

# Planning (Scotland) Bill

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## 5th Groupings of Amendments for Stage 2 (Revised)

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 fifth 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

#### **Declining to determine an application**

257, 145, 146, 147

#### **Determination of applications and conditional grant of permission**

318, 80, 141, 208, 294, 324, 331, 323, 323A, 230, 263, 335

#### **Fees for planning applications etc.**

259, 260, 261, 262, 332, 264, 265, 321, 266, 16

#### **Call-in of applications by Scottish Ministers**

15, 144, 22, 142

#### **Development orders: Gypsy and Traveller sites**

164

#### **Development orders: private ways**

165

#### **Development orders: drinking establishments**

316

#### **Determination of applications: statement whether in accordance with development plan**

58, 58A

#### **Appeal rights**

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

#### **Material considerations: meaning to be prescribed**

88

#### **Planning obligations**

98, 166, 320, 317

**Compensation**

314, 333, 315

**Training and performance of planning authorities**

326, 327, 328, 310, 311, 312, 23, 313, 24, 268, 17, 18, 276

**Fixed penalty notice where enforcement notice not complied with**

329

**Enforcement charter: approach to monitoring of compliance**

334

**Charging orders**

267

**Regulations**

269, 275, 157, 291, 292

**Designations of land**

19, 330, 322

**Locally significant buildings**

81

**Preservation of trees**

90, 91

**Listed building consent**

152, 182

**Compulsory acquisition**

231

**Mineral workings**

336, 337, 338, 339

**Infrastructure levy**

308, 309, 25, 26, 99, 270, 271, 27, 272, 183, 273, 100, 101, 64, 102, 274, 65, 277, 290

**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 – 61, 148, 149, 150, 62, 63, 151

*Notes on amendments in this group*

Amendment 150 pre-empts amendments 62 and 63 (already debated)

### **Agent of change**

With 2 – 306, 258, 1

### **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 - 307, 209, 210

## THIS IS NOT THE MARSHALLED LIST

### **Declining to determine an application**

**Kevin Stewart**

**257** After section 14, insert—

#### **<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), 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)—
  - (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)—

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- (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—

“(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—

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- (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,
- 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

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- (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—
      - (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

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(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.”.>

### Claudia Beamish

331 After section 14, insert—

*<Determination of applications: assessment of environmental effects*

#### **Determination of applications: assessment of environmental effects**

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 40 (assessment of environmental effects), after subsection (5) insert—
  - “(6) Without prejudice to the generality of subsection (1), before determining an application for planning permission for a national or major development, a planning authority must consider the likely impact of the development’s lifecycle greenhouse gas emissions on achieving national greenhouse gas emissions reduction targets (within the meaning given in the Climate Change (Scotland) Act 2009).
  - (7) In subsection (6), “lifecycle greenhouse gas emissions” means the emissions associated with the construction, operation and decommissioning of a development.”.>

### 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**

## **THIS IS NOT THE MARSHALLED LIST**

- (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.
  - (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—

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- (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.”.>

### Kevin Stewart

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

### John Finnie

**335** After section 26, insert—

*<Ramsar sites*

#### **Ramsar sites**

## **THIS IS NOT THE MARSHALLED LIST**

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

*“Ramsar sites*

### **263B Assessment of implications for Ramsar sites**

- (1) A planning authority, before deciding to give any consent, permission or other authorisation for a development which—
  - (a) is likely (whether alone or in combination with other plans or projects) to have a significant effect on a Ramsar site, and
  - (b) is not directly connected with or necessary to the management of the site,must make an assessment of the implications of the development for the site in view of the conservation requirements of the listed features of the Ramsar site.
- (2) A person applying for any such consent, permission or other authorisation must provide such information as the planning authority may reasonably require—
  - (a) to enable the planning authority to determine whether an assessment is required,
  - (b) for the purposes of an assessment under subsection (1).
- (3) The planning authority must for the purposes of an assessment under subsection (1) consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority may specify.
- (4) The planning authority may also, if the authority consider it appropriate, consult the general public and, if they do so, must take such steps for that purpose as they consider appropriate.
- (5) In light of the conclusions of an assessment under subsection (1), and subject to section 263C, the planning authority may grant consent, permission or other authorisation for the development only after having ascertained that it will not adversely affect the integrity of the Ramsar site.
- (6) In considering whether a development will adversely affect the integrity of the site, the planning authority must have regard to the manner in which the development is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given.
- (7) For the purposes of this section and sections 263C and 263D—
  - “appropriate nature conservation body” means a body designated by the Scottish Ministers by regulations for the purposes of subsection (3),
  - “the Ramsar Convention” means the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971, as amended by—
    - (a) the Protocol known as the Paris Protocol done at Paris on 3rd December 1982,
    - (b) the amendments known as the Regina Amendments adopted at the Extraordinary Conference of the Contracting Parties held at Regina, Saskatchewan, Canada, between 28th May and 3rd June 1987, and

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(c) any further amendments coming into force from time to time, and the reference in this subsection to paragraph 1 of article 2 is, if necessary in consequence of any such further amendment or the coming into force of any instrument replacing that Convention, to be taken as referring to the appropriate successor provision,

“Ramsar site” means a wetland situated in Scotland and designated under paragraph 1 of article 2 of the Ramsar Convention for inclusion in the list of wetlands of international importance referred to in that article.

### **263C Assessment of implications for Ramsar site: consideration of overriding public interest**

- (1) Where an assessment under section 263B(1) has concluded that a development is likely to have a negative effect on a Ramsar site, a planning authority may grant consent, permission or other authorisation to the development only if they are satisfied that—
  - (a) there is no alternative solution, and
  - (b) there are reasons of overriding public interest (which may be of a social or economic nature) for doing so.
- (2) Where a planning authority propose to grant consent, permission or other authorisation to a development in accordance with subsection (1) they must notify the Scottish Ministers.
- (3) Having notified the Scottish Ministers under subsection (2), the planning authority must not make a decision on whether to grant consent, permission or other authorisation before the end of the period of 21 days beginning with the day they notify the Scottish Ministers, unless the Scottish Ministers notify them that they may do so.
- (4) The Scottish Ministers may give directions to the planning authority prohibiting them from granting consent, permission or other authorisation to a development, either indefinitely or during such period as may be specified in the direction.
- (5) The power of the Scottish Ministers under subsection (4) is without prejudice to any other power they may have in relation to the decision in question.
- (6) A planning authority must comply with any direction given to them under subsection (4).

### **263D Compensatory measures for Ramsar sites**

Where, in accordance with section 263C (assessment of implications for Ramsar site: consideration of overriding public interest)—

- (a) consent, permission or other authorisation is granted for a development, notwithstanding a negative assessment of the implications for a Ramsar site, or
- (b) a decision to grant consent, permission or other authorisation is confirmed on review, notwithstanding such an assessment,

the Scottish Ministers must secure the taking of any compensatory measures necessary to ensure that the overall coherence of Ramsar sites is protected.”.>

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**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).”.>

**John Finnie**

- 332** In section 21, page 34, line 21, at end insert—

<( ) After subsection (1)(a) insert—

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“(aa) anything done by the authority for the purpose of monitoring compliance with conditions imposed on the grant of, or obligations entered into in relation to, planning permission.”.>

### 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—

“(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).”.>

## THIS IS NOT THE MARSHALLED LIST

**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—

“(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.”.>

## **THIS IS NOT THE MARSHALLED LIST**

### **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.”.>

### **Determination of applications: statement whether in accordance with development plan**

## THIS IS NOT THE MARSHALLED LIST

**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,
  - (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).

## THIS IS NOT THE MARSHALLED LIST

- (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*

### **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—

## THIS IS NOT THE MARSHALLED LIST

- (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—
  - “(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)”.>

**THIS IS NOT THE MARSHALLED LIST**

**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).
- (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.

## THIS IS NOT THE MARSHALLED LIST

- (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
    - (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.

## THIS IS NOT THE MARSHALLED LIST

- (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—

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

## THIS IS NOT THE MARSHALLED LIST

“(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—
  - “(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.”.>

**THIS IS NOT THE MARSHALLED LIST**

**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),
  - (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.

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- (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—

<( ) 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—

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- (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.>

### 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

## THIS IS NOT THE MARSHALLED LIST

### 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)—
- (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”,

## **THIS IS NOT THE MARSHALLED LIST**

- (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 charter: 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,
      - (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—

## THIS IS NOT THE MARSHALLED LIST

- “(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
  - (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.>

**THIS IS NOT THE MARSHALLED LIST**

**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.>

**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.”.

## THIS IS NOT THE MARSHALLED LIST

(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—
  - (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.

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- (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.
- (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.

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- (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).”>

### **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—

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“(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.”.>

### **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

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- (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.”.>

### 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.

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- (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)—
- (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.

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- 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,
  - (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—

**THIS IS NOT THE MARSHALLED LIST**

*<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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