of subsection (3), where regulations contain provision of a kind mentioned in subsection (4)(b), the regulations must provide that the planning authority must refund in full to the applicant any charge or fee paid, unless the applicant and the authority have agreed otherwise.

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- (4B) For the purposes of subsection (4)(b), unreasonable delay has occurred if an authority has not determined an application within 26 weeks of it being made.”.>

Call-in of applications by Scottish Ministers

Graham Simpson

- 15 After section 16, insert—

<Call-in of applications by Scottish Ministers

Call-in of applications by Scottish Ministers

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 46 (call-in of applications by Secretary of State)—
 - (a) in subsection (1)—
 - (i) for “any” substitute “only”,
 - (ii) after “section 34(2)” insert “relating to “national developments” (within the meaning of section 26A(1) of this Act”).>

Monica Lennon

- 144 After section 16, insert—

<Call-in of applications by Scottish Ministers

Call-in of applications by Scottish Ministers

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 46 (call-in of applications by Secretary of State), after subsection (1) insert—

“(1ZA)A direction under subsection (1) may not be given in respect of an application until the expiry of the period prescribed by regulations or a development order within which the authority must give notice to the applicant of their determination or referral of the application to the Scottish Ministers.”.>

Mark Ruskell

- 22 After section 16, insert—

<Call-in of applications by Scottish Ministers: further provision

Call-in of applications by Scottish Ministers: further provision

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 46 insert—

“**46A Call-in of applications by Scottish Ministers: further provision**

The Scottish Ministers must by regulations set out the circumstances in which they consider it appropriate to give directions as mentioned in section 46(1).”.
- (3) In section 275 (regulations and orders), after subsection (7B) insert—

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“(7C) Regulations under section 46A are subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”>

Claudia Beamish

142 After section 16, insert—

<Call-in of application by Scottish Ministers: flood risk

Call-in of application by Scottish Ministers: flood risk

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 46 (call-in of applications by Secretary of State)—
 - (a) after subsection (1) insert—

“(1ZA) Without prejudice to the generality of subsection (1), the Scottish Ministers must give directions requiring such applications as are mentioned in subsection (1ZB) to be referred to them instead of being dealt with by planning authorities.

(1ZB) The applications are those to which the Scottish Environment Protection Agency has objected on the grounds of concerns in relation to flood risk.

(1ZC) Where an application mentioned in subsection (1ZB) is referred to them, the Scottish Ministers must—

 - (a) before determining whether or not to grant planning permission, request such further information and carry out such further investigation and consultation as they consider appropriate,
 - (b) after considering information provided under paragraph (a)—
 - (i) grant planning permission (in whole or in part and with or without modifications), or
 - (ii) refuse to grant planning permission,
 - (c) advise the Scottish Environment Protection Agency in writing of the reasons for their determination under paragraph (b),
 - (d) publish their advice under paragraph (c) in such manner as they see fit.”,
 - (b) in subsection (1A), after “(1)” insert “or (1ZA)”>

Development orders: Gypsy and Traveller sites

John Finnie

164 After section 16, insert—

<Development orders: use of land as Gypsy and Traveller site

Development orders: use of land as Gypsy and Traveller site

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 30 (development orders: general), after subsection (2) insert—

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“(2A) Without prejudice to the generality of subsection (1), the Scottish Ministers must by regulations or by order provide for the granting of planning permission for a development which consists of the use of land as a Gypsy and Travellers site, where such use is in accordance with the development plan for the time being applicable to the area to which the application relates.”.>

Development orders: private ways

Andy Wightman

165 After section 16, insert—

<Development orders: private ways

Development orders: private ways

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 30 insert—

“30A Development orders: private ways

A development order under section 30 may not grant planning permission for development which consists of the formation or alteration of a private way on land which is—

- (a) used for shooting or other field sports,
- (b) in—
 - (i) a national park,
 - (ii) a designation under the Nature Conservation (Scotland) Act 2004,
 - (iii) a battlefield included in the inventory of battlefields compiled and maintained under section 32B of the Ancient Monuments and Archaeological Areas Act 1979,
 - (iv) a national scenic area.”.>

Development orders: drinking establishments

Patrick Harvie

316 After section 16, insert—

<Development orders: drinking establishments

Development orders: drinking establishments

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) After section 30 insert—

“30A Development orders: drinking establishments

A development order under section 30 may not grant planning permission for development which consists of the demolition of a building used as a public house, wine-bar or other drinking establishment.”.>

THIS IS NOT THE MARSHALLED LIST

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.”>

Andy Wightman

Supported by: Monica Lennon

60 After section 16, insert—

<Right to appeal against planning decisions

THIS IS NOT THE MARSHALLED LIST

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**”.>

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—

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- “(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.
- (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).

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- (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.
- (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

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- (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.”.>

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—

THIS IS NOT THE MARSHALLED LIST

““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,

(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—

THIS IS NOT THE MARSHALLED LIST

“(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 for withdrawal of planning permission granted by development order

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),
 - (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.>

Ruth Maguire

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

THIS IS NOT THE MARSHALLED LIST

<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”.>

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